

## LEGISLATIVE BILL 19

Approved by the Governor May 29, 2003

Introduced by Brashear, 4

AN ACT relating to civil procedure; to amend sections 25-304, 25-1210, 25-1601, 25-1625, and 25-1628, Reissue Revised Statutes of Nebraska; to change and eliminate provisions relating to security for costs, witnesses, jurors, and jury commissioners; to repeal the original sections; and to outright repeal sections 25-1701 and 25-1702, Revised Statutes Supplement, 2002.

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

Section 1. Section 25-304, Reissue Revised Statutes of Nebraska, is amended to read:

25-304. An executor, administrator, guardian, trustee of an express trust, a person with whom or in whose name a contract is made for the benefit of another, or a person expressly authorized by statute, may bring an action without joining with him the person for whose benefit it is prosecuted. Officers may sue and be sued in such name as is authorized by law, and official bonds may be sued upon the same way. Assignees and assignees of choses in action assigned for the purpose of collection may sue on any claim assigned in writing. ~~but such assignee shall be required to furnish security for costs as in case of nonresident plaintiffs.~~

Sec. 2. Section 25-1210, Reissue Revised Statutes of Nebraska, is amended to read:

25-1210. When the matter sought to be elicited would tend to render the witness criminally liable, or to expose him or her to public ignominy, ~~he~~ the witness is not compelled to answer, except as provided in section ~~25-1214~~ 27-609.

Sec. 3. Section 25-1601, Reissue Revised Statutes of Nebraska, is amended to read:

25-1601. (1) All citizens of the United States residing in any of the counties of this state who are over the age of nineteen years, able to read, speak, and understand the English language, and free from all disqualifications set forth under this section and from all other legal exceptions are and shall be competent persons to serve on all grand and petit juries in their respective counties. Persons disqualified to serve as either grand or petit jurors are: (a) Judges of any court, (b) clerks of the Supreme or district courts, (c) sheriffs, (d) jailers, (e) persons, or the wife or husband of any such person, who are parties to suits pending in the district court of the county of his, her, or their then residence for trial at that jury panel, (f) persons who have been convicted of a criminal offense punishable by imprisonment in a Department of Correctional Services adult correctional facility, when such conviction has not been set aside or a pardon issued, and (g) persons who are subject to liability for the commission of any offense which by special provision of law does and shall disqualify them. Persons who are husband and wife shall not be summoned as jurors on the same panel. Persons who are incapable, by reason of physical or mental disability, of rendering satisfactory jury service shall not be qualified to serve on a jury, but a person claiming this disqualification may be required to submit a physician's certificate as to the disability and the certifying physician is subject to inquiry by the court at its discretion. A nursing mother who requests to be excused shall be excused from jury service until she is no longer nursing her child, but the mother may be required to submit a physician's certificate in support of her request.

(2) The district court or any judge thereof may exercise the power of excusing any grand or petit juror or any person summoned for grand or petit jury service upon a showing of undue hardship, extreme inconvenience, or public necessity for such period as the court deems necessary. At the conclusion of such period the person shall reappear for jury service in accordance with the court's direction. All excuses and the grounds for such excuses shall be entered upon the record of the court and shall be considered as a public record. In districts having more than one judge of the district court, the court may by rule or order assign or delegate to the presiding judge or any one or more judges the sole authority to grant such excuses.

(3) No qualified prospective juror is exempt from jury service, except that any person sixty-five years of age or older who shall make such request to the court at the time the juror qualification form is filed with the jury commissioner shall be exempt from serving on grand and petit juries.

(4) A nursing mother shall be excused from jury service until she is no longer nursing her child by making such request to the court at the time the juror qualification form is filed with the jury commissioner and including with the request a physician's certificate in support of her request. The jury commissioner shall mail the mother a notification form to be completed and returned to the jury commissioner by the mother when she is no longer nursing the child.

Sec. 4. Section 25-1625, Reissue Revised Statutes of Nebraska, is amended to read:

25-1625. (1) In each county of the State of Nebraska there shall be a jury commissioner.

(2) In counties having a population of not more than fifty thousand inhabitants, the clerk of the district court shall be jury commissioner ex officio.

(3) In counties having a population of more than fifty thousand, and not more than one hundred fifty thousand inhabitants, the jury commissioner shall be a separate office in the county government or the duties may be performed, when authorized by the judges of the district court within such counties, by the election commissioner. The jury commissioner shall receive an annual salary of not less than twelve hundred dollars.

(4) In counties having a population of more than one hundred fifty thousand inhabitants and not more than two hundred thousand inhabitants, the clerk of the district court shall perform the duties of jury commissioner without additional compensation.

(5) In counties having a population in excess of two hundred thousand inhabitants, the judges of the district court within such counties shall determine whether the clerk of the district court will perform the duties of jury commissioner without additional compensation or the election commissioner shall will be jury commissioner ex officio.

(6) In all counties the necessary expenses incurred in the performance of the duties of jury commissioner shall be paid by the county board of the county out of the general fund, upon proper claims approved by one of the district judges in the judicial district and duly filed with ~~said~~ the county board.

(7) In all counties the jury commissioner shall prepare and file the annual inventory statement with the county board of ~~his~~ the county of all county personal property in his or her custody or possession, as provided in sections 23-346 to 23-350.

Sec. 5. Section 25-1628, Reissue Revised Statutes of Nebraska, is amended to read:

25-1628. ~~The~~ At least once each calendar year, the officer having charge of the election records shall furnish to the jury commissioner a complete list of the names, dates of birth, and addresses of all registered electors nineteen years of age or older in the county. The Department of Motor Vehicles shall make available to each jury commissioner each December 7 if requested, a list in printed form or on magnetic tape or other magnetic medium magnetic, optical, digital, or other electronic format mutually agreed to by the requesting jury commissioner and the department containing the names, dates of birth, and addresses of all licensed motor vehicle operators nineteen years of age or older in the county. The jury commissioner may request such a list of licensed motor vehicle operators from the county treasurer if the county treasurer has an automated procedure for developing such lists. If a jury commissioner requests similar lists at other times from the department, the cost of processing such lists shall be paid by the county which the requesting jury commissioner serves.

~~Upon~~ At least once each calendar year upon receipt of both lists, the jury commissioner shall combine the separate lists and attempt to reduce duplication to the best of his or her ability to produce a master list. The proposed juror list shall be derived by selecting from the master list the name of the person whose numerical order on such list corresponds with the key number and each successive tenth name thereafter. The jury commissioner shall certify that the proposed juror list has been made in accordance with sections 25-1625 to 25-1637.

Any duplication of names on a master list shall not be grounds for quashing any panel pursuant to section 25-1637 or for the disqualification of any juror.

Sec. 6. Original sections 25-304, 25-1210, 25-1601, 25-1625, and 25-1628, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. The following sections are outright repealed: Sections 25-1701 and 25-1702, Revised Statutes Supplement, 2002.