

## Title 3

### JUDICIAL

#### Chapters:

- 01 General Provisions**
- 02 High Court**
- 03 District Courts**
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**Revisor's Comment:** Section 3.1301 of Code of American Samoa, 1961 Ed., was entitled "interpretation of Sections" and provided: "The provisions of chapters 3.01, 3.02, 3.03, 3.04 and 3.05 of this title, to the extent that they are substantially similar to previously existing provisions of the Code, shall be regarded as continuations thereof and not as new enactments. The tenure of the Chief Justice of American Samoa, the Associate Judges and officers and employees of the High Court, in office on the date this title is enacted shall not be affected by the provisions of this title, but each of them shall continue to serve in the same capacity under the appropriate provisions of this title."

Chapters 3.01 to 3.05 referred to above are in chapters 3.01, 3.02, 3.04 and 3.10 of this title except that §§ 3.0403 to 3.0407, 3.0501 to 3.0505 and 3.0508 are in Title 15.

### Chapter 01

#### GENERAL PROVISIONS

#### Sections:

- 3.0101 Vesting of judicial power.**
- 3.0102 Administration of judiciary.**
- 3.0103 Jurisdiction of court.**
- 3.0104 Court proceedings to be public.**
- 3.0105 Disposition of fines and costs.**
- 3.0106 Judicial council.**

#### **3.0101 Vesting of judicial power.**

The judicial power of American Samoa shall be vested in a High Court of American Samoa, a district court, and a village court in each village.

**History:** 1969, PL 11-54; amd 1979, 16-28 § 3.

**Amendments:** 1979 Deleted provision for district court in each village and added provisions for a district court, and for a village court in each village.

#### **Case Notes:**

There is no provision of the American Samoa Code which gives any Court in the Territory, or any division or department of any court, either expressly or by implication, in rem admiralty and maritime jurisdiction. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

#### **3.0102 Administration of judiciary.**

The judicial branch of the government, which by the terms of the Constitution is independent of the executive and legislative branches, shall be under the administration and supervision of the Chief Justice of American Samoa.

**History:**1962, 7-36; 1969, PL 11-54.

### **3.0103 Jurisdiction of court.**

(a) A court may exercise personal jurisdiction in civil cases over persons residing or found in American Samoa, or who have been duly summoned or voluntarily appear.

(b) Any person, firm or corporation, whether or not a citizen or resident of this Territory, who, in person or through an agent, takes any of the following actions, thereby submits, and if a corporation, submits its personal representative, to the jurisdiction of the courts of this Territory, as to any cause of action, suit or proceeding arising out of such action:

- (1) the transaction of any business within this Territory;
- (2) the commission of a tortious act within this Territory;
- (3) the ownership, use, or possession of any real estate in this Territory;
- (4) contracting to insure any person, property or risk within this Territory at the time of contracting.

(c) Criminal cases shall be prosecuted and tried only in a court having Territorial jurisdiction over the place where the crime was committed.

**History:**1962, PL 7-36; 1969, PL 11-54; 1970, PL 11-106.

#### **Case Notes:**

There is no provision of the American Samoa Code which gives any Court in the Territory, or any division or department of any court, either expressly or by implication, in rem admiralty and maritime jurisdiction. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

In rem admiralty and maritime jurisdiction in the Trial Division of the High Court cannot be grounded upon “the necessity and importance of in rem Admiralty jurisdiction. in the orderly administration of justice in this maritime Territory”; such determination is for the Legislature. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

The High Court has in personam jurisdiction over admiralty and maritime causes of action, even though it does not have in rem admiralty and maritime jurisdiction, and in the enforcement of such personal liability, a vessel or other goods or chattels or credits, may be seized, attached and levied upon; and the Federal Rules of Civil Procedure, Supplemental Rules for Certain Admiralty and Maritime Claims, are on their face applicable in such personam cases, insofar as they are consistent with the court’s statutory jurisdiction. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

A Court may extend personal jurisdiction over persons or businesses on the basis of their contacts with American Samoa. A.S.C.A. § 3.0103(b); *Pene v. Bank of Hawaii*, 19 A.S.R.2d 52 (1991).

A Court may exercise personal jurisdiction in civil cases over persons who either reside or are found in American Samoa, have been duly summoned, or voluntarily appear. A.S.C.A. § 3.0103(a); *Pene v. Bank of Hawaii*, 19 A.S.R.2d 52 (1991).

### **3.0104 Court proceedings to be public.**

The proceedings of every court shall be public, except when otherwise ordered by the court for good cause.

**History:**1962, PL 7-36.

### **3.0105 Disposition of fines and costs.**

The Clerk of the High Court shall periodically transmit to the Treasurer of the Government all fines and costs collected in the High Court.

**History:**1962, PL 7-36, 1969, PL 11-54.

### **3.0106 Judicial council.**

The High Court shall provide for the appointment of a Judicial Council which shall

serve in an advisory capacity only. The Judicial Council shall give continuing consideration to the administration of justice in the courts of the Territory. It shall make reports and recommendations biennially to the High Court. The Chief Justice shall be a member and chairperson of the Judicial Council. The High Court shall appoint, from time to time, other members as it considers necessary to be fairly representative, with a minimum number of 7, whose terms shall be in accordance with the rules of the High Court. The members of the Judicial Council shall include lay people as well as judges and lawyers. The members of the Judicial Council shall receive no compensation for their service, but they shall be reimbursed for their traveling and other expenses incidental to attending meetings.

**History:** 1978, PL 15-104 § 1.

## **Chapter 02**

### **HIGH COURT**

#### **Sections:**

- 3.0201 Territorial jurisdiction.**
- 3.0202 General powers.**
- 3.0203 Power to punish contempt of authority.**
- 3.0204 Court of record—Seal.**
- 3.0205 Appointment of clerk and other officers.**
- 3.0206 Duties of clerk.**
- 3.0207 Divisions and sessions—Composition.**
- 3.0208 Jurisdiction of divisions.**
- 3.0209 Power to hear and determine cases.**
- 3.0210 Role of associate judges.**
- 3.0220 Appellate division—Composition.**
- 3.0221 Appellate division—Difference of opinion—Prevailing opinion.**
- 3.0230 Trial division—Composition.**
- 3.0231 Trial division—Difference of opinion—Prevailing opinion.**
- 3.0232 Trial division—Petit jury.**
- 3.0240 Land and titles division—Composition.**
- 3.0241 Land and titles division—Difference of opinion—Prevailing opinion.**
- 3.0242 Land and titles division—Rules.**

#### **3.0201 Territorial jurisdiction.**

The jurisdiction of the High Court shall extend to the whole of American Samoa, including Swains Island and Rose Island.

**History:** 1969, PL 11-54.

#### **Case Notes:**

High Court of American Samoa is not a District Court within the meaning of the federal ship Mortgage Act, 46 U.S.C. § 951, and ship foreclosure action is not allowed in the High Court. *Star Kist Samoa, Inc. v. M/V Conquest and Security Pacific National Bank*, 3 A.S.R.2d 25 (1986).

#### **3.0202 General powers.**

(a) The High Court of American Samoa shall have power to issue all writs and other process, make rules and orders, and do all acts, not inconsistent with law or with the rules

made by the Chief Justice of American Samoa, as may be required for the due administration of justice, and, without limiting the generality of the foregoing powers, may grant bail, accept and forfeit security therefor, make orders for the attendance of witnesses with or without documents, make orders for the disposal of exhibits and punish for contempt of court.

(b) The trial and land and titles divisions of the High Court shall have the power to give declaratory relief.

**History:**1962; PL 7-36; 1969, PL 11-54; amd 1979, PL 16-28 § 12.

**Amendments:** 1979 Section designated subsection (a), and subsection (b) added.

**Case Notes:**

Under this section, the Appellate Division of the High Court, being a tribunal superior to the Trial Division of the High Court, has the power to grant a writ or prohibition against the Trial Division. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

As the Court of last resort, the Appellate Division of the High Court is responsible for securing order and regularity in judicial proceedings within its Territorial and statutory jurisdiction; thus, it may issue a writ of prohibition against the Trial Division of the High Court if to do so would be in aid of appellate jurisdiction of the Appellate Division. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

There is no provision of the American Samoa Code which gives any Court in the Territory, or any division or department of any Court, either expressly or by implication, in rem admiralty and maritime jurisdiction; therefore, it would be inconsistent with law for the High Court to issue process for the arrest of a vessel and such action is not within the Court's power under this section. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

**3.0203 Power to punish contempt of authority.**

The High Court of American Samoa shall have power to punish by fine or imprisonment, at its discretion, contempt of its authority consisting of the following:

- (1) misbehavior of any person in its presence or so near thereto that the misbehavior obstructs the administration of justice;
- (2) misbehavior of any of its officers in their official transactions; and
- (3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

**History:**1967, PL 10-27; 1969, PL 11-54.

**Case Notes:**

Criminal contempt statute authorizing the executive to prosecute certain conduct as criminal contempt of court does not limit court's power to act on its own under general contempt statute. A.S.C.A. §§ 3.0203, 46.4617; *American Samoa Government v. Godinet*, 7 A.S.R.2d 127 (1988).

General contempt statute may give rise to criminal liability despite existence of separate statute making certain acts criminal offenses. A.S.C.A. §§ 3.0203, 46.4617. *American Samoa Government v. Godinet*, 7 A.S.R.2d 127 (1988).

Contempt statute giving court power to punish resistance or disobedience to court's process should be construed to refer to resistance or obstruction of the process by which the court conducts its business, not just disobedience to subpoena or other paper requiring attendance in court. A.S.C.A. § 3.0203. *American Samoa Government v. Godinet*, 7 A.S.R.2d 127 (1988).

Agreement between prospective witness in criminal proceeding and members of the defendant's family that defendant would leave the territory and victim would refuse to testify constituted resistance to process of court within meaning of contempt statute, even if "process" is construed narrowly to refer to a subpoena and even though the agreement could not reasonably be construed to mean that the witness would refuse to testify only if she received no subpoena. A.S.C.A. § 3.0203. *American Samoa Government v. Godinet*, 7 A.S.R.2d 127 (1988).

Agreement between prospective witness and members of criminal defendant's family that defendant would leave the territory and witness would refuse to testify, made after court's order that defendant stand trial and with the purpose of preventing the trial, constituted resistance to the court's mandate within the meaning of contempt statute. A.S.C.A. § 3.0203. *American Samoa Government v. Godinet*, 7 A.S.R.2d 127 (1988).

### **3.0204 Court of record—Seal.**

The High Court shall be a court of record and shall have a seal.

**History:** 1962, PL 7-36.

### **3.0205 Appointment of clerk and other officers.**

The High Court shall have a clerk, interpreters, who may also be deputy clerks, a marshal, deputy marshals, and such other employees as the Chief Justice may deem necessary, all of whom shall be appointed by the Chief Justice, shall receive salaries fixed by him, and shall be subject to removal by him.

**History:** 1962, PL 7-36; 1969, PL 11-54.

### **3.0206 Duties of clerk.**

The Clerk of the High Court shall record its proceedings and shall be the custodian of the records, papers, and seal of the Court. He shall perform his duties under the direction of the Chief Justice, and shall maintain his office in the Court House in the village of Fagatogo, Tutuila.

**History:** 1962, PL 7-36.

### **3.0207 Divisions and sessions—Composition.**

(a) The High Court shall consist of an Appellate Division, a Trial Division and a Land and Titles Division.

(b) The High Court shall hold the regular sessions of its Appellate, Trial and Land and Titles Divisions in the Court House in the village of Fagatogo, Tutuila, and may hold sessions of any division at such other places in American Samoa as the business of the court requires and as the Chief Justice may designate from time to time.

**History:** 1967, PL 10-17; 1968, PL 10-62; 1969, PL 11-54; 1970, PL 11-116; PL 11-119; and 1979, PL 16-28 § 13.

**Amendments:** 1979 Subsection (a): deleted probate division. Subsection (b): deleted reference to probate division at beginning in list of divisions and deleted “special” from before “sessions of any division”.

#### **Case Notes:**

Even exercising discretion under subsection (a), Chief Justice could not so enlarge jurisdiction of public health court to hear case involving dogs. In re Dogs in Tafuna, ASR (1978).

### **3.0208 Jurisdiction of divisions.**

(a) The trial division of the High Court shall be a court of general jurisdiction with the power to hear any matter not otherwise provided for by statute. Notwithstanding the foregoing, the trial division of the High Court shall have original jurisdiction of the following classes of cases and controversies:

(1) civil cases in which the amount in controversy exceeds \$15,000, except land and titles matters as provided in subsection (b);

(2) criminal cases in which a felony is charged;

(3) admiralty and maritime matters, of which the trial division shall have both in rem and in personam jurisdiction;

(4) juvenile cases;

(5) the probate of wills and administration of estates;

(6) domestic relations, except adoptions and actions arising under the Uniform Reciprocal Enforcement of Support Act;

(7) all writs; and

(8) all matters of which the trial division has jurisdiction by statute.

(b) The land and titles division of the High Court shall have exclusive jurisdiction:

(1) in all matters relating to matai titles; and

(2) in all controversies relating to land.

(c) The Appellate Division of the High Court shall have jurisdiction to review, on appeal, final decisions of the trial and land and titles divisions of the High Court, matters on appeal from the District Court as provided in 3.0309, appeals of administrative decisions as provided in 4.1040 through 4.1044 and appeals of other matters specifically provided for by statute.

**History:** 1962, PL 7-36; 1967, PL 10-17; 1968, PL 10-62; 1969, PL 11-54; 1969, PL 11-59; 1970, PL 11-116; 1970, PL 11-119; amd 1975, PL 14-18; 1979, PL 16-28 § 11; 1979, PL 16-53 § 6; amd 1985, PL 19-8 § 1, amd 2008, PL 30-22.

**Amendments:** 1975 Subsection (a): provided for in rem jurisdiction in admiralty and maritime matters.

1979 Subsection (a): PL 16-28 added first sentence giving court general jurisdiction, and generally changed the specifics of the court's jurisdiction us remainder of subsection.

PL 16-53 took original jurisdiction in actions under Uniform Reciprocal Enforcement of Support Act from court and provided court did not have original jurisdiction of adoptions.

Subsection (b): deleted.

Subsection (c): deleted.

Subsection (d): redesignated as subsection (b) and deleted lands and titles division's jurisdiction over Samoan names and titles, substituting jurisdiction over matai titles.

Subsection (e): deleted.

Subsection (f): redesignated as subsection (c), and deleted probate appeal jurisdiction, and added jurisdiction over district court appeals, administrative appeals and appeals of other matters provided for by statute.

Paragraph (a) (6): deleted "including" and added "except adoptions and".

1985 Subsection (a)(1) deleted "\$3,000" and added "\$5,000".

#### **Case Notes:**

High Court jurisdiction "in all controversies relating to title to land" granted by this section when read with longstanding practice of referring all matters concerning communal land to land and titles division, a practice the Fono is cognizant of, includes action to set aside a lease. *Tuilefano v. Beaver*, ASR (1978).

There is no provision of the American Samoa Code which gives any court in the territory, or any division or department of any court, either expressly or by implication, in rem admiralty and maritime jurisdiction. *Vessel Fijian Swift v. Trial Division*. 4 ASR 983 (1975).

The High Court has in personam jurisdiction over admiralty and maritime causes of action, even though it does not have in rem admiralty and maritime jurisdiction, and in the enforcement of such personal liability, a vessel or other goods or chattels, or credits, may be seized, attached and levied upon; and the Federal Rules of Civil Procedure, Supplemental Rules for Certain Admiralty and Maritime Claims, are on their face applicable in such in personam cases, insofar as they are consistent with the court's statutory jurisdiction. *Vessel Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

In rem admiralty and maritime jurisdiction in the Trial Division of the High Court cannot be grounded upon "the necessity and importance of in rem Admiralty jurisdiction . in the orderly administration of Justice in this maritime Territory"; such determination is for the legislature. *Vessel Fijian Swift v. Trial Division*. 4 ASR 983 (1975)

Subsection (a)(3) does not confer on the High Court or trial court the power to enjoin other related actions in United States District Courts. It does, however, include the admiralty law principle of limiting a shipowner's liability to its interest in the vessel and its freight *Interocean Ships, Inc. v. Afamilionia Fa'atasiga*, App. No. 32-84 (11/19/85); In the matter of *Inter. Ocean Ships, Inc.*, C.A. No. 34-84 (4/21/86).

High Court of American Samoa is not a court of the States within the meaning of federal statute, 28 USC § 1333, denying admiralty jurisdiction to state courts. Filing of action in federal bankruptcy court triggers automatic stay of cases already filed in High Court of American Samoa relating to same property. Sec. II U.S.C. § 362.

Once bankruptcy case is filed, High Court cannot subsequently accept filing of suit over same property, *Rainwater v. M/V Sea Encounter*, 3 A.S.R.2d 87 (1986).

The High Court of American Samoa has in rem admiralty jurisdiction. A.S.C.A. § 3.0208(a) (3).

Rainwater v. The Sea Encounter, 3 A.S.R.2d 87 (1986).

Local statute granting admiralty jurisdiction to High Court allows Court to apply substantive principles of the maritime common law, even though Congress has never directly and specifically conferred admiralty jurisdiction upon High Court. A.S.C.A. § 3.0208(a) (3). Gray, Cary, Ames & Frye v. HGN Corp., 6 A.S.R.2d 64 (1987).

### **3.0209 Power to hear and determine cases.**

(a) The Chief Justice or the Associate Justice shall have power to hear and determine alone any preliminary or supplementary matter in any case before the appellate, trial, or land and titles divisions of the High Court and to enter an order with respect thereto, including an order of dismissal where the dismissal is not contested or where a plaintiff has moved for dismissal and the defendant has not filed a pleading.

(b) In the land and titles division, a decision must be rendered in a case within 60 days from the submission of the case for decision by the court.

**History:** 1962, PL 7-36; 1969, PL 11-54; 1970, PL 11-116; 1970, PL 11-119; amd 1977, PL 15-3; 1978, PL 15-84 § 3; PL 15-104 § 4; amd 1979, PL 16-28 § 14.

**Amendments:** 1977 Subsection (b): added.

1979 Subsection (b): “submission of the case for decision by the court” was substituted for “close of the case”.

#### **Case Notes:**

A single justice has the authority to issue an alternative writ, schedule a hearing, and set a briefing schedule; however, resolution of substantive issues, other than in connection with any preliminary or supplementary matter, requires a quorum of two justices and one associate judge. A.S.C.A. §§ 3.0209, 3.0220. In re Complaint of Voyager, Inc., 24 A.S.R.2d 90 (1993).

### **3.0210 Role of associate judges.**

The associate judges shall be entitled to be heard on all questions before any division of the High Court and to examine any party or witness in the proceedings, and shall also advise the court on such questions as the court may refer to them.

**History:** 1969, PL 11-54; amd 1979, PL 16-28 § 15.

**Amendments:** 1979 made section applicable to questions before any division of the court rather than just the land and titles division.

### **3.0220 Appellate division—Composition,**

The appellate division shall consist of the Chief Justice, the Associate Justice, Acting Associate Justices appointed by the Secretary of the Interior, and all the associate judges. Sessions of the appellate division shall be held before 3 justices and 2 associate judges, the presence of 2 of the justices and 1 associate judge being necessary to constitute a quorum for the trial and determination of a case or controversy.

**History:** 1967, PL 10-17; 1968, PL 10-62; 1969, PL 11-54; 1970, PL 11-1 16; PL 11-119; amd 1978, PL 15-60; PL 15-84 § 2; PL 15-104 § 3; amd 1979, PL 16-28 § 13.

**Amendments:** 1978 Added references to Acting Associate Justices; moved comma (,) from before “or the Associate Justice to after it, in second sentence.

1979 Changed persons before whom session must be held.

#### **Case Notes:**

A single justice has the authority to issue an alternative writ, schedule a hearing, and set a briefing schedule; however, resolution of substantive issues, other than in connection with any preliminary or supplementary matter, requires a quorum of two justices and one associate judge. A.S.C.A. §§ 3.0209, 3.0220. In re Complaint of Voyager, Inc., 24 A.S.R.2d 90 (1993).

### **3.0221 Appellate division—Difference of opinion—Prevailing opinion.**

In the appellate division of the High Court, if there remains, after conference, any difference of opinion among the judges, the opinion of 2 of the justices shall prevail and shall be recorded by the clerk as the opinion and decision of the court. However, if in the determination of any land or matai title case or controversy before the appellate division there remains, after conference, any difference of opinion among the judges, the opinion of the majority of the 5 judges shall prevail and shall be recorded by the clerk as the opinion and decision of the court.

**History:** 1962, PL 7-36; 1969, PL 11-54; 1970, PL 11-1 16; PL 11-119; amd 1978, PL 15-84 § 3; PL 15-104 § 4; amd 1979, PL 16-28 § 14.

**Amendments:** 1978 Deleted “appellate division or” prior to “Trial Division of the High Court”. 1979 Subject matter generally amended.

### **3.0230 Trial division—Composition.**

(a) The trial division shall consist of the Chief Justice, the Associate Justice and all of the Associate Judges.

(b) Sessions of the trial division shall be held before a justice and 2 associate judges, the presence of a justice and 1 associate judge being necessary to constitute a quorum for the trial and determination of a case or controversy.

**History:** 1967, PL 10-17; 1968, PL 10-62; 1969, PL 11-54; 1970, PL 11-116; PL 11-119; amd 1977, PL 15-60; amd 1979, PL 16-28 § 13.

**Amendments:** 1977 Added paragraphs relating to the circuit department.

1979 Deleted provision relating to traffic department sessions of the trial division, provision relating to small claims department of the trial division sessions, and provisions relating to circuit department and its jurisdiction and proceedings before it. Generally amended remaining provisions relating to trial division sessions.

#### **Case Notes:**

Circuit department proceedings are no! of record, are to be held in locations other than Courthouse, and may be held before any Justice or Judge alone. In re Dogs in Tafuna, ASR (1978).

### **3.0231 Trial division—Difference of opinion— Prevailing opinion.**

In the trial division of the High Court, if there remains, after conference, any difference of opinion between the Justice and the Associate Judges, the opinion of the Justice prevails and is recorded by the clerk as the opinion and decision of the court.

**History:** 1979, PL 16-28 § 14.

### **3.0232 Trial division—Petit jury.**

(a) A person charged with an offense carrying a maximum possible punishment of over 6 months of imprisonment shall be tried by a jury unless he personally waives this right in writing or in open court. The Chief Justice of the High Court may promulgate Petit Jury Rules and Standard Jury Instructions to govern jury trials in the High Court and District Court. The petit jury shall be comprised of 6 persons. The jury verdict must be unanimous. Voir dire of prospective jurors shall be conducted by the court.

(b) Whenever petit jury trials are held as provided in subsection (a), at least 1 associate judge shall sit with either the Chief Justice, Associate Justice, or Acting Associate Justice, who acts as presiding judge of the High Court. All questions of law shall be ruled upon by the presiding judge.

**History:** 1978, PL, 15-100; amd 1979, PL 16-53 § 8, 2005, PL 29-1.

**Amendments:** 1979 Subsection (a): reworded subsection, mainly to change standard of when jury trial would be had.

### **3.0240 Land and titles division—Composition.**

The land and titles division shall consist of the Chief Justice, the Associate Justice, and all of the associate judges. In the land and titles division, all controversies relating to land shall be heard and decided by a justice and 2 associate judges, the presence of a justice and 1 associate judge being necessary to constitute a quorum for the trial and determination of a case or controversy. In the land and titles division all controversies relating to matai titles shall be heard by a justice and 4 associate judges, the presence of a justice and 3 associate judges being necessary to constitute a quorum for the trial and determination of a case or controversy.

**History:** 1978, PL, 15-100; amd 1979, PL 16-53 § 8.

#### **Case Notes:**

Requirement that one law-trained judge (justice) be included in panel that hears matai title disputes does not require that the law trained judge be present during all deliberations of associate judges. In re matai title La'apui, 4 A.S.R.2d 7 (1987).

Statute prescribing participation in matai title dispute of one law-trained judge, as well as four associate judges who are not lawyers but who are chosen for their familiarity with Samoan custom, did not require that the law-trained judge be present during all deliberations of the associate judges. A.S.C.A. § 3.0240; In re Matai Title La'apui, 4 A.S.R.2d 7 (1987).

### **3.0241 Land and titles division—Differences of opinion—Prevailing opinion.**

(a) In cases or controversies relating to land in the land and titles division of the High Court, if there remains, after conference, any difference of opinion between the Justice and the Associate Judges, the opinion of the Justice prevails and is recorded by the clerk as the opinion and decision of the court.

(b) In cases or controversies relating to matai titles in the land and titles division of the High Court, if there remains, after conference, any difference of opinion among the judges, the justice shall abstain and the opinion of the majority of the 4 associate judges shall prevail and shall be recorded by the clerk as the opinion and decision of the court. In the event of a tie vote among the 4 associate judges, the justice shall cast the deciding vote.

**History:** 1979, PL 16-28 § 14.

### **3.0242 Land and titles division—Rules.**

(a) The Chief Justice shall, by order, prescribe rules and forms to govern the conduct of proceedings before the land and titles division. The Federal Rules of Civil Procedure, Title 28, U.S.C., shall have no application to proceedings before the land and titles division.

(b) In any matter of practice or procedure not provided for, or where the strict compliance with any rule of practice or procedure may be inequitable or inconvenient, the land and titles division may act in each case in such manner as it considers to be most consistent with natural justice and convenience.

**History:** 1967, PL, 10-17; 1968, PL, 10-62; 1969, PL, 11-54; 1970, PL, 11-116; PL. 11-119; amd 1979, PL, 16-28 § 13.

**Amendments:** 1979 Changed constitution of the division, a quorum and who shall hear controversies.

**Case Notes:**

Reference to court's direction to act not inconsistent with natural justice and convenience. *Kaliopa v. Silao and Harris*, 2 ASR 2d 1(1983).

Common law governs notions for new trial in Lands and Titles as it most nearly reflects "natural justice and convenience. *Narruh V. Afenoa*, ASR (1979).

Land and titles have a distinct and relaxed set of procedures. The strict standards which apply in federal court as to dissolution of temporary restraining orders do not apply. *Tuilefano v. Beaver*, ASR (1978).

Court's broad powers to govern the conduct of proceedings and apply equitable remedies includes canceling records made by government officials on grounds of fraud or mistake. *Fuimaono v Penitusi*, ASR (1978).

Rule 24(a), Fed. R. Civ. P, applied in Land and Titles Division, expressly provides application to intervene be timely made. *Maae v. Pomele*, ASR (1977).

while the court is proscribed from using the Fed. R. Civ P. in Land and Titles Division, it is not proscribed from using rulings that interpret those rules nor from seeking guidance from those rules. *Faalafu v. 5ala*, ASR (1977).

Territorial statute giving court power to suspend procedural rules that would lead to inequitable result does not give court power to suspend rules of substantive law. A.S.C.A. § 3.0242. *Ape v. Puagele*, 3 A.S.R.2d 109 (1986).

Territorial statute permitting court to subordinate rules of "practice or procedure" to exigencies of justice and convenience does not give the court power to overturn a final judgement in the absence of new evidence, fraud, surprise, or similar circumstances, since *resjudicata* is a rule of substantive law and not of procedure. A.S.C.A. § 3.0242(b); T.C.R.C.P. Rule 60. *Willis v. Willis*, 4 A.S.R.2d 144 (1987).

When petitioner in land dispute has failed to seek relief from the Office of Samoan Affairs as required by statute prior to seeking judicial remedy, but respondent has answered and appeared before High Court, court would observe considerations of equity and convenience by staying the action pending compliance with the administrative relief requirements rather than dismissing the action altogether. A.S.C.A. §§ 3.0242, 43.0302(a). *Moeisogi v. Faleafine*, 5 A.S.R.2d 131 (1987).

Statutory standard of "natural justice and convenience" requires that in land matters a party eventually be accorded his day in court and therefore, although the court prefers that all parties be present at a hearing, it will proceed without the defendants where they have continually postponed the trial date and failed to appear after proper notice of the trial date. A.S.C.A. § 3.0242. *Ava v. Moe*, 8 A.S.R.2d 95 (1988).

Court acted properly in granting motion to dismiss at conclusion of plaintiffs' case, at least in light of Territorial statute allowing land court to proceed in such manner as it considers to be most consistent with natural justice and convenience, where plaintiffs objected that evidence they had been saving for rebuttal could have established a *prima facie* case but court concluded that defendants would prevail even if plaintiffs succeeded in proving every fact they offered to prove on rebuttal. A.S.C.A. § 3.0242. *Willis v. Fai'iva*, 10 A.S.R.2d 121 (1989).

## Chapter 03

### DISTRICT COURTS

**Sections:**

- 3.0301 Composition.**
- 3.0302 Jurisdiction.**
- 3.0303 Sessions-Petit jury.**
- 3.0304 General powers.**
- 3.0305 Contempt power.**
- 3.0306 Not a court of record.**
- 3.0307 Clerk and other officers**
- 3.0308 Trial of small claims.**
- 3.0309 Appeals.**

**Reviser's Comment:**

Section 1 of PL 16-28 provided:

This act shall be known and may be cited as the District Court Act of 1979.

Section 2 of PL 16-28 provided:

This act is intended to establish a new trial court in American Samoa, to be known as a District Court, which will adjudicate lesser civil cases, minor criminal offenses, small claims, traffic violations, and public health cases, and which will conduct preliminary appearances in serious criminal cases. These are all

matters which currently occupy much time at the High Court. Certain other reforms and modifications of the judicial system are also effected, including the institution of four year terms for associate judges. The role of the associate judges is expanded by giving them the right to participate in proceedings before all divisions of the High Court. The bench is enlarged in matai cases to 4 associate judges and a nonparticipating presiding justice.

### **3.0301 Composition.**

The District Court shall consist of 1 or more district court judges.

**History:** 1979, PL 16-28 § 16.

### **3.0302 Jurisdiction.**

(a) The District Court has jurisdiction of the following matters: civil cases or controversies other than actions involving land or matai titles, in which the amount in controversy shall not exceed \$15,000; criminal cases in which the offense charged is a misdemeanor or any offense punishable by not more than 1 year of imprisonment; traffic cases except those involving a felony; initial appearances and preliminary examinations in all criminal cases; adoptions; actions arising under the Uniform Reciprocal Enforcement of Support Act, 42.0404 through 42.0454; actions arising under the Occupational Health and Safety Act; and public health offenses arising under 25.2001 et seq.

(b) The District Court is a court of limited jurisdiction and does not have jurisdiction over those matters under 3.0208 of which the High Court has original jurisdiction.

**History:** 1979, PL 16-28 § 16; amd 1979, PL 16-53 § 7, amd 1985, PL 19-81 2, amd 2008, PL 30-22.

**Amendments:** 1979 Subsection (a) added jurisdiction over adoption, actions under Uniform Reciprocal Enforcement Support Act, and actions under the Occupational Health and Safety Act. 1985 Subsection (a). deleted "\$3,000" and added "\$5,000".

**Reviser's Comment:** The Occupational Health and Safety Act was repealed by PL 16-47.

#### **Case Notes:**

There is no provision of the American Samoa Code which gives any court in the territory, or any division or department of any court, either expressly or by implication, in rem admiralty and maritime jurisdiction, vessel *Fijian Swift v. Trial Division*, 4 ASR 983 (1975).

### **3.0303 Sessions-Petit jury.**

(a) All sessions of the District Court are conducted by a District Court judge sitting alone.

(b) Sessions of the District Court are held in the Court House in Fagatogo, Tutuila, or at such other places in American Samoa as the business of the court requires and as the Chief Justice may designate from time to time.

(c) A person charged with an offense carrying a maximum possible punishment of over 6 months but not more than one year of imprisonment shall be tried by a jury unless he personally waives this right in writing or in open court. The petit jury shall be comprised of 6 persons. The jury verdict must be unanimous. Voir dire of prospective jurors shall be conducted by the court.

(d) Whenever petit jury trials are held in District Court as provided in subsection (c) the District Court judge, as provided in subsection (a), sitting alone acts as presiding judge. All questions of law shall be ruled upon by the presiding judge.

**History:** 1979, P1. 16-28 § 16, 2005, PL 29-1.

### **3.0304 General powers.**

The District Court has power to issue process and do all acts not inconsistent with law or with the rules made by the Chief Justice of American Samoa, as may be required for the due administration of justice, and, without limiting the generality of the foregoing powers, may grant bail, accept and forfeit security, make orders for the attendance of witnesses with or without documents, make orders for the disposal of exhibits and punish for contempt of court.

**History:** 1979, PL 16-28 § 16.

#### **Case Notes:**

The district court is authorized to issue process, and an arrest warrant is a form of process. A.S.C.A. § 3.0304, T.C.R.Cr.P. 4(c) (1). American Samoa Government v. Meleisea, 24 A.S.R.2d

### **3.0305 Contempt power.**

The District Court has the power to punish by fine or imprisonment, at its discretion, contempt of its authority consisting of the following:

- (1) misbehavior of any person in its presence or so near thereto that the misbehavior obstructs the administration of justice;
- (2) misbehavior of any of its officers in their official transactions; and
- (3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

**History:** 1979, PL 16-28 § 16.

### **3.0307 Clerk and other officers.**

(a) The Clerk of the High Court serves also as Clerk of the District Court; other High Court officers and employees may be assigned to work part-time or full-time for the district court by the Chief Justice of the High Court.

(b) In addition, such employees of the District Court as the Chief Justice may consider necessary are appointed by the Chief Justice, receive salaries fixed by him, and are subject to removal by him.

**History:** 1979, PL 16-28 § 16.

### **3.0308 Trial of small claims.**

(a) Small claims, which are defined as civil claims of less than \$7,500.00, may be tried under simplified procedures in the District Court in accordance with Title 43.

**History:** 1979, PL 16-28 § 16; 1985, PL 19-5 § 1; amd 1997 PL 25-3; 2016, PL 34-14§ 1.

### **3.0309 Appeals.**

Final decisions of the District Court may be appealed to the High Court. Upon appeal, cases or controversies in which there is a stenographic record are considered by the appellate division of the High Court for review of the findings of fact and conclusions of law. All other cases or controversies where there is no stenographic record are tried de novo by the trial division of the High Court. However, any case which is appealable under this section may be appealed on a question of law directly to the appellate division of the High Court.

**History:** 1979, PL 16-28 § 16.

**3.0306 Not a court of record.**

The District Court is not a court of record, but the Chief Justice may from time to time order that record be made of any individual proceeding or any class of proceedings.

**Chapter 04**

**VILLAGE COURTS**

**Sections:**

- 3.0401 Composition.**
- 3.0402 Jurisdiction.**
- 3.0403 Administration.**
- 3.0404 Record of proceedings.**

**3.0401 Composition.**

Each village shall have a village court consisting of an associate judge of the High Court. The Chief Justice shall assign associate judges to be responsible for conducting court sessions in 1 or more villages. From time to time, as the number of cases awaiting trial requires, the responsible associate judge shall convene the village court to try those matters outstanding.

**History:** 1969, PL 11-54; 1971, PL 12-16 § 1; amd 1979, PL 16-28 § 17, PL I6-52 § 2.

**Amendments:** 1979 Redesignated the district courts as village courts; substituted “an associate judge of the High Court” for “a village magistrate” in the first sentence, and added second and third sentences

**Case Notes:**

There is no provision of the American Samoa Code which gives any court in the Territory, or any division or department of any court, either expressly or by implication, in rem admiralty and maritime jurisdiction. *Vessel Fijian Swift v Trial Division*, 4 ASR 983 (1975).

**3.0402 Jurisdiction.**

(a) The village courts shall have jurisdiction only over matters arising under the regulations of their respective villages.

(b) Except for retrials before the District Court, the village courts shall have exclusive jurisdiction to impose penalties for the violation of village regulations. No village council or village, county or district authority may impose penalties for such violations.

**History:** 1969, PL 11-54; 1971, PL 12-16 § 1; and 1979; PL 16-28 § 17, PL 16-52 § 2.

**Amendments:** 1979 Redesignated the district courts as village courts. Retrials, formerly before the High Court, are now before the district court created by PL 16-52.

**Case Notes:**

Court’s authority to suspend procedural rules on grounds of inequitable results does not extend to suspension of substantive law. *Poutoa v. Puagele*, 3 A.S.R.2d 109 (1986).

**3.0403 Administration.**

The Chief Justice shall designate an associate judge or other person as administrator of the village courts. The administrator shall supervise the operation of the village courts and may do any acts necessary to implement this chapter.

**History:** 1979, PL 16-52 § 3.

**3.0404 Record of proceedings.**

The Clerk of the High Court or his designee shall attend all sessions of the village courts and shall prepare a written record of the proceedings, which shall be kept in the Court House in Fagatogo.

**History:** 1979, PL 16-52 § 3.

## Chapter 5

### FAMILY, DRUG AND ALCOHOL COURT

**Sections:**

- 3.0501 Family, Drug and Alcohol Court Division—Establishment.**
- 3.0502 Jurisdiction and quorum.**
- 3.0503 Registries, protective orders and administration and funding.**
- 3.0504 Executive branch agencies—Cooperation.**
- 3.0505 Sunset provision.**

**3.0501 Family, Drug and Alcohol Court Division—Establishment.**

Notwithstanding the current statutes providing for the jurisdiction of certain cases before the trial division of the High Court or before District Court, the Chief Justice may establish by rule or order of both, a Family, Drug, and Alcohol Court Division within the High Court for an indefinite period and transfer any or all such cases as authorized by this statute to that division to be heard and decided. The purpose of this court division is to provide a single venue to comprehensively address all matters affecting families, from juvenile offenses to domestic violence and adoptions to divorce and child support. The Court shall also address in its sentences relating to cases involving violence or alcohol or drug use, appropriate rehabilitation programs, close monitoring, and graduated sanctions to minimize levels of repeat offenders.

**History:** 2000, PL 26-31; 2007, PL 30-1.

**3.0502 Jurisdiction and quorum.**

(a) The Chief Justice may, by rule or order or both, transfer jurisdiction from the trial division of the High Court and District Court to the Family, Drug, and Alcohol Court Division to hear and decide the following matters:

- (1) any or all juvenile cases including traffic offenders;
- (2) any or all domestic relations cases, including but not limited to, divorce, legal separation, child support, spousal support, paternity, U.R.E.S.A., and domestic violence protective orders, relinquishment/termination of parental rights, and adoptions;
- (3) any or all domestic violence crimes except homicides or other class A felonies; and
- (4) any or all criminal cases in which alcohol or other substance abuse is involved, including serious traffic offenses, except those cases charging possession of controlled substances with intent to distribute and those cases otherwise excluded by the above subsections.

(b) Unless otherwise ordered by the Court, hearings before the Family, Drug, and Alcohol Court Division shall be closed to the general public, when so required by existing statutes or by order of the Court in conformance with the rules of criminal or civil procedure.

(c) The Chief Justice, Associate Justice or Acting Associate Justice and two associate judges shall conduct sessions before the Family, Drug, and Alcohol Court Division of the High Court, the presence of one justice and one associate judge shall constitute a quorum for the trial and determination of a case or controversy, including trials by jury.

(d) Neither this section nor any other part of this Act may be construed to amend or alter the exclusive jurisdiction of the Land and Titles Division of the High Court in all matters relating to matai titles and controversies relating to land as set forth in section 3.0208 (b).

(e) Neither this section nor any other part of this Act may be construed to amend or alter legislatively established penalties for use, possession, or sale of controlled substances.

**History:** 2000, PL 26-31; 2007, PL 30-1.

### **3.0503 Registries, protective orders and administration and funding.**

(a) The Chief Justice may, by order or rule or both, establish such central registries as are necessary to comply with applicable federal laws for domestic violence protective orders, both foreign and those issued locally, and foreign and locally issued child support orders.

(b) The Chief Justice may, by rule or order or both, provide for the issuance of protective orders for victims of domestic abuse through an expedited hearings process on such forms in English and Samoan as the Court may provide. Emergency, ex parte protective orders shall be accompanied by a notice of a court hearing on the order to be held within 72 hours of the issuance of such order.

(c) The Chief Justice may authorize the application, acceptance, administration and accounting of any federal or other funding available for the operation, facilities, equipment, staffing and support services for the Family, Drug, and Alcohol Court Division.

**History:** 2000, PL 26-31; 2007, PL 30-1.

### **3.0504 Executive branch agencies-Cooperation.**

All agencies of the government shall cooperate with the High Court in implementing the pilot project for the Family, Drug, and Alcohol Court. The Department of Public Safety shall establish necessary practices and procedures for registering and enforcing domestic violence protective orders duly filed with or issued by the court and, in conjunction with the Attorney General, adopt a pro-arrest, pro-prosecution policy in domestic violence cases and those public and private peace disturbances which involve alcohol or illegal drug use.

**History:** 2000, PL 26-31; 2007, PL 30-1.

### **3.0505 Sunset provision.**

Repealed P.L. 30-1

**History:** 2000, PL 26-31; 2002, PL 27-27, 2004, PL 28-25; 2007, PL 30-1.

## **Chapters 06-09 (RESERVED)**

### **Chapter 10**

#### **JUSTICES AND JUDGES**

**Sections:**

- 3.1001 Chief and Associate Justice-Appointment.**
- 3.1002 Powers and duties.**
- 3.1003 Acting Chief Justice.**
- 3.1004 Associate judges-Appointment-Term**
- 3.1005 Associate judges-Powers.**
- 3.1006 Temporary associate judges.**
- 3.1007 Disqualification of judges.**
- 3.1008 Testimony by justices and judges barred.**
- 3.1009 Prohibition against practice of law.**
- 3.1010 District court judges-Term.**
- 3.1011 District court judges-Powers.**
- 3.1012 High Court Justices presiding in District Court.**

**3.1001 Chief and Associate Justices-Appointment.**

(a) There shall be a Chief Justice of American Samoa and an Associate Justice of American Samoa. Each shall be learned in the law and appointed by the Secretary of the Interior.

(b) Subject to any applicable limitations contained in the statutes of the United States, each shall hold office during his good behavior, but may be removed by the Secretary of the Interior for cause.

**History:** 1962, PL 7-36.

**3.1002 Powers and duties.**

(a) The Chief Justice and the Associate Justice shall be members of the High Court and, sitting separately, shall preside at all its divisions.

(b) The Chief Justice shall have power from time to time to designate the associate judges who shall sit with him in the sessions of the trial, land and titles and appellate divisions of the High Court presided over by him, and also to designate the Associate Justice and the associate judges who are to sit with the Associate Justice in sessions of the trial, land and titles and appellate divisions of the High Court presided over by the Associate Justice.

(c) The Chief Justice shall have administrative supervision over the High Court of American Samoa, the District Court and the village courts and their judges, magistrates, clerks and other officers. He may make rules regulating the pleading, practice, procedure and conduct of business in all the courts of American Samoa.

(d) The Chief Justice shall have exclusive power to admit qualified persons as attorneys-at-law to practice generally in the courts of American Samoa or as legal practitioners to represent parties in the courts in matai or land title or other special classes of cases only, and may for cause discipline and disbar them.

**History:** 1962, PL 7-36; 1969, PL 11-54; 1970, PL 11-116; PL 11-1 19; amd 1979, PL 16-28 § 4.

**Amendments:** 1979 Subsection (a); deleted exception for certain divisions of the High Court.  
Subsection (c): substituted reference to specific courts for the words “all the courts of American Samoa” in first sentence, and in second sentence substituted “all the courts of American Samoa” for the “appellate, trial, probate and land and titles divisions of the High Court and in the district courts”.  
Subsection (d): substituted “legal Practitioners” for agents”.

**Case Notes:**

Unlike federal rules of criminal procedure promulgated under the authority of Congress and binding on federal courts to the same extent as statutes, territorial rules are made by the Court itself, so that a time limit provided by territorial rule is not obviously jurisdictional as a similar limit provided by federal rule. Rev. Const. Am. Samoa art. III § 2; A.S.C.A. § 3.1002(c). American Samoa Government v. Tile, 8 A.S.R.2d 120 (1988).

**3.1003 Acting Chief Justice.**

In the event of the disability, disqualification, or absence from the territory of the Chief Justice or in case of a vacancy in that office, the duties of the Chief Justice shall be performed temporarily by one of the following designees as Acting Chief Justice, in the order of precedence listed; in case of the disability, disqualification, or absence from the territory of any of those listed, the next in order of precedence shall serve as Acting Chief Justice:

- (1) Associate Justice (if more than one, in order of seniority in office);
- (2) acting Associate Justice (if more than one, in order of seniority in office).

**History:** 1978, PL 15-84 § 1; 1978, PL 15-104 § 2; and 1979, PL 16-28 § 5.

**Amendments:** 1978 In opening paragraph, substituted reference to “duties of Chief Justice” for reference to “judicial duties of Chief Justice”.  
Paragraph (3): deleted “land and titles division” following “Chief Associate Judge”.  
1979 Deleted paragraphs (3) and (4).

**3.1004 Associate judges-Appointment-Term.**

(a) There shall be no less than 5 associate judges of the High Court of American Samoa, who shall be appointed by the Governor upon the recommendation of the Chief Justice and who shall be confirmed by the Senate.

(b) The Chief Justice shall designate one of the associate judges as the Chief Associate Judge.

(c) The Chief Associate Judge shall, under the general supervision of the Chief Justice, supervise the administrative affairs of the Associate Judges and shall also perform any other duties assigned him by the Chief Justice.

(d) An associate judge shall hold office during good behavior, but he may be removed by the Chief Justice for cause. Upon attaining the mandatory retirement age of 65, he must be separated from government employment unless the separation requirement is waived by the Governor. Immediately after retirement, he shall be added to the panel of temporary associate judges and shall not be subject to confirmation provisions of subsection (b) of 3.1006.

**History:** 1962, PL 7-36; 1970, PL 11-118; 1972, PL 12-55 § 1; amd 1973, PL 13-3; 1979, PL 16-28 § 6; 1979, PL 16-53 § 1; amd 1986, PL 19-62 § 1.

**Amendments:** 1973 provided for confirmation of appointment by Senate.  
1979 Subsection (b): deleted “of Land and Title Court” from end.

Subsection (c): deleted provision making Chief Associate Judge responsible for the affairs of the land and titles division, and deleted “judicial” in the provision that he “perform any other judicial duties assigned”.

Subsection (d): amended generally by PL 16-28; PL 16-53 added second and third sentences relating to retirement and temporary judges.

1986 Subsection (d): replaced “for a term of 4 years which may be renewed,” with “during good behavior,” deleted last sentence.

### **3.1005 Associate judges-Powers.**

The associate judges of the High Court shall sit in those sessions of the High Court to which they are designated by the Chief Justice from time to time unless disqualified under 3.1007.

**History:** 1962 PL 7-36; 1969 PL 11-54; amd 1979, PL 16-28 § 7.

**Amendments:** 1979 Deleted “of the trial, land and titles and appellate divisions” from before “of the High Court”.

### **3.1006 Temporary associate judges.**

(a) If, for any reason, associate judges are not available at any time for designation in sufficient numbers to constitute the appellate, trial, or land and titles divisions of the High Court, the Chief Justice may designate other persons to act temporarily as associate judges of the High Court. The designation of temporary associate judges shall be made from a panel of persons whom the Governor, upon the recommendation of the Chief Justice, has designated as qualified for temporary service.

(b) Either individually or as a panel, temporary associate judges shall be confirmed by the Senate after recommendation by the Chief Justice and designation by the Governor, in the same manner as the regular 5 associate judges under subsection (a) of 3.1004.

**History:** 1962, PL 7-36; 1969, PL 11-54; amd 1977, PL 15-6; amd 1979, PL 16-53 § 2; PL 34-10 amd 2015.

**Amendments:** 1977 subsection (b): added; existing material designated subsection (a).

1979 Subsection (c): added. 2015 removed section c.

### **3.1007 Disqualification of judges.**

(a) No judge shall sit in any case in which he, or a family of which he is a member, has a substantial interest, or in which he has been counsel, is or has been a material witness, or is a member of the same family with any party to the case.

(b) Neither the Chief Justice, nor the Associate Justice, nor any associate judge of the High Court shall sit in the appellate division of that court in the hearing and determination of any appeal from the decision of a case or question decided by him, or the decision of which he joined in the trial court.

**History:** 1962, PL 7-36.

#### **Case Notes:**

Duty to recuse is mandatory. Meredith v. Atualevao, ASR ,1979.

### **3.1008 Testimony by justices and judges barred.**

It shall be unlawful for the Chief Justice, the Associate Justice, the district court judges, or any associate judge to descend from the bench to give sworn testimony in a case before him.

**History:** 1962, PL 7-36; 1969, PL 11-54; 1970, PL 11-116; PL 11-119; amd 1979, PL 16-28 § 8.

**Amendments:** 1979 Deleted provision limiting section to High Court justices and judges and made section applicable to district court judges.

### **3.1009 Prohibition against practice of law.**

No justice, judge or employee of the High Court of American Samoa, the district court or the village courts may practice law during his time of office or employment. This prohibition applies to temporary as well as full time judges and justices. A judge pro tempore may practice law when not sitting as assigned by the Chief Justice.

**History:** 1973, PL 13-10; 1979, PL 16-28 § 9; amd 1979, PL 16-53 § 3.

**Amendments:** 1979 Added “or employee of the High Court of American Samoa, the district court or the village courts”, and added “or employment” at end of first sentence; and added provision that a judge pro tempore may practice law when not sitting.

### **3.1010 District court judges-Term.**

(a) There are one or more district court judges. A district court judge shall be learned in the law and appointed by the Governor upon the recommendation of the Chief Justice and confirmed by the Senate.

(b) One or more district court judges may be designated as judges pro tempore at the time of their appointment. A district court judge pro tempore has all the powers and duties of a full time district court judge while sitting as assigned by the Chief Justice.

(c) A district court judge shall hold office during good behavior, but he may be removed by the Chief Justice for cause.

(d) Salaries of the district court judges are fixed by the Chief Justice.

**History:** 1979, PL 16-28 § 10; 1979, PL 16-53 § 4; amd 1986, PL 19-62 § 2.

**Amendments:** 1979 Added new subsection (b); relettered subsections (b) and (c) KO (c) and (d).  
1986 Subsection (c): replaced “for a term of 4 years which may be renewed,” with “during good behavior”.

### **3.1011 District court judges-Powers.**

The district court judges, sitting separately, shall preside at all sessions of the district court unless disqualified under 3.1007.

**History:** 1979, PL 16-28 § 10.

### **3.1012 High Court Justices presiding in District Court.**

(a) The Chief Justice may, in the interest of justice, designate and assign temporarily any Justice of the High Court to preside in the District Court.

(b) During the period of designation and assignment to the District Court, a Justice may perform any District Court duty:

(1) assigned by the Chief Justice; and

(2) within the duties of a district court judge of the District Court.

(c) A Justice who is temporarily designated and assigned to preside in the District Court shall have all the power of a district court judge afforded by law.

**History:** 2019, PL 36-3 § 1.