

AMENDMENTS TO LB245

Introduced by Harr, 8.

1 1. Insert the following new section:

2 Section 1. Section 29-2102, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-2102 (1) The grounds set forth in subdivisions (2), (3), and (6)
5 of section 29-2101 shall be supported by affidavits showing the truth of
6 such grounds, and the grounds may be controverted by affidavits. The
7 ground set forth in subdivision (5) of section 29-2101 shall be supported
8 by evidence of the truth of the ground in the form of affidavits,
9 depositions, or oral testimony.

10 (2) If the motion for new trial and supporting documents fail to set
11 forth sufficient facts, the court may, on its own motion, dismiss the
12 motion without a hearing. If the motion for new trial and supporting
13 documents set forth facts which, if true, would materially affect the
14 substantial rights of the defendant, the court shall cause notice of the
15 motion to be served on the prosecuting attorney, grant a hearing on the
16 motion, and determine the issues and make findings of fact and
17 conclusions of law with respect thereto.

18 (3) In considering a motion for new trial based on the grounds set
19 forth in subdivision (5) of section 29-2101, if the court finds that
20 there is evidence materially affecting the substantial rights of the
21 defendant which he or she could not with reasonable diligence have
22 discovered and produced at trial, the court may, on its own motion or
23 upon the motion of any party, vacate and set aside the judgment and
24 release the person from custody or grant a new trial as appropriate.

25 2. Renumber the remaining sections and correct the repealer
26 accordingly.