

LEGISLATIVE BILL 422

Approved by the Governor May 31, 1991

Introduced by Kristensen, 37

AN ACT relating to civil procedure; to amend sections 24-517, 25-2706, 25-2721, and 30-2488, Reissue Revised Statutes of Nebraska, 1943; to change the jurisdictional amount in county court; to authorize the filing of county court judgments in any county court and provide for execution on such judgments; 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 24-517, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-517. Each county court shall have the following jurisdiction:

(1) Exclusive original jurisdiction of all matters relating to decedents' estates, including the probate of wills and the construction thereof;

(2) Exclusive original jurisdiction of all matters relating to guardianship or conservatorship of any person, including (a) original jurisdiction to consent to and authorize a voluntary selection, partition, and setoff of a ward's interest in real estate owned in common with others and to exercise any right of the ward in connection therewith which the ward could exercise if competent and (b) original jurisdiction to license the sale of such real estate for cash or on such terms of credit as shall seem best calculated to produce the highest price subject only to the requirements set forth in section 30-3201;

(3) Concurrent jurisdiction with the district court to involuntarily partition a ward's interest in real estate owned in common with others;

(4) Concurrent original jurisdiction with the district court in all civil actions of any type when the amount in controversy does not exceed ~~ten~~ fifteen thousand dollars. When the pleadings or discovery proceedings in a civil action indicate an amount in controversy may exceed ~~ten~~ fifteen thousand dollars, the county court shall certify the proceedings to the district court as provided in section 25-2706;

(5) Concurrent original jurisdiction with the

district court in any criminal matter classified as a misdemeanor or for any infraction;

(6) Exclusive original jurisdiction in any action based on violation of a city or village ordinance;

(7) Exclusive original jurisdiction in all juvenile matters, except in counties which have established separate juvenile courts;

(8) Exclusive original jurisdiction in all matters of adoption; and

(9) All other jurisdiction heretofore provided and not specifically repealed by Laws 1972, Legislative Bill 1032, and such other jurisdiction as hereafter provided by law.

Sec. 2. That section 25-2706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2706. The county court shall certify proceedings to the district court of the county in which an action is pending when the pleadings or discovery proceedings indicate there is an amount in controversy in excess of ~~ten~~ fifteen thousand dollars. The county court shall certify the proceedings to the district court and file the original papers of such action and a certified transcript of the docket entries with the clerk of the district court. The action shall then be tried and determined by the district court as if the proceedings were originally brought in such district court, except that no new pleadings need be filed unless ordered by the district court.

If it is determined, upon adjudication, that the allegations of either party to such action are asserted with the intention solely of avoiding the jurisdiction of the county court, the offending party shall not recover any costs in the county court or the district court.

Sec. 3. That section 25-2721, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2721. (1) Any person having a judgment rendered by a county court may cause a transcript of the judgment to be filed in the office of the clerk of the county court in any county of this state. When the transcript is so filed, the clerk of such court may issue execution on the judgment in the same manner as execution is issued upon other judgments rendered in the county court.

(2) Any person having a judgment rendered by a county court may cause a transcript thereof to be filed

in the office of the clerk of the district court in any county of this state. When the transcript is so filed, and entered upon the judgment record, such judgment shall be a lien on real estate in the county where the same is filed, and when the same is so filed and entered upon such judgment ~~book~~ record, the clerk of such court may issue execution thereupon in like manner as execution is issued upon judgments rendered in the district court.

Sec. 4. That section 30-2488, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

30-2488. (a) As to claims presented in the manner described in section 30-2486 within the time limit prescribed in section 30-2485, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his or her decision concerning the claim, he or she shall notify the claimant. The personal representative may not change a disallowance of a claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than sixty days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. Failure of the personal representative to mail notice to a claimant of action on his or her claim for sixty days after the time for original presentation of the claim has expired has the effect of a notice of allowance.

(b)(1) At any time within fourteen days of the filing of a petition for allowance of a claim not in excess of ~~ten~~ fifteen thousand dollars, the personal representative may transfer the claim to the regular docket of the county court by filing with the court a notice of transfer. The county court shall hear and determine the claim in the same manner as actions originally filed in the county court on the regular docket. The county court may order such additional pleadings as are necessary.

(2) At any time within fourteen days of the filing of a petition for allowance of a claim in excess of ~~ten~~ fifteen thousand dollars, the personal

representative may transfer the claim to the district court by filing with the county court a notice of transfer and depositing with the clerk a docket fee in the amount of the filing fee in district court for cases originally commenced in district court. Upon the filing of a notice of transfer and the deposit of the docket fee the clerk of the county court shall transmit to the clerk of the district court a certified copy of the notice of transfer, a certified copy of the petition for allowance of the claim, and the docket fee. Upon the filing of the notice and petition the district court shall have jurisdiction over the proceedings on the claim. The district court may order such additional pleadings as are necessary. The district court shall adjudicate the claim in the manner provided in section 25-1104 as to actions for the recovery of money or of specific real or personal property.

(c) Upon the petition of the personal representative or of a claimant in a proceeding for the purpose, the court may allow in whole or in part any claim or claims filed with the clerk of the court in due time and not barred by subsection (a) of this section. Notice in this proceeding shall be given to the claimant, the personal representative, and those other persons interested in the estate as the court may direct by order entered at the time the proceeding is commenced.

(d) A final judgment in a proceeding in any court against a personal representative to enforce a claim against a decedent's estate is an allowance of the claim.

(e) Unless otherwise provided in any final judgment in any court entered against the personal representative, allowed claims bear interest at the legal rate for the period commencing sixty days after the time for original presentation of the claim has expired unless based on a contract making a provision for interest, in which case they bear interest in accordance with that provision.

Sec. 5. That original sections 24-517, 25-2706, 25-2721, and 30-2488, Reissue Revised Statutes of Nebraska, 1943, 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.