

LEGISLATIVE BILL 47

Approved by the Governor February 11, 1971

Introduced by Leslie A. Stull, 49th District; Harold D. Simpson, 46th District; Sam Klaver, 9th District; Irving F. Wiltse, 1st District; William F. Swanson, 27th District; J. W. Burbach, 19th District

AN ACT to amend sections 25-519, 25-1409, 25-1525, and 25-1529, Reissue Revised Statutes of Nebraska, 1943, relating to civil procedure in district courts; to clarify and harmonize times for notice by publication as prescribed; and to repeal the original sections.

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

Section 1. That section 25-519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-519. The publication ~~must--be--made--four consecutive~~ shall be made once in each week for four successive weeks in some newspaper printed in the county where the petition is filed, if there be any printed in such county; and if there be not, in some newspaper printed in this state of general circulation in that county. It must contain a summary statement of the object and prayer of the petition, mention the court wherein it is filed, and notify the person or persons thus to be served when they are required to answer.

Sec. 2. That section 25-1409, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1409. When the plaintiff shall make an affidavit, that the representatives of the defendant, or any of them, in whose name the action may be ordered to be revived, are nonresidents of the state, or have left the same to avoid the service of the order, or so concealed themselves that the order cannot be served upon them, or that the names and residence of the heirs or devisees of the person against whom the action may be ordered to be revived, or some of them, are unknown to the affiant, a notice may be published once in each week for four ~~consecutive~~ successive weeks, as provided by section 25-519, notifying them to appear on a day therein named, not less than ten days after the

publication is complete, and show cause why the action should not be revived against them; and if sufficient cause be not shown to the contrary, the action shall stand revived.

Sec. 3. That section 25-1525, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1525. The officer who levies upon goods and chattels by virtue of an execution issued by a court of record, before he proceeds to sell the same, shall cause public notice to be given of the time and place of sale, ~~for-at-least-ten-days-before-the-day-of-sale.~~ The notice shall be given by ~~advertisement---published publication once in each week for four successive weeks~~ in some newspaper printed in the county, or in case no newspaper be printed therein, by ~~putting---up advertisements posting notice~~ in five public places in the county, two in the precinct where the sale is to be held. Where goods and chattels levied upon cannot be sold for want of bidders, the officer making such return shall annex to the execution a true and perfect inventory of such goods and chattels, and the plaintiff in such execution may thereupon sue out another writ of execution, directing the sale of the property levied upon as aforesaid; but such goods and chattels shall not be sold unless public notice of the time and place of sale ~~be--advertised~~ has been given as hereinbefore provided.

Sec. 4. That section 25-1529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1529. Lands and tenements taken in execution shall not be sold until the officer causes public notice of the time and place of sale to be given, ~~for-at-least thirty-days-before-the-day-of-sale-by-advertisement~~ The notice shall be given by publication once each week for four successive weeks in some newspaper printed in the county, or, in case no newspaper be printed in the county, in some newspaper in general circulation therein, and by ~~putting-up-an--advertisement~~ posting a notice on the courthouse door, and in five other public places in the county, two of which shall be in the precinct where such lands and tenements lie. All sales made without such advertisement notice shall be set aside on motion, by the court to which the execution is returnable.

Sec. 5. That original sections 25-519,

25-1409, 25-1525, and 25-1529, Reissue Revised Statutes of Nebraska, 1943, are repealed.