

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED SECOND LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 669**

Final Reading

Introduced by Flood, 19.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 20-159, 24-502,  
 2 24-507, 24-515, 25-508.01, 25-509.01, 25-510.02,  
 3 25-511.02, 25-512.01, 25-513.01, 25-514.01, 25-2221,  
 4 25-2406, 25-2705, 25-2805, 29-404, 29-1603, 29-2259, and  
 5 42-361, Reissue Revised Statutes of Nebraska, and  
 6 sections 25-505.01, 25-506.01, 25-507.01, 32-524, and  
 7 43-258, Revised Statutes Cumulative Supplement, 2010; to  
 8 change provisions relating to funding for court-appointed  
 9 interpreters, service of process, court offices, demand  
 10 for jury trials, Small Claims Court proceedings, certain  
 11 filing requirements, clerks of the district court,  
 12 proceedings for dissolution of marriage, and evaluation  
 13 and placement of juveniles; to eliminate provisions  
 14 relating to divisions of the county court; to provide for  
 15 agreements for sharing staff and providing services  
 16 between county courts and district courts; to provide for

1           judicial hearing officers for juvenile courts; to provide  
2           powers and duties; to harmonize provisions; to provide  
3           operative dates; to repeal the original sections; to  
4           outright repeal section 24-512, Reissue Revised Statutes  
5           of Nebraska; and to declare an emergency.  
6    Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 20-159, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           20-159 A licensed interpreter appointed pursuant to  
4 sections 20-150 to 20-159 is entitled to a fee for professional  
5 services and other relevant expenses as approved by the governing  
6 body of the appointing authority. When the licensed interpreter is  
7 appointed by a court, the fee shall be paid out of the General Fund  
8 with funds appropriated to the Supreme Court for that purpose or from  
9 funds, including grant money, made available to the Supreme Court for  
10 such purpose. When the licensed interpreter is appointed by an  
11 appointing authority other than a court, the fee shall be paid out of  
12 funds available to the governing body of the appointing authority.

13           Sec. 2. Section 24-502, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           24-502 There shall be a county court in and for each  
16 county in this state. The county court shall be a court of record and  
17 shall be located at the county seat. ~~Divisions of the court may be~~  
18 ~~established in any other city or village within the county as~~  
19 ~~provided in section 24-512.~~

20           Sec. 3. Section 24-507, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           24-507 (1) There shall be appointed a clerk magistrate to  
23 serve each county. Clerk magistrates shall be appointed by the county  
24 judge, or judges if the district has more than one county judge, and  
25 shall serve at the pleasure of the county judge or judges, subject to

1 personnel rules adopted by the Supreme Court.

2 (2) The clerk magistrate shall be the clerk of the county  
3 court and if appointed as clerk magistrate for more than one county  
4 shall be the clerk of the county court for each county.

5 (3) In counties when the district court clerk or staff is  
6 temporarily unavailable, the clerk magistrate as clerk of the county  
7 court shall, under the direction of the district court judge and in  
8 cooperation and agreement with the Supreme Court, State Court  
9 Administrator, and clerk of the district court, assist the clerk of  
10 the district court in the provision of district court services which  
11 would otherwise require the presence of district court staff. Any  
12 agreement entered into under this subsection must be signed and  
13 stipulated to by the State Court Administrator, the county board, and  
14 the clerk of the district court after obtaining input from the clerk  
15 of the county court, a district court judge, a county court judge,  
16 and the county attorney. Any agreement entered into under this  
17 subsection may include, but is not limited to, financial  
18 considerations and scheduling.

19 (4) When an agreement has been reached pursuant to  
20 subdivision (1)(b) of section 32-524 or subsection (3) of section  
21 32-524 for a clerk magistrate as clerk of the county court to be ex  
22 officio clerk of the district court, the clerk magistrate shall  
23 perform the duties required by law of the clerk of the district court  
24 under the direction of the district court judge for the county and  
25 the State Court Administrator.

1           Sec. 4. Section 24-515, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           24-515 Each county shall be responsible for all costs  
4 involved in establishing, furnishing, and maintaining appropriate  
5 courtroom and office facilities for the county court at the county  
6 seat. On July 1, 1985, the courtroom and office facilities of a  
7 municipal court shall be transferred, by sale, lease, or other  
8 arrangement, from cities of the metropolitan or primary class to the  
9 county responsible pursuant to this section for the establishing,  
10 furnishing, and maintaining of courtroom and office facilities for  
11 the county court at the county seat. Payments by a city and county on  
12 the bonded indebtedness on any facility constructed for joint use by  
13 a city and county shall continue in the same manner and in the same  
14 proportionate shares as payments made prior to July 1, 1985, subject  
15 to any sale, lease, or other arrangement pursuant to this section.  
16 All other property, equipment, books, and records of the municipal  
17 courts shall be transferred on July 1, 1985, to the county court.  
18 ~~When a division of the county court is established at a location~~  
19 ~~other than the county seat, the city or village in which such~~  
20 ~~division is located shall be responsible for all costs involved in~~  
21 ~~establishing, furnishing, and maintaining appropriate courtroom and~~  
22 ~~office facilities for such division.~~

23           The Supreme Court shall prescribe minimum standards for  
24 all courtroom and office facilities. The Supreme Court may establish  
25 standards by class of county, based on population, caseload, and

1 other pertinent factors.

2           Sec. 5. When the clerk of the county court or the county  
3 court staff are temporarily unavailable or available on less than a  
4 full-time basis, the clerk of the district court shall, under the  
5 direction of the county court judge and in cooperation and agreement  
6 with the Supreme Court and State Court Administrator, assist the  
7 clerk of the county court in the provision of county court services  
8 which would otherwise require the presence of county court staff. Any  
9 agreement entered into under this section must be signed and  
10 stipulated to by the State Court Administrator, the county board, and  
11 the clerk of the district court after obtaining input from the clerk  
12 of the county court, a district court judge, a county court judge,  
13 and the county attorney. Any agreement entered into under this  
14 section may include, but is not limited to, financial considerations  
15 and scheduling.

16           Sec. 6. (1) The Supreme Court may appoint judicial  
17 hearing officers as needed to serve on a full-time or part-time basis  
18 for county courts sitting as juvenile courts and for separate  
19 juvenile courts. A judicial hearing officer is entitled to receive a  
20 salary as established by the Supreme Court.

21           (2) In accordance with the rules of the Supreme Court, a  
22 judicial hearing officer may preside in, hear, and determine any case  
23 or proceeding initiated under the Nebraska Juvenile Code.

24           (3) To be qualified for appointment as a judicial hearing  
25 officer, a person shall be an attorney in good standing admitted to

1 the practice of law in the State of Nebraska and shall meet any other  
2 requirements imposed by the Supreme Court. A judicial hearing officer  
3 shall be sworn or affirmed to faithfully hear and examine the cause  
4 and to make a just and true report according to the best of his or  
5 her understanding. The oath or affirmation may be administered by any  
6 judge of the State of Nebraska. A judicial hearing officer may be  
7 removed at any time by the Supreme Court.

8 (4) In any and all cases referred to a judicial hearing  
9 officer by a county court sitting as a juvenile court or a separate  
10 juvenile court, the parties shall have the right to take exceptions  
11 to the findings and recommendations made by the hearing officer and  
12 to have a further hearing before such court for final disposition.  
13 The court upon receipt of the findings, recommendations, and  
14 exceptions shall review the judicial hearing officer's report and may  
15 accept or reject all or any part of the report and enter judgment  
16 based on the court's own determination.

17 (5) The Supreme Court shall promulgate rules for all  
18 other qualifications of judicial hearing officers; for the extent of  
19 authority which may be assigned and the procedure for assignment of  
20 authority by a county court sitting as a juvenile court or a separate  
21 juvenile court; for practice and procedure before such judicial  
22 hearing officers; and for the training of judicial hearing officers,  
23 including rules for training sessions and continuing education  
24 requirements.

25 Sec. 7. Section 25-505.01, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 25-505.01 (1) Unless otherwise limited by statute or by  
3 the court, a plaintiff may elect to have service made by any of the  
4 following methods:

5 (a) Personal service which shall be made by leaving the  
6 summons with the individual to be served;

7 (b) Residence service which shall be made by leaving the  
8 summons at the usual place of residence of the individual to be  
9 served, with some person of suitable age and discretion residing  
10 therein;

11 (c) Certified mail service which shall be made by (i)  
12 within ten days of issuance, sending the summons to the defendant by  
13 certified mail with a return receipt requested showing to whom and  
14 where delivered and the date of delivery, and (ii) filing with the  
15 court proof of service with the signed receipt attached; or

16 ~~(d) By depositing with a designated delivery service~~  
17 ~~authorized pursuant to 26 U.S.C. 7502(f)(2) a copy of the summons and~~  
18 ~~complaint, addressed to the party to be served, delivering to the~~  
19 ~~addressee, and obtaining a delivery receipt. As used in this~~  
20 ~~subdivision, delivery receipt includes an electronic or facsimile~~  
21 ~~receipt.~~

22 (d) Designated delivery service which shall be made by  
23 (i) within ten days of issuance, sending the summons by a designated  
24 delivery service to the defendant, (ii) obtaining a signed delivery  
25 receipt showing to whom and where delivered and the date of delivery,



1 and (iii) filing with the court proof of service with a copy of the  
2 signed delivery receipt attached. As used in this subdivision, a  
3 designated delivery service means a delivery service designated as  
4 such pursuant to 26 U.S.C. 7502(f) and a signed delivery receipt  
5 includes an electronic or facsimile receipt with an image of the  
6 recipient's signature.

7 (2) Failure to make service by the method elected by the  
8 plaintiff does not affect the validity of the service.

9 (3) The State Court Administrator shall maintain on the  
10 web site of the Supreme Court a list of designated delivery services.

11 Sec. 8. Section 25-506.01, Revised Statutes Cumulative  
12 Supplement, 2010, is amended to read:

13 25-506.01 (1) Unless the plaintiff has elected certified  
14 mail service or designated delivery service, the summons shall be  
15 served by the sheriff of the county where service is made, by a  
16 person authorized by section 25-507 or otherwise authorized by law,  
17 or by a person, corporation, partnership, or limited liability  
18 company not a party to the action specially appointed by the court  
19 for that purpose.

20 (2) Certified mail service or designated delivery service  
21 shall be made by the plaintiff or plaintiff's attorney.

22 Sec. 9. Section 25-507.01, Revised Statutes Cumulative  
23 Supplement, 2010, is amended to read:

24 25-507.01 (1) Within twenty days after the date of issue,  
25 the person serving the summons, other than by certified mail service

1 or designated delivery service, shall make proof of service to the  
2 court stating the time, place, including the address if applicable,  
3 name of the person with whom the summons was left, and method of  
4 service, or return the unserved summons to the court with a statement  
5 of the reason for the failure to serve.

6 (2) When service is by certified mail service or  
7 designated delivery service, the plaintiff or plaintiff's attorney  
8 shall file proof of service within ten days after ~~return of the~~  
9 signed receipt is received or is available electronically, whichever  
10 occurs first.

11 (3) Failure to make proof of service or delay in doing so  
12 does not affect the validity of the service.

13 Sec. 10. Section 25-508.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 25-508.01 (1) An individual party, other than a person  
16 under the age of fourteen years, may be served by personal,  
17 residence, ~~or certified mail,~~ or designated delivery service.

18 (2) A party under the age of fourteen years may be served  
19 by personal, residence, ~~or certified mail,~~ or designated delivery  
20 service upon an adult person with whom the minor resides and who is  
21 the minor's parent, or guardian, or the person having care of the  
22 minor. If none of these can be found, a party under the age of  
23 fourteen years may be served by personal service.

24 (3) If the person to be served is an incapacitated person  
25 for whom a conservator or guardian has been appointed or is confined

1 in any institution, notice of the service shall be given to the  
2 conservator, or guardian, or the superintendent or similar official  
3 of the institution. Failure to give such notice does not affect the  
4 validity of the service on the incapacitated person.

5 Sec. 11. Section 25-509.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 25-509.01 A corporation may be served by personal,  
8 residence, ~~or certified mail~~, or designated delivery service upon any  
9 officer, director, managing agent, or registered agent, or by leaving  
10 the process at the corporation's registered office with a person  
11 employed therein, or by certified mail or designated delivery service  
12 to the corporation's registered office.

13 Sec. 12. Section 25-510.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 25-510.02 (1) The State of Nebraska, any state agency as  
16 defined in section 81-8,210, and any employee of the state as defined  
17 in section 81-8,210 sued in an official capacity may be served by  
18 leaving the summons at the office of the Attorney General with the  
19 Attorney General, deputy attorney general, or someone designated in  
20 writing by the Attorney General, or by certified mail or designated  
21 delivery service addressed to the office of the Attorney General.

22 (2) Any county, city, or village of this state may be  
23 served by personal, residence, ~~or certified mail~~, or designated  
24 delivery service upon the chief executive officer, or clerk.

25 (3) Any political subdivision of this state, as defined

1 in subdivision (1) of section 13-903, other than a county, city, or  
2 village, may be served by personal, residence, ~~or~~ certified mail, or  
3 designated delivery service upon the chief executive officer, clerk,  
4 secretary, or other official whose duty it is to maintain the  
5 official records, or any member of the governing board or body, or by  
6 certified mail or designated delivery service to the principal office  
7 of the political subdivision.

8           Sec. 13. Section 25-511.02, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           25-511.02 A dissolved corporation may be served by  
11 personal, residence, ~~or~~ certified mail, or designated delivery  
12 service upon any appointed receiver. If there is no receiver, a  
13 dissolved corporation may be served by personal, residence, ~~or~~  
14 certified mail, or designated delivery service upon any person who at  
15 the time of dissolution was an officer, director, managing agent, or  
16 registered agent, or upon any officer or director designated in the  
17 last annual report filed with the Secretary of State.

18           Sec. 14. Section 25-512.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           25-512.01 A partnership or limited partnership may be  
21 served by personal, residence, ~~or~~ certified mail, or designated  
22 delivery service upon any partner except a limited partner, or by  
23 certified mail or designated delivery service at its usual place of  
24 business, or the process may be left at its usual place of business  
25 with an employee of the partnership or limited partnership.

1           Sec. 15. Section 25-513.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           25-513.01 An unincorporated association may be served by  
4 personal, residence, ~~or~~ certified mail, or designated delivery  
5 service upon an officer or managing agent, or by certified mail or  
6 designated delivery service to the association at its usual place of  
7 business, or by leaving the process at its usual place of business  
8 with an employee of the unincorporated association.

9           Sec. 16. Section 25-514.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           25-514.01 Any party may be served by personal, residence,  
12 ~~or~~ certified mail, or designated delivery service upon an agent  
13 authorized by appointment or by law to receive service of process.

14           Sec. 17. Section 25-2221, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           25-2221 Except as may be otherwise more specifically  
17 provided, the period of time within which an act is to be done in any  
18 action or proceeding shall be computed by excluding the day of the  
19 act, event, or default after which the designated period of time  
20 begins to run. The last day of the period so computed shall be  
21 included unless it is a Saturday, a Sunday, or a day during which the  
22 offices of courts of record may be legally closed as provided in this  
23 section, in which event the period shall run until the end of the  
24 next day on which the office will be open.

25           All courts and their offices may be closed on Saturdays,

1 Sundays, days on which a specifically designated court is closed by  
2 order of the Chief Justice of the Supreme Court, and these holidays:  
3 New Year's Day, January 1; Birthday of Martin Luther King, Jr., the  
4 third Monday in January; President's Day, the third Monday in  
5 February; Arbor Day, the last Friday in April; Memorial Day, the last  
6 Monday in May; Independence Day, July 4; Labor Day, the first Monday  
7 in September; Columbus Day, the second Monday in October; Veterans  
8 Day, November 11; Thanksgiving Day, the fourth Thursday in November;  
9 the day after Thanksgiving; Christmas Day, December 25; and all days  
10 declared by law or proclamation of the Governor to be holidays. Such  
11 days shall be designated as nonjudicial days. If any such holiday  
12 falls on Sunday, the following Monday shall be a holiday. If any such  
13 holiday falls on Saturday, the preceding Friday shall be a holiday.  
14 ~~Court offices~~ services shall be ~~open~~ available on all other days. If  
15 the date designated by the state for observance of any legal holiday  
16 pursuant to this section, except Veterans Day, is different from the  
17 date of observance of such holiday pursuant to a federal holiday  
18 schedule, the federal holiday schedule shall be observed.

19           Sec. 18. Section 25-2406, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           25-2406 The fees and expenses of an interpreter shall be  
22 fixed and ordered paid by the judge before whom such proceeding takes  
23 place, in accordance with a fee schedule established by the Supreme  
24 Court, and be paid out of the General Fund with funds appropriated to  
25 the Supreme Court for that purpose or from other funds, including

1 grant money, made available to the Supreme Court for such purpose.

2           Sec. 19. Section 25-2705, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           25-2705 (1) Either party to any case in county court,  
5 except criminal cases arising under city or village ordinances,  
6 traffic infractions, other infractions, and any matter arising under  
7 the Nebraska Probate Code or the Nebraska Uniform Trust Code, may  
8 demand a trial by jury. In civil cases, the demand shall be in  
9 writing and shall be filed ~~on or before answer day except as~~  
10 otherwise provided in section 25-2805. with the court:

11           (a) By a plaintiff on the date the complaint is filed  
12 with the court;

13           (b) By a defendant on or before the date the answer is  
14 filed with the court;

15           (c) By a counterclaimant on the date the counterclaim is  
16 filed with the court;

17           (d) By a counterclaim defendant on or before the date the  
18 reply to the counterclaim is filed with the court;

19           (e) By a third-party plaintiff on the date the third-  
20 party complaint is filed with the court;

21           (f) By a third-party defendant on or before the date the  
22 answer to the third-party complaint is filed with the court;

23           (g) By a cross-claimant on the date the cross claim is  
24 filed with the court; and

25           (h) By a cross-claim defendant on or before the date the

1 answer to the cross-claim is filed with the court.

2           (2) All provisions of law relating to juries in the  
3 district courts shall apply to juries in the county courts, and the  
4 district court jury list shall be used, except that juries in the  
5 county courts shall consist of six persons.

6           Sec. 20. Section 25-2805, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           25-2805 All matters in the Small Claims Court shall be  
9 tried to the court without a jury. Except as provided in section  
10 25-2618.01, any defendant in an action or such defendant's attorney  
11 may transfer the case to the regular docket of the county court by  
12 giving notice to the court at least two days prior to the time set  
13 for the hearing. Upon such notice the case shall be transferred to  
14 the regular docket of the county court. ~~At the same time as such~~  
15 ~~notice is given to transfer the case, any defendant or such~~  
16 ~~defendant's attorney may demand trial by jury, and the Small Claims~~  
17 ~~Court shall forward the demand to the county court.~~ The party causing  
18 the transfer of a case from the Small Claims Court to the regular  
19 docket shall pay as a fee the difference between the fee for filing a  
20 claim in Small Claims Court and the fee for filing a claim on the  
21 regular docket.

22           In any action transferred to the regular docket, there  
23 shall be no ~~further pleadings, motions challenging pleadings, or~~  
24 ~~discovery~~ unless ordered by the court upon a showing that any such  
25 procedure is necessary to the prompt and just determination of the



1 action. In any action transferred to the regular docket, a defendant  
2 shall file an answer. Any jury demand in cases transferred from the  
3 Small Claims Court to county court shall be made within the  
4 timeframes provided in section 25-2705.

5           Sec. 21. Section 29-404, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           29-404 No complaint shall be filed with the magistrate,  
8 unless such complaint is in writing and ~~upon oath,~~ signed by the  
9 prosecuting attorney or by any other complainant. If the complainant  
10 ~~be~~ is a person other than the prosecuting attorney or a city or  
11 village attorney prosecuting the violation of a municipal ordinance,  
12 he or she shall either have the consent of the prosecuting attorney  
13 or shall furnish to the magistrate a bond with good and sufficient  
14 sureties in such amount as the magistrate shall determine to  
15 indemnify the person complained against for wrongful or malicious  
16 prosecution. Whenever a complaint shall be filed with the magistrate,  
17 charging any person with the commission of an offense against the  
18 laws of this state, it shall be the duty of such magistrate to issue  
19 a warrant for the arrest of the person accused, if he ~~shall have~~ or  
20 she has reasonable grounds to believe that the offense charged has  
21 been committed. The prosecuting attorney shall consent to the filing  
22 of such complaint if he or she is in possession of sufficient  
23 evidence to warrant the belief that the person named as defendant in  
24 such complaint is guilty of the crime alleged and can be convicted  
25 thereof. The Attorney General shall have the same power to consent to

1 the filing of complaints as the prosecuting attorneys have in their  
2 respective counties.

3 Sec. 22. Section 29-1603, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 29-1603 (1) All informations shall be ~~verified by the~~  
6 ~~oath of in writing and signed by the county attorney, complainant, or~~  
7 some other person, and the offenses charged therein shall be stated  
8 with the same fullness and precision in matters of substance as is  
9 required in indictments in like cases.

10 (2)(a) Any information charging a violation of section  
11 28-303 and in which the death penalty is sought shall contain a  
12 notice of aggravation which alleges one or more aggravating  
13 circumstances, as such aggravating circumstances are provided in  
14 section 29-2523. The notice of aggravation shall be filed as provided  
15 in section 29-1602. It shall constitute sufficient notice to describe  
16 the alleged aggravating circumstances in the language provided in  
17 section 29-2523.

18 (b) The state shall be permitted to add to or amend a  
19 notice of aggravation at any time up to and including the thirtieth  
20 day prior to the trial of guilt.

21 (c) The existence or contents of a notice of aggravation  
22 shall not be disclosed to the jury until after the verdict is  
23 rendered in the trial of guilt.

24 (3) Different offenses and different degrees of the same  
25 offense may be joined in one information, in all cases in which the

1 same might by different counts be joined in one indictment; and in  
2 all cases a defendant or defendants shall have the same right, as to  
3 proceedings therein, as the defendant or defendants would have if  
4 prosecuted for the same offense upon indictment.

5 Sec. 23. Section 29-2259, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 29-2259 (1) The salaries, actual and necessary expenses,  
8 and expenses incident to the conduct and maintenance of the office  
9 shall be paid by the state. Actual and necessary expenses shall be  
10 paid as provided in sections 81-1174 to 81-1177.

11 (2) The salaries and actual and necessary travel expenses  
12 of the probation service shall be paid by the state. Actual and  
13 necessary expenses shall be paid as provided in sections 81-1174 to  
14 81-1177.

15 (3) Except as provided in sections 29-2262 and  
16 29-2262.04, the costs of drug testing and equipment incident to the  
17 electronic surveillance of individuals on probation shall be paid by  
18 the state.

19 (4) The expenses incident to the conduct and maintenance  
20 of the principal office within each probation district shall in the  
21 first instance be paid by the county in which it is located, but such  
22 county shall be reimbursed for such expenses by all other counties  
23 within the probation district to the extent and in the proportions  
24 determined by the Supreme Court based upon population, number of  
25 investigations, and probation cases handled or upon such other basis

1 as the Supreme Court deems fair and equitable.

2 (5) Each county shall provide office space and necessary  
3 facilities for probation officers performing their official duties  
4 and shall bear the costs incident to maintenance of such offices  
5 other than salaries, travel expenses, and data processing and word  
6 processing hardware and software that is provided on the state  
7 computer network.

8 (6) The cost of interpreter services for deaf and hard of  
9 hearing persons and for persons unable to communicate the English  
10 language shall be paid by the state with money appropriated to the  
11 Supreme Court for that purpose or from other funds, including grant  
12 money, made available to the Supreme Court for such purpose.  
13 Interpreter services shall include auxiliary aids for deaf and hard  
14 of hearing persons as defined in section 20-151 and interpreters to  
15 assist persons unable to communicate the English language as defined  
16 in section 25-2402. Interpreter services shall be provided under this  
17 section for the purposes of conducting a presentence investigation  
18 and for ongoing supervision by a probation officer of such persons  
19 placed on probation.

20 (7) The probation administrator shall prepare a budget  
21 and request for appropriations for the office and shall submit such  
22 request to the Supreme Court and with its approval to the appropriate  
23 authority in accordance with law.

24 Sec. 24. Section 32-524, Revised Statutes Cumulative  
25 Supplement, 2010, is amended to read:

1                   32-524 (1) Except as provided in section 22-417:

2                   (a) In counties having a population of seven thousand  
3 inhabitants or more, there shall be elected one clerk of the district  
4 court at the statewide general election in 1962 and every four years  
5 thereafter; and

6                   (b) In counties having a population of less than seven  
7 thousand inhabitants, there shall be elected a clerk of the district  
8 court at the first statewide general election following a  
9 determination by the county board and the district judge for the  
10 county that such officer should be elected and each four years  
11 thereafter. When such a determination is not made in such a county,  
12 the county clerk shall be ex officio clerk of the district court and  
13 perform the duties by law devolving upon that officer, unless there  
14 is an agreement between the State Court Administrator and the county  
15 board that the clerk of the county court for such county shall be the  
16 ex officio clerk of the district court and perform such duties.

17                   (2) In any county upon presentation of a petition to the  
18 county board (a) not less than sixty days before the statewide  
19 general election in 1976 or every four years thereafter, (b) signed  
20 by registered voters of the county equal in numbers to at least  
21 fifteen percent of the total vote cast for Governor at the most  
22 recent gubernatorial election in the county, secured in not less than  
23 two-fifths of the townships or precincts of the county, and (c)  
24 asking that the question of not electing a clerk of the district  
25 court in the county be submitted to the registered voters therein,

1 the county board, at the next statewide general election, shall order  
2 the submission of the question to the registered voters of the  
3 county. The form of submission upon the ballot shall be as follows:

4 For election of a clerk of the district court;

5 Against election of a clerk of the district court.

6 (3) If a majority of the votes cast on the question are  
7 against the election of a clerk of the district court in such county,  
8 the duties of the clerk of the district court shall be performed by  
9 the county clerk, unless there is an agreement between the State  
10 Court Administrator and the county board that the clerk of the county  
11 court for such county shall be the ex officio clerk of the district  
12 court and perform such duties, and the office of clerk of the  
13 district court shall either cease with the expiration of the term of  
14 the incumbent or continue to be abolished if no such office exists at  
15 such time.

16 (4) If a majority of the votes cast on the question are  
17 in favor of the election of a clerk of the district court, the office  
18 shall continue or a clerk of the district court shall be elected at  
19 the next statewide general election as provided in subsection (1) of  
20 this section.

21 (5) The term of the clerk of the district court shall be  
22 four years or until his or her successor is elected and qualified.  
23 The clerk of the district court shall meet the qualifications found  
24 in section 24-337.04. The clerk of the district court shall be  
25 elected on the partisan ballot.

1           Sec. 25. Section 42-361, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           42-361 (1) If both of the parties state under oath or  
4 affirmation that the marriage is irretrievably broken, or one of the  
5 parties so states and the other does not deny it, the court, after  
6 hearing, shall make a finding whether the marriage is irretrievably  
7 broken.

8           (2) If one of the parties has denied under oath or  
9 affirmation that the marriage is irretrievably broken, the court  
10 shall consider all relevant factors, including the circumstances that  
11 gave rise to the filing of the complaint and the prospect of  
12 reconciliation, and shall make a finding whether the marriage is  
13 irretrievably broken.

14           (3) Sixty days or more after perfection of service of  
15 process, the court may enter a decree of dissolution without a  
16 hearing if:

17           (a) Both parties waive the requirement of the hearing and  
18 the court has sufficient basis to make a finding that it has subject  
19 matter jurisdiction over the dissolution action and personal  
20 jurisdiction over both parties; and

21           (b) Both parties have certified in writing that the  
22 marriage is irretrievably broken, both parties have certified that  
23 they have made every reasonable effort to effect reconciliation, all  
24 documents required by the court and by statute have been filed, and  
25 the parties have entered into a written agreement, signed by both

1 parties under oath, resolving all issues presented by the pleadings  
2 in their dissolution action.

3           Sec. 26. Section 43-258, Revised Statutes Cumulative  
4 Supplement, 2010, is amended to read:

5           43-258 (1) Pending the adjudication of any case under the  
6 Nebraska Juvenile Code, the court may order the juvenile examined by  
7 a physician, surgeon, psychiatrist, duly authorized community mental  
8 health service program, or psychologist to aid the court in  
9 determining (a) a material allegation in the petition relating to the  
10 juvenile's physical or mental condition, (b) the juvenile's  
11 competence to participate in the proceedings, (c) the juvenile's  
12 responsibility for his or her acts, or (d) whether or not to provide  
13 emergency medical treatment.

14           (2) Pending the adjudication of any case under the  
15 Nebraska Juvenile Code and after a showing of probable cause that the  
16 juvenile is within the court's jurisdiction, for the purposes of  
17 subsection (1) of this section, the court may order such juvenile to  
18 ~~be placed in one of the facilities or institutions of the State of~~  
19 ~~Nebraska. Such juvenile shall not be placed in an adult correctional~~  
20 ~~facility, the secure youth confinement facility operated by the~~  
21 ~~Department of Correctional Services, or a youth rehabilitation and~~  
22 ~~treatment center. Any placement for evaluation may be made on a~~  
23 ~~residential or nonresidential basis for a period not to exceed thirty~~  
24 ~~days except as provided by section 43-415. The head of any facility~~  
25 ~~or institution shall make a complete evaluation of the juvenile,~~



1 ~~including any authorized area of inquiry requested by the court. with~~  
2 ~~the Department of Health and Human Services for evaluation. The~~  
3 ~~department shall make arrangements for an appropriate evaluation. The~~  
4 ~~department shall determine whether the evaluation will be made on a~~  
5 ~~residential or nonresidential basis. Placement with the department~~  
6 ~~for the purposes of this section shall be for a period not to exceed~~  
7 ~~thirty days. If necessary to complete the evaluation, the court may~~  
8 ~~order an extension not to exceed an additional thirty days. Any~~  
9 temporary placement of a juvenile made under this section shall be in  
10 the least restrictive environment consistent with the best interests  
11 of the juvenile and the safety of the community.

12 (3) Upon completion of the evaluation, the juvenile shall  
13 be returned to the court together with a written report of the  
14 results of the evaluation. Such report shall include an assessment of  
15 the basic needs of the juvenile and recommendations for continuous  
16 and long-term care and shall be made to effectuate the purposes in  
17 subdivision (1) of section 43-246. The juvenile shall appear before  
18 the court for a hearing on the report of the evaluation results  
19 within ten days after the court receives the evaluation.

20 (4) During any period of detention or evaluation prior to  
21 adjudication:

22 (a) Except as provided in subdivision (4)(b) of this  
23 section, the county in which the case is pending is responsible for  
24 all detention costs incurred before and after an evaluation period  
25 prior to adjudication, the cost of delivering the juvenile to the

1 location of the evaluation, and the cost of returning the juvenile to  
2 the court for further proceedings; and

3 (b) The state is responsible for (i) the costs incurred  
4 during an evaluation when the juvenile has been placed with the  
5 Department of Health and Human Services unless otherwise ordered by  
6 the court pursuant to section 43-290 and (ii) the preevaluation  
7 detention costs for any days over the first ten days from the date  
8 the court places the juvenile with the department for evaluation.

9 (5) The Department of Health and Human Services is not  
10 responsible for preadjudication costs except as provided in  
11 subdivision (4)(b) of this section.

12 ~~(4) In order to encourage the use of the procedure~~  
13 ~~provided in this section, all costs incurred during the period the~~  
14 ~~juvenile is being evaluated at a state facility or program funded by~~  
15 ~~the Office of Juvenile Services shall be the responsibility of the~~  
16 ~~state unless otherwise ordered by the court pursuant to section~~  
17 ~~43-290. The county in which the case is pending shall be liable only~~  
18 ~~for the cost of delivering the juvenile to the facility or~~  
19 ~~institution and the cost of returning him or her to the court for~~  
20 ~~disposition.~~

21 Sec. 27. Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,  
22 27, 28, and 31 of this act become operative on their effective date.  
23 The other sections of this act become operative three calendar months  
24 after the adjournment of this legislative session.

25 Sec. 28. Original sections 25-508.01, 25-509.01,

1 25-510.02, 25-511.02, 25-512.01, 25-513.01, and 25-514.01, Reissue  
2 Revised Statutes of Nebraska, and sections 25-505.01, 25-506.01, and  
3 25-507.01, Revised Statutes Cumulative Supplement, 2010, are  
4 repealed.

5           Sec. 29. Original sections 20-159, 24-502, 24-507,  
6 24-515, 25-2221, 25-2406, 25-2705, 25-2805, 29-404, 29-1603, 29-2259,  
7 and 42-361, Reissue Revised Statutes of Nebraska, and sections 32-524  
8 and 43-258, Revised Statutes Cumulative Supplement, 2010, are  
9 repealed.

10           Sec. 30. The following section is outright repealed:  
11 Section 24-512, Reissue Revised Statutes of Nebraska.

12           Sec. 31. Since an emergency exists, this act takes effect  
13 when passed and approved according to law.