

LEGISLATIVE BILL 773

Approved by the Governor March 12, 1984

Introduced by Wesely, 26

AN ACT relating to criminal procedure; to amend section 29-901, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to appearance bonds; and to repeal the original section.

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

Section 1. That section 29-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-901. Any bailable defendant shall be ordered released from custody pending judgment, on his or her personal recognizance, unless the judge determines in the exercise of his or her discretion that such a release will not reasonably assure the appearance of the defendant as required. When such determination is made, the judge shall either in lieu of or in addition to such a release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

(1) Place the defendant in the custody of a designated person or organization agreeing to supervise ~~him~~ the defendant;

(2) Place restrictions on the travel, association, or place of abode of the defendant during the period of such release;

(3) Require, at the option of any bailable defendant, either of the following:

(a) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten per cent of the amount of the bond, ninety per cent of such deposit to be returned to the defendant upon the performance of the appearance or appearances, and ten per cent to be retained by the clerk as appearance bond costs, except that when no charge is subsequently filed against the defendant or if the charge or charges which are filed are dropped before the appearance of the defendant which the bond was to assure, the entire deposit shall be returned to the defendant. In no event shall the deposit be less than twenty-five dollars; or

(b) The execution of a bail bond with such surety or sureties as ~~to such judge~~ shall seem proper to the judge or, in lieu of such surety or sureties, at the option of such person, a cash deposit of such sum so fixed,

conditioned for his or her appearance before the proper court, to answer the offense with which wherewith he or she may be charged, and to appear at such times thereafter as may be ordered by the proper court. If the amount of bail is deemed insufficient by the court before whom which the offense is pending, the court may order an increase of such bail and the defendant must provide the additional undertaking, written or cash, to secure his or her release. All recognizances in criminal cases shall be in writing and be continuous from term to term until final judgment of the court in such cases and shall also extend, when the court has suspended execution of sentence for a limited time, as provided in section 29-2202, or, when the court has suspended execution of sentence to enable the defendant to apply for a writ of error to the Supreme Court, as provided in section 29-2301, until the period of suspension has expired. When two or more indictments or informations are returned against the same person at the same term of court, the recognizance given may be made to include all offenses charged therein. Each surety on such recognizance shall be required to justify under oath in a sum twice the amount of such recognizance and give the description of real estate owned by him or her of a value above encumbrance equal to the amount of such justification, and shall name all other cases pending in which he or she is a surety. No one shall be accepted as surety on recognizance aggregating a sum in excess of his or her equity in the his real estate, but such recognizance shall not constitute a lien on the real estate described therein until judgment is entered thereon against such surety; or

(4) Impose any other condition deemed reasonably necessary to assure appearances as required, including a condition requiring that the defendant return to custody after specified hours.

Sec. 2. That original section 29-901, Reissue Revised Statutes of Nebraska, 1943, is repealed.