

LEGISLATIVE BILL 834

Approved by the Governor May 4, 1971

Introduced by Jerome Warner, 25th District

AN ACT to amend sections 25-1010, 26-151, and 27-410, Reissue Revised Statutes of Nebraska, 1943, relating to garnishments; to provide that the written interrogatories need not be verified; to provide a presumption; to provide penalties; and to repeal the original sections.

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

Section 1. That section 25-1010, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1010. (1) When an affidavit is made by the plaintiff, his agent, or his attorney and is filed in a civil action, containing the necessary allegations of an affidavit of attachment, and in addition that the plaintiff has good reason to and does believe that any person, partnership, or corporation, to be named, and within the county where the action is brought, has property of the defendant, describing the same, in his possession, that cannot be levied upon by attachment, the clerk of the district court shall issue a summons requiring such person, partnership, or corporation as garnishee to answer written interrogatories, to be furnished by the plaintiff and attached to such summons, respecting the matters set forth in section 25-1026. All answers must be given in writing but do not need to be verified or given under oath. All answers so given will be deemed to be true and subject to all of the penalties of perjury in the event of willful falsification.

(2) The summons, referred to in subsection (1) of this section, shall be returnable within five days from the date of the issuance thereof and shall require the garnishee to answer within ten days from the date of issuance. The garnishee shall hold the property of every description and the credits of the defendant in his possession or under his control at the time of the service of the summons and interrogatories until the further order of the court.

Sec. 2. That section 26-151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

26-151. (1) When an affidavit is made by the plaintiff, his agent, or his attorney, and is filed in a pending action, containing the necessary allegations of an affidavit of attachment, and in addition that the plaintiff has good reason to and does believe that any person, partnership, or corporation, to be named, and within the jurisdiction of the court in which the action is brought, has property of the defendant, describing the same, in his possession, that cannot be levied upon by attachment, the clerk of the municipal court shall issue a summons requiring such person, partnership, or corporation as garnishee to answer written interrogatories to be furnished by the plaintiff and attached to such summons, respecting the matters set forth in section 25-1026. All answers must be given in writing but do not need to be verified or given under oath. All answers so given will be deemed to be true and subject to all of the penalties of perjury in the event of willful falsification.

(2) The summons, referred to in subsection (1) of this section, shall be returnable within five days from the date of the issuance thereof and shall require the garnishee to answer within ten days from the date of issuance. The garnishee shall hold the property of every description and the credits of the defendant in his possession or under his control from the time of the service of the summons and interrogatories until the further order of the court. Thereafter, the procedure shall be as set forth in sections 25-1011 and 25-1026 to 25-1031.01.

Sec. 3. That section 27-410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

27-410. (1) When an affidavit is made by the plaintiff, his agent, or attorney, and is filed in a pending action, containing the necessary allegations of an affidavit of attachment, and in addition that the plaintiff has good reason to and does believe that any person, partnership, or corporation, to be named, and within the county where the action is brought, has property of the defendant, describing the same, in his possession, that cannot be levied upon by attachment, the justice of the peace shall issue a summons requiring such person, partnership, or corporation as garnishee to answer written interrogatories to be furnished by the plaintiff and attached to such summons, respecting the matters set forth in section 25-1026. All answers must

be given in writing but do not need to be verified or given under oath. All answers so given will be deemed to be true and subject to all of the penalties of perjury in the event of willful falsification.

(2) The summons, referred to in subsection (1) of this section, shall be returnable within five days from the date of the issuance thereof and shall require the garnishee to answer within ten days from the date of issuance. The garnishee shall hold the property of every description and the credits of the defendant in his possession or under his control from the time of the service of the summons and interrogatories until the further order of the court. Thereafter, the procedure shall be as set forth in sections 25-1011 and 25-1026 to 25-1031.01.

Sec. 4. That original sections 25-1010, 26-151, and 27-410, Reissue Revised Statutes of Nebraska, 1943, are repealed.