

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 983

Introduced by DeBoer, 10.

Read first time January 12, 2026

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to civil procedure; to amend sections 25-331,
- 2 25-1223, and 29-1901, Revised Statutes Cumulative Supplement, 2024;
- 3 to change provisions relating to third-party practice and deposition
- 4 subpoenas; to harmonize provisions; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 25-331, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 25-331 (1)(a) A defending party may, as a third-party plaintiff,
4 serve a summons and complaint on a nonparty:

5 (i) Who is or may be liable to the defending party for all or part
6 of the claim against the defending party; or

7 (ii) Whose negligence was or may have been a proximate cause of the
8 transaction or occurrence that is the subject matter of the plaintiff's
9 claim and who is not precluded by section 25-21,185.11 from being made a
10 party.

11 (b) The third-party plaintiff shall, by motion, obtain the court's
12 leave if the third-party plaintiff files the third-party complaint more
13 than fourteen days after serving its original answer.

14 (c) The person served with the summons and third-party complaint,
15 hereinafter called the third-party defendant, has all the rights and
16 obligations of a defendant, including those created by this section and
17 by the rules promulgated by the Supreme Court pursuant to sections
18 25-801.01 and 25-1273.01.

19 (d) The third-party defendant may assert against the plaintiff any
20 defense that the third-party plaintiff has to the plaintiff's claim. The
21 third-party defendant may also assert against the plaintiff any claim
22 arising out of the transaction or occurrence that is the subject matter
23 of the plaintiff's claim against the third-party plaintiff.

24 (e) The plaintiff may assert against the third-party defendant any
25 claim arising out of the transaction or occurrence that is the subject
26 matter of the plaintiff's claim against the third-party plaintiff.

27 (f) A defending party may assert against the third-party defendant a
28 claim that the third-party defendant is or may be liable to the defending
29 party for all or part of the claim against the defending party.

30 (g) A third-party defendant may bring in a nonparty if subdivision
31 (1)(a) of this section would allow a defending party to do so.

1 (h) Any party may move to strike the third-party claim, to sever it,
2 or try it separately.

3 (2) When a claim is asserted against a plaintiff, the plaintiff may
4 bring in a nonparty if subdivision (1)(a) of this section would allow a
5 defending party to do so.

6 **Sec. 2.** Section 25-1223, Revised Statutes Cumulative Supplement,
7 2024, is amended to read:

8 25-1223 (1) Upon the request of a party to a civil action or
9 proceeding, a subpoena may be issued to command a person to testify at a
10 trial or deposition. The term trial in reference to a subpoena includes a
11 hearing at which testimony may be taken.

12 (2) The clerk or a judge of the court in which the action or
13 proceeding is pending shall issue a trial subpoena upon the request of a
14 party. An attorney, as an officer of the court, may issue and sign a
15 trial subpoena on behalf of the court if the attorney is authorized to
16 practice in the court. An attorney who issues a subpoena must file a copy
17 of the subpoena with the court on the day the subpoena is issued.

18 (3) A person before whom a deposition may be taken may issue a
19 deposition subpoena on behalf of the court in which the action or
20 proceeding is pending. An attorney, as an officer of the court, may issue
21 and sign a deposition subpoena on behalf of the court if the attorney is
22 authorized to practice in the court.

23 (4) A trial subpoena shall state the name of the court from which it
24 is issued, the title of the action, and the case number and shall command
25 each person to whom it is directed to appear and testify at the time and
26 place specified in the subpoena.

27 (5) A deposition subpoena shall state the name of the court from
28 which it is issued, the title of the action, and the case number and
29 shall command each person to whom it is directed to appear and testify at
30 the time specified in the subpoena. The subpoena shall also:

31 (a) State the place if the deposition will be taken in-person;

1 (b) Include a link if the deposition will be taken by
2 videoconferencing or state that a link will be provided to the person
3 within a reasonable time before the deposition; or

4 (c) State the instructions for joining the telephone call if the
5 deposition will be taken by telephone or state that the instructions will
6 be provided to the person within a reasonable time before the deposition.

7 (6) (5) Except as provided in subsection (7) (6) of this section, a
8 trial subpoena that is issued in a civil action or proceeding (a) at the
9 request of an agency of state government or (b) pursuant to section
10 25-2304 shall contain the following statement: As a witness in [insert
11 name of court], you are entitled to receive a witness fee in the amount
12 of [insert amount from section 33-139] for each day that you are required
13 to be in court and, if you live more than one mile from the courthouse,
14 you are also entitled to receive mileage at the rate that state employees
15 receive. Ask the lawyer or party who subpoenaed you or the clerk of the
16 court for information about what you should do to receive the fees and
17 mileage to which you are entitled.

18 (7) (6) A trial subpoena in a civil action or proceeding that
19 commands testimony by an employee of the State of Nebraska or a political
20 subdivision thereof or a privately employed security guard, under the
21 circumstances described in section 33-139.01, shall contain the following
22 statement: As a witness in [insert name of court], you are entitled to be
23 compensated for your actual and necessary expenses if you are required to
24 travel outside of your county of residence to testify. Ask the lawyer or
25 party who subpoenaed you or the clerk of the court for information about
26 what you should do to receive compensation, if any, to which you are
27 entitled.

28 (8) (7) Any other trial subpoena in a civil action or proceeding
29 shall contain the following statement: As a witness in [insert name of
30 court], you are entitled to receive a witness fee in the amount of
31 [insert amount from section 33-139] for each day that you are required to

1 be in court and, if you live more than one mile from the courthouse, you
2 are also eligible to receive mileage at the rate that state employees
3 receive. You should have received your witness fee for one day with this
4 subpoena. Ask the lawyer or party who subpoenaed you or the clerk of the
5 court for information about what you should do to receive the additional
6 fees, if any, and mileage to which you are entitled.

7 (9) ~~(8)~~ The Supreme Court may promulgate forms for subpoenas for use
8 in civil and criminal actions and proceedings. Any such forms shall not
9 be in conflict with the laws governing such matters.

10 (10) ~~(9)~~ A subpoena may be served by a sheriff or constable. It may
11 also be served by a person who is twenty-one years of age or older and
12 who is not a party to the action or proceeding.

13 **Sec. 3.** Section 29-1901, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 29-1901 (1) The statutes governing subpoenas in civil actions and
16 proceedings shall also govern subpoenas in traffic and criminal cases,
17 except that subsections (1), (3), and (4) of section 25-1228 shall not
18 apply to those cases. The payment of compensation and mileage to
19 witnesses in those cases shall be governed by section 29-1903.

20 (2) A trial subpoena in a traffic and criminal case shall contain
21 the statement specified in subsection (6) ~~(5)~~ of section 25-1223.

22 **Sec. 4.** Original sections 25-331, 25-1223, and 29-1901, Revised
23 Statutes Cumulative Supplement, 2024, are repealed.