

SB

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Original sponsors: Ziegler and Ray

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the superior
7 court and the district court; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 22.10.020(a) is amended to read:

11 (a) The superior court is the trial court of general jurisdic-
12 tion, with original jurisdiction in all civil and criminal matters,
13 including probate and guardianship of minors and incompetents. An
14 action that falls within the concurrent jurisdiction of the superior
15 court and the district court may not be filed in the superior court,
16 except as provided by rules of the supreme court.

17 * Sec. 2. AS 22.15.030 is amended to read:

18 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has
19 jurisdiction of civil cases and proceedings as follows:

20 (1) for the recovery of money or damages when the amount
21 claimed exclusive of costs, interest and attorney fees does not exceed
22 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

23 (2) for the recovery of specific personal property, when
24 the value of the property claimed and the damages for the detention do
25 not exceed \$25,000 [\$10,000];

26 (3) for the recovery of a penalty or forfeiture, whether
27 given by statute or arising out of contract, not exceeding \$25,000
28 [\$10,000];

29 (4) to give judgment without action upon the confession of

1 the defendant for any of the cases specified in this section, except
2 for a penalty or forfeiture imposed by statute;

3 (5) for establishing the fact of death of any person in the
4 manner prescribed in AS 09.55.020 09.55.060;

5 (6) [REPEALED.

6 (7) REPEALED.

7 (8)] for the recovery of the possession of premises in the
8 manner provided under AS 09.45.070 - 09.45.160 when the value of the
9 property or of the arrears and damage to the property does not exceed
10 \$25,000 [\$10,000];

11 (7) [(9)] for the foreclosure of a lien when the amount in
12 controversy does not exceed \$25,000 [\$10,000];

13 (8) [(10)] for the recovery of money or damages in motor
14 vehicle tort cases when the amount claimed exclusive of costs, inter-
15 est and attorney fees does not exceed \$25,000 [\$15,000];

16 (9) [(11)] over civil actions for taking utility service
17 and for damages to or interference with a utility line filed under
18 AS 42.20.030;

19 (10) over cases involving injunctive relief for domestic
20 violence under AS 25.35.010 and 25.35.020.

21 (b) Insofar as the civil jurisdiction of the district courts and
22 the superior court is the same, the [SUCH] jurisdiction is concurrent.
23 An action that falls within the concurrent jurisdiction of the super-
24 ior court and the district court may not be filed in the superior
25 court, except as provided by rules of the supreme court.

26 * Sec. 3. AS 22.15.050 is amended to read:

27 Sec. 22.15.050. ACTIONS NOT WITHIN CIVIL JURISDICTION. The
28 jurisdiction of the district courts does not extend to

29 (1) an action in which the title to real property is in

1 question;

2 (2) an action for false imprisonment, libel, slander,
3 malicious prosecution, criminal conversation, seduction upon a promise
4 to marry, actions of an equitable nature (except as otherwise provided
5 by law [IN AS 22.15.030(a)(9)]), or actions in which the state is a
6 defendant.

7 * Sec. 4. AS 22.15.100 is amended to read:

8 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
9 MAGISTRATE. Each district judge and magistrate has the power

10 (1) to issue writs of habeas corpus for the purpose of
11 inquiring into the cause of restraint of liberty, returnable before a
12 judge of the superior court, and the same proceedings shall be had on
13 the writ as if it had been granted by the superior court judge under
14 the laws of the state in such cases;

15 (2) of a notary public;

16 (3) to issue marriage licenses and to solemnize marriages;

17 (4) to issue warrants of arrest, summons and search war-
18 rants according to manner and procedure prescribed by law and the
19 supreme court;

20 (5) to act as an examining judge or magistrate in prelimi-
21 nary examinations in criminal proceedings; to set, receive and forfeit
22 bail and to order the release of defendants under bail;

23 (6) to act as a referee in matters and actions referred to
24 the judge or magistrate by the superior court, with all powers confer-
25 red upon referees by laws;

26 (7) of the superior court in all respects including but not
27 limited to contempts, attendance of witnesses and bench warrants;

28 (8) to order the temporary detention of a minor, or take
29 other action authorized by law or rules of procedure, in cases arising

1 under AS 47.10, when the minor is in a condition or surrounding dan-
2 gerous or injurious to the welfare of the minor or others which
3 requires immediate action; the action may be continued in effect until
4 reviewed by the superior court in accordance with rules of procedure
5 governing these cases;

6 (9) to issue a temporary order for [EMERGENCY] injunctive
7 relief in cases involving domestic violence as provided in AS 25.35.-
8 010 and AS 25.35.020;

9 (10) to review an administrative revocation of a person's
10 driver's license or nonresident privilege to drive, and an administra-
11 tive refusal to issue an original license, when designated as a hear-
12 ing officer by the commissioner of public safety and with the consent
13 of the administrative director of the state court system.

14 * Sec. 5. AS 25.35.010 is amended to read:

15 Sec. 25.35.010. INJUNCTIVE RELIEF IN CASES INVOLVING DOMESTIC
16 VIOLENCE. (a) A person who is subjected to domestic violence may
17 petition a superior or district court for injunctive relief restrain-
18 ing the infliction of further domestic violence against the petitioner
19 by the respondent.

20 (b) Upon receiving a petition under (a) of this section, the
21 [SUPERIOR] court shall schedule a hearing and shall provide at least
22 10 days notice to the respondent of the hearing and of the respon-
23 dent's right to appear and to be heard either in person or by attor-
24 ney. If, at the hearing, the [SUPERIOR] court finds that the peti-
25 tioner has been subjected to domestic violence by the respondent, the
26 [SUPERIOR] court may issue any order it determines to be necessary for
27 the protection of the health, safety or welfare of the petitioner or
28 of a minor child in the care of the petitioner. An order under this
29 subsection may include provisions that [WHICH]

1 (1) restrain the respondent from subjecting the petitioner
2 to domestic violence;

3 (2) direct the respondent to vacate the home of the peti-
4 tioner;

5 (3) restrain the respondent from communicating directly or
6 indirectly with the petitioner;

7 (4) direct the respondent to pay support for the petitioner
8 or for a minor child in the care of the petitioner if there is an
9 independent legal obligation of the respondent to support the peti-
10 tioner or the child;

11 (5) award temporary custody of a minor child to the peti-
12 tioner;

13 (6) direct the respondent to pay medical expenses incurred
14 by the petitioner as a result of the domestic violence;

15 (7) direct the respondent to engage in personal or family
16 counseling;

17 (8) restrain the respondent from entering a propelled
18 vehicle in the possession of or occupied by the petitioner.

19 (c) An order issued under this section remains in effect for a
20 period of time not to exceed 90 days. However, the petitioner may
21 petition the [SUPERIOR] court for an extension of a provision of the
22 order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7),
23 or (b)(8) of this section. If the [SUPERIOR] court, after notice to
24 the respondent of and a hearing on the petition for the extension in
25 accordance with the procedures described in (b) of this section, finds
26 that an extension of the provision of the order is necessary to pro-
27 tect the petitioner or a minor child in the care of the petitioner
28 from domestic violence, the [SUPERIOR] court may extend the provision
29 of the order for a period of time not to exceed 45 days. The court

1 may not grant more than one extension under this subsection.

2 (d) Proceedings under this section do not preclude any other
3 available civil or criminal remedies.

4 * Sec. 6. AS 25.35.020(a) is amended to read:

5 (a) A person who has been subjected to domestic violence may
6 petition the superior or district court for a temporary order provid-
7 ing for emergency injunctive relief restraining the infliction of
8 further domestic violence against the petitioner by the respondent.
9 [IF THERE IS NO SUPERIOR COURT WITHIN 50 ROAD MILES OF THE RESIDENCE
10 OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION
11 THE NEAREST DISTRICT COURT FOR A TEMPORARY EMERGENCY INJUNCTIVE RELIEF
12 ORDER. IF THERE IS NO DISTRICT COURT WITHIN 50 ROAD MILES OF THE
13 RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY
14 PETITION THE NEAREST MAGISTRATE FOR A TEMPORARY EMERGENCY INJUNCTIVE
15 RELIEF ORDER. THE DISTRICT COURT OR MAGISTRATE SHALL NOTIFY THE
16 SUPERIOR COURT IMMEDIATELY UPON ISSUANCE OF AN ORDER GRANTING EMER-
17 GENCY INJUNCTIVE RELIEF UNDER THIS SECTION.]

18 * Sec. 7. AS 25.35.020(d) is amended to read:

19 (d) If an order under this section is granted without notice, a
20 hearing before the [SUPERIOR] court for injunctive relief under
21 AS 25.35.010 shall be scheduled by the [SUPERIOR] court at the earli-
22 est possible time consistent with the notice provisions of AS 25.-
23 35.010. If at the hearing the petitioner does not proceed with the
24 petition for injunctive relief, the [SUPERIOR] court shall dissolve
25 the emergency injunctive relief order.

26 * Sec. 8. AS 25.35.020(e) is amended to read:

27 (e) On three days notice to the petitioner, or on shorter notice
28 as the [SUPERIOR] court may prescribe, the respondent may make a
29 motion to the [SUPERIOR] court for the dissolution or modification of

1 an order for emergency injunctive relief under this section. The
2 [SUPERIOR] court shall hear and rule on the motion in an expeditious
3 manner.

4 * Sec. 9. AS 34.35.005(a) is amended to read:

5 (a) When an action is required to enforce a lien provided for in
6 [SECS. 5 - 425 OF] this chapter and the action falls within the
7 monetary jurisdiction of the district court, the action shall be
8 started in the district [SUPERIOR] court in the judicial district in
9 which the property upon which the lien attaches is located. An action
10 that exceeds the monetary jurisdiction of the district court shall be
11 started in the superior court in the judicial district in which the
12 property upon which the lien attaches is located. The procedure,
13 except as otherwise provided in [SECS. 5 - 45 OF] this chapter, is the
14 same as in the trial of an action to secure property to hold it for
15 the satisfaction of a lien against it.

16 * Sec. 10. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 21, 1985

SUBJECT: Sectional analysis of CSSB 1 (Judiciary)

TO: Senator Patrick M. Rodey
Chairman, Senate Judiciary Committee

FROM: Keith B. Levy *KBL*
Legislative Counsel

You have requested a sectional analysis of CSSB 1 (Judiciary). The bill amends a number of provisions relating to the jurisdiction of the superior and district courts.

Section 1 provides that when a matter falls within the overlapping jurisdiction of the superior court and the district court, the action must be filed in the district court unless the Supreme Court provides for an exception by court rule (AS 22.10.020(a)).

Section 2 increases the monetary jurisdictional limitation in the district court from \$10,000 to \$25,000 and adds the power to issue injunctive relief in domestic violence cases to the jurisdiction of the district court (AS 22.15.030(a)). It also restates the rule that matters within the concurrent jurisdiction of the superior court and the district court must be filed in the district court unless the Supreme Court provides for an exception (AS 22.15.030(b)).

Section 3. AS 22.15.050 currently provides that the district court has no jurisdiction over actions of an equitable nature. Section 3 amends that section to provide for an exception "where otherwise provided by law" to be consistent with other provisions of the bill giving the district court jurisdiction to issue injunctive relief in domestic violence cases since this power is of an equitable nature.

Sections 4 - 8 amend existing provisions of law to allow an individual to seek injunctive relief in domestic violence

Senator Patrick Rodey
January 21, 1985
Page 2

cases in the district court as well as the superior court (AS 22.15.100, AS 25.35.010, and AS 25.35.020).

Section 9 amends AS 34.35.005(a) to allow the district court to enforce liens in cases where the value of the property attached does not exceed the monetary limit of \$25,000 provided for in section 1 of the Act.

Section 10 provides that the Act is to take effect immediately.

KBL:ojb
J11/019

COMMITTEE REPORTS (House)(cont'd)

Hyder as Mile "0" on the Alaska-Yukon Highway (designating) HOUSE-RESOLUTION-NO.-5, (see page 319). Reported back to the House April 16 from Transportation as follows: Furnance recommends do pass. Pignalberi recommends do not pass. Davis, (vice-chair), Marrou and Shultz had no recommendation. To Rules.

BILLS PASSED IN THE HOUSE

Superior & District Ct. Jurisdiction HCS FOR CS FOR SENATE BILL NO.-1-(JUD)-(AM-H), (see pages 1; 126;179;211;495;568). On April 17 the bill was removed from the calendar and returned to the Rules Committee. On April 19 the House Judiciary substitute was adopted (see page 495). Amendment 1 by Gruenberg was adopted and it adds a new section amending AS 25.35.020 (Emergency Injunctive Relief in Cases Involving Domestic Violence) to read:

(c) An order issued under this section may include a provision described in AS 25.35.010(b), except an order for mediation. The order shall be endorsed with the date and hour of issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state the reason that it was granted without notice. The order shall remain in effect for a period not to exceed 20 days, unless extended by the court for good cause. The reasons for the extension shall be entered in the records of the court."

Note: AS 25.35.010 referred to in the amendment is Injunctive Relief in Cases Involving Domestic Violence.

The bill then passed the House, 36-0-4. Excused: Collins, Herrmann, Marrou and Sund. The effective date clause was adopted.

Car Theft/Joyriding (heavier penalty) SCS FOR CS FOR HOUSE BILL NO 17 (JUD), (see pp. 40;284;287; 332;355;382;433;603). On April 16 the House concurred in the Senate amendment to CSHB 17 (JUD), 36-0-3-2, thus adopting SCS CSHB 17 (SA). Excused: Adams, Cato, Collins. Absent: Fuller.

Municipal Code (revision) CS FOR HOUSE-BILL-NO. 72 (C&RA) (AM), (see pages 61;415; 456;505;549;619;646). April 15 the House adopted Am. 1 by the Finance Committee (technical). Further attempts to amend the bill failed, and the bill passed the House, 37-1-2. Nay: Martin. Excused: Adams, Cato. The effective date clause and the C&RA letter of intent (see page 549) were adopted. Rep. Pignalberi gave notice of reconsideration on his vote.

Before the House on reconsideration April 16. An attempt to amend the bill by Rep. Pignalberi failed, and the bill passed the House on reconsideration, 36-1-3. Nays: Martin. Excused: Adams, Cato, Collins. The effective date clause and the C&RA letter were again adopted.

COMMITTEE REPORTS, (House)

Superior &
District Ct.
Jurisdiction

CS FOR SENATE BILL NO. 1 (JUD), (see pages 1;126;179;211).
Reported back to the House March 18 by Judiciary recommending
it be replaced with a House Judiciary substitute and as
follows: M. M. Miller (Chair), Taylor and Phillips recommend do
pass. Clocksin and Sund have no recommendation. To Finance.

The Judiciary substitute makes the following changes:

--Amends AS 08.81.081 (Claims Against Contractor). Would allow a
person having a claim against a contractor to bring suit upon the
bond in the district court of the judicial district in which venue
lies (currently may bring suit upon the bond in the superior court
of the judicial district in which the work is done or of any
judicial district in which jurisdiction of the contractor may be
obtained).

--Further amends AS 22.10.020(a) (Jurisdiction of the Superior
Court) and AS 22.15.030 (District Court. Civil Jurisdiction) by
stating that except for a petition for injunctive relief for
domestic violence cases, an action that falls within the concurrent
jurisdiction of the Superior Court and the District Court may not
be filed in the Superior Court, except as provided by the rules of
the Supreme Court (reference to domestic violence added).

--removes language that limits the jurisdiction of the District
Court in actions for criminal conversation, seduction upon a
promise to marry (the District Court currently does not have
jurisdiction in these cases).

--a court order in domestic violence cases may include a provision
that directs the respondent to engage in personal or family
mediation (former version mentioned only counseling -- this version
adds mediation).

--Section relating to liens has been changed (see page HB 119, page
145, former version was identical to last paragraph of that
write-up). This version states that when an action is required to
enforce a lien and the action falls within the monetary
jurisdiction of the District Court, the action shall be started in
the District Court in the judicial district in which the venue lies
(was "in which the property upon which the lien attaches is
located.")

--Adds new section stating the amendments to domestic violence law
provided in sections 2 and 3 of the bill apply only to cases filed
on or after the effective date of this bill.

--Changes effective date to July 1, 1985 (was immediate).

State Bond
Committee
(within Dept.
of Revenue)

HOUSE BILL NO. 4, (see page 35). Reported back to the
House March 20 by House Loans recommending it be replaced
with a Loans substitute and that it do pass. Concurring:
Sund (Chair), Uehling and Fuller. Not concurring: Cotten had
no recommendation. To Finance.

The Loans Committee requires that the policies and guidelines

ALASKA COURT SYSTEM

Requested legislation

(1) Amendments to SB 1, increasing district court and small claims jurisdiction

(a) eliminating concurrent civil jurisdiction in the superior and district court

(b) lien enforcement in district court

(c) authorizing district court to issue domestic violence injunctive orders

(d) standardizing the monetary level of magistrate jurisdiction

(2) Venue

(3) Judicial vacancy

(4) Internal auditor

SB 1: AMENDMENTS PROPOSED BY
THE ALASKA COURT SYSTEM

Proposed Amendment #1 - eliminating concurrent civil jurisdiction in the superior and district court

AS 22.10.020(a) is amended to read:

Sec. 22.10.020. Jurisdiction. (a) The superior court is the trial court of general jurisdiction, with [ORIGINAL] jurisdiction in all civil and criminal matters, including but not limited to probate and guardianship of minors and incompetents.

AS 22.15.030(b) is repealed and re-enacted to read:

Sec. 22.15.030(b). [INSOFAR AS THE CIVIL JURISDICTION OF THE DISTRICT COURTS AND THE SUPERIOR COURT IS THE SAME, SUCH JURISDICTION IS CONCURRENT.] An action within the civil jurisdiction of the district court may be referred to the superior court only under procedures provided by supreme court rule.

Proposed Amendment #2 - lien enforcement in district court

AS 34.35.005(a) is amended to read:

(a) When an action is required to enforce a lien provided for in [§§ 5 - 425 OF] this chapter, and when such action falls within the monetary jurisdiction of the district court, the action shall be started in the [SUPERIOR] district court in the judicial district in which the property upon which the lien attaches is located. An action which exceeds the monetary jurisdiction of the district court shall be started in the superior court. The procedure, except as otherwise provided in §§ 5 - 45 of this chapter is the same as in the trial of an

action to secure property to hold it for the satisfaction of a lien against it.

Proposed Amendment #3 - authorizing district court to issue emergency domestic violence injunctive orders

Third Judicial District Presiding Judge Douglas Serdahely has proposed that the district court be given authority to issue injunctive orders in domestic violence matters. At present, under AS 25.35.020 the district court can issue such an order only if there is no superior court within 50 road miles of the residence of the person subjected to domestic violence. The administrative office of the Alaska Court system takes no position on this proposal.

This proposal would require the following amendments:

AS 22.15.100 is amended to read:

Sec. 22.15.100. Functions and powers of district judge and magistrate. Each district judge and magistrate has the power

(1) to issue writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, returnable before a judge of the superior court, and the same proceedings shall be held on the writ as if it had been granted by the superior court judge under the laws of the state in such cases;

(2) of a notary public;

(3) to issue marriage licenses and to solemnize marriages;

(4) to issue warrants of arrest, summons and search warrants according to manner and procedure prescribed by law and the supreme court;

(5) to act as an examining judge or magistrate in preliminary examinations in criminal proceedings; to set, receive and forfeit bail and to order the release of defendants under bail;

(6) to act as a referee in matters and actions referred to the judge or magistrate by the superior court, with all powers conferred upon referees by laws;

(7) of the superior court in all respects including but not limited to contempts, attendance of witnesses and bench warrants;

(8) to order the temporary detention of a minor, or take other action authorized by law or rules of procedure, in cases arising under AS 47.10, when the minor is in a condition or surrounding dangerous or injurious to the welfare of the minor or others which requires immediate action; the action may be continued in effect until reviewed by the superior court in accordance with rules of procedure governing these cases;

(9) to issue a temporary order for [EMERGENCY] injunctive relief in cases involving domestic violence [AS PROVIDED IN AS 09.55.610];

(10) to review an administrative revocation of a person's driver's license or nonresident privilege to drive, and an administrative refusal to issue an original license, when designated as a hearing officer by the commissioner of public safety and with the consent of the administrative director of the state court system.

AS 25.35.010 is amended to read:

Sec. 25.35.010. Injunctive relief in cases involving domestic violence. (a) A person who is subjected to domestic violence may petition [A] the superior or district court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent.

(b) Upon receiving a petition under (a) of this section, the [SUPERIOR] court shall schedule a hearing and shall provide at least 10 days notice to the respondent of the hearing and of the respondent's right to appear and to be heard either in person or by attorney. If, at the hearing, the [SUPERIOR] court finds that the petitioner has been subjected to domestic violence by the respondent, the [SUPERIOR] court may issue any order it determines to be necessary for the protection of the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this subsection may include provisions which

(1) restrain the respondent from subjecting the petitioner to domestic violence;

(2) direct the respondent to vacate the home of the petitioner;

(3) restrain the respondent from communicating directly or indirectly with the petitioner;

(4) direct the respondent to pay support for the petitioner or for a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or the child;

(5) award temporary custody of a minor child to the petitioner;

(6) direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence;

(7) direct the respondent to engage in personal or family counseling;

(8) restrain the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner.

(c) An order issued under this section remains in effect for a period of time not to exceed 90 days. However, the petitioner may petition the [SUPERIOR] court for an extension of a provision of the order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7), or (b)(8) of this section. If the [SUPERIOR] court, after notice to the respondent of and a hearing on the petition for the extension in accordance with the procedures described in (b) of this section, finds that an extension of the provision of the order is necessary to protect the petitioner or a minor child in the care of the petitioner from domestic violence, the [SUPERIOR] court may extend the provision of the order for a period of time not to exceed 45 days. The court may not grant more than one extension under this subsection.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies.

AS 25.35.020(a) is amended to read:

Sec. 25.35.020. Emergency injunctive relief in cases involving domestic violence. (a) A person who has been subjected to domestic violence may petition the superior or district court for a temporary order providing for emergency injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent. [IF THERE IS NO SUPERIOR COURT WITHIN 50 ROAD MILES OF THE RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION THE NEAREST DISTRICT COURT FOR A TEMPORARY EMERGENCY INJUNCTIVE RELIEF ORDER. IF

THERE IS NO DISTRICT COURT WITHIN 50 ROAD MILES OF THE RESIDENCE OF THE PERSON SUBJECTED TO DOMESTIC VIOLENCE, THE PERSON MAY PETITION THE NEAREST MAGISTRATE FOR THE TEMPORARY EMERGENCY INJUNCTIVE RELIEF ORDER. THE DISTRICT COURT OR AGISTRATE SHALL NOTIFY THE SUPERIOR COURT IMMEDIATELY UPON ISSUANCE OF AN ORDER GRANTING EMERGENCY INJUNCTIVE RELIEF UNDER THIS SECTION.]

Proposed Amendment #4 - standardization of jurisdiction of magistrates

AS 22.15.120. Limitations on proceedings which magistrate may hear. A magistrate shall preside only in cases and proceedings under AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

(1) for the recovery of money or damages only when the amount claimed, exclusive of costs, interest, and attorney fees, does not exceed \$5,000 [\$1,000];

(2) for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$5,000 [\$1,000];

(3) for the recovery of a penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$5,000 [\$1,000];

(4) to give judgment without action upon the confession of the defendant for any of the cases specified in this section, except for a penalty or forfeiture imposed by statute;

(5) to give judgment of conviction upon a plea of guilty by the defendant in a criminal proceeding within the jurisdiction of the district court;

(6) to hear, try, and enter judgments in all cases involving misdemeanors, if the defendant consents in writing that the magistrate may try the case;

(7) to hear, try and enter judgments in all cases involving infractions under AS 28 and violations of ordinances of political subdivisions. [;

(8) REPEALED]

1 IN THE SENATE

BY ZIEGLER AND RAY

2 SENATE BILL NO. 1

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the jurisdiction of the district
7 court and the small claims jurisdictional limitation;
8 and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 22.15.030(a) is amended to read:

11 (a) The district court has jurisdiction of civil cases and
12 proceedings as follows:

13 (1) for the recovery of money or damages when the amount
14 claimed exclusive of costs, interest and attorney fees does not exceed
15 \$25,000 [\$10,000, EXCEPT AS PROVIDED IN (10) OF THIS SUBSECTION];

16 (2) for the recovery of specific personal property, when
17 the value of the property claimed and the damages for the detention do
18 not exceed \$25,000 [\$10,000];

19 (3) for the recovery of a penalty or forfeiture, whether
20 given by statute or arising out of contract, not exceeding \$25,000
21 [\$10,000];

22 (4) to give judgment without action upon the confession of
23 the defendant for any of the cases specified in this section, except
24 for a penalty or forfeiture imposed by statute;

25 (5) for establishing the fact of death of any person in the
26 manner prescribed in AS 09.55.020 - 09.55.060;

27 [(6) Repealed

28 (7) Repealed]

29 (6) [(8)] for the recovery of the possession of premises in

1 the manner provided under AS 09.45.070 - 09.45.160 when the value of
2 the property or of the arrears and damage to the property does not
3 exceed \$25,000 [\$10,000];

4 (7) [(9)] for the foreclosure of a lien when the amount in
5 controversy does not exceed \$25,000 [\$10,000];

6 (8) [(10)] for the recovery of money or damages in motor
7 vehicle tort cases when the amount claimed exclusive of costs, inter-
8 est and attorney fees does not exceed \$25,000 [\$15,000];

9 (9) [(11)] over civil actions for taking utility service
10 and for damages to or interference with a utility line filed under
11 AS 42.20.030.

12 * Sec. 2. AS 22.15.040 is amended to read:

13 Sec. 22.15.040. SMALL CLAIMS. When a claim for relief does not
14 exceed \$5,000 [\$2,000] exclusive of costs, interest and attorney fees,
15 and request is so made, the district judge or magistrate shall hear
16 the action as a small claim unless important or unusual points of law
17 are involved. The supreme court shall prescribe the procedural rules
18 and standard forms to assure simplicity and the expeditious handling
19 of small claims.

20 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
21 10.070(c).

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 1
Title: District Court Jurisdiction and Small Claims Jurisdictional Lmt.
Sponsor: _____
Requestor: _____
Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		94.8	100.5	106.5	112.9	119.7
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		9.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		105.8	102.6	108.7	115.2	122.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		105.8	102.6	108.7	115.2	122.1
FEDERAL FUNDS						
OTHER						
TOTAL		105.8	102.6	108.7	115.2	122.1

POSITIONS:

FULL-TIME		3	3	3	3	3
PART-TIME		1	1	1	1	1
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
Division: Alaska Court System Date: 1/15/85
Approved by Commissioner: [Signature] Date: 1/15/85
Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

ALASKA COURT SYSTEM

SB 1 - DISTRICT COURT JURISDICTION AND SMALL CLAIMS JURISDICTIONAL LIMITATION

FISCAL IMPACT

The increase in the District Court civil jurisdiction to \$25,000 is expected to have a minimal fiscal impact on the courts. In contrast, it is anticipated that the increase in small claims jurisdiction from \$2,000 to \$5,000 will have a significant impact on court operations.

The Civil Division of the Anchorage Clerk's Office, which is the court location with the greatest number of small claims filings, anticipates that a jurisdictional increase would result in a 15-20% increase in small claims filings. Some of these cases would be matters previously handled in District Court. Others would be new to the system, representing legal problems with a relatively low dollar amount involved for which persons are reluctant to incur the costs entailed for an attorney, but which they wish to handle themselves in small claims court.

Additionally, some litigants would be willing to waive the amount of their claim over \$5,000 and proceed in small claims court, balancing the waiver of the claim amount against the savings in attorney fees in small claims.

Judicial resources should not be impacted by the increase since most of these types of cases are already in the system. However, additional clerical help will be required. The small claims procedures involve an extensive amount of clerical assistance, including mailing notices for litigants and substantial time expended in advising the public. General District Court matters require only simple filing and journaling of documents. This impact could be handled by the addition of three and one-half (3½) positions with costs calculated on the following page. One and one-half of these positions would be located in Anchorage. Fairbanks and Juneau would each receive one position.

ALASKA COURT SYSTEM
FISCAL NOTE ANALYSIS

SB 1 - DISTRICT COURT JURISDICTION AND SMALL
CLAIMS JURISDICTIONAL LIMITATION

PERSONNEL:	SALARY	BENEFITS	TOTAL COST
1½ COURT CLERK I (Anchorage - 8B)	\$28,926	\$10,418	\$39,344
1 COURT CLERK I (Fairbanks - 8B)	21,744	7,496	29,240
1 COURT CLERK I (Juneau - 8B)	19,284	6,945	26,229

	Total Personnel Costs		94,813
SUPPLIES			2,000
EQUIPMENT (one-time items)			8,996

TOTAL FY 86 COST			\$105,809
			=====

Subsequent fiscal years adjusted to reflect 6% inflation.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB 1
 Title: Jurisdiction of Superior
 and District Court; ED
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: _____ Phone: _____
 Division: _____ Date: _____

Approved by Commissioner: [Signature] Date: 11/22/85
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84