

## LEGISLATIVE BILL 272

Approved by the Governor April 25, 1983

Introduced by Judiciary Committee, Beutler, 28,  
Chairperson; R. Johnson, 34; Pirsch,  
10; Jacobson, 33; Chronister, 18;  
Von Minden, 17

AN ACT to amend section 24-317, Reissue Revised Statutes of Nebraska, 1943, relating to judges; to provide powers; to provide duties; and to repeal the original section, and also sections 24-517.01 and 25-1329, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 24-317, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-317. (1) A judge of any court of this state, established under the laws of the State of Nebraska, at chambers anywhere within the state, shall, in any case in which that judge is authorized to act, have power to exercise the powers conferred upon a judge and upon a court, and specifically to:

(a) Upon the stipulation of the parties to an action, hear and determine any matter, including the trial of an equity case or case at law in which a jury has been waived;

(b) Hear and determine pretrial and posttrial matters in civil cases not involving testimony of witnesses by oral examination;

(c) With the consent of the defendant, receive pleas of guilty and pass sentences in criminal cases;

(d) With the consent of the defendant, hear and determine pretrial and posttrial matters in criminal cases;

(e) Hear and determine cases brought by petition in error or appeal not involving testimony of witnesses by oral examination;

(f) Hear and determine any matter in juvenile cases with the consent of the guardian ad litem or attorney for the minor, the other parties to the proceedings, and the attorneys for those parties, if any;

(g) Without notice, make any order and perform any act which may lawfully be made or performed by him or her ex parte in open court in any action or proceeding which is on file in any district of this state; and

(h) Render any judgment or make any order at any location even though the action is pending in a county other than the place in which the judge is physically present.

(2) A judgment or order made pursuant to this section shall be deemed effective when (a) the judgment is rendered in accordance with the provisions of subsection (2) of section 25-1301 or (b) the order made has been pronounced accompanied by the making of a notation on the trial docket by the judge or made at the direction of the judge. Within three working days after the rendition of any civil judgment pursuant to this section, except judgments by default when service has been obtained by publication or an appearance of the defaulting party has been made, the clerk of the court shall send a postcard or notice by United States mail to each party whose address appears in the records of the action or to his or her attorney or attorneys of record and state the date of rendition of such judgment.

(3) The judge, in his or her discretion, may in any proceeding authorized by the provisions of this section not involving testimony of witnesses by oral examination, use telephonic methods to conduct such proceedings. The court may require the parties to make reimbursement for any telephone charges incurred, the district court at chambers anywhere within his district, or anywhere within any district in which any case is filed as to which such judge is authorized to act; shall have power:

(1) Upon ten days' notice to the adverse party or his attorney of record; or; except as hereinafter provided; at any time upon the written stipulation of the parties to an action; to (a) grant, dissolve; or modify temporary injunctions; (b) confirm judicial, administrators', executors', and guardians' sales and referees' sales in partition of real estate; (c) discharge attachments; (d) hear proceedings in aid of execution; (e) hear an application for sale of personal property held under attachment; (f) hear an application for the appointment of a receiver; discharge one already appointed; or modify the order appointing one; (g) hear and determine motions; demurrers; special appearances; questions arising under discovery proceedings; applications for additional security; and all other interlocutory matters; (h) hear and determine applications for writ of mandamus or for writ of habeas corpus; (i) discharge such other duties or exercise such other powers as may be conferred upon a judge in

contradistinction to a court; (j) receive a plea of guilty from any person charged with a felony; and pass sentence thereon; upon ten days' notice to the prosecuting attorney; (k) enter judgment by default; and (l) hold pretrial conferences and enter pretrial orders;

(2) Upon the written stipulation of the parties to an action to (a) hear and enter judgments in equity cases; and (b) hear and enter judgments in cases at law wherein a jury has been waived; and

(3) Without notice, make any order and perform any act which may lawfully be made or performed by him ex parte in open court in any action or proceedings which is on file in any district of this state.

(4) The enumeration of the foregoing powers in subdivisions subsections (1), (2), and (3) of this section shall not be construed to deny the right of a party to trial by jury in the county in which the action was first filed if such right otherwise exists.

(5) Nothing in this section shall be construed to exempt proceedings under this section from the provisions of the Guidelines for Use by Nebraska Courts in Determining When and Under What Conditions a Hearing Before Such Court May Be Closed in Whole or in Part to the Public, adopted by the Supreme Court of the State of Nebraska September 8, 1980, and any amendments to those provisions.

Sec. 2. That original section 24-317, Reissue Revised Statutes of Nebraska, 1943, and also sections 24-517.01 and 25-1329, Reissue Revised Statutes of Nebraska, 1943, are repealed.