

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1458

S. P. 427

In Senate, February 8, 1961

Referred to the Committee on Judiciary, sent down for concurrence and 1,000 copies ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Farris of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Creating District Courts.

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 Courts.

Sec. 1. District court established. Effective January 1, 1963 a district court shall be established for each county of the State.

Sec. 2. Jurisdiction. The district courts shall possess the jurisdiction now exercised by all trial justices and municipal courts in the State, and in addition, the original jurisdiction of actions of divorce, separation or annulment of marriage, and of proceedings under chapter 167, and of every matter pertaining to domestic relations not exclusively within the jurisdiction of the probate courts. It shall have exclusive jurisdiction of actions of forcible entry and detainer, and of all civil matters with an ad damnum of \$600 or less, unless trial by jury is desired by either party.

Sec. 3. Clerk; deputy; bond. The clerk of courts shall be the clerk of the district court. He shall be responsible for the making and keeping of its records, for the management of the clerk's office, and for performance of such other duties as may be imposed upon him by law. He shall make all reports required by law or rule of court to be made to county and state departments. He shall receive all fines and fees due the court, deposit them in a bank account in the

name of the court, and pay the same monthly, on or before the 15th day of the month, to the treasurer of the county or State, as the same may be payable by law.

The clerk of courts may appoint a deputy clerk for the district court, who shall perform the duties and exercise the powers of the clerk in regard to the district court under his supervision. The salary of the deputy clerk shall be determined by the county commissioners.

The clerk of courts and deputy clerk shall give bond to the county in an amount determined by the county commissioners.

Sec. 4. Assistance in drafting complaints. In the absence of a county attorney, the clerk or a deputy shall assist law enforcement officers in the drafting of complaints.

Sec. 5. Records; venue. The clerk's office and original records of the district court shall be located at the county seat, and this shall be the place of venue of all matters brought before the court, both civil and criminal. Divorces and annulments of marriage may be heard only at the county seat, but subject to rule, the court may hear any other matter at a different place for holding court in the county as set forth in section 6 on a request for change of venue.

When court is held at a place distant from the county seat:

I. By a judge resident in that place. The judge shall keep a simple docket, and forward to the clerk weekly the original of all papers in each finished case, keeping a carbon or photographic copy for himself. He shall deposit all fines and fees collected daily in a bank account in the name of the court, and forward duplicate deposit slips to the clerk.

II. By a judge not resident in that place. The judge shall keep a simple docket. He shall file all papers in every case in the clerk's office at the county seat, and remit all fines and fees collected, within 2 business days of the date of hearing.

Sec. 6. Court rooms. Court shall be held at each county seat, preferably at the county court house, and in addition in the following places:

York County	Biddeford and Kittery
Cumberland County	Bridgton and Brunswick
Oxford County	Fryeburg and Rumford
Penobscot County	Newport, Lincoln, Millinocket
Kennebec County	Waterville
Aroostook County	Caribou, Fort Kent
Androscoggin County	Livermore Falls
Franklin County	Rangeley
Somerset County	Jackman
Piscataquis County	Greenville
Washington County	Calais

The county commissioners, with the advice of the Chief Justice of the Supreme Court, may establish court rooms for a traffic division of the municipal court,

where under rule of court, all traffic and other offenses of a minor nature may be heard.

Sec. 7. Where actions brought.

I. Juvenile proceeding or criminal prosecution. A juvenile proceeding or criminal, including traffic, prosecution shall be brought in the county in which the offense charged took place, but if the proceeding involves 2 or more offenses committed in different counties, it may be brought in any one of them. The place of hearing may be determined by rule of court.

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 county 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 county where either the plaintiff or defendant resides.

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

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

VI. Brought in any county with consent. Notwithstanding the provisions of the foregoing subsections, all parties with the approval of any district court judge, may consent to any action, proceeding or prosecution being brought or determined in the county.

VII. Improper venue. If any action or proceeding, civil or criminal, is brought in the wrong county, the court, upon motion or his own initiative, shall transfer it to a proper county. 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 county for the convenience of parties or witnesses, or in the interests of justice.

Sec. 8. Service of process. All process of the district court shall run throughout the State, and may be served outside of the county from which issued with the same effect as if served within such county.

Sec. 9. Rules. The Justices of the Supreme Judicial Court are empowered to make and amend rules of procedure for the district courts. They shall revise all forms regularly used by the court and provide new forms. Such rules and forms shall be ready and effective on the first day of operation of said court after January 1, 1963, and shall have the force and effect of law.

Sec. 10. Appeal. Any party to a civil or matrimonial action or proceeding who did not intentionally suffer judgment by default may appeal. Any defendant in a juvenile, traffic or criminal case who did not plead guilty or waive hearing may appeal. No other appeal shall be allowed except as provided in chapter 152-A, section 19, subsection I.

Any appeal shall be taken to the Superior Court for the county in which judgment was rendered.

An appeal shall not automatically stay execution of judgment. Execution of a sentence imposing a fine shall be stayed only upon the posting of cash bail in the amount of such fine. Execution of a money judgment shall be stayed upon the filing of a supersedeas bond. Execution of a judgment involving any other punishment or any other relief may be stayed only in the discretion of the district court upon such terms and conditions as it may determine. Such determination shall be subject to review in the Superior Court only for abuse of discretion.

Sec. 11. Judges; appointment; salary; retirement. Prior to January 1, 1963 the Governor, with the advice and consent of the Council, shall appoint a district judge for each county whose term shall commence on January 1, 1963, and, having received the recommendation of the Chief Justice of the Supreme Judicial Court, shall designate whether they are to be full or part time. The number of associate judges necessary to the proper administration of the district courts shall be determined by the Chief Justice after consultation with the county commissioners of the county involved, and he shall request their appointment by the Governor as their services become necessary, stating whether they are to be full or part time.

To be eligible for appointment as district court judge or associate judge a person must be a member of the bar of this State, but need not be a resident of the county to which he is appointed as judge or associate judge at the time of his appointment. The term of office shall be 7 years for full-time judges and 4 years for part-time judges.

The salary of full-time judges shall be \$12,000 per year, and the salary of part-time judges shall be \$50 per day, to be paid from the county treasury. Part-time judges shall be entitled to pay for at least $\frac{1}{2}$ day for each day on which court is held.

A full-time judge shall devote full time to his judicial duties. He shall not practice law during his term of office, nor shall he during said term be the partner or associate of any person in the practice of law. Part-time judges may practice law, but shall not participate in any way in a matter that may come before any district court, or in a matter before a Superior Court that has been before a district court, either personally or indirectly through an associate or partner.

Each full-time district court judge or associate judge shall be entitled to 4 weeks vacation each year. Part-time judges and associate judges shall be entitled to one day's vacation pay for each 12 days' service, to be paid annually from the county treasury in January. During the vacation or sickness of a judge an associate judge from the same county may sit for him.

No district court judge shall receive a travel allowance for travel from his home to the place where he regularly sits as judge but he shall be paid 10 cents per mile for all travel from the place where he regularly sits to another place of holding court, to be paid from the county treasury on an expense account submitted monthly to the county commissioners for approval, and paid from the county treasury.

District court judges and associate judges may participate in, and are entitled to, the benefits of the state retirement system, and to contribution to the system by the counties on their behalf, under chapter 63-A, section 17, whether or not other county employees from the same county are under the system.

Whenever the Chief Justice schedules a conference of district court judges, the expenses of the judges in attending said conference shall be paid by the county on an expense account submitted to the county commissioners for approval. All judges are required to attend one such conference annually.

Sec. 12. Chief Justice to supervise. The Chief Justice of the Supreme Judicial Court shall supervise the administration of justice in the district courts. To enable him to accomplish this he shall have the services of an assistant who shall study the operation of the district courts and perform such duties as the Chief Justice may direct. Said assistant shall be appointed by the Chief Justice to serve at his pleasure, with salary and expenses as approved by him, and paid from the Treasury of the State within the limits of the funds provided.

Sec. 13. Counties to pay for supervision. Annually in January the Chief Justice shall prepare an estimate of the cost of supervising the district courts, and shall apportion the cost among the counties on the basis of population as determined by the last decennial census. He shall apportion his costs among the counties for the balance of the year 1961 after the effective date of this act.

Sec. 14. Duties of the Chief Justice. The Chief Justice shall:

I. Fix the days and hours for holding court in each place.

II. Determine the times for taking of vacations by all district court judges.

III. Assign a part-time judge to hold court outside of his county for a temporary period. When serving outside of his county a judge shall be paid by the county where he serves.

IV. Prescribe the records to be kept and destroyed and reports to be made by all judges and clerks.

V. Collect and publish such statistics pertaining to the operation of the district courts as he deems desirable.

VI. Make necessary arrangements through the county commissioners of the various counties for proper court room facilities, clerks' offices, and ante-rooms, with proper equipment, and assist in establishing uniform systems of record keeping, and bookkeeping as approved or installed by the State Auditor.

VII. Convene at least twice annually 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 courts, including, but without being limited to the following topics;

- A. Uniformity of sentences.**
- B. Standardized and simplified forms.**
- C. Judicial work loads and assignments.**
- D. Records, reports, statistics.**
- E. Relations with law enforcement and social agencies, and other courts.**
- F. Needed changes in procedural and substantive law.**

Sec. 15. Adequate quarters provided. The county commissioners of each county are authorized and directed to provide adequate quarters for the district court in each place where court is to be held, and to provide the clerk with adequate office space, equipment and clerical help at the court house or elsewhere at the county seat in a fireproof building, and shall include an item in the county budget for this purpose.'

Sec. 2. Effective date; transition to new system.

I. Chapter 108-A of the Revised Statutes as enacted by section 1 of this act shall take effect 90 days after the adjournment of the Legislature and the Chief Justice shall appoint his assistant as soon thereafter as is practical, and take up his duties under this act, so that the transition from the present municipal and trial justice courts to the district courts may be accomplished on January 1, 1963.

II. All persons holding appointments as municipal court judge, associate judge and trial justice if members of the bar, whose terms extend after the first day of January, 1963, are made associate judges of the district court, for the county in which they reside, on January 1, 1963 for the remainder of their term.

III. After the passage of this act, 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 passage of this act which shall expire prior to January 1, 1963, is extended to expire on December 31, 1962.

IV. If the office of trial justice, or municipal court judge, associate judge or recorder becomes vacant after the passage of this act by reason of the death or resignation of the incumbent, no appointment shall be made by the Governor without first obtaining the advice of the Chief Justice as to the necessity of filling the position, and no appointment can be made for a term to extend after December 31, 1962.

V. All matters pending before any trial justice, or municipal court shall be transferred to the district court of the county where the trial justice or municipal court is located on January 1, 1963.

Domestic relations matters in order for hearing before the Superior Courts on December 31, 1962 shall be disposed of in those courts. All other domestic relations matters shall be transferred to the district court at the close of business on that date.

VI. The records of every trial justice and municipal court judge, recorder and associate judge shall be delivered to the clerk of courts of the county as soon as such trial justice, judge or recorder has completed the final reports required of him, but no later than January 15, 1963.

VIII. Effective January 1, 1963 the office of trial justice shall be abolished. The terms of office of all trial justices now in office shall terminate at that time.

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