

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 103

Introduced by Lathrop, 12.

Read first time January 10, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend section 24-734, Reissue
2 Revised Statutes of Nebraska, and section 43-278, Revised
3 Statutes Cumulative Supplement, 2012; to change
4 provisions relating to judges' powers at chambers; to
5 provide for oral examination of incarcerated persons as
6 prescribed; to harmonize provisions; and to repeal the
7 original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-734, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 24-734 (1) A judge of any court ~~of this state,~~
4 established under the laws of the State of Nebraska, ~~at chambers~~
5 ~~anywhere within the state,~~ shall, in any case in which that judge is
6 authorized to act, have power at chambers to exercise the powers
7 conferred upon ~~a the judge and upon a court,~~ and specifically to:

8 (a) Upon the stipulation of the parties to an action,
9 hear and determine any matter, including the trial of an equity case
10 or case at law in which a jury has been waived;

11 (b) Hear and determine pretrial and posttrial matters in
12 civil cases not involving testimony of witnesses by oral examination;

13 (c) With the consent of the defendant, receive pleas of
14 guilty and pass sentences in criminal cases;

15 (d) With the consent of the defendant, hear and determine
16 pretrial and posttrial matters in criminal cases;

17 (e) Hear and determine cases brought by petition in error
18 or appeal not involving testimony of witnesses by oral examination;

19 (f) Hear and determine any matter in juvenile cases with
20 the consent of the guardian ad litem or attorney for the minor, the
21 other parties to the proceedings, and the attorneys for those
22 parties, if any; and

23 (g) Without notice, make any order and perform any act
24 which may lawfully be made or performed by him or her ex parte in
25 open court in any action or proceeding which is on file in any

1 district of this state. ~~;~~ and

2 ~~(h) Render any judgment or make any order at any location~~
3 ~~even though the action is pending in a county other than the place in~~
4 ~~which the judge is physically present.~~

5 (2) A judgment or order made pursuant to this section
6 shall be deemed effective when the judgment is entered in accordance
7 with the provisions of subsection (3) of section 25-1301.

8 (3) The judge, in his or her discretion, may in any
9 proceeding authorized by the provisions of this section not involving
10 testimony of witnesses by oral examination, use telephonic,
11 videoconferencing, or similar methods to conduct such proceedings.
12 The court may require the parties to make reimbursement for any
13 ~~telephone~~ charges incurred.

14 (4) A judge in any civil case in which a party is
15 presently incarcerated may order that such person appear by
16 telephonic, videoconferencing, or similar methods and in any case,
17 with the consent of the parties, permit any witness who is to be
18 examined by oral examination to appear by telephonic,
19 videoconferencing, or similar methods, with any costs thereof to be
20 taxed as costs.

21 ~~(4)-(5)~~ The enumeration of the powers in subsections (1),
22 (2), and (3) of this section shall not be construed to deny the right
23 of a party to trial by jury in the county in which the action was
24 first filed if such right otherwise exists.

25 ~~(5)-(6)~~ Nothing in this section shall be construed to

1 exempt proceedings under this section from the provisions of the
2 Guidelines for Use by Nebraska Courts in Determining When and Under
3 What Conditions a Hearing Before Such Court May Be Closed in Whole or
4 in Part to the Public, adopted by the Supreme Court of the State of
5 Nebraska September 8, 1980, and any amendments to those provisions.

6 Sec. 2. Section 43-278, Revised Statutes Cumulative
7 Supplement, 2012, is amended to read:

8 43-278 Except as provided in sections 43-254.01 and
9 43-277.01, all cases filed under subdivision (3) of section 43-247
10 shall have an adjudication hearing not more than ninety days after a
11 petition is filed. Upon a showing of good cause, the court may
12 continue the case beyond the ninety-day period. The court shall also
13 review every case filed under such subdivision which has been
14 adjudicated or transferred to it for disposition not less than once
15 every six months. All communications, notices, orders,
16 authorizations, and requests authorized or required in the Nebraska
17 Juvenile Code; all nonevidentiary hearings; and any evidentiary
18 hearings approved by the court and by stipulation of all parties may
19 be heard by the court telephonically or by videoconferencing in a
20 manner that ensures the preservation of an accurate record. All of
21 the orders generated by way of a telephonic or videoconference
22 hearing shall be recorded as if the judge were conducting a hearing
23 on the record. ~~Telephonic and videoconference hearings allowed under
24 this section shall not be in conflict with section 24-734.~~

25 Sec. 3. Original section 24-734, Reissue Revised Statutes

1 of Nebraska, and section 43-278, Revised Statutes Cumulative
2 Supplement, 2012, are repealed.