

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 103
Final Reading

Introduced by Lathrop, 12.

Read first time January 10, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend section 24-734, Reissue
2 Revised Statutes of Nebraska, and section 43-278, Revised
3 Statutes Cumulative Supplement, 2012; to change
4 provisions relating to judges' general powers; to
5 harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 24-734, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 24-734 (1) A judge of any court ~~of this state,~~
4 established under the laws of the State of Nebraska, ~~at chambers~~
5 ~~anywhere within the state,~~ shall, in any case in which that judge is
6 authorized to act, have power to exercise the powers conferred upon a
7 the judge and upon a court, and specifically to:

8 (a) Upon the stipulation of the parties to an action,
9 hear and determine any matter, including the trial of an equity case
10 or case at law in which a jury has been waived;

11 (b) Hear and determine pretrial and posttrial matters in
12 civil cases not involving testimony of witnesses by oral examination;

13 (c) With the consent of the defendant, receive pleas of
14 guilty and pass sentences in criminal cases;

15 (d) With the consent of the defendant, hear and determine
16 pretrial and posttrial matters in criminal cases;

17 (e) Hear and determine cases brought by petition in error
18 or appeal not involving testimony of witnesses by oral examination;

19 (f) Hear and determine any matter in juvenile cases with
20 the consent of the guardian ad litem or attorney for the minor, the
21 other parties to the proceedings, and the attorneys for those
22 parties, if any; and

23 (g) Without notice, make any order and perform any act
24 which may lawfully be made or performed by him or her ex parte ~~in~~
25 ~~open court~~ in any action or proceeding which is on file in any

1 district of this state. ~~;~~ and

2 ~~(h) Render any judgment or make any order at any location~~
3 ~~even though the action is pending in a county other than the place in~~
4 ~~which the judge is physically present.~~

5 (2) A judgment or order made pursuant to this section
6 shall be deemed effective when the judgment is entered in accordance
7 with the provisions of subsection (3) of section 25-1301.

8 (3) The judge, in his or her discretion, may in any
9 proceeding authorized by the provisions of this section not involving
10 testimony of witnesses by oral examination, use telephonic,
11 videoconferencing, or similar methods to conduct such proceedings.
12 The court may require the parties to make reimbursement for any
13 ~~telephone~~ charges incurred.

14 (4) A judge, in any case with the consent of the parties,
15 may permit any witness who is to be examined by oral examination to
16 appear by telephonic, videoconferencing, or similar methods, with any
17 costs thereof to be taxed as costs.

18 ~~(4)-(5)~~ The enumeration of the powers in subsections (1),
19 (2), ~~and~~ (3), and (4) of this section shall not be construed to deny
20 the right of a party to trial by jury in the county in which the
21 action was first filed if such right otherwise exists.

22 ~~(5)-(6)~~ Nothing in this section shall be construed to
23 exempt proceedings under this section from the provisions of the
24 Guidelines for Use by Nebraska Courts in Determining When and Under
25 What Conditions a Hearing Before Such Court May Be Closed in Whole or

1 in Part to the Public, adopted by the Supreme Court of the State of
2 Nebraska September 8, 1980, and any amendments to those provisions.

3 Sec. 2. Section 43-278, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 43-278 Except as provided in sections 43-254.01 and
6 43-277.01, all cases filed under subdivision (3) of section 43-247
7 shall have an adjudication hearing not more than ninety days after a
8 petition is filed. Upon a showing of good cause, the court may
9 continue the case beyond the ninety-day period. The court shall also
10 review every case filed under such subdivision which has been
11 adjudicated or transferred to it for disposition not less than once
12 every six months. All communications, notices, orders,
13 authorizations, and requests authorized or required in the Nebraska
14 Juvenile Code; all nonevidentiary hearings; and any evidentiary
15 hearings approved by the court and by stipulation of all parties may
16 be heard by the court telephonically or by videoconferencing in a
17 manner that ensures the preservation of an accurate record. All of
18 the orders generated by way of a telephonic or videoconference
19 hearing shall be recorded as if the judge were conducting a hearing
20 on the record. ~~Telephonic and videoconference hearings allowed under
21 this section shall not be in conflict with section 24-734.~~

22 Sec. 3. Original section 24-734, Reissue Revised Statutes
23 of Nebraska, and section 43-278, Revised Statutes Cumulative
24 Supplement, 2012, are repealed.