

## LEGISLATIVE BILL 51

Approved by the Governor May 25, 1999

Introduced by Brashear, 4

AN ACT relating to courts; to amend sections 29-901 and 33-126.05, Reissue Revised Statutes of Nebraska; to change provisions relating to bail and miscellaneous fees; and to repeal the original sections.

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

Section 1. Section 29-901, Reissue Revised Statutes of Nebraska, is amended to read:

29-901. Any bailable defendant shall be ordered released from custody pending judgment on his or her personal recognizance unless the judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required. When such determination is made, the judge shall either in lieu of or in addition to such a release impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

- (1) Place the defendant in the custody of a designated person or organization agreeing to supervise the defendant;
- (2) Place restrictions on the travel, association, or place of abode of the defendant during the period of such release;
- (3) Require, at the option of any bailable defendant, either of the following:

(a) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, ninety percent of such deposit to be returned to the defendant upon the performance of the appearance or appearances and ten percent to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant. If the bond is subsequently reduced by the court after the original bond has been posted, no additional appearance bond costs shall be retained by the clerk. The difference in the appearance bond costs between the original bond and the reduced bond shall be returned to the defendant. In no event shall the deposit be less than twenty-five dollars. Whenever jurisdiction is transferred from a court requiring an appearance bond under this subdivision to another state court, the transferring court shall transfer the ninety percent of the deposit remaining after the appearance bond costs have been retained. No further costs shall be levied or collected by the court acquiring jurisdiction; or

(b) The execution of a bail bond with such surety or sureties as shall seem proper to the judge or, in lieu of such surety or sureties, at the option of such person, a cash deposit of such sum so fixed, conditioned for his or her appearance before the proper court, to answer the offense with which he or she may be charged and to appear at such times thereafter as may be ordered by the proper court. The cash deposit shall be returned to the defendant upon the performance of all appearances.

If the amount of bail is deemed insufficient by the court before which the offense is pending, the court may order an increase of such bail and the defendant shall provide the additional undertaking, written or cash, to secure his or her release. All recognizances in criminal cases shall be in writing and be continuous from term to term until final judgment of the court in such cases and shall also extend, when the court has suspended execution of sentence for a limited time, as provided in section 29-2202, or, when the court has suspended execution of sentence to enable the defendant to apply for a writ of error to the Supreme Court or Court of Appeals, as provided in section 29-2301, until the period of suspension has expired. When two or more indictments or informations are returned against the same person at the same term of court, the recognizance given may be made to include all offenses charged therein. Each surety on such recognizance shall be required to justify under oath in a sum twice the amount of such recognizance and give the description of real estate owned by him or her of a value above encumbrance equal to the amount of such justification and shall name all other cases pending in which he or she is a surety. No one shall be accepted as surety on recognizance aggregating a sum in excess of his or her equity in the real estate, but such recognizance shall not constitute a lien on the real estate

described therein until judgment is entered thereon against such surety; or

(4) Impose any other condition deemed reasonably necessary to assure appearances as required, including a condition requiring that the defendant return to custody after specified hours.

Sec. 2. Section 33-126.05, Reissue Revised Statutes of Nebraska, is amended to read:

33-126.05. The county court shall be allowed the following miscellaneous fees: For delayed birth registration, for the entire proceedings, ten dollars; for depositing will for safekeeping and indexing the same, two dollars; and for each use of any credit card authorized by the court for any payment, three dollars. The legal fees for printing notices required by law to be printed in some newspaper shall be allowed in addition to the fees allowed in this section. For the following services performed by the county court, it shall be entitled to receive the following fees: For temporary restraining order in injunction, in the absence of the district judge, five dollars; for appointment of appraisers in condemnation proceedings, fifteen dollars, plus one dollar for each additional parcel of land included in the petition when there is more than one; and for certifying report of appraisers to the county clerk or register of deeds and making transcript of the same to the district court, one dollar per page. In addition to the fees provided in sections 33-123 to 33-125, the county court shall be entitled to the following fees: For providing photocopies, twenty-five cents per page, which fee shall include all applicable sales and use taxes; and for executing certificate and affixing the seal, one dollar.

Sec. 3. Original sections 29-901 and 33-126.05, Reissue Revised Statutes of Nebraska, are repealed.