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LB 784

Legislative Bill 784 requires a Natural Resource District to ensure that any project undertaken that is beneficial to the district gives the public a right of access for recreational use that meets or exceeds such a right held by a private landowner adjacent to the project.

The bill also requires a city or village to ensure that the public has a right of access to the real property acquired for public purposes. That right must meet or exceed such a right held by a private landowner adjacent to the real property.

The committee amendment (AM 2369) to LB 784 narrows the definition of project in the green copy of the bill to ‘water project’ in the amendment. A water project means a project authorized in section 2-3235 and designed and built on and after the effective date of this act that (a) includes the construction of a reservoir or results in the construction, enlargement, extension, or improvement of any stream of drainage or system of control of surface water and (b) creates significant new recreational benefits for the reservoir, stream, or surface water. Water project does not include conservation and land-use projects that do not create significant new recreational benefits.

The amendment also clarifies that public or private recreational users shall abide by all rules and regulations for use of the water project that are adopted by the district or the political subdivision in which the water project is located. Public recreational users may only access the water project through designated access points. Public access for recreational use shall meet or exceed the same access afforded to or reserved by private landowners adjacent to the water project.

Additionally, the amendment states that a city or village shall guarantee to the public a right of access for recreational use.

The provisions of LB 784 as advanced from committee have been amended as follows for inclusion in LB 1113:

- In Section 2 of the committee amendment, AM2369, strikes the language in lines 21-23 and on page 2, line 1, ‘that meets or exceeds the same access afforded to or reserved by

private landowners adjacent to the water project’ and inserts ‘at designated access points’;

- In AM2369, on page 2, Section 1(2), on line10, behind the word ‘reservoir’ adds ‘greater than one hundred fifty acres of permanent pool’. This language is added again on line 12 after ‘water’.

LB 1009

Legislative Bill 1009 proposes to make two changes to the statutes relating to Nebraska’s DNA database and the collection of DNA samples for inclusion in the database. LB 1009 would first expand the purpose of the state DNA database to include the location and identification of missing persons and human remains and allows the inclusion of DNA samples from such cases in the database. The second change made by the bill is to allow for the collection of buccal tissue samples (cheek swab) rather than blood samples for purposes collecting DNA samples from convicted offenders pursuant to the DNA detection of sexual and violent offenders act. Buccal tissue samples are easier to collect and store, less intrusive, and cheaper than obtaining blood samples. The bill also clarifies that buccal tissue samples may be collected by any person approved by the Nebraska State Patrol using an approved collection kit rather than requiring a medical professional to collect the sample as current law requires for blood samples.

The committee amendment to LB 1009, AM 2789 amends the bill to give individuals required to submit a DNA sample the choice of having the DNA sample collected via a blood draw or the use of a buccal swab. If the individual does not indicate a preference the agency collecting the sample shall determine the method of collection.

LB 1047

Legislative Bill 1047 amends the current crime of stalking to prohibit the harassment of a stalking victim’s family or household members and to provide enhanced penalties in certain circumstances.

Currently, section 28-311.03 prohibits the willful harassment of a person with the intent to injure, terrify, threaten or intimidate. LB 1047 adds the harassment of a family or household member to the conduct prohibited by this statute.

LB 1047 also amends the existing penalty enhancement for stalking, which increases the penalty from a class I misdemeanor to a class IV felony if the defendant has a prior conviction under 28-311.03 within the past 7 years against the same victim. LB 1047 would enhance the penalty if the defendant has a conviction within the past seven years under 28-311.03 or a substantially conforming crime against any victim. In addition, the bill provides the following additional facts which will enhance the penalty to a class IV felony:

- The victim is under sixteen years of age;
- The defendant possessed a deadly weapon at any time during the violation; or

- The defendant has been convicted of a felony in this state or a crime in another state punishable as a felony in Nebraska, against the victim or a family or household member of the victim.

The committee amendment to LB 1047, AM 2880, makes two changes to the bill as introduced. AM 2880 adds the violation of a domestic violence protection order pursuant to sections 42-924 or 42-925 to the list of facts which result in a penalty enhancement for a stalking conviction. The amendment also includes stalking ordinances adopted by Nebraska municipalities or political subdivisions within the definition of substantially conforming criminal violation so that convictions under those ordinances can be considered a prior conviction for purposes of sentence enhancement.

LB 1070

Legislative Bill 1070 proposes to make a series of changes to the statutes relating to child abuse and neglect investigations with the purpose of formally recognizing the seven child advocacy centers (CAC) across the state, which have contracted with HHS to provide services in this area since 2002, by providing them a defined statutory role in the child abuse investigation process.

Specifically, the bill requires the following:

- All counties or groups of contiguous counties must affiliate with one of the seven child advocacy centers across the state;
- Specific statutory duties are provided for the CAC coordinators; These duties include coordinating the child abuse and neglect team, assisting county attorneys in facilitating case review, developing protocols, and arranging training opportunities for team members;
- Child abuse and neglect teams (1184 teams) must adopt protocols requiring videotaped forensic interviews at a child advocacy center for children who have witnessed a serious crime, children removed from drug labs, and child victims of sexual abuse, serious physical abuse or neglect, or kidnapping;
- Child abuse and neglect teams must develop protocols and procedures for responding to drug endangered children.
- A reference to the Attorney General's office is added to statutes where the county attorney is currently mentioned to allow for the attorney general's participation in child abuse and neglect teams in situations where abuse cases are prosecuted by the attorney general's office rather than the county attorney.

The committee amendment to LB 1070, AM 2881, makes a number of technical and clarifying changes to the bill as introduced. The respective roles of county attorneys and the representative from the child advocacy center (CAC) with regard to the coordination of child abuse and neglect investigation and treatment teams are clarified to make clear that the county attorney has the responsibility to form and lead the investigation team with the assistance of the CAC representative. Language is also added to clarify that while counties have a particular CAC assigned to them for purposes of organizing the treatment and investigation teams, nothing in the bill shall prevent the use of any accredited CAC to treat or provide other services to a child in

need. Lastly, the statutes allowing the sharing of confidential information concerning juveniles with a child abuse investigation or treatment team are amended to include the Attorney General and child advocacy centers.

LB 1075

Legislative Bill 1075 proposes to add the crimes of sexual assault of a child or a vulnerable adult, visual depiction of sexually explicit conduct (child pornography) under sections 28-1463.03 and 28-1463.05, and child enticement by means of a computer to the list of crimes for which a county attorney may issue an administrative subpoena for the production of evidence before a grand jury or seek a court order for the interception of wire, electronic, or oral communications. Currently, administrative subpoenas and interception orders may only be utilized or obtained in investigations for the crimes of murder, kidnapping, robbery, bribery, extortion, and dealing in narcotic or other dangerous drugs.

LB 1075 was advanced from committee without amendment.

LB 1146

Legislative Bill 1146 proposes to exempt accredited laboratories authorized to perform DNA testing from the requirement that a law enforcement agency purge all records of and return all identifying information to a person who donated a DNA sample as part of a criminal investigation after a determination has been made that the person is not implicated in the crime by his or her DNA sample. The purpose of this change is to avoid the Nebraska State Patrol's laboratory from losing its accreditation pursuant to standards requiring them to retain all DNA samples tested by the lab.

The committee amendment to LB 1146, AM 2175, clarifies that an accredited laboratory may retain minimum records and supporting documentation relating to DNA samples of persons who have been exonerated for the sole purpose of complying with laboratory accreditation standards. The amendment also explicitly prohibits the sharing or transfer of any records retained for these purposes with any other law enforcement agency unless the donor of the sample has been implicated by his or her DNA sample.

LB 1149

Legislative Bill 1149 provides the Department of Health and Human Services with duties for the early identification of foreign national minors in protective custody. The Department shall provide written information about the court process as well as communicate with the appropriate consulate about the minor's wellbeing.

If the minor is a ward of the state and is eligible for special immigrant juvenile status, the Department and the consulate shall work together to complete the application for the status and review home studies of potential families in the country involved in the case. Once the minor is

placed in his or her country, the Department shall work with the consulate to ensure the minor's welfare. The Director of HHS shall meet as necessary with consular officials to discuss, clarify, and coordinate cases.

There is no waiver of immunity under federal law, international law, and international treaties between the United States and foreign countries for a consulate or a consulate's agent.

The committee amendment (AM2852) to LB 1149 does the following:

- Adds 'minors holding dual citizenship' to the bill and defines that term in Section 1(5);
- In Section 4, the phrase 'protective custody' was replaced with the phrase 'ward of the department';
- In Sections 4 & 5, replaces the phrase 'administrator of the Office of Juvenile Services' with the word 'department'.
- In Section 6, the phrase 'ward of the state' was replaced with the phrase 'ward of the department';
- In Section 7, the word 'shall' is changed to 'may'; and
- In Section 10, line 21, the phrase 'or his or her designee' was inserted to allow a designee of the Director of Health and Human Services to appear on behalf of the Director when meeting with a consulate.

LB 1181

Legislative Bill 1181 proposes the following changes relating to juvenile offenders placed in detention. First, the bill provides juvenile offenders under an order pursuant to section 43-256, the right to a hearing within 48 hours. Current language provides for a hearing within a reasonable time. Secondly, the bill requires a court which places a juvenile in detention to hold a hearing every 14 days to review the juvenile's status. Third, the bill provides that placement of a juvenile in detention shall not be considered a treatment service.

The committee amendment to LB 1181, AM 2470, adds section 43-271 to the bill to clarify that juveniles held in detention pursuant to 43-248, 43-250, and 43-253 also have the right to request the detention hearing provided for in the bill.

LB 1196

Legislative Bill 1196 deletes references to social security numbers in dissolutions of marriage, domestic relations orders, paternity orders, child support orders, and foreign support orders.

The committee amendment (AM2315) to LB 1196 ensures that the social security of parties to a dissolution of marriage or child support order will be provided to the court, but will not be included in the dissolution decree or support order so as to prevent identity theft. Because the

social security number will be provided in a document related to the dissolution or support order, Nebraska is in compliance with federal law (42 USC 666(a)(13)).

Amendment 2785 to LB 1113 further amends the committee amendment (AM2315) as follows:

- In Section 1, line 18, inserts the phrase ‘and the minor child’ after ‘parent’; and
- Reinstates the stricken language on Page 11, lines 15-17 of AM2315 and provides that the social security number of the declared father in a paternity action shall be furnished to the clerk of the district court in a document accompanying the judgment.

LB 1224

Legislative Bill 1224 makes the following changes to the State Disbursement and Child Support Advisory Commission:

- renames the State Disbursement and Child Support Advisory Commission as the Child Support Advisory Commission;
- allows the Supreme Court to appoint two district judges to the Commission every time the Commission convenes at the direction of the Supreme Court;
- removes two members of the Legislature from the Commission and replaces them with the Judiciary Committee Chairperson and the Health and Human Services Committee Chairperson;
- designates the Judiciary Committee Chairperson as the Chairperson of the Child Support Advisory Commission;
- replaces the title of State Disbursement Unit vendor member with the State Treasurer;
- removes the ex officio member status of the State Treasurer, the State Court Administrator, and the Director of the Title IV-D Division;
- states that a convention of the Child Support Advisory Commission shall occur when the Supreme Court notifies the Executive Board of the Legislative Council of its intent to review the child support guidelines. Following such notification, the Child Support Advisory Commission Chairperson shall call a meeting of the Commission;
- the Executive Board shall appoint new members every time the Commission meets except for the Chairpersons of the Judiciary Committee and the Health and Human Services Committee, the State Treasurer, the State Court Administrator, and the Director of Title IV-D Division;
- deletes a requirement that the Commission meets quarterly;
- deletes all references to the State Disbursement Unit; and
- narrows the scope of the Commission’s review to the child support guidelines.

The committee amendment (AM2155) to LB 1224 makes a technical correction for the appointment of judges to the Commission.

LB 1257

AM 2785 incorporates the portions of LB 1257 which represent the recommended changes to the community corrections act and removes all of the sections of the bill relating to

the creation of a reentry court. The provisions of LB 1257 amended into LB 1113 are sections 25-31, 37 and 38 from the introduced bill which provide for the following:

- Adds 3 new members to the Community Corrections Council (Council)—two at large members and one reentry court judge.
- Creates a duty for the Community Corrections Council to establish a program to provide grant funds to eligible local agencies. For a local entity to receive funds, requirements would be set forth by the Council that ensure a local advisory committee submits a detailed plan outlining how the funds will be used to enhance community corrections and sentencing options expanded within the local community.
- Harmonizes provisions within the Community Corrections Act to clarify that the population targeted under the act is the “adult offender.”

Requires that the risk and needs assessment utilized by the Board of Parole in determining offenders’ release on parole be validated. The Department of Correctional Services would complete the assessment.

Senator Patrick J. Bourne, Chairperson