

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 62

Introduced by Connealy, 16; Bourne, 8

Read first time January 9, 2003

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the County Revenue Assistance Act; to amend
2 sections 29-3920, 29-3930, and 29-3931, Revised Statutes
3 Supplement, 2002; to change provisions relating to
4 divisions and defense costs of the Commission on Public
5 Advocacy; to harmonize provisions; to repeal the original
6 sections; and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-3920, Revised Statutes Supplement,
2 2002, is amended to read:

3 29-3920. The Legislature finds that:

4 (1) County property owners should be given some relief
5 from the obligation of providing mandated indigent defense services
6 which in most instances are required because of state laws
7 establishing crimes and penalties;

8 (2) Property tax relief can be accomplished if the state
9 begins to assist the counties with the obligation of providing
10 indigent defense services required by state laws establishing
11 crimes and penalties;

12 (3) Property tax relief in the form of state assistance
13 to the counties of Nebraska in providing for indigent defense
14 services will also increase accountability because the state, which
15 is the governmental entity responsible for passing criminal
16 statutes, will likewise be responsible for paying some of the
17 costs;

18 (4) Property tax relief in the form of state assistance
19 to the counties of Nebraska in providing for indigent defense
20 services will also improve inconsistent and inadequate funding of
21 indigent defense services by the counties;

22 (5) Property tax relief in the form of state assistance
23 to the counties of Nebraska in providing for indigent defense
24 services will also lessen the impact on county property taxpayers
25 of the cost of a high profile death penalty case which can
26 significantly affect the finances of the counties; and

27 (6) To accomplish property tax relief in the form of the
28 state assisting the counties of Nebraska in providing for indigent

1 defense services, the Commission on Public Advocacy Operations Cash
2 Fund should be established to fund the operation of the Commission
3 on Public Advocacy and to fund reimbursement requests as determined
4 by section 29-3933.

5 Sec. 2. Section 29-3930, Revised Statutes Supplement,
6 2002, is amended to read:

7 29-3930. The following divisions are established within
8 the commission:

9 (1) The capital litigation division shall be available to
10 assist in the defense of capital cases in Nebraska, subject to
11 caseload standards of the commission;

12 (2) The appellate division shall be available to
13 prosecute appeals to the Court of Appeals and the Supreme Court,
14 subject to caseload standards of the commission;

15 (3) The violent crime and drug defense division shall be
16 available to assist in the defense of certain violent and drug
17 crimes as defined by the commission, subject to the caseload
18 standards of the commission;

19 (4) The DNA testing division shall be available to assist
20 in representing persons who are indigent who have filed a motion
21 pursuant to the DNA Testing Act, subject to caseload standards; and

22 ~~(4)~~ (5) The major case resource center shall be available
23 to assist public defenders, contracting attorneys, or
24 court-appointed attorneys with the defense of a felony offense,
25 subject to caseload standards of the commission.

26 Sec. 3. Section 29-3931, Revised Statutes Supplement,
27 2002, is amended to read:

28 29-3931. (1) In addition to all other court costs

1 assessed according to law, except those costs that have found to be
2 uncollectible pursuant to section 29-2709, an indigent defense fee
3 of five dollars shall be taxed as costs for each case filed in each
4 county court, separate juvenile court, and district court,
5 including appeals to such courts, and for each appeal and original
6 action filed in the Court of Appeals and the Supreme Court. The
7 fees shall be remitted to the State Treasurer on forms prescribed
8 by the State Treasurer within ten days after the end of the month.
9 The State Treasurer shall credit the fees to the Commission on
10 Public Advocacy Operations Cash Fund. In cases in which the
11 capital litigation division or appellate division has been
12 appointed, the chief counsel shall make a showing to the county or
13 district court for the county in which the prosecution arose
14 regarding the commission's cost of defense. The chief counsel
15 shall consider the complexity of the case, the amount of expenses
16 involved, and the ability of the county to pay the costs, in
17 determining how often to make a showing to the court. A showing
18 shall be made no more than once a month and shall be made once
19 after the case is completed. The cost shall be based upon (a) the
20 actual time spent by commission staff attorneys and their hourly
21 rates of pay, including benefits, (b) a reasonable amount for
22 administrative and support staff time, (c) the actual expenditures
23 for litigation support, such as expert witnesses, depositions,
24 photocopying, printing, and travel and lodging expenses, and (d) a
25 reasonable amount for office overhead, including rent, telephone,
26 and utilities. The cost of defense shall not include any expense
27 incurred by the commission's staff for travel time or mileage
28 between the commission's office and the place where the particular

1 ~~case's venue is had or for lodging and meals when the staff must be~~
2 ~~away from the office for more than one day. After a hearing, the~~
3 ~~county or district court shall order the county to pay one-third of~~
4 ~~the commission's cost of defense. The county shall pay the costs~~
5 ~~to the commission which shall remit the amount to the State~~
6 ~~Treasurer for credit to the Commission on Public Advocacy~~
7 ~~Operations Cash Fund. In cases in which commission staff is using~~
8 ~~money to represent indigent clients and that money is associated~~
9 ~~with any federal grant money or state match money, the chief~~
10 ~~counsel shall only bill counties for actual expenditures for~~
11 ~~litigation support, such as expert witnesses, depositions,~~
12 ~~photocopying, printing, and travel and lodging expenses.~~

13 (2) In cases under the DNA Testing Act, costs shall be
14 paid as provided in such act.

15 Sec. 4. Original sections 29-3920, 29-3930, and 29-3931,
16 Revised Statutes Supplement, 2002, are repealed.

17 Sec. 5. Since an emergency exists, this act takes effect
18 when passed and approved according to law.