

LEGISLATIVE BILL 669

Approved by the Governor May 26, 2011

Introduced by Flood, 19.

FOR AN ACT relating to courts; to amend sections 20-159, 24-502, 24-507, 24-515, 25-508.01, 25-509.01, 25-510.02, 25-511.02, 25-512.01, 25-513.01, 25-514.01, 25-2221, 25-2406, 25-2705, 25-2805, 29-404, 29-1603, 29-2259, and 42-361, Reissue Revised Statutes of Nebraska, and sections 25-505.01, 25-506.01, 25-507.01, 32-524, and 43-258, Revised Statutes Cumulative Supplement, 2010; to change provisions relating to funding for court-appointed interpreters, service of process, court offices, demand for jury trials, Small Claims Court proceedings, certain filing requirements, clerks of the district court, proceedings for dissolution of marriage, and evaluation and placement of juveniles; to eliminate provisions relating to divisions of the county court; to provide for agreements for sharing staff and providing services between county courts and district courts; to provide for judicial hearing officers for juvenile courts; to provide powers and duties; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 24-512, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

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

Sec. 4. Section 24-515, Reissue Revised Statutes of Nebraska, is

amended to read:

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

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

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

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

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

(3) To be qualified for appointment as a judicial hearing officer, a person shall be an attorney in good standing admitted to the practice of law in the State of Nebraska and shall meet any other requirements imposed by the Supreme Court. A judicial hearing officer shall be sworn or affirmed to faithfully hear and examine the cause and to make a just and true report according to the best of his or her understanding. The oath or affirmation may be administered by any judge of the State of Nebraska. A judicial hearing officer may be removed at any time by the Supreme Court.

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

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

Sec. 7. Section 25-505.01, Revised Statutes Cumulative Supplement, 2010, is amended to read:

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

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

(b) Residence service which shall be made by leaving the summons at the usual place of residence of the individual to be served, with some person

of suitable age and discretion residing therein;

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

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

(d) Designated delivery service which shall be made by (i) within ten days of issuance, sending the summons by a designated delivery service to the defendant, (ii) obtaining a signed delivery receipt showing to whom and where delivered and the date of delivery, and (iii) filing with the court proof of service with a copy of the signed delivery receipt attached. As used in this subdivision, a designated delivery service means a delivery service designated as such pursuant to 26 U.S.C. 7502(f) and a signed delivery receipt includes an electronic or facsimile receipt with an image of the recipient's signature.

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

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

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

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

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

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

25-507.01 (1) Within twenty days after the date of issue, the person serving the summons, other than by certified mail service or designated delivery service, shall make proof of service to the court stating the time, place, including the address if applicable, name of the person with whom the summons was left, and method of service, or return the unserved summons to the court with a statement of the reason for the failure to serve.

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

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

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

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

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

(3) If the person to be served is an incapacitated person for whom a conservator or guardian has been appointed or is confined in any institution, notice of the service shall be given to the conservator, or guardian, or the superintendent or similar official of the institution. Failure to give such notice does not affect the validity of the service on the incapacitated person.

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

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

office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

All courts and their offices may be closed on Saturdays, Sundays, days on which a specifically designated court is closed by order of the Chief Justice of the Supreme Court, and these holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; Christmas Day, December 25; and all days declared by law or proclamation of the Governor to be holidays. Such days shall be designated as nonjudicial days. If any such holiday falls on Sunday, the following Monday shall be a holiday. If any such holiday falls on Saturday, the preceding Friday shall be a holiday. Court ~~offices~~ services shall be

~~open available~~ on all other days. If the date designated by the state for observance of any legal holiday pursuant to this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

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

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

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

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

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

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

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

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

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

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

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

(h) By a cross-claim defendant on or before the date the answer to the cross-claim is filed with the court.

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

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

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

In any action transferred to the regular docket, there shall be no ~~further pleadings, motions challenging pleadings, or discovery~~ unless ordered by the court upon a showing that any such procedure is necessary to the prompt and just determination of the action. In any action transferred to the regular docket, a defendant shall file an answer. Any jury demand in cases transferred from the Small Claims Court to county court shall be made within the timeframes provided in section 25-2705.

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

29-404 No complaint shall be filed with the magistrate, unless such complaint is in writing and ~~upon oath,~~ signed by the prosecuting attorney or by any other complainant. If the complainant ~~be~~ is a person other than the prosecuting attorney or a city or village attorney prosecuting the violation of a municipal ordinance, he or she shall either have the consent of the prosecuting attorney or shall furnish to the magistrate a bond with good and sufficient sureties in such amount as the magistrate shall determine to indemnify the person complained against for wrongful or malicious prosecution. Whenever a complaint shall be filed with the magistrate, charging any person

with the commission of an offense against the laws of this state, it shall be the duty of such magistrate to issue a warrant for the arrest of the person accused, if he ~~shall have~~ or she has reasonable grounds to believe that the offense charged has been committed. The prosecuting attorney shall consent to the filing of such complaint if he or she is in possession of sufficient evidence to warrant the belief that the person named as defendant in such complaint is guilty of the crime alleged and can be convicted thereof. The Attorney General shall have the same power to consent to the filing of complaints as the prosecuting attorneys have in their respective counties.

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

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

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

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

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

(3) Different offenses and different degrees of the same offense may be joined in one information, in all cases in which the same might by different counts be joined in one indictment; and in all cases a defendant or defendants shall have the same right, as to proceedings therein, as the defendant or defendants would have if prosecuted for the same offense upon indictment.

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

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

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

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

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

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

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

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

law.

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

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

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

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

(2) In any county upon presentation of a petition to the county board (a) not less than sixty days before the statewide general election in 1976 or every four years thereafter, (b) signed by registered voters of the county equal in numbers to at least fifteen percent of the total vote cast for Governor at the most recent gubernatorial election in the county, secured in not less than two-fifths of the townships or precincts of the county, and (c) asking that the question of not electing a clerk of the district court in the county be submitted to the registered voters therein, the county board, at the next statewide general election, shall order the submission of the question to the registered voters of the county. The form of submission upon the ballot shall be as follows:

For election of a clerk of the district court;

Against election of a clerk of the district court.

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

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

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

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

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

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

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

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

(b) Both parties have certified in writing that the marriage is irretrievably broken, both parties have certified that they have made every reasonable effort to effect reconciliation, all documents required by the court and by statute have been filed, and the parties have entered into a written agreement, signed by both parties under oath, resolving all issues presented by the pleadings in their dissolution action.

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

43-258 (1) Pending the adjudication of any case under the Nebraska

Juvenile Code, the court may order the juvenile examined by a physician, surgeon, psychiatrist, duly authorized community mental health service program, or psychologist to aid the court in determining (a) a material allegation in the petition relating to the juvenile's physical or mental condition, (b) the juvenile's competence to participate in the proceedings, (c) the juvenile's responsibility for his or her acts, or (d) whether or not to provide emergency medical treatment.

(2) Pending the adjudication of any case under the Nebraska Juvenile Code and after a showing of probable cause that the juvenile is within the court's jurisdiction, for the purposes of subsection (1) of this section, the court may order such juvenile to be placed in one of the facilities or institutions of the State of Nebraska. Such juvenile shall not be placed in an adult correctional facility, the secure youth confinement facility operated by the Department of Correctional Services, or a youth rehabilitation and treatment center. Any placement for evaluation may be made on a residential or nonresidential basis for a period not to exceed thirty days except as provided by section 43-415. The head of any facility or institution shall make a complete evaluation of the juvenile, including any authorized area of inquiry requested by the court, with the Department of Health and Human Services for evaluation. The department shall make arrangements for an appropriate evaluation. The department shall determine whether the evaluation will be made on a residential or nonresidential basis. Placement with the department for the purposes of this section shall be for a period not to exceed thirty days. If necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. Any temporary placement of a juvenile made under this section shall be in the least restrictive environment consistent with the best interests of the juvenile and the safety of the community.

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

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

(a) Except as provided in subdivision (4)(b) of this section, the county in which the case is pending is responsible for all detention costs incurred before and after an evaluation period prior to adjudication, the cost of delivering the juvenile to the location of the evaluation, and the cost of returning the juvenile to the court for further proceedings; and

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

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

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

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

Sec. 28. Original sections 25-508.01, 25-509.01, 25-510.02, 25-511.02, 25-512.01, 25-513.01, and 25-514.01, Reissue Revised Statutes of Nebraska, and sections 25-505.01, 25-506.01, and 25-507.01, Revised Statutes Cumulative Supplement, 2010, are repealed.

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

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

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