

LEGISLATIVE BILL 17

Approved by the Governor May 17, 2011

Introduced by Wightman, 36.

FOR AN ACT relating to courts; to amend sections 25-1319, 25-1320, 25-1321, 25-2209, and 33-106, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to the complete record of a case and court fees; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 25-1323, 25-1324, and 25-1325, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 25-1319, Reissue Revised Statutes of Nebraska, is amended to read:

25-1319 The clerk shall make a complete record of every ~~cause, civil, criminal, and appeal case filed in the court~~ as soon as it is finally determined, ~~unless such record, or some part thereof, is duly waived.~~

Sec. 2. Section 25-1320, Reissue Revised Statutes of Nebraska, is amended to read:

25-1320 The clerk shall make up ~~such~~ the complete record in each ~~cause, required under section 25-1319~~ in the vacation next after the term at which the same was determined, and the presiding judge of such court shall, at its next term thereafter, subscribe the same.

Sec. 3. Section 25-1321, Reissue Revised Statutes of Nebraska, is amended to read:

25-1321 The complete record shall include the complaint, the process, the return, the pleadings subsequent thereto, reports, verdicts, orders, judgments, and all material acts and proceedings of the court maintained in the state's electronic case management system and either in paper form or on microfilm. All journal entries and all such filings as are required to be entered in full in the ~~appearance dockets, register of actions~~ shall, by reference, be made a part of the complete record for all purposes, including the taxing of fees and costs, ~~and need not be reentered in the making up of such record; but if the items of an account or the copies of a paper attached to the pleadings are voluminous, the court may order the record to be made by abbreviating the same, by inserting a pertinent description thereof, or by omitting them entirely.~~ Evidence introduced at any proceeding is not part of the complete record of the cause.

Sec. 4. Section 25-2209, Reissue Revised Statutes of Nebraska, is amended to read:

25-2209 The clerk of the district court shall keep records to be called the appearance docket, the trial docket, the journal, the complete record, the execution docket, the fee book, the general index, and the judgment record. Such records may be compiled, filed, and maintained on a computer system. Effective not later than October 1, 1992, provision for dockets and records of the district courts shall be established by rule of the Supreme Court. The journal ~~and complete record~~ may be compiled and filed on microfilm. The recording of all instruments by the roll form of microfilm may be substituted for the method of recording instruments in books. If this method of recording instruments on microfilm is used, a security copy on silver negative microfilm in roll form must be maintained and filed off premises under safe conditions to insure the protection of the records. The internal reference copies or work copies of the instruments recorded on microfilm may be in any photographic form to provide the necessary information as may be determined by the official in charge, and shall meet the microfilm standards as prescribed by the State Records Administrator.

Sec. 5. Section 33-106, Reissue Revised Statutes of Nebraska, is amended to read:

33-106 (1) In addition to the judges retirement fund fee provided in section 24-703 and the fee provided in section 33-106.03 and except as otherwise provided by law, the fees of the clerk of the district court shall be as follows: There shall be a docket fee of forty-two dollars for each civil and criminal case except (a) a case commenced by filing a transcript of judgment as hereinafter provided, (b) proceedings under the Nebraska Workers' Compensation Act and the Employment Security Law, when provision is made for the fees that may be charged, and (c) a criminal case appealed to the district court from any court inferior thereto as hereinafter provided. There shall be a docket fee of twenty-five dollars for each case commenced by filing a transcript of judgment from another court in this state for the purpose of

obtaining a lien. There shall be a docket fee of twenty-seven dollars for each criminal case appealed to the district court from any court inferior thereto.

(2) In all cases, other than those appealed from an inferior court or original filings which are within jurisdictional limits of an inferior court and when a jury is demanded in district court, the docket fee shall cover all fees of the clerk, except that the clerk shall be paid for each copy or transcript ordered of any pleading, record, or other paper and that the clerk shall be entitled to a fee of fifteen dollars for making a complete record of a case.

(3) The fee for making a complete record of a case shall be taxed as a part of the costs of the case, ~~except when expressly waived by the parties to the action. In a Title IV-D case, in a case filed pursuant to sections 25-2301 to 25-2310, or in a case filed by a county attorney, the fee for making a complete record of a case shall be waived.~~ In all civil cases, except habeas corpus cases in which a poverty affidavit is filed and approved by the court, and for all other services, the docket fee or other fee shall be paid by the party filing the case or requesting the service at the time the case is filed or the service requested.

(4) For any other service which may be rendered or performed by the clerk but which is not required in the discharge of his or her official duties, the fee shall be the same as that of a notary public but in no case less than one dollar.

Sec. 6. This act becomes operative on January 1, 2012.

Sec. 7. Original sections 25-1319, 25-1320, 25-1321, 25-2209, and 33-106, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. The following sections are outright repealed: Sections 25-1323, 25-1324, and 25-1325, Reissue Revised Statutes of Nebraska.