

LEGISLATIVE BILL 226

Approved by the Governor May 3, 1973

Introduced by Luedtke, 28, Chmn. Judiciary Committee

AN ACT relating to courts; to amend, revise, and clarify provisions in accordance with the new county court system, to correct an error in Laws 1972, Legislative Bill 1032, respecting bond requirements; to amend sections 25-1631, 29-812, 29-2701, 29-2702, 29-2704, 29-2705, 29-2709, and 76-717, Reissue Revised Statutes of Nebraska, 1943, sections 11-119, 24-509, 24-511, 24-514, 24-516, 24-517, 24-524, 24-533, 24-543, 24-701, 24-703, 24-703.01, 25-1521, 25-1522, 29-504, 29-2703, 33-140, 39-796, and 42-108, Revised Statutes Supplement, 1972, and sections 39-794 and 39-795, Revised Statutes Supplement, 1972, as amended by sections 1 and 2 respectively, Legislative Bill 317, Eighty-third Legislature, First Session, 1973, and also sections 23-1115 and 29-2707, Reissue Revised Statutes of Nebraska, 1943, and section 29-616, Revised Statutes Supplement, 1972; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 11-119, Revised Statutes Supplement, 1972, be amended to read as follows:

11-119. The following named officers shall execute a bond with penalties of the following amounts:

- (1) The Governor, fifty thousand dollars;
- (2) The Lieutenant Governor, fifty thousand dollars;
- (3) The Auditor of Public Accounts, fifty thousand dollars;
- (4) The Secretary of State, fifty thousand dollars;
- (5) The Attorney General, fifty thousand dollars;
- (6) The State Treasurer, not less than six hundred thousand dollars, and not more than double the

amount of money that may come into his hands, to be fixed by the Governor;

(7) The Commissioner of Education, fifty thousand dollars;

(8) The secretary of the Game and Parks Commission, fifty thousand dollars;

(9) The head of each executive state department, fifty thousand dollars, except the Director of Administrative Services which shall be one million dollars;

(10) Each county attorney, in a sum not less than one thousand dollars, to be fixed by the county board;

(11) Each clerk of the district court, not less than five thousand dollars, nor more than one hundred thousand dollars, to be determined by the county board;

(12) Each county clerk, not less than one thousand dollars, nor more than one hundred thousand dollars, to be determined by the county board;

(13) Each county treasurer, not less than ten thousand dollars, and not more than the amount of money that may come into his hands, to be determined by the county board;

(14) Each county judge, ~~twenty-five~~ five thousand dollars;

(15) Each sheriff, in counties of not more than twenty thousand inhabitants, five thousand dollars; over twenty thousand inhabitants, ten thousand dollars;

(16) Each county superintendent of public instruction or district superintendent of public instruction, one thousand dollars;

(17) Each county surveyor, five hundred dollars;

(18) Each county commissioner or supervisor, ~~not more than five thousand dollars and not less than two in counties of not more than twenty thousand inhabitants, one thousand dollars; over twenty thousand and not more than thirty thousand inhabitants, two thousand dollars; over thirty thousand and not more than fifty thousand inhabitants, three thousand dollars; over fifty thousand inhabitants, five thousand dollars;~~

(19) Each register of deeds in counties having a population of more than sixteen thousand five hundred inhabitants, not less than two thousand dollars nor more than one hundred thousand dollars to be determined by the county board;

(20) Each constable, three hundred dollars;

~~{21} Each associate county judge and clerk of the county court, not less than one thousand dollars, to be fixed by the presiding county judge;~~

{22} {21} Each township clerk, two hundred fifty dollars;

{23} {22} Each township treasurer, two thousand dollars;

{24} {23} Each county assessor, not more than five thousand dollars and not less than two thousand dollars;

{25} {24} Each school district treasurer, not less than five hundred dollars, nor less than double the amount of money that may come into his hands, the amount to be fixed by the president and secretary of the district;

{26} {25} Each road overseer, two hundred fifty dollars; and

{27} {26} Each member of a county weed district board, and the manager thereof, such amount as may be determined by the county board of commissioners or supervisors of each county, with the same amount to apply to each member of any particular board.

Sec. 2. That section 24-509, Revised Statutes Supplement, 1972, be amended to read as follows:

24-509. Each county judge and associate county judge before assuming the duties of office shall take the oath prescribed by law for district judges. Oaths of county judges shall be filed with the Secretary of State. Oaths of associate county judges, which shall be filed in the office of the county clerk.

Sec. 3. That section 24-511, Revised Statutes Supplement, 1972, be amended to read as follows:

24-511. The clerk shall have the same power in the county court, unless otherwise specifically provided in sections 24-501 to 24-590, as the clerk of the

district court. The clerk may sign and issue marriage licenses in the name of the county judge. The clerk shall keep and be the custodian of the records of the court. He shall receive and account for all fees and money received by him, and shall deposit all money received in a bank approved pursuant to sections 77-2326.01 to 77-2326.09. He shall receive and account for all fees and costs taxed and earned by the court, and shall pay the same into the county treasury at the end of each month, with a full and accurate statement of all such fees, ~~;-as-well-as--those--taxed--and--uncollected-~~ Provisions of law relating to dockets of the district court shall, as nearly as may be, apply to the dockets of the county court.

Sec. 4. That section 24-514, Revised Statutes Supplement, 1972, be amended to read as follows:

24-514. Except as otherwise provided in sections 24-501 to 24-590, all salaries and expenses involved in operation of the county courts shall be paid by the State of Nebraska from funds appropriated therefor. Budget requests for each county court district shall be prepared and submitted ~~in the same manner as budget requests for state agencies to the Supreme Court, which shall prepare and submit the budget request for the county court system.~~ The Supreme Court, through the ~~clerk or other~~ members of its staff, shall provide assistance to the county judges in preparing their budget requests.

Sec. 5. That section 24-516, Revised Statutes Supplement, 1972, be amended to read as follows:

24-516. In the event of a vacancy in the office of county judge, or the disqualification, absence or the temporary incapacity of a county judge, the Chief Justice of the Supreme Court may designate a county judge from another district to temporarily perform the duties of the office. The Chief Justice also may assign a county judge to temporarily perform duties in another district when in his opinion such assignment would be beneficial to the administration of justice. Vacancies in the office of county judge shall be filled by appointment by the Governor for the balance of the term.

Sec. 6. That section 24-517, Revised Statutes Supplement, 1972, be amended to read as follows:

24-517. Each county court shall have the following jurisdiction:

(1) Exclusive original jurisdiction of all matters relating to decedents' estates, including the

probate of wills and the construction thereof;

(2) Exclusive original jurisdiction of all matters relating to guardianship or conservatorship of any person;

(3) Concurrent original jurisdiction with the district court in all civil actions of any type when the amount in controversy does not exceed five thousand dollars;

(4) Concurrent original jurisdiction with the district court in any criminal matter when the penalty does not exceed one year imprisonment in the county jail or a fine over one thousand dollars, or both;

(5) Exclusive original jurisdiction in any action based on violation of a city or village ordinance, except ordinances of cities of the metropolitan or primary class for which exclusive original jurisdiction shall be in the municipal court; and

(6) Concurrent original jurisdiction with the district court in all juvenile matters, except in counties which have established separate juvenile courts;

(7) Exclusive original jurisdiction in all matters of adoption; and

(8) All other jurisdiction heretofore provided and not specifically repealed by Laws 1972, Legislative Bill 1032, and such other jurisdiction as hereafter provided by law.

Sec. 7. That section 24-524, Revised Statutes Supplement, 1972, be amended to read as follows:

24-524. (1) Actions in the Small Claims Court shall be commenced by the filing of a claim by the plaintiff on a form provided by the clerk of the county court or municipal court. The claim form shall be executed by the plaintiff in the presence of a judge or the clerk of the county or municipal court or his deputy or assistant designated by him.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of two dollars to the clerk.

(3) Upon filing of a claim in the Small Claims Court, the court shall set a time for hearing and shall cause notice to be served upon the defendant. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the

complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he fails to appear, judgment will be entered against him. Notice shall be served personally in the same manner as for other actions in the county or municipal court or by mail, at the option of the plaintiff as stated in writing in the claim. When service by mail is requested, the court shall mail the notice by registered or certified mail, return receipt requested, to the defendant at the address given in the claim. Service by mail shall be complete upon return to the court of the receipt signed by the defendant, and such receipt shall be prima facie evidence of such service. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim in an amount not in excess of five hundred dollars, exclusive of interest and costs. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court, the court shall cause the entire matter to be transferred to the regular county or municipal court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms required by this section shall be prescribed by the Supreme Court. The claim form shall provide for the names and addresses of the plaintiff and defendant, and a concise statement of the nature, amount, and time and place of accruing of the claim, and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

Sec. 8. That section 24-533, Revised Statutes Supplement, 1972, be amended to read as follows:

24-533. Any city or village attorney, except of a city of the metropolitan or primary class, may sign and prosecute complaints in the county court for any violation of any ordinance of the city or village for which he is attorney.

After January 1, 1974, no city or village may prosecute complaints for violations of ordinances unless such city or village has on file with the court a current copy of the ordinances of such city or village. Subject to guidelines provided by the State Court Administrator,

the court shall prescribe the form in which such ordinances shall be filed.

Sec. 9. That section 24-543, Revised Statutes Supplement, 1972, be amended to read as follows:

24-543. The party appealing shall, within ten days from the rendition of judgment, post a cash bond with the clerk of the court or enter into an undertaking to the adverse party, with at least one good and sufficient surety to be approved by the court, in a sum not less than fifty dollars in any case, nor less than ~~double~~ the amount of the judgment and costs, conditioned (1) that the appellant will prosecute his appeal to effect and without unnecessary delay, and (2) that if judgment be adjudged against him on the appeal, he will satisfy such judgment and costs. Such undertaking need not be signed by the appellant.

Sec. 10. That section 24-701, Revised Statutes Supplement, 1972, be amended to read as follows:

24-701. As used in sections 24-701 to 24-714, unless the context otherwise requires:

(1) Fund shall mean the Nebraska Retirement Fund for Judges;

(2) Judge shall mean and include all duly elected or appointed Chief Justices or Judges of the Supreme Court and judges of the district courts of Nebraska, who shall serve in such capacity on and after January 3, 1957, and shall mean and include all duly appointed judges of the Nebraska Workmen's Compensation Court who shall serve in such capacity on and after September 20, 1957, judges of separate juvenile courts, county judges of the respective counties, who shall serve in such capacity on and after January 5, 1961, except acting county judges appointed pursuant to section 24-507, district county judges and associate county judges who shall serve in such capacity on and after January 4, 1973, except associate county judges serving on a pro tempore basis as designated by the Supreme Court, and judges of municipal courts established by Chapter 26, article 1, who shall serve in such capacity on and after October 23, 1967;

(3) Prior service shall mean all the periods of time any person has served as a (a) Judge of the Supreme Court or judge of the district court prior to January 3, 1957, (b) judge of the county court prior to January 5, 1961, (c) judge of the Nebraska Workmen's Compensation Court prior to September 20, 1957, (d) judge of the

separate juvenile court or (e) judge of the municipal court prior to October 23, 1967;

(4) Current service shall mean the period of service any Judge of the Supreme Court or judge of the district court shall serve in such capacity from and after January 3, 1957, and shall mean the period of service any judge of the Nebraska Workmen's Compensation Court shall serve in such capacity from and after September 20, 1957, and any county judge shall serve in such capacity from and after January 5, 1961, and any judge of a separate juvenile court shall serve in such capacity and any judge of the municipal court shall serve in such capacity subsequent to October 23, 1967 and any district county judge or associate county judge shall serve in such capacity subsequent to January 4, 1973;

(5) Military service shall mean active service of any judge of the Supreme Court or district court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 18, 1955, and shall mean active service of any judge of the Nebraska Workmen's Compensation Court in any of the armed forces of the United States during a war or national emergency prior or subsequent to September 20, 1957, and shall mean active service of any judge of the municipal court in any of the armed forces of the United States during a war or national emergency prior or subsequent to October 23, 1967, if such service commenced while such judge was holding the office of judge, and shall mean active service of any district county judge or associate county judge in any of the armed forces of the United States during a war or national emergency prior or subsequent to January 4, 1973, if such service commenced while such judge was holding the office of judge. The board shall have the power to determine when a national emergency exists or has existed for the purpose of applying this definition and provision;

(6) Total years of service shall mean the total number of years served as a judge, including prior service, military service, and current service as defined in this section computed to the nearest one-twelfth year;

(7) Salary shall mean the statutory salary of a judge or the salary being received by such judge pursuant to law;

(8) Beneficiary shall mean a person so designated by a judge in the last written designation of beneficiary on file with the board, or if no designated person survives or if no designation is on file, the estate of such judge;

(9) Annuity shall mean a series of equal monthly payments payable at the end of each calendar month during the life of a retired judge. The first payment shall be made as of the end of the calendar month in which such annuity was awarded and the last payment shall be at the end of the calendar month in which such judge shall die. The first payment shall include all amounts accrued since the effective date of the award of annuities, including a pro rata portion of the monthly amount of any fraction of a month elapsing between the effective date of such annuity and the end of the calendar month in which such annuity began;

(10) Board shall mean the Public Employees Retirement Board;

(11) Member shall mean a judge, as defined in subdivision (2) of this section, eligible to participate in the retirement system established under the provisions of sections 24-701 to 24-714;

(12) Original member shall mean a judge who first served as a judge, as defined in subsection subdivision (2) of this section, prior to December 25, 1969, and who does not elect to become a future member on or before June 30, 1970;

(13) Future member shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, on or after December 25, 1969, or shall mean a judge who first served as a judge, as defined in subdivision (2) of this section, prior to December 25, 1969, who elects to become a future member on or before June 30, 1970, as provided in subsection (8) of section 24-703; and

(14) Final average salary shall mean the average monthly salary for the last four years service as a judge or, in the event of a judge serving less than four years, the average monthly salary for such judge's period of service; Provided, that final average salary of any judge who has retired or who will retire during or at the end of the presently current judicial term shall mean the average monthly salary for his last year of service before retirement.

Sec. 11. That section 24-703, Revised Statutes Supplement, 1972, be amended to read as follows:

24-703. (1) Each original member shall contribute monthly four per cent of his monthly salary to the fund, but such contribution shall not be made from any supplemental salary provided by section 24-301.01.

It shall be the duty of the Director of Administrative Services to make a deduction of four per cent on the monthly payroll of each original member who is a Judge of the Supreme Court, or a judge of the district court, or a judge or associate judge of the county court or a judge of the Nebraska Workmen's Compensation Court showing the amount to be deducted and its credit to the fund. It shall be the duty of the county clerk of each county to make a deduction of four per cent on the monthly payroll of the judge of a separate juvenile court if he is an original member, excluding for purposes of such deduction any supplemental salary provided for in section 24-301.01, and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. It shall be the duty of the city clerk in each city having a municipal court established by Chapter 26, article 1, to make a deduction of four per cent on the monthly payroll of each municipal judge who is an original member and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. This shall be done each month; Provided, in the event such remittance would amount to less than twenty-five dollars per month, such city clerk may remit quarterly. The Director of Administrative Services and the State Treasurer shall credit the four per cent as shown on the payroll and the amounts received from the various counties and cities to the fund and remit the same to the executive officer in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(2) Each future member shall contribute monthly six per cent of his monthly salary to the fund, but such contribution shall not be made from any supplemental salary provided for in section 24-301.01. It shall be the duty of the Director of Administrative Services to make a deduction of six per cent on the monthly payroll of each such future member who is a Judge of the Supreme Court, or a judge of the district court, or a judge or associate judge of the county court or a judge of the Nebraska Workmen's Compensation Court showing the amount to be deducted and its credit to the fund. It shall be the duty of the county clerk of each county to make a deduction of six per cent on the monthly payroll of the judge of a separate juvenile court, if he is such a future member, excluding for purposes of such deduction any supplemental salary provided for in section 24-301.01, and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. It shall be the duty of the city clerk in each

city having a municipal court established by Chapter 26, article 1, to make a deduction of six per cent on the monthly payroll of each municipal judge, who is such a future member and to pay all amounts so deducted to the executive officer in charge of the judges retirement system to be credited to the Nebraska Retirement Fund for Judges. This shall be done each month. The Director of Administrative Services and the State Treasurer shall credit the six per cent as shown on the payroll and the amounts received from the various counties and cities to the fund and remit the same to the executive officer in charge of the judges retirement system who shall keep an accurate record of the contributions of each judge.

(3) A Nebraska Retirement Fund for Judges fee of one dollar shall be taxed as costs in each civil and criminal cause of action or proceeding filed in the district courts and the county courts and in county courts a sum equal to ten per cent of each fee provided by sections 33-125, 33-126, and 33-126.02, except on the fees provided for in section 33-125 for the dismissal of a cause, and in sections 33-126 and 33-126.02 for filing of report. A similar fee shall be charged in each cause of action or proceeding in municipal court, including prosecutions for violation of state law or any city ordinance. ~~The fee established by this subsection~~ Provided, that the fee above established shall not be collected for nonmoving traffic violations handled by a violations bureau established by the local governing body, nor shall ~~the above specified fee~~ it be collected in any cause or proceeding in a municipal court where the cause, proceeding, or defendant has been dismissed by the court. When collected by the clerk of the district, county or municipal court, such fees shall be paid to the executive officer in charge of the judges retirement system on forms prescribed by the board by said clerk within ten days after the close of each calendar quarter. Such executive officer shall promptly thereafter remit the same to the state treasury. Upon the receipt thereof, the State Treasurer shall credit the same to the Nebraska Retirement Fund for Judges.

(4) The Nebraska Retirement Fund for Judges shall be divided into two separate funds: (a) The Original Members' Fund, and (b) the Future Members' Fund. All expenditures from the funds must be authorized by voucher in the manner prescribed in section 24-713. The funds shall be used for the payment of all annuities and other benefits, and for the expenses of administration.

(5) The Original Members' Fund shall be the fund into which shall be paid the total fund as of December 25, 1969, the contributions of original members as

provided in subsection (1) of this section, the matching contributions for ~~county-judges-and~~ municipal judges as provided in section 24-703.01, all supplementary court fees as provided in subsection (3) of this section until such time as the assets in such fund equal the liabilities of such fund, and any required contributions of the state.

(6) The Future Members' Fund shall be the fund into which shall be paid the contributions of future members as provided in subsection (2) of this section, the matching contributions for ~~county---judges---and~~ municipal judges as provided in section 24-703.01, all supplementary court fees as provided in subsection (3) of this section after such time as the assets in the Original Members' Fund equal the liabilities of such fund, and any required contributions of the state. Not later than January 1, of each year the State Treasurer shall transfer to the Future Members' Fund the amount certified by the board as being necessary to pay the cost of any benefits accrued during the fiscal year ending the previous June 30, in excess of future member contributions for that fiscal year, and court fees as described above, if any, for that fiscal year plus any required contributions of the state, as provided in subsection (9) of this section.

(7) Except as provided in subsection (8) of this section, benefits under the retirement system to original members or to their beneficiaries shall be paid from the Original Members' Fund. All benefits under the retirement system to future members or to their beneficiaries shall be paid from the Future Members' Fund.

(8) Any member who is making contributions to the fund on December 25, 1969 may, on or before June 30, 1970, elect to become a future member by delivering written notice of such election to the board. The board shall thereupon direct the State Treasurer to transfer all contributions of such judge to the Future Members' Fund and such judge shall thereafter participate only in the Future Members' Fund.

(9) Not later than January 1 of each year the State Treasurer shall transfer to the fund an amount, determined on the basis of an actuarial valuation as of the previous June 30 and certified by the board, to fully fund the unfunded accrued liabilities of the system by level payments up to January 1, 1994. Such required state contribution shall be divided each year between the Original Members' Fund and the Future Members' Fund in the ratio of the remaining unfunded accrued liability of

each fund.

Sec. 12. That section 24-703.01, Revised Statutes Supplement, 1972, be amended to read as follows:

24-703.01. Municipalities shall remit to the Director of the Public Employees Retirement Board each month a sum equal to the amount any judge whose salary is paid by any municipality contributes to the Nebraska Retirement Fund for Judges; Provided, in the event such remittance would amount to less than twenty-five dollars per month, such county--or municipality may remit quarterly. The amount so received shall be transmitted to the state treasury, and by the State Treasurer placed in the Nebraska Retirement Fund for Judges, as provided in subsection (4) of section 24-703.

Sec. 13. That section 25-1521, Revised Statutes Supplement, 1972, be amended to read as follows:

25-1521. If the officer, by virtue of any writ of execution issued from any court of record in this state, shall levy the same on any goods and chattels claimed by any person other than the defendant, it shall be the duty of said officer forthwith to give notice in writing to the county court, in which shall be set forth the names of the plaintiff and defendant, together with the name of the claimant; and at the same time he shall furnish the court with a schedule of the property claimed. It shall be the duty of the court, immediately upon the receipt of such notice and schedule, to make an entry of the same upon the docket, and ~~issue a writ of summons; directed to the sheriff or any constable of the county; commanding him to summon five disinterested men; having the qualifications of electors; who shall be named in the summons; to appear before the court; at the time and place therein mentioned; which time shall not be more than three days after the date of said writ; to try and determine the right of the claimant to the property in controversy. And it shall be the duty of the claimant to give two days notice in writing to the plaintiff or other party for whose benefit such execution was issued and levied as aforesaid; his agent or attorney; if within the county; of the time and place of such trial; and he shall, moreover, prove to the satisfaction of the court that such notice was given; or that the same could not be given by reason of the absence of the party; his agent or attorney.~~

Sec. 14. That section 25-1522, Revised Statutes Supplement, 1972, be amended to read as follows:

25-1522. ~~The jury summoned pursuant to section 25-1521, shall be sworn to try and determine the right of the claimant to the property in controversy, and a true verdict to give according to the evidence. If the jury court shall find the right to said goods and chattels, or any part thereof, to be in the claimant, they the court shall also find the value thereof, and the court shall render judgment upon such finding of the jury, for the claimant, that he recover his costs against the plaintiff in execution, or other party to the same for whose benefit the execution issued, and also that he have restitution of said goods and chattels, or any part thereof, according to the finding of the jury. But if the right of the goods and chattels, and every part thereof, shall not be in the claimant, according to the finding of the jury, then the court shall render judgment on such finding, in favor of the plaintiff in execution, or other party for whose benefit the same was issued and levied, against the claimant for costs, and award execution thereon. The court, in the taxation of costs accruing by reason of such claim and trial, shall allow each juror summoned and sworn the sum of fifty cents, and for the sheriff, constable or other officer and witnesses, and for the court, he shall tax such fees as are allowed by law, to each respectively, for like services rendered in other cases. Such judgment for the claimant, unless an undertaking shall be executed as provided in section 25-1523, shall be a justification of the officer in returning no goods to the writ of execution by virtue of which the levy has been made, as to such part of the goods and chattels as were found to belong to such claimant.~~

Sec. 15. That section 25-1631, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1631. Unless the judge or judges shall order that no jury be drawn, at least ten days before the first day of any jury term of the district court, or ten days before the day the jury is otherwise directed to report, three of the judges of the court, if there be three, or one of the judges if there be less than three, or a county judge or a municipal judge or the sheriff or such other elective officer of the county as the judge or judges may designate shall appear at the office of the jury commissioner, who, in the presence of said judge or judges or the sheriff or other officer of the county so designated by the judge or judges, shall thoroughly shake such box or wheel containing the names of petit jurors and shall draw therefrom by chance the names of thirty persons, or such number as the judge or judges may otherwise direct, for each judge sitting with a jury in

said court, as petit jurors for said term.

Sec. 16. That section 29-504, Revised Statutes Supplement, 1972, be amended to read as follows:

29-504. When the complaint is for a felony, ~~or for an offense for which the punishment may exceed three months imprisonment or a fine of one hundred dollars, or both~~, upon the accused being brought before the magistrate, he shall proceed as soon as may be, in the presence of the accused, to inquire into the complaint.

Sec. 17. That section 29-812, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-812. A search warrant authorized by sections 29-812 to 29-821 may be issued by any district court judge or Supreme Court Judge of the State of Nebraska for execution anywhere within the State of Nebraska. A similar search warrant authorized by sections 29-812 to 29-821 may be issued by any county judge within his district or municipal court judge ~~or other magistrate~~ within the county wherein the property sought is located. Any court issuing a search warrant shall receive a fee of two dollars for all services connected therewith, including the taking of necessary acknowledgments and the filing of the return.

Sec. 18. That section 29-2701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2701. All money due upon any judgment for fines, costs or forfeited recognizance, shall be paid to the magistrate judge or clerk of the court where the judgment is pending, if paid before execution is issued therefor, otherwise to the officer holding the execution; or such money may be paid to the sheriff of the county if the judgment debtor is in jail. Every sheriff, constable, marshal, or other ministerial officer who shall receive any such money as aforesaid shall pay the same to the proper ~~magistrate or~~ clerk of court within ten days from the time of receiving the same.

Sec. 19. That section 29-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2702. Every magistrate judge or clerk of court, upon receiving any money on account of forfeited recognizances, fines or costs accruing or due to the county or state, shall pay the same to the treasurer of

the proper county, except as may be otherwise expressly provided, within ten days from the time of receiving the same. When any money shall be paid to a magistrate judge or clerk of court on account of costs due to individual persons, ~~such magistrate shall pay~~ the same shall be paid to the persons to whom the same are due, upon demand therefor. Not later than the twentieth day of each month, each ~~magistrate--or~~ clerk of any court shall furnish upon oath to the treasurer of the proper county a statement of all criminal causes, of whatever nature, commenced or pending in his court during the previous month, including therein a statement of the amount of fine levied, or recognizance forfeited in each case, if any there be. It shall be the duty of the county treasurer to forthwith report to the county board the failure of any such ~~magistrate--or~~ clerk to comply with the provisions of this section.

Sec. 20. That section 29-2703, Revised Statutes Supplement, 1972, be amended to read as follows:

29-2703. No costs shall be paid from the county treasury in any case of prosecution for a misdemeanor, or for surety to keep the peace, except as provided in section 29-2709, ~~except that in all cases of appeal from an inferior court when a jury is demanded, the district court may in its discretion tax as costs the actual fees and expenses necessitated by such jury and upon conviction of the defendant such costs may in the discretion of the court be taxed entirely to the defendant or apportioned between the defendant and the county if the court finds that the appeal was taken for a frivolous or capricious reason, and in the case of acquittal such costs shall be charged entirely to the county treasury.~~

Sec. 21. That section 29-2704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2704. Upon examination ~~before a magistrate in~~ county or municipal court on complaint of a felony, whether the accused be held to answer in court or discharged, the magistrate court may file with the county clerk a certified transcript of the costs, giving the items of the same, and to whom each is due, and on what account. As early as may be after the filing of such bill, but without assembling for the special purpose, the county board of the proper county shall examine into such bill of costs as to its correctness, justice and legality; and may, if need be, examine under oath any person upon the subject, which oath may be administered by the county clerk. It shall be the duty of the board

to disallow any item, in whole or in part, of such bill, that shall be found to be unlawful or needlessly incurred; or, if it shall appear that the complaint was made for a felony when it should have been for a misdemeanor only, it may in its discretion disallow the entire bill, or any part thereof. The board may order that such bill, or so much thereof as it finds to be lawful and just, be paid from the county treasury, whereupon the county clerk shall draw warrants upon the county treasurer for the sums respectively due to each person upon such bill so allowed, which warrants the treasurer shall pay from the county general fund. The amount of costs so allowed shall be certified by the county clerk, and the certificate filed with the papers in the cause, in the office of the clerk of the district court. If the defendant shall be convicted, judgment shall be rendered against him for the costs so allowed, in addition to the costs made in the district court.

Sec. 22. That section 29-2705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2705. Upon the discharge or conviction of the defendant in any case of felony in the district court, it shall be lawful for the clerk of such court to file in the office of the county clerk a bill of the costs not previously allowed by the county board, whereupon the same shall be examined into, audited and allowed, and paid in the manner specified in section 29-2704; Provided, nothing in this section or section 29-2704 shall preclude any magistrate court or clerk, in any case, from delaying the filing of such cost bill for allowance as aforesaid, until it shall be determined whether the same will be collected from the defendant; and no cost bill shall be filed for allowance as aforesaid under the provisions of this section, while there is pending in the cause any proceeding in error, or any unexpired recognizance for replevy of the judgment.

Sec. 23. That section 29-2709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~29-2709. Magistrates and clerks of court may furnish to the county clerks of their respective counties certified copies of any cost bills that are not collectible in cases of misdemeanor, peace warrant and juvenile causes; and it shall be the duty of each county clerk receiving any such bills to place them upon a separate file and preserve them in his office. At the first meeting of the county board in each county in the months of April and October of each year, the board shall~~

appropriate from the general fund a sum sufficient to pay all such bills; or parts thereof, as may be found to be lawful and just; and thereupon the board shall audit all such bills in the manner required by law; Provided, no costs shall be allowed in any case unless the suit shall have been instituted with the consent of the county attorney; or, after being brought, he shall approve of such action in writing. When any costs in misdemeanor, peace warrant, or juvenile cases in county court are found by a county judge to be uncollectible for any reason, including the dismissal of the case, the judge, in his discretion, may enter an order waiving such portion of the costs as by law would be paid over by the court to the county treasurer for transmittal to the State Treasurer for deposit in the state General Fund. In all cases brought by or with the consent of the county attorney, all such uncollectible costs not waived shall be certified by the clerk of the court to the county clerk, who shall present the bills therefor to the county board at the first meeting thereof in the months of April and October of each year. The county board shall pay from the county general fund all such bills found by the board to be lawful. In all cases brought under city or village ordinance, all such uncollectible costs not waived shall be certified to the appropriate city or village officer authorized to receive claims, who shall present the bills therefor to the governing body of the city or village in the same manner as other claims. Such governing body shall pay from the general fund of the city or village all such bills as are found to be lawful.

Sec. 24. That section 33-140, Revised Statutes Supplement, 1972, be amended to read as follows:

33-140. Jurors before a county or municipal court shall receive for each day's attendance six dollars, and mileage at the rate of eight cents for each mile necessarily traveled. Witnesses in said courts shall receive six dollars for each day's attendance and mileage at the rate of eight cents for each mile necessarily traveled. Payment of fees for service in the county court shall be made by the county. Payment of fees for service in the municipal court shall be by the appropriate city.

Sec. 25. That section 39-794, Revised Statutes Supplement, 1972, as amended by section 1, Legislative Bill 317, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

39-794. Every court in this state shall make complete entries in the court docket, including the judgment of conviction or probation, of every case in

which a person complete records, including the judgment of conviction and orders of probation, of every case in which a person is charged with violation of any provision of Chapter 39, article 7, Chapter 60, articles 4 and 5 or any amendments thereto, or any traffic regulations in city or village ordinances. In the event that such person is convicted, or placed on probation, or that his bail is forfeited, a certified abstract of such judgment as provided in section 39-796 shall be sent forthwith by the court to the Director of Motor Vehicles; ~~and to the county treasurer of the county wherein the person convicted or placed on probation was licensed;~~ Provided, that the Director of Motor Vehicles shall not assess such person with any points under section 39-7,128 for such violation when the person is placed on probation therefor, unless and until the director is advised by the court that such person previously placed on probation has violated the terms of his probation and such probation has been revoked. Upon receiving notice of such revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not been placed on probation. In the event that a person successfully completes his probation and is discharged by the court, no points shall be assessed against such person for the violation which resulted in such person being placed on probation. When a person successfully completes probation and is discharged the court shall notify the director of such fact.

Sec. 26. That section 39-795, Revised Statutes Supplement, 1972, as amended by section 2, Legislative Bill 317, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

~~39-795. Each clerk of any court of record of this state shall also, within ten days after any final judgment of conviction or probation for any violation of any of the provisions of Chapter 39, article 7, Chapter 60, articles 4 and 5, or any amendments thereto, or any traffic regulations in city or village ordinances, send to the Director of Motor Vehicles and to the county treasurer an abstract of such judgment on the standard form of abstract for conviction reports; Provided, that the director shall not assess such person with any points under section 39-7,128 for such violation when the person is placed on probation therefor, unless and until the director is advised by the court that such person previously placed on probation has violated the terms of his probation and such probation has been revoked; Upon receiving notice of such revocation of probation, the director shall assess to such person the points which such person would have been assessed had the person not~~

~~been placed on probation. In the event that a person successfully completes his probation and is discharged by the court, no points shall be assessed against such person for the violation which resulted in such person being placed on probation. When a person successfully completes probation and is discharged, the court shall notify the director of such fact.~~ An abstract of the judgment of conviction or order of probation shall likewise be forwarded on such forms provided for in section 39-796 to the Director of Motor Vehicles and the National Crime Information Center upon conviction of any person of or placing him on probation for manslaughter or other felony in the commission of which a vehicle was used. The director, and the National Crime Information Center, ~~and the county treasurer~~ shall keep such conviction reports in their offices, and they shall be open to the inspection of any person during reasonable business hours.

Sec. 27. That section 39-796, Revised Statutes Supplement, 1972, be amended to read as follows:

39-796. To enable the Director of Motor Vehicles punctually and economically to perform his ministerial duties in revoking or suspending operators' licenses and to insure uniformity in the keeping of the records of operators' licenses suspended or revoked by courts of the state, such director shall prepare and furnish to all courts of the state a standard form of abstract for conviction report. In lieu of furnishing the form, the director may authorize the use of uniform forms provided by the courts or law enforcement agencies. This shall include all necessary information as to the parties to the case, the nature of the offense, the date of hearing, the plea, the judgment, and the amount of the fine or forfeiture, as the case may be. Every such abstract shall be certified by the judge or clerk of any court of record as a true abstract of the record of the court. In the administration of sections 39-794 to 39-796 or of any section of the Motor Vehicle Operators' License Act, the powers and duties conferred upon the Director of Motor Vehicles, his subordinates, or his successors, with respect to the revocation or suspension of any operator's license or driving privileges are ministerial in character. The Director of Motor Vehicles shall have authority to revoke or suspend operators' licenses only when positively directed to do so by the terms of the certified abstract of the judgment of conviction forwarded to him by the trial court, except as otherwise provided in section 39-7, 129 and Chapter 60, articles 4 and 5.

Sec. 28. That section 42-108, Revised Statutes Supplement, 1972, be amended to read as follows:

42-108. Every judge, including associate county judges, and every preacher of the gospel authorized by the usages of the church to which he belongs to solemnize marriages, may perform the marriage ceremony in this state; and every such person performing the marriage ceremony shall make a return of his proceedings in the premises, showing the names and residences of at least two witnesses who were present at such marriage, which return shall be made to the county judge who issued the license within fifteen days after such marriage has been performed, which return the county judge shall record or cause to be recorded in the same book where the marriage license is recorded.

Sec. 29. That section 76-717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-717. Within thirty days after the filing of such notice of appeal, the county judge shall prepare and transmit to the clerk of the district court a duly certified transcript of all proceedings had concerning the parcel or parcels of land as to which the particular condemnee takes the appeal upon payment of the fees provided by law for preparation thereof. When notice of appeal is filed by both the condemner and the condemnee, such transcript shall be prepared only in response to the first notice of appeal; the transcript prepared in response to the second notice of appeal shall contain only a copy of such notice and the proceedings shall be docketed in the district court as a single cause of action. The proceeding shall in all cases be docketed in the district court, showing the condemnee as the plaintiff and the condemner as the defendant. ~~After docketing of the appeal, the issues shall be made up and tried in the district court in the same manner as an appeal from the county court to the district court in a civil action. The appeal shall be tried de novo in the district court.~~ Such appeal shall not delay the acquisition of the property and placing of same to a public use if the condemner shall first deposit with the county judge the amount assessed by the appraisers.

Sec. 30. The provisions of section 29 of this act shall apply to all cases pending on the effective date of this act.

Sec. 31. The provisions of subsection (3) of section 24-508 and the minimum salary provisions of section 24-513, as amended by Legislative Bill 40, Eighty-third Legislature, First Session, 1973, shall not apply to associate county judges serving on a pro tempore basis as designated by the Supreme Court.

Sec. 32. With regard to matters within the jurisdiction of the county court, a county judge within his district shall have the same power at chambers as provided for a judge of the district court by section 24-317.

Sec. 33. Any incorporated city or village may, by ordinance, establish a violations bureau for the collection of penalties for nonmoving traffic violations. Such violations shall not be subject to prosecution in the courts except when payment of the penalty is not made within the time prescribed by ordinance. When payment is not made within such time, the violations may be prosecuted in the same manner as other ordinance violations.

Sec. 34. That original sections 25-1631, 29-812, 29-2701, 29-2702, 29-2704, 29-2705, 29-2709, and 76-717, Reissue Revised Statutes of Nebraska, 1943, sections 11-119, 24-509, 24-511, 24-514, 24-516, 24-517, 24-524, 24-533, 24-543, 24-701, 24-703, 24-703.01, 25-1521, 25-1522, 29-504, 29-2703, 33-140, 39-796, and 42-108, Revised Statutes Supplement, 1972, and sections 39-794 and 39-795, Revised Statutes Supplement, 1972, as amended by sections 1 and 2 respectively, Legislative Bill 317, Eighty-third Legislature, First Session, 1973, and also sections 23-1115 and 29-2707, Reissue Revised Statutes of Nebraska, 1943, and section 29-616, Revised Statutes Supplement, 1972, are repealed.

Sec. 35. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.