

MAINE STATE LEGISLATURE

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ONE - HUNDRE DTH LEGISLATURE

Legislative Document

No. 572

H. P. 397

House of Representatives, January 19, 1961.

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Cox of Dexter.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Creating a District Court to Integrate Activities of Municipal Courts and Trial Justices.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 108-A, additional. The Revised Statutes are amended by adding a new chapter to be numbered 108-A, to read as follows:

Chapter 108-A.

District Court.

Sec. 1. District Court established. There is established a District Court for the State of Maine.

Sec. 2. Jurisdiction. The District Court shall possess the jurisdiction now exercised by all trial justices and municipal courts in the State, and in addition, original jurisdiction, concurrent with that of the Superior Court, of actions for divorce or annulment of marriages and of proceedings under chapter 167, and original jurisdiction, concurrent with that of the Probate Court, of actions for separation.

Sec. 3. Judicial divisions. The State is divided into 30 judicial divisions, named and defined as follows, and with places for holding court therein as follows:

I. Northern Androscoggin. Northern Androscoggin consists of the Towns of Leeds, Livermore, Livermore Falls and Turner. The District Court for Northern Androscoggin shall be held at Livermore Falls.

II. Southern Androscoggin. Southern Androscoggin consists of all towns in Androscoggin County not included within the division of Northern Androscoggin. The District Court for Southern Androscoggin shall be held at Lewiston.

III. Western Aroostook. Western Aroostook consists of the towns and unorganized territory known as Grand Isle, T₁₁ R₉, T₁₂ R₉, T₁₃ R₈, T₁₄ R₇, T₁₅ R₆, T₁₆ R₅, T₁₇ R₄, and all towns in Aroostook County lying to the west of these. The District Court for Western Aroostook shall be held at Fort Kent.

IV. Eastern Aroostook. Eastern Aroostook includes the towns and unorganized territory known as Cox Patent Bridgewater, Oxbow Plt., TD R₂, T₉ R₃, T₉ R₄, T₉ R₅, T₉ R₇, T₉ R₈ and all towns in Aroostook County lying to the north of these up to the boundary of the division of Western Aroostook. The District Court for Eastern Aroostook shall be held at Caribou.

V. Southern Aroostook. Southern Aroostook consists of all towns and unorganized territory in Aroostook County not included within the divisions of Western Aroostook and Eastern Aroostook. The District Court for Southern Aroostook shall be held at Houlton.

VI. Northern Cumberland. Northern Cumberland consists of the Towns of Brunswick, Freeport, Harpswell, Pownal and Yarmouth. The District Court for Northern Cumberland shall be held at Brunswick.

VII. Southern Cumberland. Southern Cumberland consists of the Towns of Casco, Standish and all towns lying to the south and east of these in Cumberland County up to the boundaries of the division of Northern Cumberland. The District Court for Southern Cumberland shall be held at Portland.

VIII. Western Cumberland. Western Cumberland consists of all towns in the County of Cumberland not included within the divisions of Northern and Southern Cumberland. The District Court for Western Cumberland shall be held at Bridgton.

IX. Northern Franklin. Northern Franklin consists of Kingfield, Madrid, Mt. Abraham T₄ R₁, Twp. E and all towns and unorganized territory in Franklin County lying to the north of these. The District Court for Northern Franklin shall be held at Rangeley.

X. Southern Franklin. Southern Franklin consists of all towns and unorganized territory in Franklin County not included within the division of Northern Franklin. The District Court for Southern Franklin shall be held at Farmington.

XI. Hancock. Hancock consists of the entire County of Hancock. The District Court for Hancock shall be held at Ellsworth.

XII. Northern Kennebec. Northern Kennebec consists of the Towns of Albion, Belgrade, Readfield, Sidney, Vassalboro, Wayne, Winslow and all towns in Kennebec County lying to the north of these. The District Court for Northern Kennebec shall be held at Waterville.

XIII. Southern Kennebec. Southern Kennebec consists of all towns in Kennebec County not included within the division of Northern Kennebec. The District Court for Southern Kennebec shall be held at Augusta.

XIV. Knox. Knox consists of the entire County of Knox. The District Court of Knox shall be held at Rockland.

XV. Lincoln. Lincoln consists of the entire County of Lincoln. The District Court for Lincoln shall be held at Damariscotta.

XVI. Oxford. Oxford consists of the entire County of Oxford. The District Court for Oxford shall be held at Rumford.

XVII. Northern Penobscot. Northern Penobscot consists of the towns and unorganized territory of Hopkins Academy Grant, Long A, Medway, TA R7, TA R8 and R9 and all towns in Penobscot County lying to the north of these. The District Court for Northern Penobscot shall be held at Millinocket.

XVIII. Central Penobscot. Central Penobscot consists of the towns and unorganized territory of Burlington, Edinburg, Lakeville Plt., LaGrange, Lowell, Passadumkeag, T3 R1, T5 R1 and all towns in Penobscot County lying to the north of these up to the boundary of the division of Northern Penobscot. The District Court for Central Penobscot shall be held at Lincoln.

XIX. Southern Penobscot. Southern Penobscot consists of the municipalities of Alton, Glenburn, Hampden, Hermon, Old Town and all municipalities in Penobscot County lying to the east of these and south of the division of Central Penobscot. The District Court for Southern Penobscot shall be held at Bangor.

XX. Western Penobscot. Western Penobscot consists of all towns in Penobscot County not included within the divisions of Northern, Central or Southern Penobscot. The District Court for Western Penobscot shall be held at Newport.

XXI. Piscataquis. Piscataquis consists of the entire County of Piscataquis. The District Court for Piscataquis shall be held at Dover-Foxcroft.

XXII. Sagadahoc. Sagadahoc consists of the entire County of Sagadahoc. The District Court for Sagadahoc shall be held at Bath.

XXIII. Northern Somerset. Northern Somerset consists of the towns and unorganized territory known as Bowtown T1 R4, East Moxie T2 R4, Flagstaff T4 R4, Pierce Pond T2 R4, T3 R4, The Forks Plt. and all towns in Somerset County lying to the north of these. The District Court for Northern Somerset shall be held at Jackman.

XXIV. Southern Somerset. Southern Somerset consists of all towns in the County of Somerset not included within the division of Northern Somerset. The District Court for Southern Somerset shall be held at Skowhegan.

XXV. Waldo. Waldo consists of the entire County of Waldo. The District Court for Waldo shall be held at Belfast.

XXVI. Northern Washington. Northern Washington consists of the towns and unorganized territory known at Charlotte, Cooper, Crawford, Pembroke, Perry, T26 E. D., T36 M. D., T37 M. D. and all towns in Washington County lying to the north of these. The District Court for Northern Washington shall be held at Calais.

XXVII. Southern Washington. Southern Washington consists of all towns in the County of Washington not included within the division of Northern Washington. The District Court for Southern Washington shall be held at Machias.

XXVIII. Eastern York. Eastern York consists of the Towns of Hollis, Kennebunk, Lyman, Wells and all towns in York County lying to the east of these. The District Court for Eastern York shall be held at Biddeford.

XXIX. Southern York. Southern York consists of the Towns of Eliot, Kittery, South Berwick and York. The District Court for Southern York shall be held at Kittery.

XXX. Western York. Western York consists of all towns in York County not included within the division of Eastern York and Southern York. The District Court for Western York shall be held at Sanford.

Sec. 4. Districts. The judicial divisions are organized into 11 districts, as follows, with the place for holding court shown in parentheses after the name of each division:

I. First district. The first district consists of the divisions of Eastern Aroostook (Caribou) and Western Aroostook (Fort Kent).

II. Second district. The 2nd district consists of the divisions of Southern Aroostook (Houlton), Northern Penobscot (Millinocket) and Central Penobscot (Lincoln).

III. Third district. The 3rd district consists of the division of Southern Penobscot (Bangor).

IV. Fourth district. The 4th district consists of the divisions of Hancock (Ellsworth), Northern Washington (Calais) and Southern Washington (Machias).

V. Fifth district. The 5th district consists of the divisions of Northern Kennebec (Waterville), Southern Kennebec (Augusta) and Waldo (Belfast).

VI. Sixth district. The 6th district consists of the divisions of Sagadahoc (Bath), Lincoln (Damariscotta) and Knox (Rockland).

VII. Seventh district. The 7th district consists of the divisions of Northern Cumberland (Brunswick), Northern Androscoggin (Livermore Falls) and Southern Androscoggin (Lewiston).

VIII. Eighth district. The 8th district consists of the division of Southern Cumberland (Portland).

IX. Ninth district. The 9th district consists of the divisions of Eastern York (Biddeford), Western York (Sanford) and Southern York (Kittery).

X. Tenth district. The 10th district consists of the divisions of Northern Franklin (Rangeley), Southern Franklin (Farmington), Oxford (Rumford) and Western Cumberland (Bridgton).

XI. Eleventh district. The 11th district consists of the divisions of Piscataquis (Dover-Foxcroft), Northern Somerset (Jackman), Southern Somerset (Skowhegan) and Western Penobscot (Newport).

Sec. 5. Where actions brought.

I. Juvenile proceeding or criminal prosecution. A juvenile proceeding or criminal, including traffic, prosecution shall be brought in the division in which the offense charged took place, but if the proceeding involves 2 or more offenses committed in different divisions, it may be brought in any one of them.

II. Forcible entry and detainer; replevin; attachment. An action for forcible entry and detainer or replevin or any action commenced by attachment shall be brought in the division in which the property involved is located.

III. Divorce, separation, annulment, support. An action or proceeding for divorce, separation, annulment of marriage or for support may be brought in the division where either the plaintiff or the defendant resides.

IV. Other civil actions. Any other civil action or proceeding shall be brought in the division where any defendant resides, but if all defendants are nonresidents of the State, it may be brought in any division of the plaintiff's choice.

V. Corporation. A corporation shall be deemed a resident of any district in which it maintains a place of business.

VI. Brought in any division with consent. Notwithstanding subsections I to V, all parties, with the approval of any district judge, may consent to any action, proceeding or prosecution being brought and determined in any division.

VII. Improper venue. If any action or proceeding, civil or criminal, is brought in the wrong division, the court, upon motion or its own initiative, shall transfer it to a proper division. Any objection to improper venue is waived unless asserted by motion to transfer the case made before the commencement of trial or, in the event of default in appearance or answer, before the entry of judgment.

VIII. Transfer of any case. The court may, upon motion or its own initiative, transfer any case to another division for the convenience of parties or witnesses or in the interest of justice.

Sec. 6. Service of process. All process of the District Court shall run throughout the State, and may be served outside of the division from which issued with the same effect as if served within such division.

Sec. 7. Rules.

I. Rules. The Justices of the Supreme Judicial Court are empowered to make and amend rules of procedure for the District Court and for appeals from the District Court.

II. Pending new rules. Pending promulgation of new rules as provided in subsection I:

A. Warrants for arrest and search warrants may be issued by any district court judge, by any judge, associate judge or recorder of any municipal court, by any trial justice or by any justice of the peace who is a lawyer and who has been especially appointed for this purpose by the Chief Judge of the District Court.

B. The rules of procedure now in effect for cases and proceedings within the jurisdiction vested by this chapter in the District Court shall apply.

C. Appeals from the District Court shall be heard de novo in the Superior Court.

Sec. 8. Appeal. Any appeal shall be taken to the Superior Court for the county embracing the division in which the judgment was rendered.

Sec. 9. Judges; appointment; salary; retirement. The Governor, with the advice and consent of the Council, shall appoint to the District Court one Chief Judge, 2 judges at large and 11 Judges of the District Court, one for each district. Each shall have a term of office of 7 years. The Chief Judge shall receive an annual salary of \$12,500 and each judge shall receive an annual salary of \$12,000.

To be eligible for appointment as a district judge, a person must be a member of the bar of the State. As used in this chapter, unless the context indicates otherwise, this term shall include the Chief Judge and the judges at large.

A district judge shall devote full time to his judicial duties. He shall not practice law during his term of office, nor shall he during such term be the partner or associate of any person in the practice of law.

Each district judge shall be entitled to 30 days' vacation each year, to be taken at such time or times as may be fixed by the Chief Judge.

Chapter 106, sections 3 and 4, now applicable to Justices of the Superior Court, are made applicable to Judges of the District Court.

Sec. 10. Clerks; appointment; compensation. For each division and for the office of the Chief Judge, the Chief Judge shall appoint, subject to the Personnel Law, one chief clerk and such other clerks as may be necessary. Each clerk shall be compensated by the State at a rate comparable to that paid other state employees performing substantially similar service, as determined by the Chief Judge. If the business in any division does not require the full-time service of a clerk, the Chief Judge shall appoint as a part-time clerk for such division the town clerk or some other official or employee of the town or county working in the place where the District Court sits for such division.

Sec. 11. Place for holding court; suitable quarters. In each division, the place for holding court shall be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate on behalf of the State the leases, contracts and other arrangements he considers necessary, within the limits of the budget and the funds available under section 12, subsection III, to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session shall be available for use by the District Court of that division in which such facilities are located. Arrangements for such use shall be made by the Chief Judge.

Sec. 12. District Court Fund.

I. District Court Fund. All fines, bail forfeitures and fees collected in the District Court of any division shall be paid to a clerk thereof, who shall deposit them in a special account within 72 hours of their receipt. Once each month, he shall remit such sums to the Treasurer of State, who shall deposit them in a special fund, to be known as the "District Court Fund."

II. Expenses. Out of such fund, the Treasurer of State shall pay, in accordance with a budget submitted each year by the Chief Judge, the expenses of the District Court, and all sums of money produced by cases brought in the District Court which shall become due to state departments and agencies, municipalities, and state, county and municipal officers. Any sums heretofore payable to counties by reason of such cases shall be paid to them not under this subsection, but under subsection IV.

III. District Court Building Fund. After paying such expenses or providing sufficient reserves for their payment, the Treasurer of State shall establish a special "District Court Building Fund" to be used solely for the building, remodeling and furnishing of quarters for the District Court, as determined and certified by the Chief Judge. The sum of \$3,000 per month shall be deposited in this fund until the Chief Judge certifies to the Treasurer of State that physical facilities for the District Court throughout the State are such that further deposits in said special building fund are no longer necessary.

IV. Balance to counties. After paying or setting aside the sums described in this section, the Treasurer of State shall pay semiannually the balance remaining in the District Court Fund to the counties of the State in the proportion which the population of each bears to the total population of the State, according to the latest available Federal Census.

Sec. 13. Duties of Chief Judge. The Chief Judge shall be responsible for the operation of the District Court and for the efficient use of its manpower. To this end he shall:

I. Hold court when necessary. Hold court in any division when he deems it necessary by reason of illness, absence or disability of the judge regularly assigned or by reason of an excessive case load in any district;

II. Assign judges at large. Assign judges at large to hold court in any division where, in his judgment, they are needed;

III. Days and hours for holding court. Fix the days and hours for holding court in each division;

IV. Vacations. Determine the times for the taking of vacations by all district judges;

V. Assign judges. Assign a judge to hold court for a temporary period in a district or division outside of his own district.

VI. Traffic Violations Bureau. Authorize for any division the establishment of a "Traffic Violations Bureau" in accordance with the "Model Rules Governing Procedure in Traffic Cases" promulgated by the National Conference of Commissioners on Uniform State Laws in 1957;

VII. Records and reports. Prescribe the records to be kept and destroyed and the reports to be made by each district judge;

VIII. Statistics. Collect and publish such statistics pertaining to the business of the District Court as he deems desirable;

IX. Budget. Prepare and submit an annual budget for the District Court;

X. Report. Render to the Chief Justice of the Supreme Judicial Court an annual report on the state of business in the District Court and on the conferences held pursuant to subsection XII.

XI. Courtroom facilities. Make necessary arrangements for proper courtroom facilities for all branches of the District Court pursuant to section 11, and establish his own headquarters with appropriate facilities at Augusta; and establish quarters and facilities for judges at large;

XII. Conference of judges. Convene at least once annually at such place as he may deem appropriate, a conference of District Court Judges to consider and take action upon or make recommendations with respect to current problems in the operation of the District Court, including but without being limited to the following topics:

A. Uniformity of sentences;

B. Standardized and simplified forms;

C. Judicial workloads and assignments;

D. Records, reports and statistics;

E. Relations with law enforcement agencies, social agencies and other courts;

F. Needed changes in procedural and substantive law;

G. Needed legislative changes in the boundaries of divisions and districts and in the places for holding court.

The expenses of District Court Judges attending this conference shall be defrayed by the State.

XIII. Seminars, institutes, etc. Authorize at the State's expense and within the financial limits of the budget, the attendance of such district judges as the Chief Judge considers desirable at traffic law institutes and other similar seminars, schools or conferences for judges.⁷

Sec. 2. Effective date; transition to new system. Chapter 108-A of the Revised Statutes, as enacted by section 1 of this act, shall take effect on January 1, 1962, and the Chief Judge provided for in section 9 of said chapter shall be appointed as soon thereafter as reasonably possible. The appointment of the other district judges provided for in said section 9 shall be made during a period commencing 6 months after the appointment of the Chief Judge and ending December 31, 1963 as need exists in the judgment of the Governor. The District Court shall be deemed to be established in a district, within the meaning of this section, on the date when the district judge appointed to such district assumes office.

After the passage of this act, except as provided in the following paragraph, no trial justice and no judge, associate judge or recorder of a municipal court shall be appointed or reappointed; but the term of any trial justice and of any judge, associate judge or recorder of a municipal court, holding office at the time of the passage of this act which shall expire prior to the establishment of the District Court in the district in which such trial justice resides, or such municipal court is located, is extended until such establishment.

If in a municipal court the office of judge becomes vacant prior to January 1, 1962, or thereafter but prior to the establishment of the District Court in the district in which such municipal court is located, and there is an associate judge of such court, he shall thereafter and until the District Court is established in the said district, be paid the same salary as provided for the office of judge of such court. If such court has no associate judge, the Governor may, with the advice and consent of the Council, notwithstanding that such court may already have a recorder, appoint an associate judge of such court to serve until the establishment of the District Court in such district; and such associate judge shall be paid the same salary as provided for the office of judge of such municipal court. Upon the establishment of the District Court in the said district such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

If a trial justice dies or vacates his office prior to January 1, 1962, or thereafter but prior to the establishment of the District Court in the district in which the residence of such trial justice is located, the Governor may with the advice and consent of the Council appoint an additional recorder of a municipal court in the county of such place of residence, to serve until the establishment of the District Court in such district; and such recorder shall be paid the same salary as was theretofore paid the said trial justice. Upon the establishment of the Dis-

trict Court in said district all cases pending before him and all his records shall be transferred to the District Court for the division in which he resided.

Upon the establishment of the District Court in a district, the judge of a municipal court located in the district whose term has not yet expired shall continue to exercise, concurrently with the District Court, the jurisdiction vested in such municipal court until after the expiration of his term. Upon such expiration or upon his office otherwise becoming vacant, after such establishment of the District Court, such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

Upon the establishment of the District Court in any district, a trial justice residing in the district whose term has not yet expired shall continue to exercise concurrently with the District Court, the jurisdiction now vested in him, until the expiration of his term. Upon such expiration or upon his office otherwise becoming vacant after such establishment, all cases pending before him and all his records shall be transferred to the District Court for the division in which he resided.

Sec. 3. Repealer. All acts or parts of acts and rules inconsistent with this act are repealed or amended to conform thereto.

Sec. 4. Appropriation. Upon the establishment of the District Court Fund created by the Revised Statutes, chapter 108-A, section 12, as enacted by section 1 of this act, there is appropriated to such District Court Fund, from the Unappropriated Surplus of the General Fund, the sum of \$50,000 to carry out the purposes of this act. On June 30, 1964 there shall be returned to the General Fund the sum of \$50,000.