

LEGISLATIVE BILL 733

Approved by the Governor March 22, 1974

Introduced by Judiciary Committee, Luedtke, 28, Chmn.; Stull, 49; Carpenter, 48; Barnett, 26; Fellman, 4; Chambers, 11; LeCamp 40; Richendifer, 16

AN ACT to amend sections 24-541, 25-1901, and 29-614, Revised Statutes Supplement, 1972, relating to appellate review of county court actions; to eliminate petition in error proceedings; to correct a cross reference; to establish procedures for review of juvenile cases; to repeal the original sections, and also sections 25-1909 and 25-1910, Revised Statutes Supplement, 1972; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 24-541, Revised Statutes Supplement, 1972, be amended to read as follows:

24-541. In all cases not otherwise specifically provided for, either party may appeal from the final judgment of the county or municipal court to the district court of the county where the judgment was rendered. All such appeals shall be ~~by petition in error or~~ de novo on the record except those matters referred to in section ~~30-4606~~ 30-1601, which matters shall be appealed de novo. In matters appealed de novo on the record, the district court may, in its discretion, receive additional evidence if the court determines that such evidence is reasonably necessary to determine the issues, make findings of fact and render judgment thereon. The district court may affirm, modify, or vacate the judgment, or may remand the case to the county or municipal court for a new trial.

Sec. 2. That section 25-1901, Revised Statutes Supplement, 1972, be amended to read as follows:

25-1901. A judgment rendered, or final order made, by ~~a county court or~~ any other tribunal, board or officer exercising judicial functions, and inferior in jurisdiction to the district court, may be reversed, vacated or modified by the district court.

Sec. 3. That section 29-614, Revised Statutes Supplement, 1972, be amended to read as follows:

29-614. If, upon appeal to the district court, the defendant's conviction shall be affirmed, ~~the court~~

~~shall assess the punishment; and judgment shall be rendered against him accordingly, and for the costs before the district and county or municipal courts, and that he be committed to the county jail until the judgment be complied with. If the defendant is acquitted on an appeal, he shall recover his costs including his costs before the magistrate. The clerk of the respective courts, whether county, municipal or district, shall take whatever action necessary to return, or cause the return of, all costs, fees, and bonds previously required of the appellant at the time the appeal was taken to the district court.~~

Sec. 4. When a juvenile proceeding has been instituted before a county court, the original jurisdiction of the county court shall continue until the final disposition thereof, and appeal may be had to the district court as in civil cases, but no such appeal shall stay the enforcement of any order entered in the county court. After appeal has been filed, the district court, upon application and hearing, may stay any order, judgment or decree on appeal if suitable arrangement is made for care and custody of the child. The county court shall continue to exercise supervision over the child until a hearing is had in the district court and the district court enters an order making other disposition. If the district court adjudges the child to be a child defined in section 43-201, the district court shall affirm the disposition made by the county court, unless it is shown by clear and convincing evidence that the disposition of the county court is not in the best interest of such child. Upon determination of the appeal, the district court shall remand the case to the county court for further proceedings consistent with the determination of the district court.

Sec. 5. That original sections 24-541, 25-1901, and 29-614, Revised Statutes Supplement, 1972, and also sections 25-1909 and 25-1910, Revised Statutes Supplement, 1972, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.