

LEGISLATIVE BILL 97

Approved by the Governor February 14, 1975

Introduced by Mills, 44

AN ACT relating to courts; to provide for trial in a county adjacent to the one in which cases are pending; to provide for agreements for such trial; to provide procedures; to amend sections 29-1301 and 48-177, Reissue Revised Statutes of Nebraska, 1943, and sections 23-120 and 25-1601.01, Revised Statutes Supplement, 1974; to repeal the original sections; and to declare an emergency.

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

Section 1. Any criminal case pending in either the county court or the district court in any county having a population of four thousand or less and not having adequate facilities for the trial of jury cases acceptable to the county and district judges may be tried in any adjoining county with the same effect as if tried in the county where the offense was committed.

Sec. 2. Any civil case pending in either the county court, the workmen's compensation court, or the district court in any county having a population of four thousand or less and not having adequate facilities for the trial of jury or other contested cases may be tried in any adjoining county with the same effect as if tried in the county in which the case was filed or venued.

Sec. 3. The county board of any county described in section 1 or 2 of this act may enter into an agreement under the Interlocal Cooperation Act with the county board of another county or other counties for the trial of all contested criminal and civil cases, whether or not a jury trial has been requested. Any case subject to any such agreement shall be subject to the applicable provisions of law relating to changes of venue except as provided in section 4 of this act.

Sec. 4. The jury for any case to be tried pursuant to an agreement entered into under section 3 of this act shall be selected from the county in which the case was first filed. The jury shall be elected in the manner prescribed in Chapter 25, article 16. The summons shall direct attendance before the court by which the case is to be tried and the return thereof shall be made to the same court.

Sec. 5. That section 23-120, Revised Statutes Supplement, 1974, be amended to read as follows:

23-120. The county board shall erect or otherwise provide a suitable courthouse, jail, and other necessary county buildings, and for that purpose borrow money and issue the bonds of the county to pay for the same. Agreements entered into under section 3 of this act shall be deemed to be in compliance with this section. The board shall keep the said buildings in repair and provide suitable rooms and offices for the accommodation of the several courts of record, compensation court or any member thereof, the Commissioner of Labor for the conduct and operation of the state free employment service, the county board, clerk, treasurer, sheriff, clerk of the district court, county superintendent, county surveyor, county agricultural agent, and county attorney, if the county attorney shall hold his office at the county seat, and provide suitable furniture therefor. All such courts who shall desire such accommodation shall be suitably housed in the courthouse. No appropriation exceeding (1) one million dollars in counties having in excess of two hundred fifty thousand inhabitants, (2) one hundred fifty thousand dollars in counties having in excess of one hundred fifty thousand inhabitants and not in excess of two hundred fifty thousand inhabitants, (3) fifty thousand dollars in counties having in excess of thirty thousand inhabitants and not in excess of one hundred fifty thousand inhabitants, or (4) twenty-five thousand dollars in all other counties shall be made within a one-year period for the complete erection or repair of any county building, except as hereinafter provided, without first submitting the proposition to a vote of the people of the county at a general election or a special election ordered by the board for that purpose, and the same is ordered by a majority of the legal voters thereon; Provided, that the county board of any county in this state is hereby authorized and empowered, when requested so to do by petition signed by at least fifty-five per cent of the legal voters in the county, based on the average vote of the two preceding general elections, to make an annual levy not exceeding five mills on the dollar upon the assessed value of all the taxable property in the county, except intangible property, for the purpose of providing a fund for the erection of a courthouse or jail, said fund to be used only in the construction of a courthouse or jail or to pay the expenses of tearing down an existing courthouse or jail or making improvement thereon; and provided further, the total estimated amount to be raised by such special levy shall not exceed the sum of two hundred thousand dollars and said levy may be spread over a term

of years, not exceeding twenty, to produce such sum. In counties having no bonded indebtedness, the county board, without the filing of such petition, may levy a tax of not to exceed one and one half mills on the dollar upon the assessed value of all the taxable property of the county, except intangible property, per year for not exceeding ten years for the purpose of providing a fund for the erection or repair of a jail or courthouse and procuring a site therefor, but in no case shall the levy of taxes made by the county board for all purposes, including the taxes levied herein provided for the erection or repair of a courthouse or jail, exceed in any one year the sum of fifty cents on every one hundred dollars of the actual value of all the taxable property of the county, except intangible property; Provided, that in the event any county has on hand funds accumulated by a general levy for courthouse purposes, sale of county property, or otherwise, the limitations on appropriations made within a one-year period contained in this section shall not apply.

Sec. 6. That section 25-1601.01, Revised Statutes Supplement, 1974, be amended to read as follows:

25-1601.01. Before any woman may be called to serve as a juror in the district court, the county board in any county shall enter into an agreement pursuant to section 3 of this act or provide and thereafter maintain adequate accommodations and facilities to permit the service of women as jurors, and the presiding district judge shall determine that agreement has been entered into or that such accommodations and facilities are adequate. ~~Such accommodations and facilities shall be provided and the adequacy thereof determined prior to January 4, 1968.~~ Whenever such determination is made, the presiding district judge shall certify such fact to the county board of the county and to the jury commissioner, and the names of women shall thereafter be included and used in making up all jury lists for such county in the same manner as men.

Sec. 7. That section 29-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1301. All criminal cases shall be tried in the county where the offense was committed, except as otherwise provided in sections 29-1301.01 to 29-1301.03 or section 3 of this act, or unless it shall appear to the court by affidavits that a fair and impartial trial cannot be had therein. In such a case the court may direct the person accused to be tried in some adjoining county.

Sec. 8. That section 48-177, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-177. At the expiration of the time fixed for filing the answer, the presiding judge shall assign one of the judges of the court to hear the cause. It shall be heard in the county in which the accident occurred, except as otherwise provided in section 2 of this act and except that, upon the written stipulation of the parties, the cause may be heard in any other county in the state. Upon a motion for dismissal duly filed by the plaintiff, showing that a dispute between the parties no longer exists, the court may dismiss any such cause without a hearing thereon.

Sec. 9. That original sections 29-1301 and 48-177, Reissue Revised Statutes of Nebraska, 1943, and sections 23-120 and 25-1601.01, Revised Statutes Supplement, 1974, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.