

LEGISLATIVE BILL 370

Approved by the Governor February 24, 1988

Introduced by Conway, 17

AN ACT relating to courts; to amend sections 24-530 to 24-532, 29-424, 29-2206, 29-2702, 29-2708, 77-2326.01 to 77-2326.03, and 77-2326.07 to 77-2326.09, Reissue Revised Statutes of Nebraska, 1943, sections 24-532.01, 29-2412, and 33-126.05, Revised Statutes Supplement, 1986, and section 29-2709, Revised Statutes Supplement, 1987; to authorize the use of credit cards for money due the county courts; to change provisions relating to the handling of money received by and due certain courts; to change provisions relating to citations; to authorize the payment of costs in installments; to change the amount of a credit; to provide a fee; to change a fee; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 24-530, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-530. It shall be lawful for any person liable for the payment of any fees and costs charged or taxed in any civil or criminal action, or in any proceeding authorized by law to be brought in the county court, to pay such costs and fees to the county judge or to the clerk of the county court, and such payment shall operate as a satisfaction of ~~said~~ such person's liability to all concerned. Each county court may accept credit cards as a means of payment for any money due the court.

Sec. 2. That section 24-531, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-531. It shall be the duty of the clerk of the court to demand the payment of all fees in advance in civil cases. He or she shall be charged with all fees earned by the court and shall be required to account for the same, ~~as cash to the county treasurer.~~ Upon written application, by and such evidence as the court may require, by from an indigent person, the clerk

of the court may be directed, by a judge of the court, by a written order, to file all necessary pleadings, and to issue necessary process thereon to meet the requirements of justice, in which case no fees shall be charged and collected by the clerk of the court from such person except upon final order or judgment in the action, and in that case the clerk shall not be charged with the fees in the case and required to account for the same ~~in cash~~, unless the same are collected by him or her.

Sec. 3. That section 24-532, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-532. Fees and costs in the county court shall be those provided by Chapter 33. Each clerk of the court shall, not later than the fifteenth day of the month following the calendar month in which they were received, transmit all such fees and costs received together with any interest or other income accumulated as a result of section 24-532.01 and any fees for credit card use, reduced by any costs incurred as a result of credit card use pursuant to section 29-424 and any other bank charges, to the State Treasurer, who shall deposit the same in the state General Fund.

Sec. 4. That section 24-532.01, Revised Statutes Supplement, 1986, be amended to read as follows:

24-532.01. When any money received by the clerk of the county court is not immediately paid out and the investment of such money is not otherwise provided for by law, the clerk of the county court shall invest such money or portion thereof as may be provided for by rules issued by the Supreme Court. The rules shall provide that all amounts invested shall be deposited pursuant to sections 77-2326-01 to 77-2326-09-

Sec. 5. That section 29-424, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-424. When a citation is used by a peace officer, he or she shall enter thereon all required information, including the name and address of the cited person, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to the person cited, and a duplicate thereof shall be signed by such person, giving his or her promise to appear at the time and place stated therein. Such

person thereupon shall be released from custody. As soon as practicable, ~~one copy of the citation shall be filed with the court specified therein,~~ and the copy signed by the person cited shall be delivered to the prosecuting attorney.

At least twenty-four hours before the time set for the appearance of the cited person, either the prosecuting attorney or other person authorized by law to issue a complaint for the particular offense shall either issue and file a complaint charging such person with an offense or file with the court and deliver to such person a notice that a complaint has been refused and that such person is shall be released from the obligation to appear or that the offense charged in the original citation has been changed or amended as specified. A person cited pursuant to sections 29-422 to 29-429 may waive his or her right to trial. The Supreme Court may prescribe uniform rules for such waivers.

Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs. Any vendor charges paid by the court for use of the credit card shall be paid out of the income provided by section 24-532-01-

Sec. 6. That section 29-2206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2206. (1) In all cases wherein in which courts or magistrates have now or may hereafter have the power to punish offenses, either in whole or in part, by requiring the offender to pay a fine or costs, or both, such courts or magistrates may make it a part of the sentence that the party stand committed and be imprisoned in the jail of the proper county until the same is paid or secured to be paid, or the defendant is otherwise discharged according to law.

(2) Notwithstanding the provisions of subsection (1) of this section, when any offender demonstrates to the court or magistrate that he or she is unable to pay such fine or costs in one lump sum, the court or magistrate shall make arrangements suitable to the court or magistrate and to the offender whereby by which the offender may pay the fine in installments. The court or magistrate shall enter an order specifying the terms of such arrangements and the dates on which payments are to be made. When the judgment of conviction provides for the suspension or revocation of a motor vehicle operator's license and the court authorizes the payment of a fine or costs by

installments, the revocation or suspension shall be effective as of the date of judgment.

Sec. 7. That section 29-2412, Revised Statutes Supplement, 1986, be amended to read as follows:

29-2412. Whenever it shall be is made satisfactorily to appear to the district court, or to the county judge of the proper county, after all legal means have been exhausted, that any person who is subject to being or is confined in jail for any fine or costs of prosecution for any criminal offense has no estate with which to pay such fine and or costs, ~~or costs only~~, it shall be the duty of such court or judge, on his or her own motion or upon the motion of the person so confined, to discharge such person from further imprisonment for such fine and or costs, which discharge shall operate as a complete release of such fine and or costs. Nothing in this section shall authorize any person to be discharged from imprisonment before the expiration of the time for which he or she may be sentenced to be imprisoned, as part of his or her punishment, or when such person shall default on a payment due pursuant to an installment agreement arranged by the court. Any person held in custody for nonpayment of a fine or costs or for default on an installment shall be entitled to a credit on the fine, costs, or installment of forty sixty dollars for each day so held. In no case shall a person held in custody for nonpayment of a fine or costs be held in such custody for more days than the maximum number to which he or she could have been sentenced if the penalty set by law includes the possibility of confinement.

Sec. 8. That section 29-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2702. Every judge or clerk of court, upon receiving any money on account of forfeited recognizances, fines, or costs accruing or due to the county or state, shall pay the same to the treasurer of the proper county, except as may be otherwise expressly provided, within ten days from the time of receiving the same. When any money shall be is paid to a judge or clerk of court on account of costs due to individual persons, the same shall be paid to the persons to whom the same are due, upon demand therefor. Not later than the twentieth day of each month, each clerk of any court shall furnish upon oath to the treasurer of the proper county a statement of all criminal causes, of whatever nature, commenced or pending in his court during the

previous month, including therein a statement of the amount of fine levied, or recognizance forfeited in each case, if any there be. It shall be the duty of the county treasurer to forthwith report to the county board the failure of any such clerk to comply with the provisions of this section.

Sec. 9. That section 29-2708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2708. Any officer who shall pay to the county treasurer of any county any money collected for any fine, costs, forfeited recognizance, or proceeds of jail labor, shall take therefor the treasurer's duplicate receipts, one of which shall be immediately filed with the county clerk, and the same shall be by him preserved in his office. All such receipts shall show upon the face thereof, definitely, what the money paid in was for, whether for fines, costs, forfeited recognizance or jail labor, and the sums paid on account of each of such causes and also the cause in which each item is paid, giving the name of the defendant in each case. All such money arising from fines and recognizances shall be credited by such the county treasurer to the county school fund, except as provided by the provisions of Article VII, section 5, Constitution of Nebraska, and the costs and proceeds of jail labor he shall credit shall be credited to the county general fund. Whenever any costs in any criminal case shall be are paid from the county treasury, such payment must shall be made from the county general fund; and when any warrant is drawn by the county clerk upon the treasurer of the county for the payment of such costs, a true record of the same and the definite purpose of every such warrant shall be recorded in his the clerk's office, showing the cause in which such costs are paid.

Sec. 10. That section 29-2709, Revised Statutes Supplement, 1987, be amended to read as follows:

29-2709. When any costs in misdemeanor, traffic, or juvenile cases in county court are found by a county judge to be uncollectible for any reason, including the dismissal of the case, the judge, in his or her discretion, may enter an order waiving such portion of the costs as by law would be paid over by the court to the State Treasurer, for deposit in the General Fund. In all cases brought by or with the consent of the county attorney, all such uncollectible costs not waived shall be certified by the clerk of the

court to the county clerk, who shall present the bills therefor to the county board. The county board shall pay from the county general fund all such bills found by the board to be lawful. In all cases brought under city or village ordinance, all such uncollectible costs not waived shall be certified to the appropriate city or village officer authorized to receive claims, who shall present the bills therefor to the governing body of the city or village in the same manner as other claims. Such governing body shall pay from the general fund of the city or village all such bills as are found to be lawful.

Sec. 11. That section 33-126.05, Revised Statutes Supplement, 1986, be amended to read as follows:

33-126.05. The county court shall be allowed the following miscellaneous fees: For delayed birth registration, for the entire proceedings, ten dollars; for adoptive birth registration, for the entire proceedings, five dollars; for taking and approving any recognizance or bond for each of the same, five dollars; for filing, approving, and recording official bonds or bonds of abstractors, five dollars; ~~and for depositing a will for safekeeping and indexing the same, two dollars; and for each use of any credit card authorized by the court for any payment, three dollars.~~ The legal fees for printing notices required by law to be printed in some newspaper shall be allowed in addition to the fees ~~herein allowed in this section.~~ For the following services performed by the county court, it shall be entitled to receive the following fees: For a temporary restraining order in injunction, in the absence of the district judge, five dollars; for appointment of appraisers in condemnation proceedings, fifteen dollars, plus one dollar for each additional parcel of land included in the petition when there is more than one; and for certifying a report of appraisers to the county clerk or register of deeds and making a transcript of the same to the district court, one dollar per page. In addition to the fees provided in sections 33-123 to 33-125, the county court shall be entitled to the following fees: For providing transcripts, copies, and certified copies and taking depositions, ~~one dollar~~ twenty-five cents per page; for executing a certificate and affixing the seal, one dollar; for comparing copies presented for certification, which copies are not prepared by the county court or its employees, a fee at a rate of one dollar per page; and in any other matter in which there is not a fee specifically provided for

herein in this section, the fees of the clerk of the district court, as authorized by law for similar services, shall be collected.

Sec. 12. That section 77-2326.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.01. As used in sections 77-2326.01 to 77-2326.09, (1) the term county board shall include county commissioners or county supervisors as the case may be and (2) the term public money shall include all funds which ~~shall~~ come into the hands of ~~county judges, clerks of the county court and~~ clerks of the district court, pursuant to any provision of law authorizing such officers to collect or receive the same.

Sec. 13. That section 77-2326.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.02. All public funds paid to or coming into the hands of any ~~county judge, clerk of the county court or~~ clerk of the district court shall be deposited in such bank or banks as shall have been designated as official depositories for such funds. Such deposits shall be subject to the provisions and conditions provided in sections 77-2326.03 to 77-2326.09.

Sec. 14. That section 77-2326.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.03. Depository banks shall be such banks as shall be from time to time designated by the county board by formal resolution duly recorded in the minutes of the proceedings of such board. Such designation may be withdrawn at any time by such board in like manner, whereupon all deposits in such bank under the control of the ~~county judge, clerk of the county court or~~ clerk of the district court shall be immediately withdrawn.

Sec. 15. That section 77-2326.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.07. The clerk of the district court ~~county judge and clerk of the county court~~ shall at all times keep and certify to the county board a complete and correct list and description of the securities pledged by any depository bank to secure the ~~respective deposits of their respective offices.~~ Bonds and securities pledged shall be delivered to and held by some Federal Reserve Bank or branch thereof or some other responsible bank or trust company within this

state other than the pledgor, as designated by the county board, with appropriate joint custody and pledge agreement in form approved by the said county board.

Sec. 16. That section 77-2326.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.08. The depository bank pledging bonds or securities under sections 77-2326.01 to 77-2326.09 shall have the right to substitute therefor from time to time other and different bonds and securities of equal value within the foregoing requirements, and to withdraw all or any part of such bonds or securities so pledged upon repayment to the ~~county judge, clerk of the county court and~~ clerk of the district court, ~~or any of such officers and reduction of their respective accounts in the amount of the value of the bonds or securities thus withdrawn.~~ Each depository bank shall furnish directly to the county board a sworn monthly statement of the funds of the ~~county judge, clerk of the county court and~~ the clerk of the district court on deposit in such depository.

Sec. 17. That section 77-2326.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2326.09. Neither the ~~county judge, clerk of the county court nor the clerk~~ clerks of the district court nor their deputies, ~~clerks~~ or other employees, nor their sureties shall be liable for any loss resulting from the failure of any bank as to any such deposits made and maintained as provided in sections 77-2326.01 to 77-2326.09.

Sec. 18. That original sections 24-530 to 24-532, 29-424, 29-2206, 29-2702, 29-2708, 77-2326.01 to 77-2326.03, and 77-2326.07 to 77-2326.09, Reissue Revised Statutes of Nebraska, 1943, sections 24-532.01, 29-2412, and 33-126.05, Revised Statutes Supplement, 1986, and section 29-2709, Revised Statutes Supplement, 1987, are repealed.