

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 527

Introduced by Morfeld, 46.

Read first time January 18, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to civil procedure; to amend section 25-1225,
- 2 Reissue Revised Statutes of Nebraska; to provide for the subpoena of
- 3 records in certain cases; and to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-1225, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 25-1225 (1) When the attendance of a witness before any officer
4 authorized to take depositions is required, the subpoena shall be issued
5 by such officer.

6 (2)(a) A person who expects to be a party to an action cognizable in
7 a court of this state but is presently unable to bring it or cause it to
8 be brought and who desires to access state or political subdivision
9 records, including video and audio recordings, or nongovernmental
10 records, limited to video or audio surveillance recordings, may file a
11 complaint, verified by affidavit of the complainant or his or her
12 attorney, in the district court in the judicial district of the residence
13 of any expected adverse party. The complaint shall be entitled in the
14 name of the complainant and shall show:

15 (i) That the complainant expects to be a party to an action
16 cognizable in a court of this state but is presently unable to bring it
17 or cause it to be brought;

18 (ii) The subject matter of the expected action and the complainant's
19 interest therein;

20 (iii) The facts which the complainant desires to establish by the
21 proposed records and his or her reasons for desiring to perpetuate it;

22 (iv) The names or a description of the persons the complainant
23 expects will be adverse parties and their addresses, so far as known; and

24 (v) The names and addresses of the custodian of the records.

25 The complaint shall ask for an order authorizing the complainant to
26 take the records described in the complaint.

27 (b) The complainant shall thereafter serve a notice upon each person
28 named in the complaint as an expected adverse party, together with a copy
29 of the complaint, stating that the complainant will apply to the court,
30 at a time and place named therein, for the order described in the
31 complaint. At least twenty days before the date of hearing, the notice

1 shall be served in the manner provided for service of summons, but if
2 such service cannot with due diligence be made upon any expected adverse
3 party named in the complaint, the court shall order service by
4 publication in the manner provided in the Nebraska Court Rules of
5 Discovery in Civil Cases promulgated by the Supreme Court and shall
6 appoint, for persons not served in the manner provided for service of
7 summons, an attorney who shall represent such adverse party. If any
8 expected adverse party is a minor or incompetent, section 25-309 shall
9 apply.

10 (c) If the court is satisfied that the subpoena of records may
11 prevent a failure or delay of justice, it shall make an order designating
12 or describing the records subject to the subpoena.

13 (d) If the records subpoenaed under this section would be admissible
14 in evidence in the courts of this state, such records may be used in any
15 action involving the same subject matter subsequently brought in a court
16 of competent jurisdiction in this state, in accordance with the Nebraska
17 Court Rules of Discovery in Civil Cases.

18 Sec. 2. Original section 25-1225, Reissue Revised Statutes of
19 Nebraska, is repealed.