

LEGISLATIVE BILL 959

Approved by the Governor May 22, 1971

Introduced by Roland A. Luedtke, 28th District

AN ACT to amend sections 26-108, 26-1,182, 26-1,188, and 29-1108, Reissue Revised Statutes of Nebraska, 1943, and section 26-1,106.01, Revised Statutes Supplement, 1969, as amended by section 6, Legislative Bill 12, Eighty-second Legislature, First Session, 1971, relating to courts; to increase bonds; to change duties; to clarify provisions; to increase penalties; and to repeal the original sections.

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

Section 1. That section 26-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

26-108. The clerk of the court shall be appointed by the judges thereof, and shall hold his office until his successor is appointed and qualified, unless sooner removed by a majority vote of the judges. The clerk shall be a resident of the city where the court is held, and before assuming the duties of his office he shall take the oath required by law of clerks of the district court, and execute, in favor of the city in which the court is held, a bond signed by two or more sureties who shall each qualify in twice the amount of the bond, or some responsible surety or bond company authorized by law to execute surety bonds in this state, to be approved by the county board or a judge of the district court, in the sum of ~~ten~~ twenty-five thousand dollars, conditioned for the faithful performance of his duties as such clerk of the municipal court. The clerk shall have the same power in the municipal court, unless otherwise herein specifically provided, as the clerk of the district court in the county in which the municipal court exists, and shall keep and be custodian of the records of the court. He shall receipt and account for all fees and money received by him as such clerk, and shall deposit each day in some bank, approved by the judges of the court, all moneys so received by him. He shall keep a fee book in which he shall enter all fees and charges received by him at the time of payment, and the provisions of the district court code of civil procedure relative to dockets shall, as nearly as may be, apply to the dockets of the municipal court. The

clerk shall receipt and account for all fees and costs taxed and earned by the court and shall pay the same into the city treasury at the end of each month, accompanied by a full and accurate statement of all such fees, ~~as well as those taxed and uncollected.~~ All witness fees remaining unclaimed for ninety days after the same shall have been collected by the clerk, shall be forfeited to the city, and shall be paid to the city treasurer by the clerk, who shall report at the end of each month to the city treasurer all witness fees collected by him and in his possession.

Sec. 2. That section 26-1,106.01, Revised Statutes Supplement, 1969, as amended by section 6, Legislative Bill 12, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

26-1,106.01. A municipal court in a metropolitan or primary city shall use tape recordings for the preservation of testimony in all civil and criminal ~~cases trials, which may be used in all other cases, as the court may direct.~~ When an appeal is taken from a judgment of such municipal court, the court may order the transcription of such testimony, which transcript when certified to by the stenographer who made it and settled by the court as such shall constitute the bill of exceptions in the case, and shall be filed with the clerk of the district court in the manner provided by sections 26-1,106 and 29-612. The transcript, and any part thereof, shall be admitted as evidence in the district court when offered by the plaintiff or the defendant.

Sec. 3. That section 26-1,182, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

26-1,182. Constables in municipal court shall give bond in the amount of ~~twelve-hundred five thousand~~ dollars signed by two or more sureties who shall each qualify in twice the amount of said bond, or by some responsible surety or bonding company authorized by law to execute surety bonds in this state, to be approved by the presiding judge of the district court of the county to be conditioned upon the faithful discharge of his duties as constable.

Sec. 4. That section 26-1,188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

26-1,188. A warrant of arrest may be issued by any such judge, on which the person so charged may be arrested and brought before the court, when an opportunity to be heard in his defense or excuse must be given. The judge may thereupon discharge him or may convict him for the offense and adjudge a punishment by fine or imprisonment, or both; such fine not to exceed fifty five hundred dollars, nor such imprisonment ten days: six months.

Sec. 5. That section 29-1108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1108. When a forfeiture of a recognizance has not been set aside, the court in which the proceeding is pending shall on motion enter a judgment of default and execution may issue thereon. Where a cash deposit has been made in lieu of a surety or sureties as provided in section 29-901, the cash deposit shall upon forfeiture of the recognizance be paid into the county treasury upon the entry of order of forfeiture of the bond after first deducting all court costs due and owing such court. By entering into a bond, the obligors submit to the jurisdiction of the court, and irrevocably appoint the clerk of the court as their agent upon whom any papers affecting their liability may be served. The liability upon the bond may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies thereof to the obligors to their last-known addresses.

Sec. 6. That original sections 26-108, 26-1,182, 26-1,188, and 29-1108, Reissue Revised Statutes of Nebraska, 1943, and section 26-1,106.01, Revised Statutes Supplement, 1969, as amended by section 6, Legislative Bill 12, Eighty-second Legislature, First Session, 1971, are repealed.