

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 451**

Introduced by Ashford, 20.

Read first time January 14, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to courts; to amend sections 20-159, 24-502,  
2 24-507, 24-515, 25-2221, 25-2406, 29-2259, and 42-361,  
3 Reissue Revised Statutes of Nebraska, and sections  
4 24-301.02 and 32-524, Revised Statutes Cumulative  
5 Supplement, 2010; to change payment of certain fees; to  
6 delay implementation of a district court judgeship; to  
7 change and eliminate county court and court office  
8 provisions; to provide for judicial hearing officers; to  
9 change election provisions for district court clerk; to  
10 provide for dissolution of marriage without a hearing; to  
11 harmonize provisions; to repeal the original sections;  
12 and to outright repeal section 24-512, Reissue Revised  
13 Statutes of Nebraska.

14 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 24-301.02, Revised Statutes Cumulative  
14 Supplement, 2010, is amended to read:

15           24-301.02 The State of Nebraska shall be divided into the  
16 following twelve district court judicial districts:

17           District No. 1 shall contain the counties of Clay,  
18 Nuckolls, Saline, Jefferson, Gage, Thayer, Johnson, Pawnee, Nemaha,  
19 Fillmore, and Richardson;

20           District No. 2 shall contain the counties of Sarpy, Cass,  
21 and Otoe;

22           District No. 3 shall contain the county of Lancaster;

23           District No. 4 shall contain the county of Douglas;

24           District No. 5 shall contain the counties of Merrick,  
25 Platte, Colfax, Boone, Nance, Hamilton, Polk, York, Butler, Seward,

1 and Saunders;

2 District No. 6 shall contain the counties of Dixon,  
3 Dakota, Cedar, Burt, Thurston, Dodge, and Washington;

4 District No. 7 shall contain the counties of Knox,  
5 Cuming, Antelope, Pierce, Wayne, Madison, and Stanton;

6 District No. 8 shall contain the counties of Cherry, Keya  
7 Paha, Brown, Rock, Blaine, Loup, Custer, Boyd, Holt, Garfield,  
8 Wheeler, Valley, Greeley, Sherman, and Howard;

9 District No. 9 shall contain the counties of Buffalo and  
10 Hall;

11 District No. 10 shall contain the counties of Adams,  
12 Phelps, Kearney, Harlan, Franklin, and Webster;

13 District No. 11 shall contain the counties of Hooker,  
14 Thomas, Arthur, McPherson, Logan, Keith, Perkins, Lincoln, Dawson,  
15 Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and  
16 Furnas; and

17 District No. 12 shall contain the counties of Sioux,  
18 Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner,  
19 Kimball, Cheyenne, Grant, and Deuel.

20 In the fourth district there shall be sixteen judges of  
21 the district court. In the third district, until ~~June 30, 2011, July~~  
22 1, 2012, there shall be seven judges of the district court and,  
23 beginning July 1, ~~2011, 2012,~~ there shall be eight judges of the  
24 district court. In the second, fifth, ninth, eleventh, and twelfth  
25 districts there shall be four judges of the district court. In the

1 first and sixth districts there shall be three judges of the district  
2 court. In the seventh, eighth, and tenth districts there shall be two  
3 judges of the district court.

4 Sec. 3. Section 24-502, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 24-502 There shall be a county court in and for each  
7 county in this state. The county court shall be a court of record and  
8 shall be located at the county seat. ~~Divisions of the court may be~~  
9 ~~established in any other city or village within the county as~~  
10 ~~provided in section 24-512.~~

11 Sec. 4. Section 24-507, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 24-507 (1) There shall be appointed a clerk magistrate to  
14 serve each county. Clerk magistrates shall be appointed by the county  
15 judge, or judges if the district has more than one county judge, and  
16 shall serve at the pleasure of the county judge or judges, subject to  
17 personnel rules adopted by the Supreme Court.

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

21 (3) In counties when the district court clerk or staff is  
22 temporarily unavailable or is available on less than a full-time  
23 basis, the clerk magistrate as clerk of the county court shall, in  
24 cooperation and agreement with the Supreme Court and State Court  
25 Administrator, assist the clerk of the district court in the

1 provision of district court services which would otherwise require  
2 the presence of district court staff.

3 (4) When an agreement has been reached pursuant to  
4 subdivision (1)(b) of section 32-524 or subsection (3) of section  
5 32-524 for a clerk magistrate as clerk of the county court to perform  
6 as ex officio clerk of the district court, the clerk magistrate shall  
7 perform the duties required by law of the clerk of the district court  
8 under the direction of the district judge for the county and the  
9 State Court Administrator.

10 Sec. 5. Section 24-515, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 24-515 Each county shall be responsible for all costs  
13 involved in establishing, furnishing, and maintaining appropriate  
14 courtroom and office facilities for the county court at the county  
15 seat. On July 1, 1985, the courtroom and office facilities of a  
16 municipal court shall be transferred, by sale, lease, or other  
17 arrangement, from cities of the metropolitan or primary class to the  
18 county responsible pursuant to this section for the establishing,  
19 furnishing, and maintaining of courtroom and office facilities for  
20 the county court at the county seat. Payments by a city and county on  
21 the bonded indebtedness on any facility constructed for joint use by  
22 a city and county shall continue in the same manner and in the same  
23 proportionate shares as payments made prior to July 1, 1985, subject  
24 to any sale, lease, or other arrangement pursuant to this section.  
25 All other property, equipment, books, and records of the municipal

1 courts shall be transferred on July 1, 1985, to the county court.  
2 ~~When a division of the county court is established at a location~~  
3 ~~other than the county seat, the city or village in which such~~  
4 ~~division is located shall be responsible for all costs involved in~~  
5 ~~establishing, furnishing, and maintaining appropriate courtroom and~~  
6 ~~office facilities for such division.~~

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

11 Sec. 6. When county court staff are temporarily  
12 unavailable or available on less than a full-time basis, the clerk of  
13 the district court shall, in cooperation and agreement with the  
14 Nebraska Supreme Court and State Court Administrator, assist the  
15 clerk of the county court in the provision of county court services  
16 which would otherwise require the presence of court staff.

17 Sec. 7. (1) The Supreme Court may appoint in each  
18 district court judicial district, county court judicial district, or  
19 separate juvenile court one or more judicial hearing officers to  
20 serve on a full-time or part-time basis. A judicial hearing officer  
21 is entitled to receive a salary as established by the Supreme Court.

22 (2) In accordance with the rules of the Supreme Court, a  
23 judicial hearing officer may preside in, hear, and determine any case  
24 or proceeding:

25 (a) Based on a misdemeanor, traffic infraction, violation

1 of a city or village ordinance, or traffic violation or infraction  
2 under the laws of this state, except the trial of defendants who  
3 plead not guilty or for whom a not guilty plea has been entered;

4 (b) Involving the county court's juvenile jurisdiction  
5 except for termination of parental rights;

6 (c) Which is noncontested and related to decedents'  
7 estates, inheritance tax matters, and guardianship or  
8 conservatorship, except matters relating to the construction of wills  
9 and trusts, the determination of title to real estate, and an  
10 authorization of the sale or mortgaging of real estate;

11 (d) Involving actions filed in Small Claims Court; and

12 (e) Involving an uncontested dissolution of marriage.

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

22 (4) In any and all cases referred to a judicial hearing  
23 officer by a district, county, or separate juvenile court, the  
24 parties shall have the right to take exceptions to the findings and  
25 recommendations made by the hearing officer and to have a further

1 hearing before such court for final disposition. The court upon  
2 receipt of the findings, recommendations, and exceptions shall review  
3 the judicial hearing officer's report and may accept or reject all or  
4 any part of the report and enter judgment based on the court's own  
5 determination.

6 (5) The Supreme Court shall promulgate rules for all  
7 other qualifications of judicial hearing officers; the extent and  
8 assignment of authority by a district, county, or separate juvenile  
9 court judge for practice and procedure before such judicial hearing  
10 officers; and for the conduct of the position, including rules for  
11 training sessions and continuing education requirements.

12 Sec. 8. Section 25-2221, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 25-2221 Except as may be otherwise more specifically  
15 provided, the period of time within which an act is to be done in any  
16 action or proceeding shall be computed by excluding the day of the  
17 act, event, or default after which the designated period of time  
18 begins to run. The last day of the period so computed shall be  
19 included unless it is a Saturday, a Sunday, or a day during which the  
20 offices of courts of record may be legally closed as provided in this  
21 section, in which event the period shall run until the end of the  
22 next day on which the office will be open.

23 All courts and their offices may be closed on Saturdays,  
24 Sundays, days on which a specifically designated court is closed by  
25 order of the Chief Justice of the Supreme Court, and these holidays:

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

17           Sec. 9. Section 25-2406, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           25-2406 The fees and expenses of an interpreter shall be  
20 fixed and ordered paid by the judge before whom such proceeding takes  
21 place, in accordance with a fee schedule established by the Supreme  
22 Court, and be paid out of the General Fund with funds appropriated to  
23 the Supreme Court for that purpose or from other funds, including  
24 grant money, made available to the Supreme Court for such purpose.

25           Sec. 10. Section 29-2259, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           29-2259 (1) The salaries, actual and necessary expenses,  
3 and expenses incident to the conduct and maintenance of the office  
4 shall be paid by the state. Actual and necessary expenses shall be  
5 paid as provided in sections 81-1174 to 81-1177.

6           (2) The salaries and actual and necessary travel expenses  
7 of the probation service shall be paid by the state. Actual and  
8 necessary expenses shall be paid as provided in sections 81-1174 to  
9 81-1177.

10           (3) Except as provided in sections 29-2262 and  
11 29-2262.04, the costs of drug testing and equipment incident to the  
12 electronic surveillance of individuals on probation shall be paid by  
13 the state.

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

22           (5) Each county shall provide office space and necessary  
23 facilities for probation officers performing their official duties  
24 and shall bear the costs incident to maintenance of such offices  
25 other than salaries, travel expenses, and data processing and word

1 processing hardware and software that is provided on the state  
2 computer network.

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

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

19 Sec. 11. Section 32-524, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 32-524 (1) Except as provided in section 22-417:

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

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

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

24                   For election of a clerk of the district court;

25                   Against election of a clerk of the district court.

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

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

16           (5) The term of the clerk of the district court shall be  
17 four years or until his or her successor is elected and qualified or  
18 to the end of his or her term if the office has been abolished. The  
19 clerk of the district court shall meet the qualifications found in  
20 section 24-337.04. The clerk of the district court shall be elected  
21 on the partisan ballot.

22           Sec. 12. Section 42-361, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24           42-361 (1) If both of the parties state under oath or  
25 affirmation that the marriage is irretrievably broken, or one of the

1 parties so states and the other does not deny it, the court, after  
2 hearing, shall make a finding whether the marriage is irretrievably  
3 broken.

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

10 (3) The court may enter a decree of dissolution without a  
11 hearing if:

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

16 (b) The parties have certified in writing that the  
17 marriage is irretrievably broken, at least one of the parties  
18 certifies that he or she has made every reasonable effort to effect  
19 reconciliation, all documents required by the court and by statute  
20 have been filed, and the parties have entered into a written  
21 agreement, signed by both parties under oath, resolving all issues  
22 presented by the pleadings in their dissolution action.

23 Sec. 13. Original sections 20-159, 24-502, 24-507,  
24 24-515, 25-2221, 25-2406, 29-2259, and 42-361, Reissue Revised  
25 Statutes of Nebraska, and sections 24-301.02 and 32-524, Revised

1 Statutes Cumulative Supplement, 2010, are repealed.

2                   Sec. 14. The following section is outright repealed:

3 Section 24-512, Reissue Revised Statutes of Nebraska.