

# MAINE STATE LEGISLATURE

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## CHAPTER 3

## SUPERIOR COURT

Sec.

- 101. Constitution of court.
- 102. Salary; expenses.
- 103. Compensation upon retirement.
- 104. Active Retired Justices.
- 105. Jurisdiction; powers.
- 106. Conferences.
- 107. Clerk.
- 108. Seal; form of summonses, writs and processes; facsimile signature of clerk.
- 109. Writs when returnable.
- 110. Trial terms.
- 111. Simultaneous and special sessions.
- 112. Sheriff or deputy to attend court; justice not attending, court adjourned.
- 113. Messenger of Cumberland County.
- 114. Authority of court.

### § 101. Constitution of court

The Superior Court, as heretofore established, shall consist of 9 justices and such Active Retired Justices as may be appointed and serving on said court, learned in the law and of sobriety of manners. The Chief Justice of the Supreme Judicial Court shall assign the Justices of the Superior Court to hold the trial terms of said court. Whenever in the opinion of the Chief Justice of the Supreme Judicial Court it becomes necessary, he may designate a Justice of the Supreme Judicial Court or any Active Retired Justice of the Supreme Judicial Court or of the Superior Court to hold a term of said Superior Court, or may designate any of such justices or a Justice of the Superior Court to hold one or more sessions thereof, separate from the session presided over by the justice holding the regular trial term.

R.S.1954, c. 106, § 1; 1961, c. 415, § 1.

### § 102. Salary; expenses

Each of the Justices of the Superior Court shall receive an annual salary of \$16,500. Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them shall apply to Justices of the Superior Court, including re-

imbursement for expenses incurred in employing clerical assistance but which in the aggregate shall not exceed a total sum of \$4,500 per year for all such clerical assistance.

R.S.1954, c. 106, § 2; 1955, c. 472, § 2; 1957, c. 417, § 2; 1959, c. 364; c. 370, § 2; c. 378, § 68; 1961, c. 415, § 2; 1963, c. 391, § 2.

### § 103. Compensation upon retirement

Any Justice of the Superior Court who resigns his office or ceases to serve at the expiration of any term thereof, after attaining the age of 70 years and after having served as such justice for at least 7 consecutive years, shall receive annually during the remainder of his life an amount equal to  $\frac{3}{4}$  of the salary which was being paid to him at the termination of his service, to be paid in the same manner as the salaries of the justices of said court are paid. Such justice shall terminate his service before his 71st birthday, unless he be a justice who has attained or hereafter shall attain the age of 70 years during his continuance in office as such justice under an appointment made prior to August 6, 1949, in which case to be entitled to compensation as provided, he shall terminate his service before his 72nd birthday. An Active Retired Justice shall receive annually, beginning January 1, 1951, an amount equal to  $\frac{3}{4}$  of the salary now paid to justices of said court. Any justice who continues to serve until or after the birthday applicable to the termination of his service shall waive his right to the compensation mentioned and make no claim therefor at the termination of his service. The right of any justice drawing such compensation to continue to receive it shall cease immediately, if he acts as attorney or counsellor in any action or legal proceeding in which the State is an adverse party or has any interest adverse to the person or persons in whose behalf he acts.

If such justice dies in office, or has heretofore died in office, his widow, upon reaching the age of 60 and as long as she remains unmarried, shall annually be entitled to  $\frac{3}{8}$  of his salary at the time of his death.

Any Justice of the Superior Court who prior to his retirement age is unable, by reason of failing health, to perform his duties as such justice may, upon petition to or by order of the Superior Court and approved by a majority of the Justices of the Superior Court, be retired prior to his retirement age and when so retired he shall receive the same benefits as he would have received had

he retired at full retirement age, and such retirement shall terminate his service.

If such justice dies having terminated his service and having become entitled to compensation as provided in this section, his widow, having reached the age of 60 and as long as she remains unmarried, shall annually be entitled to  $\frac{1}{2}$  of the retirement compensation such justice received.

R.S.1954, c. 106, § 3.

#### § 104. Active Retired Justices

Any Justice of the Superior Court who having attained the age of 70 years and having served as such justice on either or both the Supreme Judicial Court or the Superior Court for at least 7 consecutive years resigns his said office, or ceases to serve at the expiration of any term thereof, shall be eligible for appointment as an Active Retired Justice of the Superior Court as provided. The Governor with the advice and consent of the Council may, upon being notified of the retirement of any such justice under this section, appoint such justice to be an Active Retired Justice of the Superior Court for a term of 7 years from such appointment, unless sooner removed, and such justice may be reappointed for a like term, and such justice so appointed and designated shall thereupon constitute a part of the court from which he has retired and shall have the same jurisdiction and be subject to the same restrictions therein as before retirement, except that he shall act only in such cases and matters and hold court only at such terms and times as he may be directed and assigned to by the Chief Justice of the Supreme Judicial Court. Any Active Retired Justice of the Superior Court may be directed by the Chief Justice to hold any term of the Superior Court in any county and when so directed shall have authority and jurisdiction therein the same as if he were the regular justice of said court; and whenever the Chief Justice of the Supreme Judicial Court so orders, may hear all matters and issue all orders, notices, decrees and judgments in vacation that any Justice of said Superior Court is authorized to hear and issue.

This section shall apply to the present and former justices of said court. Such justices shall within one year after attaining the age of 70 years, and serving as such justice for at least 7 consecutive years, cease to serve as such justice.

R.S.1954, c. 106, § 4.

**§ 105. Jurisdiction; powers**

The Superior Court, exclusive of the Supreme Judicial Court, shall have and exercise jurisdiction and have and exercise all of the powers, duties and authority necessary for exercising the jurisdiction in any and all matters either original or appellate, which were, prior to January 1, 1930, within the jurisdiction of the Supreme Judicial Court or any of the Superior Courts, whether cognizable at law or in equity, except as concurrent jurisdiction is vested in the District Court, and except as provided in Title 14, section 5301, provided that it shall have and exercise none of the jurisdiction, powers, duties and authority of the Supreme Judicial Court sitting as a law court. A single Justice of the Supreme Judicial Court shall have and exercise jurisdiction, and have and exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court, to hear and determine, with his consent, any issue in a civil action in the Superior Court as to which the parties have no right to trial by jury or in which the right to trial by jury has been waived, except actions for divorce or annulment.

R.S.1954, c. 106, § 5; 1959, c. 317, § 74; c. 378, § 69; 1963, c. 402, § 140.

**§ 106. Conferences**

The Chief Justice of the Supreme Judicial Court may from time to time call together the several Justices of the Superior Court at such place as he may appoint for conference as to the conduct and dispatch of judicial business and interchange of views in matters of practice in said court. In addition to their salaries and expenses in holding the several terms of court to which they are assigned, the several justices shall be entitled to their actual cash disbursements in attending such conferences.

R.S.1954, c. 106, § 7.

**§ 107. Clerk**

The clerk of the judicial courts in any county shall act as the clerk of the Superior Court in such county. Any deputy clerk, if his appointment has been approved by a resident Justice of said Superior Court or by the Chief Justice of the Supreme Judicial Court, may, whenever directed by the clerk, act as clerk of the Superior Court at any or either session thereof in that county.

R.S.1954, c. 106, § 8.



**§ 108. Seal; form of summonses, writs and processes; facsimile signature of clerk**

The Justices of the Superior Court shall establish a seal for said court. All summonses, writs and other processes of said court shall be in the name of the State under the seal of said court. They shall be signed by any one of the clerks and obeyed and executed throughout the State. The clerk in any county may sign and issue any such summons, writ or other process for an action in the Superior Court in any other county in which the action might legally be brought. A facsimile of the signature of the clerks of the Superior Courts imprinted by or at their direction upon any writ, summons, subpoena, order or notice or order of attachment, except executions and criminal process, shall have the same validity as their written signature.

R.S.1954, c. 106, § 9; 1959, c. 317, § 75.

**§ 109. Writs when returnable**

All writs of the Superior Court returnable at a regular term of court in the County of Cumberland shall be made returnable at one of the next 3 terms to be begun and held after the issuing thereof, and in the Counties of Androscoggin, Kennebec, Penobscot and York at one of the next 2 terms to be so begun and held. In all other counties such writs shall be made returnable at the first term of court to be held more than 14 days after issuing thereof.

R.S.1954, c. 106, § 10; 1959, c. 3.

**§ 110. Trial terms**

For the trial of civil actions and persons accused of offenses and for the transaction of all business within the jurisdiction of the Superior Court, the trial terms of the Superior Court shall be held annually by one justice at the following places and times, and the justices shall so hold said terms as directed by the Chief Justice of the Supreme Judicial Court, that their services shall be divided to each county as equally as may be:

**1. Androscoggin:** At Auburn on the first Tuesdays of January, March, April, June, September and November for civil and criminal business. The grand jury shall attend only at the January, June and September terms, unless specially summoned by order of a justice of said court. All recognizances for appearance to abide action by the grand jury shall be for appearance at the

term at which the next regular session of the grand jury is held, but appeals in criminal as well as civil matters and removals shall be to the next regular term.

**2. Aroostook:** At Houlton on the first Tuesday of April and the 2nd Tuesday of November for civil and criminal business, at Caribou on the first Tuesday of February for civil business and at Houlton on the 2nd Tuesday of September for criminal business and by adjournment at Caribou for civil business. The grand jury shall only attend at the April and November terms unless specially summoned by order of a justice of said court. All recognizances for appearance to abide action by the grand jury shall be for appearance at the term at which the next regular session of the grand jury is held, but appeals in criminal matters shall be to the next regular term except the February term.

**3. Cumberland.** At Portland on the first Tuesday of every month except July and August, but the criminal business of said county, except as otherwise provided, shall be transacted at the terms held on the first Tuesdays of January, May and September, together with civil business. After its final adjournment for civil business, any January, May or September term of said court may be kept open for criminal business for such time as the presiding justice may deem expedient, provided it shall be finally adjourned at least 7 days before the convening of the next of whichever January, May or September term ensues chronologically after such final adjournment; and all business having to do with criminal appeal cases, pending indictments and informations may be transacted at Portland at any term begun on the first Tuesday of any month except July and August. Criminal appeal cases from the District Court in Cumberland County when appealed or appealed and bailed shall be appealed or appealed and bailed to the very next succeeding, convening term of Cumberland County Superior Court at Portland.

1955, c. 285; 1957, c. 113; 1959, c. 192; 1963, c. 402, § 141.

**4. Franklin:** At Farmington on the 2nd Tuesdays of February, May and October; the May term shall be held without a grand jury and with but one traverse jury unless a justice of said court shall otherwise specially order, in which case the clerk shall send venires for the requisite number of traverse jurors and shall summon the grand jury of the preceding term, as the terms of said order may require. All recognizances from the District Court in which parties are held to await the action of the grand jury, made returnable to said May term, shall, when no grand

jury is in attendance, be continued to and have day in the next term of the court held in said county.

1963, c. 402, § 142.

**5. Hancock:** At Ellsworth on the 2nd Tuesdays of April and September and the first Tuesday of December.

**6. Kennebec:** At Augusta on the first Tuesdays of February, April, June and October, but the criminal business of said county shall be transacted at the terms held on the first Tuesdays of February, June and October, together with civil business.

**7. Knox:** At Rockland on the 2nd Tuesday of February and the first Tuesdays of May and October.

1955, c. 203, § 1.

**8. Lincoln:** At Wiscasset on the 2nd Tuesdays of May and November.

**9. Oxford:** At Rumford on the first Tuesday of February, and at Paris on the first Tuesday of October and on the 2nd Tuesday of May.

1955, c. 203, § 1.

**10. Penobscot:** At Bangor on the first Tuesdays of January, April, September and November and the criminal business of said county shall be transacted at the terms held on the first Tuesdays of January, April and September, together with civil business. All recognizances from the District Court in which parties are held to await the action of the grand jury, made returnable to said April term, shall, when no grand jury is in attendance, be continued to and have day in the next term of the court held in said county.

1963, c. 402, § 143.

**11. Piscataquis:** At Dover-Foxcroft on the 2nd Tuesdays of March and September.

**12. Sagadahoc:** At Bath on the 2nd Tuesdays of January, June and October.

**13. Somerset:** At Skowhegan on the 2nd Tuesdays of January, May and September.

**14. Waldo:** At Belfast on the first Tuesday of January and the 2nd Tuesdays of April and October.

**15. Washington:** At Machias on the 2nd Tuesdays of February and October, and at Calais on the 2nd Tuesday of June.

**16. York:** At Alfred on the first Tuesdays of January, May, September and November, but the criminal business of said county shall be transacted at the terms held on the first Tuesdays of January, May and September, together with civil business. (1955, c. 220, § 1; 1959, c. 27.)

R.S.1954, c. 106, § 11; 1955, c. 203, §§ 1, 2; c. 220, § 1; c. 285; 1957, c. 113; 1959, c. 27; 1963, c. 402, §§ 141, 142, 143.

### **§ 111. Simultaneous and special sessions**

Two or more simultaneous sessions of the Superior Court may be held in the same county, or special sessions thereof may be held in any county, whenever the Chief Justice of the Supreme Judicial Court determines that public convenience so requires. The business may be so divided as to secure its speedy and convenient disposal. Special sessions of the Superior Court for the transaction of civil or criminal business or both may be held in any county at any time whenever the Chief Justice of the Supreme Judicial Court determines that public convenience and necessity so require.

R.S.1954, c. 106, § 12.

### **§ 112. Sheriff or deputy to attend court; justice not attending, court adjourned**

The sheriff of each of said counties shall attend the Superior Court thereof unless the Supreme Judicial Court is in session in such county in which case he shall specially designate a deputy, approved by the Justice of such Superior Court, so to attend. When no justice attends on the day for holding a court, the sheriff or in his absence the clerk shall, by oral proclamation in the courthouse and by notice posted on the door thereof, adjourn the court from day to day until a justice attends and, in case of necessity, upon order of the Chief Justice or the justice appointed to hold said court, to a fixed day or without day. When so adjourned without day, actions brought for that term shall be entered by the clerk and they, with all actions on the docket, shall be continued to the next term.

R.S.1954, c. 106, § 13.

**§ 113. Messenger of Cumberland County**

The superior court messenger of Cumberland County shall be appointed by the senior resident Superior Court Justice and shall receive an annual salary of \$5,000 in full compensation for service and attendance.

1961, c. 308, § 1; 1963, c. 308.

**§ 114. Authority of court**

The Superior Court may administer all necessary oaths, render judgment and issue execution, punish for contempt and compel attendance; make all such rules and regulations, not repugnant to law, as may be necessary and proper for the administration of justice promptly and without delay; and the provisions of law relative to the jurisdiction of the Supreme Judicial Court in each of said counties over parties, the arrest of persons, attachment of property, the time and mode of service of precepts, proceedings in court, the taxation of costs, the rendition of judgments, the issuing, service and return of executions and all other subjects apply to the Superior Court in all respects, except so far as they are modified by law, and the Superior Court is clothed with all the powers necessary for the performance of all its duties.

R.S.1954, c. 106, § 16.