

LEGISLATIVE BILL 319

Approved by the Governor April 28, 1999

Introduced by Brashear, 4

AN ACT relating to civil procedure; to amend sections 25-506.01 and 25-2229, Reissue Revised Statutes of Nebraska; to change provisions relating to service of process; to authorize certain persons or entities to execute any service of process or order as prescribed; to provide powers and duties; and to repeal the original sections.

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

Section 1. Section 25-506.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-506.01. (1) Unless the plaintiff has elected service by certified mail, the summons shall be served by the sheriff of the county where service is made, by a person authorized by section 2 of this act or otherwise authorized by law, or by a person, corporation, partnership, or limited liability company not a party to the action specially appointed by the court for that purpose.

(2) Service by certified mail shall be made by plaintiff or plaintiff's attorney.

Sec. 2. (1) In any county which does not have a person contracted as a constable pursuant to section 25-2229, any person twenty-one years of age or older or a corporation, partnership, or limited liability company that satisfies the requirements of subsection (2) of this section shall have the same power as a sheriff to execute any service of process or order.

(2) Any person or entity may exercise the powers provided in subsection (1) of this section if such person or entity (a) is not a party to the action, (b) is not related to a party to the action, (c) does not have an interest in the action, (d) is not a public official employed by the county where service is made whose duties include service of process, and (e) furnishes a good and sufficient corporate surety bond in the sum of fifteen thousand dollars, such bond being conditioned upon such person or entity faithfully and truly performing the duties of process server.

(3) Evidence of the corporate surety bond shall be provided to the clerk of each court in which such person or entity executes service of process or orders. Such person or entity is not required to furnish more than one bond to execute service of process or orders in any state court in the State of Nebraska. When service of process is made by such person or entity authorized by this section, proof of such service of process shall be shown by an affidavit.

(4) The cost of service of process is taxable as a court cost, and when service of process is made by such person or entity other than a sheriff the cost taxable as a court cost is the lesser of the actual amount incurred for service of process or orders or the statutory fee set for sheriffs in section 33-117.

Sec. 3. Section 25-2229, Reissue Revised Statutes of Nebraska, is amended to read:

25-2229. (1) In counties having a population of one hundred thousand or more inhabitants, each judge of the county court may contract with one constable for purposes of serving or otherwise executing, according to law, and returning writs or other legal process. Such constables shall not be considered employees of the state or its political subdivisions. Notwithstanding any other provision of law, the terms of such contract shall be prescribed by the State Court Administrator.

(2) In counties having more than one contracted constable, the party requesting the constable to serve or otherwise execute any legal process may designate by name the constable who shall serve or otherwise execute such legal process.

Sec. 4. Original sections 25-506.01 and 25-2229, Reissue Revised Statutes of Nebraska, are repealed.