

S B

3 6 1

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
4/30	<del>Karla Forstner</del> will testify
	Art Snowden
2/3	Art will bring fiscal notes on 2/4

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : SB 361  
 Title : An Act Relating to the Powers  
of Magistrates  
 \_\_\_\_\_  
 Sponsor : \_\_\_\_\_  
 Requestor : Senate Judiciary  
 Date of Request : 2/3/86

**FISCAL DETAIL**

Agency Affected : Alaska Court System  
 BRU : Trial Courts  
 \_\_\_\_\_  
 Components : \_\_\_\_\_  
 \_\_\_\_\_

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

No Fiscal Impact

Prepared by : Robert G. Fisher Phone : 264-8215  
 Division : Alaska Court System Date : 2/3/86  
 Approved by Commissioner : Arthur H. Snowden, II Date : 2/3/86  
 Agency : Alaska Court System

Distribution (by Agency preparing fiscal note):

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

January 16, 1986

M E M O R A N D U M

TO: Arthur H. Snowden, II  
Administrative Director

FROM: Karla L. Forsythe *KLF*  
Staff Counsel

SUBJECT: Powers of Magistrates in Proceedings for  
the Extradition of Fugitives

As you requested, I have drafted proposed legislation relating to the powers of magistrates in proceedings for extradition of fugitives.

The extradition statute (AS 12.70) provides that a person arrested as a fugitive from justice must be brought before a judge of the district or superior court. Judicial resources would be maximized if the matters could also be handled by magistrates. Since magistrates have legal authority to arraign persons accused of crimes like murder, there is no reason why they should not be empowered to arraign fugitives from justice and handle other preliminary proceedings.

I have redrafted relevant sections of AS 12.70\* to substitute the word "court" whenever the words "judge of the superior court or a district judge" appear (proposed sections 1 - 9). In proposed section 10 "court" is defined to include a judge of the superior court, a judge of the district court or a magistrate.

Proposed section 11 amends AS 22.15.120 by adding these proceedings to the types of matters in which a magistrate can preside.

---

\*. AS 12.70.090, AS 12.70.120, AS 12.70.130,  
AS 12.70.140, AS 12.70.150, AS 12.70.170, AS 12.70.220(c),  
AS 12.70.240(a) and (b).

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to powers of magistrates in the  
7 extradition of fugitives."

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

9 \* Section 1. AS 12.70.090 is amended to read:

10 Sec. 12.70.090. RIGHTS OF ACCUSED PERSON AND APPLICATION FOR  
11 WRIT OF HABEAS CORPUS. A person arrested on [UPON] a warrant may not  
12 be delivered over to the agent that [WHOM] the executive authority  
13 demanding the person has [SHALL HAVE] appointed to receive the person  
14 unless the person is first taken immediately before a judge or magis-  
15 trate [OF THE SUPERIOR COURT OR A DISTRICT JUDGE] of this state, who  
16 shall inform the person of the demand made for the person's surrender,  
17 and of the crime with which the person is charged, and that the person  
18 has the right to demand and procure legal counsel. If the prisoner or  
19 the prisoner's counsel states a desire to test the legality of the  
20 arrest, the judge or magistrate [OF THE SUPERIOR COURT OR THE DISTRICT  
21 JUDGE] shall fix a reasonable time to be allowed the prisoner within  
22 which to apply for a writ of habeas corpus. When that writ is applied  
23 for, notice of the application [THEREOF] and of the time and place of  
24 hearing on it [THEREON] shall be given to the prosecuting attorney of  
25 the judicial district in which the arrest is made and in which the  
26 accused is in custody, and to the agent of the demanding state.

27 \* Sec. 2. AS 12.70.120 is amended to read:

28 Sec. 12.70.120. ARREST PRIOR TO REQUISITION. When a person  
29 within this state is charged on the oath of a credible person before a

1 within this state is charged on the oath of a credible person before a  
2 judge or magistrate [OF THE SUPERIOR COURT OR DISTRICT JUDGE] of this  
3 state with the commission of a crime in another state and, except in  
4 cases arising under AS 12.70.050, with having fled from justice, or  
5 with having been convicted of a crime in that state and having escaped  
6 from confinement, or having broken the terms of bail, probation, or  
7 parole; or whenever complaint is made before a judge or magistrate [OF  
8 THE SUPERIOR COURT OR DISTRICT JUDGE] in this state setting out  
9 [FORTH] on the affidavit of a credible person in another state that a  
10 crime has been committed in the other state and that the accused has  
11 been charged in that state with the commission of the crime and,  
12 except in cases arising under AS 12.70.050, has fled from justice, or  
13 with having been convicted of a crime in that state and having escaped  
14 from confinement, or having broken the terms of bail, probation, or  
15 parole and is believed to be in this state, the judge or magistrate  
16 [OF THE SUPERIOR COURT OR DISTRICT JUDGE] shall issue a warrant  
17 directed to a peace officer commanding the officer to apprehend the  
18 person named in the warrant, wherever that person may be found in this  
19 state, and to bring that person before the same or another judge or  
20 magistrate [OF THE SUPERIOR COURT OR DISTRICT JUDGE] who is available  
21 in or convenient of access to the place where the arrest may be made,  
22 to answer the charge or complaint and affidavit. A certified copy of  
23 the sworn charge or complaint or affidavit upon which the warrant is  
24 issued shall be attached to the warrant.

25 \* Sec. 3. AS 12.70.130 is amended to read:

26 Sec. 12.70.130. ARREST WITHOUT WARRANT. The arrest of a person  
27 may also be lawfully made by a peace officer or a private person  
28 without a warrant upon reasonable information that the accused stands  
29 charged in the courts of another state with a crime punishable by

1 death or imprisonment for a term exceeding one year, but when [SO]  
2 arrested the accused must be taken before a [SUPERIOR COURT] judge or  
3 magistrate [DISTRICT JUDGE] without unnecessary delay and, in any  
4 event, within 24 hours after arrest, including Sundays and holidays,  
5 and complaint shall be made against the accused under oath setting out  
6 [FORTH] the ground for the arrest as in AS 12.70.120. Thereafter the  
7 answer of the accused shall be heard as if the accused had been  
8 arrested on a warrant.

9 \* Sec. 4. AS 12.70.140 is amended to read:

10 Sec. 12.70.140. COMMITMENT TO AWAIT REQUISITION. If at the  
11 examination before the [SUPERIOR COURT] judge or magistrate [DISTRICT  
12 JUDGE] it appears that the person held is the person charged with  
13 having committed the crime alleged and, except in cases arising under  
14 AS 12.70.050, that the person has fled from justice, the [SUPERIOR  
15 COURT] judge or magistrate [DISTRICT JUDGE] shall commit the person to  
16 jail for not more than 30 days, as will enable the arrest of the  
17 accused to be made under a warrant of the governor on a requisition of  
18 the executive authority of the state having jurisdiction of the  
19 offense, unless the accused gives bail as provided in AS 12.70.150, or  
20 until legally discharged. The commitment by the judge or magistrate  
21 [OF THE SUPERIOR COURT OR BY THE DISTRICT JUDGE] shall be by a warrant  
22 that [WHICH] shall recite the following:

23 (1) the accusation against the accused;

24 (2) the fact that the commitment is for a time as will  
25 enable the arrest of the accused to be made under a warrant of the  
26 governor of this state; and

27 (3) that in any event the commitment shall be for not more  
28 than 30 days.

29 \* Sec. 5. AS 12.70.150 is amended to read:

1           Sec. 12.70.150. BAIL. Unless the offense with which the pris-  
2 oner is charged is shown to be an offense punishable by death under  
3 the laws of the state in which it was committed, a [SUPERIOR COURT]  
4 judge or magistrate [DISTRICT JUDGE] in this state shall admit the  
5 prisoner to bail by bond or undertaking, with sufficient sureties, and  
6 in a sum the judge or magistrate considers proper, conditioned upon  
7 the prisoner's appearance before the judge or magistrate at a time  
8 specified in the bond or undertaking and for the prisoner's surrender,  
9 to be arrested on [UPON] the warrant of the governor of this state.

10 \* Sec. 6. AS 12.70.160 is amended to read:

11           Sec. 12.70.160. EXTENSION OF TIME OF COMMITMENT. If the accused  
12 is not arrested under warrant of the governor by the expiration of the  
13 time specified in the warrant, bond, or undertaking, a judge or magis-  
14 trate [OF THE SUPERIOR COURT OR DISTRICT JUDGE] may discharge the  
15 accused or may recommit the accused for a further period of not more  
16 than 60 days, or a judge or magistrate [OF THE SUPERIOR COURT OR  
17 DISTRICT JUDGE] may again take bail for the appearance and surrender  
18 of the accused, as provided in AS 12.70.150, but within a period of  
19 not more than 60 days after the date of the new bond or undertaking.

20 \* Sec. 7. AS 12.70.170 is amended to read:

21           Sec. 12.70.170. FORFEITURE OF BAIL. If the prisoner is admitted  
22 to bail and fails to appear and surrender according to the conditions  
23 of the bond or undertaking, the [SUPERIOR COURT] judge or magistrate  
24 [DISTRICT JUDGE], by proper order, shall declare the bond or undertak-  
25 ing forfeited, and order the immediate arrest of the prisoner if the  
26 prisoner is within this state. Recovery may be had on the bond or  
27 undertaking in the name of the state as in the case of other bonds or  
28 undertakings given by the accused in criminal proceedings within this  
29 state.

1 \* Sec. 8. AS 12.70.220(c) is amended to read:

2 (c) The application shall be verified by affidavit, shall be  
3 executed in duplicate and shall be accompanied by two certified copies  
4 of the indictment returned, or information and affidavit filed, or the  
5 complaint made to the [SUPERIOR COURT] judge or magistrate [DISTRICT  
6 JUDGE], stating the offense with which the accused is charged, or of  
7 the judgment of conviction or of the sentence. The attorney general or  
8 the prosecuting attorney, the parole or probation authority, or the  
9 commissioner of corrections may also attach further affidavits and  
10 other documents in duplicate [HE DEEMS PROPER] to be submitted with  
11 the application. One copy of the application, with the action of the  
12 governor indicated by endorsement on the application, and one of the  
13 certified copies of the indictment, complaint, information and affida-  
14 vits, or judgment or conviction or sentence shall be filed in the  
15 office of the governor to remain of record in that office. The other  
16 copies of all papers shall be forwarded with the governor's requisition.  
17

18 \* Sec. 9. AS 12.70.240 is amended to read:

19 Sec. 12.70.240. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS. (a)  
20 A person arrested in this state charged with having committed a crime  
21 in another state or alleged to have escaped from confinement, or  
22 broken the terms of bail, probation, or parole may waive the issuance  
23 and service of the warrant provided for in AS 12.70.060 and 12.70.070  
24 and all other procedure incidental to extradition proceedings, by  
25 executing or subscribing in the presence of a [SUPERIOR COURT] judge  
26 or magistrate [DISTRICT JUDGE] within this state a writing which  
27 states that the person consents to return to the demanding state;  
28 however, before the waiver is executed or subscribed by that person,  
29 the judge or magistrate shall inform that person of the right to the

1 issuance and service of a warrant of extradition and of the right to  
2 apply for a writ of habeas corpus as provided for in AS 12.70.090.

3 (b) If and when that consent is executed, it shall immediately  
4 be forwarded to the office of the governor of this state and filed  
5 therein. The judge or magistrate shall direct the officer having the  
6 person in custody to deliver immediately that person to the duly  
7 accredited agent of the demanding state, and shall deliver or cause to  
8 be delivered to the agent a copy of the consent.

9 (c) Nothing in this section is considered to limit the rights of  
10 the accused person to return voluntarily and without formality to the  
11 demanding state, nor shall this waiver procedure be considered  
12 [DEEMED] to be an exclusive procedure or to limit the powers, rights,  
13 or duties of the officers of the demanding state or of this state.

14 \* Sec. 10. AS 22.15.120 is amended to read:

15 Sec. 22.15.120. LIMITATIONS ON PROCEEDINGS WHICH MAGISTRATE MAY  
16 HEAR. A magistrate shall preside only in cases and proceedings under  
17 AS 22.15.040, 22.15.100, and 22.15.110, and as follows,

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

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

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

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

29 (5) to give judgment of conviction upon a plea of guilty by

1 the defendant in a criminal proceeding within the jurisdiction of the  
2 district court;

3 (6) to hear, try, and enter judgments in all cases involv-  
4 ing misdemeanors, if the defendant consents in writing that the magis-  
5 trate may try the case;

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

9 (8) for the extradition of fugitives as authorized under  
10 AS 12.70 [REPEALED].