

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 259

Introduced by Hansen, 26.

Read first time January 11, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-1823, Reissue Revised Statutes of Nebraska; to provide for
- 3 competency determinations in criminal cases pending before county
- 4 courts; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-1823, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-1823 (1) If at any time prior to trial it appears that the
4 accused has become mentally incompetent to stand trial, such disability
5 may be called to the attention of the district or county court by the
6 county attorney or city attorney, by the accused, or by any person for
7 the accused. The judge of the district or county court of the county
8 where the accused is to be tried shall have the authority to determine
9 whether or not the accused is competent to stand trial. The ~~district~~
10 judge may also cause such medical, psychiatric, or psychological
11 examination of the accused to be made as he or she deems warranted and
12 hold such hearing as he or she deems necessary. The cost of the
13 examination, when ordered by the court, shall be the expense of the
14 county in which the crime is charged. The ~~district~~ judge may allow any
15 physician, psychiatrist, or psychologist a reasonable fee for his or her
16 services, which amount, when determined by the ~~district~~ judge, shall be
17 certified to the county board which shall cause payment to be made.
18 Should the ~~district~~ judge determine after a hearing that the accused is
19 mentally incompetent to stand trial and that there is a substantial
20 probability that the accused will become competent within the foreseeable
21 future, the ~~district~~ judge shall order the accused to be committed to a
22 state hospital for the mentally ill or some other appropriate state-owned
23 or state-operated facility for appropriate treatment until such time as
24 the disability may be removed.

25 (2) Within six months after the commencement of the treatment
26 ordered by the district or county court, and every six months thereafter
27 until either the disability is removed or other disposition of the
28 accused has been made, the court shall hold a hearing to determine (a)
29 whether the accused is competent to stand trial or (b) whether or not
30 there is a substantial probability that the accused will become competent
31 within the foreseeable future.

1 (3) If it is determined that there is not a substantial probability
2 that the accused will become competent within the foreseeable future,
3 then the state shall either (a) commence the applicable civil commitment
4 proceeding that would be required to commit any other person for an
5 indefinite period of time or (b) release the accused. If during the
6 period of time between the six-month review hearings set forth in
7 subsection (2) of this section it is the opinion of the Department of
8 Health and Human Services that the accused is competent to stand trial,
9 the department shall file a report outlining its opinion with the court,
10 and within twenty-one days after such report being filed, the court shall
11 hold a hearing to determine whether or not the accused is competent to
12 stand trial. The state shall pay the cost of maintenance and care of the
13 accused during the period of time ordered by the court for treatment to
14 remove the disability.

15 Sec. 2. Original section 29-1823, Reissue Revised Statutes of
16 Nebraska, is repealed.