

CHAPTER 122.

[H. B. No. 188—Moen of Benson]

LIST OF JURORS TO CLERK OF THE COURT.

AN ACT to Amend Section 521 of the Revised Codes of 1905 Relating to the Furnishing of a List of Jurors to the Clerk of the District Court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 521 of the Revised Codes of 1905 is hereby amended to read as follows:

§ 521. AUDITOR FURNISHING LIST TO CLERK OF COURT.] Such clerk or auditor shall immediately thereafter forward by mail to the clerk of the district court of his county a list of the names so drawn with the post office address of each person named in such list; and the clerk of the district court shall make out and record in a book to be kept for that purpose, a list of the names so forwarded to him together with such post office addresses, but a failure of the officers of any township, city or village to comply with the provisions of the foregoing section shall not invalidate such list.

Approved March 3, 1911.

DESERTION AND NON-SUPPORT

CHAPTER 123.

[S. B. No. 174—Bessesen]

DESERTION AND NON-SUPPORT OF FAMILY.

AN ACT Relating to Desertion and Non-support of Wife by Husband, or of Children by Either Father or Mother and Providing Punishment Therefor; and Providing for Manner of Procedure and Evidence Required in Such Cases; and to Promote Uniformity Between the States in Reference Thereto.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DESERTION OR REFUSAL TO SUPPORT BY HUSBAND OR PARENT. PENALTY.] That any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessary circumstances, or any parent who shall, without lawful excuse, desert or wil-

fully neglect or refuse to provide for the support and maintenance of his or her child or children under the age of sixteen years in destitute or necessitous circumstances, shall be guilty of a crime and, on conviction thereof, shall be punished by imprisonment in the state penitentiary for a period not to exceed three years, by fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year, or both, with or without hard labor, in the discretion of the court.

§ 2. PROCEEDINGS, HOW INSTITUTED.] Proceedings under this act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person, against any person guilty of either of the above named offences.

§ 3. TEMPORARY ORDER FOR SUPPORT.] At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court, or a judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children, or both, pendente lite, and may punish for violation of such order as for contempt.

§ 4. ORDER FOR PERIODICAL PAYMENTS. RELEASE ON PROBATION. RECOGNIZANCE.] Before the trial, with the consent of the defendant, or at the trial on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding two years, to the wife or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee, and shall also have the power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a judge thereof in vacation, may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall further comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise in full force and effect.

§ 5. HOW TRIAL PROCEEDED WITH, AND HOW SUSPENDED SENTENCE ENFORCED. FORFEITURE, TO WHOM PAID.] If the court be satisfied by information and due proof under oath, that at any time during said period of two years the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of recognizance,

and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife or to the guardian, curator, custodian or trustee of the said minor child or children.

§ 6. EVIDENCE REQUIRED. CONFIDENTIAL COMMUNICATIONS. INCRIMINATING EVIDENCE. PROOF OF DESERTION OR NEGLECT.] No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In no prosecution under this act shall any existing statute or rule of law prohibiting the disclosure of confidential communications between husband and wife apply, and both husband and wife shall be competent witnesses to testify against each other to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; provided, that neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children, shall be prima facie evidence that such desertion, neglect or refusal is wilful.

§ 7. PAYMENT OF EARNINGS OF PERSONS INCARCERATED.] It shall be the duty of the sheriff, warden, or other official in charge of county jail, or of the custodian of the reformatory, workhouse, or house of correction in which any person is confined on account of a sentence at hard labor, under this act, to pay over to the wife, or to the guardian, curator or custodian of his or her minor child or children; or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, the net earnings in a sum equal to not less than fifty cents for each day's hard labor performed by said person so confined.

§ 8. ACT, HOW INTERPRETED.] This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 9. REMEDIES CUMULATIVE.] The provisions of this act shall be construed as cumulative and not exclusive.

Approved March 3, 1911.