

**ACT 188**

S. B. NO. 603

A Bill for an Act Relating to the District Courts.

*Be It Enacted by the Legislature of the State of Hawaii:*

**ACT 188**

**SECTION 1.** The purpose of this Act is to provide for a reorganization of the district courts. It

- (1) Establishes a single district court for each county, with each district court holding sessions in rural areas at such places and as often as the respective district judges deem essential to the promotion of justice;
- (2) Establishes the district courts as courts of record, thereby eliminating the prior right to trial de novo at the circuit court level;
- (3) Provides for appeal to the supreme court from decisions of district courts;
- (4) Increases the jurisdiction of the district courts in civil cases from \$2,000 to \$5,000;
- (5) Provides that all district judges shall serve as full-time judges; and
- (6) Substitutes the term "district judge" for the term "district magistrate".

**SECTION 2.** Section 4-2, Hawaii Revised Statutes, is repealed.

**SECTION 3.** Section 641-1, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 641-1. From district judge; deposits of costs; procedure.** Appeals upon the record shall be allowed from all decisions and judgments of district judges in all matters, whether civil or criminal. Such appeals may be made to the supreme court, whenever the party appealing shall file notice of his appeal and shall pay the costs accrued within thirty days and, if in a civil cause, shall deposit the costs for appeal as provided in chapter 607.

Within a reasonable time after an appeal has been perfected from a decision of a district judge, to the supreme court, it shall be incumbent upon the district judge to make a return thereof, together with all papers and exhibits filed in such case and all excess costs over and above the actual accrued costs earned in the case, which accrued costs shall be turned in by him as a state realization; provided, all costs deposited in a criminal case shall be held by the clerk of the supreme court subject to the final disposition of the cause.

It shall be the duty of the clerk of the supreme court to which an appeal has been made from the decision of any district judge, within a reasonable time after the case shall have been disposed of by the court, to transmit to the district judge from whose decision the appeal was made, a statement showing the disposition of the case by the supreme court."

**SECTION 4.** Section 641-19, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 641-19. Application; form.** The application for the writ of error may be made, in person or by attorney, to the clerk of the supreme court and may be in substantially the following form:

In the Supreme Court of the State of Hawaii.

.....

v.

.....

[Form is continued on next page.]

To the Clerk of the Supreme Court:

Please issue a writ of error in the above entitled case to the Clerk of the Circuit Court of the .....Circuit (or to the Clerk of the District Court of the .....Judicial Circuit) on behalf of ....., returnable to the Supreme Court.

DATED: ....., 19....

.....  
In Person  
(or .....  
Attorney for  
.....).”

SECTION 5. Section 641-20, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 641-20. Address of writ; form. The writ of error shall be addressed to the clerk of the court or registrar of the land court in which the judgment, order or decree was entered, and may be served upon him by mail, and shall be in substantially the following form:

In the Supreme Court of the State of Hawaii.

.....,

v.

.....

The State of Hawaii:

To the Clerk of the Circuit Court of the .....Circuit (or the Registrar of the Land Court or the Clerk of the District Court of the .....Judicial Circuit):

Application having been made on behalf of .....for a writ of error in the above entitled case, you are commanded forthwith to send to the Supreme Court the record in the case.

WITNESS the Honorable .....Chief Justice of the Supreme Court, this ....day of ....., 19....

.....  
Clerk of the Supreme Court.”

SECTION 6. Section 641-21, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 641-21. Return of writ; form. The return to the writ of error may be in substantially the following form indorsed on the writ:

To the Clerk of the Supreme Court:

The execution of the within writ of error appears by the record hereto annexed.

Dated ....., 19....

[Form is continued on next page.]

.....  
Clerk of the Circuit Court of the .....Circuit  
(or Registrar of the Land Court or Clerk of the District  
Court of the .....Judicial Circuit.)”

SECTION 7. Section 601-8, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 601-8. Practice of law forbidden.** Justices of the supreme court, judges of the circuit court, and full-time judges of the district court shall not engage in the practice of law during their terms of office.”

SECTION 8. Section 604-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-1. Judicial circuits; district judges; sessions.** There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

- (a) For the First Judicial Circuit: The District Court of the First Circuit.
- (b) For the Second Judicial Circuit: The District Court of the Second Circuit.
- (c) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (d) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of eight judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, and eighth judge, respectively. The district court of the second circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the third circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the fifth circuit shall consist of one judge. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The chief justice may appoint per diem district judges as may be necessary. Such judges shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice.”

SECTION 9. Section 604-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-2. Appointment; tenure; removal.** District judges shall be appointed by the chief justice of the supreme court. Each judge shall reside in the judicial circuit for which he is appointed and shall have been an attorney li-

censed to practice in all the courts of the State for at least five years. District judges shall hold office for a term of six years and until their successors are appointed and qualified; provided, that any judge may be summarily removed from office, and his commission revoked by the supreme court whenever the supreme court deems such removal necessary for the public good.”

SECTION 10. Section 604-3, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-3. Disqualification, absence, vacancy.** Whenever it is advisable, by reason of a vacancy in the office of district judge of any circuit, or by reason of the disqualification of any district judge, or his inability to attend to his duties by reason of illness or temporary absence, or for any other reason, the chief justice of the supreme court may designate the district judge of any other circuit to hear and determine any and all matters then or thereafter pending in the district court to which he is called for such purpose, and while so engaged, he shall have and exercise all of the powers of a regularly appointed judge of the circuit to which he is called.

SECTION 11. Section 604-4, Hawaii Revised Statutes, is repealed.

SECTION 12. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“**Sec. 604- Salary of district judges.** The compensation of the district court judges of the various district courts of the State shall be eighty per cent of the compensation of a circuit court judge.”

SECTION 13. Section 604-5, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-5. Civil Jurisdiction.** The district courts shall have original and exclusive jurisdiction of all civil actions, except as otherwise provided, where the debt, amount, or damages, or the value of property claimed, does not exceed \$500. Except as aforesaid, such courts shall have concurrent jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed \$5000. Attorney’s commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount.

The district courts shall have original jurisdiction in all statutory proceedings as conferred by law upon district courts. The district courts shall try and determine all actions without a jury, subject to appeal according to law.

The district courts shall not have cognizance of real actions, nor actions in which the title to real estate comes in question, nor actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction, nor of any civil matter required by law to be tried by a jury; nor shall they have power to appoint referees in any cause.”

SECTION 14. Section 604-6, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-6. Ejectment proceedings.** Nothing in section 604-5 shall preclude a district court from taking jurisdiction in ejectment proceedings where the title to real estate does not come in question at the trial of the action. If the defendant is defaulted or if on the trial it is proved that the plaintiff is entitled to the possession of the premises, the judge shall give judgment for the plaintiff and shall issue a writ of possession. In order to stay a writ of possession, the defendant may, within five days after an adverse judgment in the district court, file in such court and in the pending cause a bond in such sum as the presiding judge shall reasonably fix conditioned to pay to the plaintiff, who shall be the obligee in the bond, all damages which the plaintiff sustains by reason of the appeal of the cause in case the judgment of the district court is finally affirmed, together with the amount of the judgment.”

SECTION 15. Section 604-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-7. Powers, witness fees.** The district judges may: administer oaths to perpetuate testimony under commissions issued to them from other courts; issue commissions for the perpetuation of testimony to be used in controversies pending before them; grant continuances of proceedings before them; subpoena and compel the attendance of witnesses within the circuit where the district court is situated; subpoena and compel the attendance of witnesses without the circuit in which the district court is situated, provided that the subpoena is endorsed with proper words of authority by a circuit judge of the judicial circuit in which the district court is situated; render final judgments; alter any judgment within ten days following the date of its rendition for good cause shown by any party and after notice given to the opposite party; enforce judgments and punish contempts according to law; issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the district court issuing the same is situated, except that where the garnishee of a government beneficiary is the comptroller of the State, the garnishee summons may be served and shall be operative outside of the judicial circuit within the State; in a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of the sentence.

Every witness duly subpoenaed as provided in this section, other than a salaried county or state official or employee, shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

Any document requiring the signature of a district judge, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the circuit in which the court is situated, excepting, however, without the State.

A summons or other writ issued by a judge or a district court may be served in the manner as provided by law, throughout the judicial circuit in which the district court is situated; provided the summons or other writ is issued by the judge of the district court of the circuit wherein the defendant resides.”

SECTION 16. Section 604-8, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-8. Criminal, misdemeanors, generally.** District judges shall have jurisdiction of, and their criminal jurisdiction is limited to, criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without fine. They shall not have jurisdiction over any offense for which the accused cannot be held to answer unless on a presentment or indictment of a grand jury.

In any case cognizable by a district judge as aforesaid in which the accused has the right to a trial by jury in the first instance, the district judge, upon demand by the accused, for such trial by jury, shall not exercise jurisdiction over such case, but shall examine and discharge or commit for trial the accused as provided by law, but if in any such case the accused does not demand a trial by jury on the date of arraignment or within ten days thereafter, the district judge may exercise jurisdiction over the same, subject to the right of appeal as provided by law.”

SECTION 17. Section 604-9, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-9. Same; powers.** District judges shall have power, subject to appeal according to law and except as otherwise provided in cases in which the accused has the right to and demands a trial by jury in the first instance, to try without a jury, and to render judgment in all cases of criminal offenses coming within their respective jurisdictions.

SECTION 18. Section 604-10, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 604-11, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-11. Jurisdiction of district courts; ordinances.** Jurisdiction is conferred upon the district courts to try all cases arising from the violation of ordinances in force in the counties and to impose the penalties in such ordinances prescribed for such offenses in like manner as their original jurisdiction is exercised under the general law.”

SECTION 20. Section 604-12, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-12. Offense committed outside of jurisdiction.** Every district judge may issue a warrant for the arrest and examination of any person charged with an offense not within his jurisdiction, where the party accused is resident, or for the time being is found, within his circuit and upon satisfactory evidence of the probable guilt of the person, commit him to prison for trial at the ensuing term of the circuit court of the circuit.”

SECTION 21. Section 604-13, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-13. Arrest under indorsed warrant.** Whenever any warrant of arrest has been issued by any court of competent jurisdiction, and the accused is beyond the jurisdiction of the court, it shall be lawful for the officer to whom the warrant is directed, to pursue and arrest the accused in any part of the

## ACT 188

State; provided, that the warrant is first indorsed with proper words of authority from some circuit judge or district judge on the island where the actual arrest is made.”

SECTION 22. Section 604-17, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-17. Courts of record; testimony and proceedings.** The district courts shall be courts of record. The district judges shall in all cases preserve in writing, on tape, or such other mechanical device as may be appropriate, the minutes, proceedings, and testimony of their trials, transactions, and judgments, and the facts upon which their decisions rest.”

SECTION 23. Section 604-18, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 604-18. Annual Report.** The administrative judge of the district courts of each judicial circuit during the month of July of each year shall report to the chief justice the amount and kind of official business done in the circuit during the preceding year, the number of persons prosecuted, the crimes and misdemeanors for which the prosecutions were had, the results thereof, as well as the number, kind, and results of civil proceedings had in their respective courts, and such other matters and things as are required by the chief justice and in such form as is required by him.”

SECTION 24. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

**“Sec. 604- Power to make and revise rules.** The judges of the several district courts, with the approval of the supreme court, shall have power to make, promulgate, and from time to time revise and amend rules for regulating the practice and conducting the business of the district courts, in all matters not otherwise expressly provided; provided that in no case shall such rules purport to impose costs not expressly authorized by statute.”

SECTION 25. Section 606-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 606-1. Clerks of supreme court, circuit courts, and district courts; appointment and removal.** There shall be a clerk of the supreme court and as many deputy clerks and assistant clerks as the business of the supreme court requires, appointed and removable by the justices of the supreme court. The clerk of the supreme court shall be ex-officio clerk of all the courts of record, and as such may issue process returnable in all such courts.

There shall be as many clerks of the circuit courts as may be necessary, appointed and removable by the judge or judges thereof, as the case may be. The respective clerks of the circuit courts shall be ex-officio clerks of all the courts of record, and as such may issue process returnable in all such courts.

There shall be as many clerks of the district courts as may be necessary, appointed and removable by the judge or judges thereof, as the case may be. The respective clerks of the district courts shall be ex-officio clerks of all the courts of records, and as such may issue process returnable in all such courts.

All duly appointed clerks of the district courts in the State shall have power to administer oaths to witnesses.”

SECTION 26. Section 606-4, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 606-4. Custody; disposition of exhibits.** The clerks of the supreme, circuit, and district courts shall have the custody of all records, books, papers, moneys, exhibits, and other things pertaining to their respective courts.

The clerks shall have the authority and power, upon the written approval of a judge of the court in particular cases, to sell, destroy, or otherwise dispose of exhibits and things marked for identification, other than original files belonging to other actions, which have come into their possession or custody under this section, when such exhibits or things have not been already returned to their owners and when more than two years have elapsed since the final termination of the action to which the exhibits or things are related; provided that the clerk shall, if possible, first give notice in writing to the party or the attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, of the things that are proposed to be disposed of, stating that the same are to be disposed of if not claimed and removed from the court by a day certain; and provided, further, that the clerk shall file an affidavit as to such notice and a list of the exhibits or things to be destroyed or otherwise disposed of under this section and the disposition thereof, with the case or action to which the same belong.

All moneys received from sales under this section shall be forthwith deposited with the state director of finance as government realizations.”

SECTION 27. Section 606-9, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 606-9. Reporters and interpreters.** The judges of the circuit court of each judicial circuit, or a majority thereof, may appoint one or more interpreters, and one or more shorthand reporters.

The district judges of each judicial circuit may appoint one or more clerk reporters, and one or more interpreters as may be necessary.

All duly appointed shorthand reporters of the courts in the State may take depositions and administer oaths relative to the taking of the depositions.

Any one of the circuit judges or district judges may temporarily assign to any shorthand reporter or interpreter, appointed as aforesaid, any appropriate duties in any court of the State other than the one in which he is located. Nothing in this section shall prevent the employment by any one of the circuit judges or district judges aforesaid, of any shorthand reporter, interpreter, or clerk to serve in individual cases as they may arise, when necessary.

All duly appointed chief clerks, clerk-reporter supervisors, and clerk-reporters of the district courts in the State shall have power to take depositions and to administer oaths relative to the taking of the depositions.”

SECTION 28. Section 607-2, Hawaii Revised Statutes, is amended to read as follows:

## ACT 188

**“Sec. 607-2. Fees to be accounted for.** With the exception of such fees as are intended to reimburse officers for actual expenditures made by them, all judges’, clerks’, sheriffs’, and deputy sheriffs’ fees provided for in this chapter and accruing from any action pending in a court of record shall be deposited to the credit of the general fund of the State.”

SECTION 29. Section 607-7, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 607-7. Deposit and payment of costs on appeal.** All costs required to be paid upon the filing of any appeal or bill of exceptions shall be deposited with the clerk of the court from which the appeal is taken, or in which the bill of exceptions is allowed, which deposit shall be transmitted to the clerk of the appellate court together with the record of any such appeal or bill of exception. The deposit shall be made at the time of filing the notice of appeal or appeal or upon the allowance of the bill of exceptions.”

SECTION 30. Section 608-2, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 608-2. District court, salaries, expenses, etc.** The salaries of the district judges, clerks, and other assistants and the expenses of the district judges shall be paid by the State. Each of the judges shall have power to appoint such additional officers or employees as may be required by the courts and for which appropriations have been made by the legislature. Except as otherwise provided, such officers and employees shall be subject to part II of chapter 76 and part I of chapter 77.”

SECTION 31. Section 608-3, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 608-4, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 608-5, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 608-6, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 608-7, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 710-1, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 710-1. Complaint; form of warrant.** When a complaint is made to any prosecuting officer of the commission of any offense, he shall examine the complainant, shall reduce the substance of the complaint to writing, and cause the same to be subscribed by the complainant under oath, which he is hereby authorized to administer. If the original complaint results from the issuance of a traffic summons by a police officer, the oath may be administered by another police officer or officers whose names have been submitted to the prosecuting officer and who have been designated by the chief of police to administer the same, which they are hereby authorized to administer. Upon presentation of the written complaint to the judge within whose circuit the offense is alleged to have been committed the judge shall issue his warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed (except as provided in section 710-3), forthwith to arrest the accused and bring him before

the judge to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as are named therein to appear and give evidence at the trial. The warrant may be in the following form:

“To any police officer of the .....judicial circuit, island of ..... State of Hawaii:

You are hereby commanded, on the information of .....verified by oath, forthwith to arrest and take the body of .....accused of . .....if he can be found, and forthwith have his body before me at the district courtroom of .....at any time between the hours of ....A.M. and ....P.M. of the .....day of .....A.D. 19... (to answer to the said accusations, or to show cause why he should not be committed for trial at the circuit court of the .....Judicial Circuit). And you are also commanded, having arrested the said .....to summon as witnesses of accusation .....if they can be found, and to make due return of your proceedings upon this writ.

Given under my hand this .....day of ....., A.D. 19...  
.....Judge  
District Court of the....Circuit”

SECTION 37. Section 710-7, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 710-7. Commitment; form of mittimus.** In all cases of arrest for offenses that must be tried in the first instance before a jury, or that can be tried only on indictment by a grand jury, the judge in whose jurisdiction or on whose warrant the accused was arrested shall, upon the appearance of the accused, proceed to consider whether there is probable cause to believe that the accused is guilty of the offense with which he is charged. He shall reduce to writing the substance of the evidence adduced, with the names of the witnesses. If in his opinion the testimony does not warrant commitment for trial, he shall release the prisoner, noting that fact upon his docket. But if in his opinion there is probable cause to believe that the accused is guilty of the offense with which he is charged, he shall make out and deliver to a police officer a mittimus which may be in the following form:

“To ....., or any other police officer of the .....judicial circuit, island of ....., State of Hawaii: It appearing to my satisfaction that there is probable cause to believe that ....., who was arrested for .....on the information of .....(or as the case may be) committed the offense charged: You are commanded to deliver him, the said ....., to the chief of police of the island of ....., or his authorized subordinate, who is hereby authorized to commit him to the jail of the said island for trial at the circuit court of the .....judicial circuit (or the district court of the .....circuit), and have you then there this writ with full return of your proceedings thereon.

Given under my hand this .....day of ....., A.D. 19...  
.....Judge  
District Court of ....Circuit.”

## ACT 188

SECTION 38. Section 710-8, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 710-8. Notice to county attorney or prosecuting attorney.** In all criminal cases had before a district judge where there has been a commitment as provided in section 710-7, an appeal from the judgment, or a demand for a jury trial, the judge shall forthwith, without delay, send to the county attorney or to the prosecuting attorney, as the case may be, notice of the fact, stating briefly in the notice the nature of the case and action taken thereon, giving the name of the defendant and the date the records were sent to the circuit court or the supreme court.”

SECTION 39. Wherever the words “district court magistrate”, “district magistrate” or “magistrate” and words of like import appear in the Hawaii Revised Statutes, with reference to or in connection with the district courts, they are amended to read respectively, “district court judge”, “district judge” or “judge” and words of like import, as the context requires.

SECTION 40. Wherever the word “district” appears in the Hawaii Revised Statutes with reference to or in connection with the geographical jurisdiction of the district courts, it is amended to read “circuit” as the context may require.

SECTION 41. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

SECTION 42. This Act shall take effect on January 1, 1972.  
(Approved June 30, 1970.)

---

\* Edited accordingly