

## LEGISLATIVE BILL 1120

Approved by the Governor March 21, 1972

Introduced by Judiciary Committee, Roland Luedtke, 28th District, Chairman; Harold D. Simpson, 46th District; Walter H. Epke, 24th District; John W. DeCamp, 40th District; Fred W. Carstens, 30th District; Ernest Chambers, 11th District; Terry Carpenter, 48th District; P. J. Morgan, 4th District

AN ACT to establish proceedings in forma pauperis in the State of Nebraska; to provide for violations; and to declare an emergency.

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

Section 1. Any court of the State of Nebraska, or of any county or municipality shall authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security, by a person who makes an affidavit that he is unable to pay such costs or give security. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

Sec. 2. In any civil or criminal case the court shall, upon filing of a like affidavit, direct the responsible officer of the court to issue and serve all the necessary writs, process and proceedings, and perform all such duties without charge.

Sec. 3. In any civil or criminal case the court shall, upon filing of a like affidavit, direct that the expense of process by publication, if such process is required by the court, be paid by the county in the same manner as other claims are paid.

Sec. 4. In any civil or criminal case the court may, upon the filing of a like affidavit, order witnesses to be subpoenaed, if the court finds that they have evidence material and necessary to the case, and that they are within the judicial district in which the court is held, or within one hundred miles of the place of trial. In such case the process and the fees of the witnesses shall be paid by the county in the same manner

as other claims are paid.

Sec. 5. In civil or criminal case the court shall, upon filing of a like affidavit, direct that the expenses of printing the record on appeal, if such printing is required by the appellate court, be paid by the county in the same manner as other claims are paid.

Sec. 6. In any civil or criminal case the court shall, upon filing of a like affidavit, order transcripts to be furnished without cost if the suit or appeal is not frivolous, but presents a substantial question, and if the transcript is needed to prepare, present or decide the issue presented by the suit or appeal. Such costs shall be paid by the county in the same manner as other claims are paid.

Sec. 7. In any civil or criminal case on appeal, upon the filing of a like affidavit, the court shall direct that the expense of printing of the appellate briefs, if such printing is required by the court, be paid by the county in the same manner as other claims are paid.

Sec. 8. The court may dismiss the case or permit the affiant to proceed upon payment of costs if the allegation of poverty is untrue, or if the court is satisfied that the action is frivolous or malicious.

Sec. 9. In the event any person prosecutes or defends an action or proceeding in forma pauperis successfully, any and all cost deferred by the court under the provisions of this act shall be first satisfied out of any money paid in satisfaction of judgment.

Sec. 10. Anyone who fraudulently invokes the privileges of this act shall be guilty of perjury and shall, upon conviction thereof, be punished as provided in section 28-701, Reissue Revised Statutes of Nebraska, 1943.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.