

LEGISLATIVE BILL 373

Approved by the Governor April 2, 1985

Introduced by Beutler, 28

AN ACT relating to courts; to amend sections 24-519 and 24-522, Reissue Revised Statutes of Nebraska, 1943, and section 24-524, Revised Statutes Supplement, 1984; to change provisions relating to the matters which may be assigned to associate county judges; to change provisions relating to the jurisdictional limit of the Small Claims Court; to harmonize provisions; to provide an operative date; 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 24-519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-519. The county judge or, where there is more than one county judge in a district, the presiding judge, may assign to associate county judges who are not attorneys at law, severally, or by designation of office, or by class or category of cases, or in specific instances, the following matters:

(1) Any civil proceeding when the amount of money or damages or the value of personal property claimed does not exceed ~~one thousand dollars~~ the jurisdictional limit established for the Small Claims Court pursuant to section 24-522;

(2) Any proceeding based on violation of a city or village ordinance;

(3) Any criminal proceeding which is a misdemeanor under the laws of this state;

(4) Any proceeding for the issuance of warrants for arrest or for searches and seizures;

(5) Any proceeding for preliminary examination to determine probable cause, commitment prior to trial, or the release on bail of persons charged with criminal offenses;

(6) Any juvenile proceedings except the commitment to a state institution or the termination of parental rights;

(7) Any proceeding to prevent the commission of crimes; and

(8) Any proceedings relating to decedents' estates, noncontestable inheritance tax matters, guardianship or conservatorship, except the construction of wills and trusts, the determination of title to real estate, and authorization of the sale or mortgaging of real

estate.

Sec. 2. That section 24-522, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-522. (1) The Small Claims Court shall have subject matter jurisdiction in all civil actions of any type when the amount of money or damages or the value of the personal property claimed does not exceed one thousand five hundred dollars, exclusive of interest and costs.

(2) The Small Claims Court shall have subject matter jurisdiction in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of one thousand five hundred dollars, exclusive of interest and costs.

(3) The Small Claims Court shall have jurisdiction when the party defendant or his or her agent resides or is doing business within the county or when the cause of action arose within the county.

(4) The Supreme Court shall adjust the jurisdictional limit for the Small Claims Court every fifth year commencing July 1, 1990. The adjusted jurisdictional amount shall be equal to the then current jurisdictional amount adjusted by the average percentage change in the unadjusted Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics for the five-year period preceding the adjustment date. The jurisdictional amount shall be rounded to the nearest one hundred dollar amount.

Sec. 3. That section 24-524, Revised Statutes Supplement, 1984, 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. The claim form shall be executed by the plaintiff in the presence of a judge or the clerk of the county court or a deputy or assistant designated by the clerk.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of five 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 or she fails to appear, judgment will be entered against him or her. Notice shall be served in the manner provided for service of a summons in a civil action, except that service by certified mail shall be made by the clerk. 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 one thousand 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 as established pursuant to section 24-522, the court shall cause the entire matter to be transferred to the regular county 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.

(7) Judgments rendered against a defendant in his or her absence may not be set aside but may only be appealed as governed by section 24-527.

Sec. 4. This act shall become operative on July 1, 1985.

Sec. 5. That original sections 24-519 and 24-522, Reissue Revised Statutes of Nebraska, 1943, and section 24-524, Revised Statutes Supplement, 1984, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.