

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 649

Introduced by Kiel, 9

Read first time January 19, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the juvenile code; to amend section 43-272,
2 Reissue Revised Statutes of Nebraska; to change guardian
3 ad litem appointment provisions; and to repeal the
4 original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-272, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 43-272. (1) When any juvenile ~~shall be~~ is brought
4 without counsel before a juvenile court, the court shall advise
5 such juvenile and his or her parent or guardian of their right to
6 retain counsel and shall inquire of such juvenile and his or her
7 parent or guardian as to whether they desire to retain counsel.
8 The court shall inform such juvenile and his or her parent or
9 guardian of such juvenile's right to counsel at county expense if
10 none of them is able to afford counsel. If the juvenile or his or
11 her parent or guardian desires to have counsel appointed for such
12 juvenile, or the parent or guardian of such juvenile cannot be
13 located, and the court ascertains that none of such persons are
14 able to afford an attorney, the court shall forthwith appoint an
15 attorney to represent such juvenile for all proceedings before the
16 juvenile court, except that if an attorney is appointed to
17 represent such juvenile and the court later determines that a
18 parent of such juvenile is able to afford an attorney, the court
19 shall order such parent or juvenile to pay for services of the
20 attorney to be collected in the same manner as provided by section
21 43-290. If the parent willfully refuses to pay any such sum, the
22 court may commit him or her for contempt, and execution may issue
23 at the request of the appointed attorney or the county attorney or
24 by the court without a request.

25 (2) The court, on its own motion or upon application of a
26 party to the proceedings, shall appoint a guardian ad litem for the
27 juvenile: (a) If the juvenile has no parent or guardian of his or
28 her person or if the parent or guardian of the juvenile cannot be

1 located or cannot be brought before the court; (b) if the parent or
2 guardian of the juvenile is excused from participation in all or
3 any part of the proceedings; (c) if the parent is a juvenile or an
4 incompetent; (d) if the parent is indifferent to the interests of
5 the juvenile; or (e) in any proceeding pursuant to the provisions
6 of subdivision (3)(a) of section 43-247.

7 A guardian ad litem ~~shall have~~ has the duty to protect
8 the interests of the juvenile for whom he or she has been appointed
9 guardian, and shall be deemed a parent of the juvenile as to those
10 proceedings with respect to which his or her guardianship extends.

11 (3) ~~Except in cases when there are special reasons why a~~
12 ~~particular layperson would be the most appropriate guardian ad~~
13 ~~litem for the juvenile, the court shall~~ The court may appoint an
14 attorney or a layperson as guardian ad litem. A guardian ad litem
15 who is an attorney shall act as his or her own counsel and as
16 counsel for the juvenile, unless there are special reasons in a
17 particular case why the guardian ad litem or the juvenile or both
18 should have counsel in addition to the guardian ad litem. In such
19 cases and in cases when the guardian ad litem appointed by the
20 court is not an attorney, the guardian ad litem shall have the
21 right to counsel, except that the guardian ad litem ~~shall be~~ is
22 entitled to appointed counsel without regard to his or her
23 financial ability to retain counsel. Whether such appointed
24 counsel shall be provided at the cost of the county ~~shall be~~ is
25 determined as provided in subsection (1) of this section.

26 Sec. 2. Original section 43-272, Reissue Revised
27 Statutes of Nebraska, is repealed.