

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 671

Introduced by Pirsch, 4.

Read first time January 21, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to death investigations; to amend sections
2 23-1212, 23-1213, and 23-1218, Reissue Revised Statutes
3 of Nebraska; to change the membership of the Nebraska
4 County Attorney Standards Advisory Council; to provide
5 powers and duties for the council regarding establishment
6 of a region-based state medical examiner system; to
7 create a fund; to authorize a court fee; to harmonize
8 provisions; and to repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-1212, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 23-1212 For purposes of sections 23-1212 to 23-1222 and
4 sections 3 to 6 of this act, unless the context otherwise requires:

5 (1) County attorney shall mean the county attorney of
6 a county in this state whether such position is elective or
7 appointive and regardless of whether such position is full time or
8 part time;

9 (2) Deputy county attorney shall mean an attorney
10 employed by a county in this state for the purpose of assisting
11 the county attorney in carrying out his or her responsibilities
12 regardless of whether such position is full time or part time;

13 (3) Council shall mean the Nebraska County Attorney
14 Standards Advisory Council;

15 (4) Attorney General shall mean the Nebraska Attorney
16 General;

17 (5) Commission shall mean the Nebraska Commission on Law
18 Enforcement and Criminal Justice; and

19 (6) Continuing legal education, including instruction
20 providing a working knowledge of electronic speed measurement
21 principles and instruction on the investigation and prosecution
22 of crimes against children, shall mean that type of legal
23 education, including instruction providing a working knowledge
24 of electronic speed measurement principles and instruction on the
25 investigation and prosecution of crimes against children, which has

1 application to and seeks to maintain and improve the skills of
2 the county attorney and deputy county attorney in carrying out the
3 responsibilities of his or her office or position.

4 Sec. 2. Section 23-1213, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 23-1213 There is hereby created the Nebraska County
7 Attorney Standards Advisory Council which shall consist of ~~seven~~
8 eleven members, four of whom shall be either a county attorney or
9 deputy county attorney, one member being a professor of law, and
10 two members being county commissioners or supervisors, one member
11 being a member of the Nebraska State Patrol, one member being a
12 county sheriff, one member being a chief of police, and one member
13 being a certified forensic pathologist. The members of such council
14 shall be appointed by the Governor. Of the county attorneys or
15 deputy county attorneys appointed to such council, one shall be
16 from Douglas County, one shall be from Lancaster County, and the
17 remaining two shall be appointed from the remainder of the state.
18 Members of the council shall serve a term of four years, except
19 that of the members first appointed one member shall serve a term
20 of one year, two members shall serve a term of two years, two
21 members shall serve a term of three years, and two members shall
22 each serve a term of four years. A member may be reappointed at
23 the expiration of his or her term. Any vacancy occurring other
24 than by expiration of a term shall be filled for the remainder of
25 the unexpired term in the same manner as the original appointment.

1 The council shall select one of its members as chairperson. The
2 Governor shall make the appointments under this section within
3 ninety days of July 19, 1980.

4 Members of the council shall have such membership
5 terminated if they cease to hold the office of county attorney,
6 deputy county attorney, ~~or~~ county commissioner or supervisor, or
7 county sheriff. A member of the council may be removed from the
8 council for good cause upon written notice and upon an opportunity
9 to be heard before the Governor. After the hearing, the Governor
10 shall file in the office of the Secretary of State a complete
11 statement of the charges and the findings and disposition together
12 with a complete record of the proceedings.

13 Sec. 3. The council shall have the following duties
14 with respect to ensuring quality and uniform death investigation
15 processes throughout the state:

16 (1) The council shall establish a region-based
17 state medical examiner system consisting of certified forensic
18 pathologists serving as death investigation consultants to law
19 enforcement and the county attorney serving as coroner;

20 (2) The council shall ensure a certified forensic
21 pathologist is available at all times throughout the state to serve
22 on an on-call, fee-per-service basis as a medical examiner;

23 (3) The council shall determine and establish the duties
24 of medical examiners serving as on-call consultants to the death
25 investigator and autopsy service providers;

1 (4) The council shall create and distribute uniform
2 checklists of best practices to promote uniform and quality death
3 investigations for county coroners;

4 (5) Such checklists shall include guidance to the county
5 coroner in determining the need for autopsies involving:

6 (a) Deaths of individuals nineteen years of age or older;

7 (b) Deaths of individuals under nineteen years of age;

8 (c) Sudden, unexplained infant deaths;

9 (d) Deaths while in custody;

10 (e) Deaths caused by motor vehicle collisions;

11 (f) Deaths by burning; and

12 (g) Suspicious deaths;

13 (6) The council shall create standardized procedures for
14 death investigations, including death scene procedures. The council
15 shall also make recommendations as to best practices for county
16 coroners with respect to:

17 (a) The utilization of investigative tools and equipment;

18 (b) Entering the death scene;

19 (c) Documenting and evaluating the death scene;

20 (d) Documenting and evaluating the body;

21 (e) Establishing and recording decedent profile
22 information; and

23 (f) Completing the death scene investigation;

24 (7) The council may undertake reviews of death
25 investigations and offer recommendations for improvement to county

1 coroners and to the Legislature, if needed;

2 (8) The council shall determine the number of hours
3 required for initial death investigation training for newly elected
4 or appointed county attorneys serving as county coroners;

5 (9) The council shall determine the number of hours
6 required for annual continuing education death investigation
7 training of county attorneys serving as county coroners;

8 (10) The council shall determine the curriculum and
9 location for such training and continuing education events;

10 (11) The council may distribute funds to cover the costs
11 of initial training and continuing education; and

12 (12) The council shall serve as a facilitator to improve
13 communication between law enforcement, county attorneys, certified
14 forensic pathologists serving as death investigation consultants,
15 and forensic lab personnel.

16 Sec. 4. The council may also:

17 (1) Help establish a voluntary network of regional
18 officials including, but not limited to, law enforcement, county
19 coroners, and medical personnel to provide death investigation
20 support services for any location in Nebraska;

21 (2) Help determine the membership of such networks; and

22 (3) Develop, design, and provide standardized forms in
23 both hard copy and electronic copy for use in death investigations.

24 Sec. 5. Every person who is elected or appointed as
25 a coroner or deputy coroner in or for the State of Nebraska

1 shall satisfactorily complete initial death investigation training
2 within one year after the date of election or appointment, and
3 thereafter annually complete continuing education as determined by
4 the council.

5 Sec. 6. (1) The County Coroner Death Investigations
6 Fund is created. The fund shall consist of money collected
7 under subsection (2) of this section, money appropriated by the
8 Legislature, and gifts, grants, costs, or charges from any source,
9 including federal, state, public, and private sources. The fund
10 shall be used by the council to carry out sections 3 and 4 of
11 this act. Any money in the fund available for investment shall be
12 invested by the state investment officer pursuant to the Nebraska
13 Capital Expansion Act and the Nebraska State Funds Investment Act.

14 (2) Beginning January 1, 2010, a fee of one dollar shall
15 be taxed as costs in each criminal proceeding, including traffic
16 infractions and misdemeanors, filed in all courts of this state for
17 violations of state law or city or village ordinances. No such fee
18 shall be collected in any juvenile court proceeding or when waived
19 under section 29-2709. Such fee shall be remitted to the State
20 Treasurer on forms prescribed by the State Treasurer within ten
21 days after the close of each calendar quarter. The State Treasurer
22 shall credit the money to the County Coroner Death Investigations
23 Fund.

24 Sec. 7. Section 23-1218, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 23-1218 The Nebraska Commission on Law Enforcement and
2 Criminal Justice, after consultation with the council, shall:

3 (1) Establish curricula for the implementation of a
4 mandatory continuing legal education program, including instruction
5 providing a working knowledge of electronic speed measurement
6 principles and instruction on the investigation and prosecution of
7 crimes against children, for county attorneys and deputy county
8 attorneys;

9 (2) Administer all programs of continuing legal
10 education, including instruction providing a working knowledge
11 of electronic speed measurement principles and instruction on
12 the investigation and prosecution of crimes against children,
13 for county attorneys and deputy county attorneys required under
14 sections 23-1212 to 23-1222 and sections 3 to 6 of this act;

15 (3) Evaluate the effectiveness of programs of continuing
16 legal education, including instruction providing a working
17 knowledge of electronic speed measurement principles and
18 instruction on the investigation and prosecution of crimes against
19 children, required under sections 23-1212 to 23-1222 and sections
20 3 to 6 of this act;

21 (4) Certify the number of hours of continuing legal
22 education, including instruction providing a working knowledge of
23 electronic speed measurement principles and instruction on the
24 investigation and prosecution of crimes against children, completed
25 by a county attorney and deputy county attorney as required under

1 sections 23-1212 to 23-1222 and sections 3 to 6 of this act and
2 maintain all records relating thereto;

3 (5) Report to the Attorney General the names of all
4 county attorneys and deputy county attorneys who have failed
5 to complete the number of hours of continuing legal education,
6 including instruction providing a working knowledge of electronic
7 speed measurement principles and instruction on the investigation
8 and prosecution of crimes against children, as required under
9 section 23-1217;

10 (6) Establish tuition and fees for all programs of
11 continuing legal education, including instruction providing a
12 working knowledge of electronic speed measurement principles and
13 instruction on the investigation and prosecution of crimes against
14 children, as required under sections 23-1212 to 23-1222 and
15 sections 3 to 6 of this act;

16 (7) Adopt and promulgate necessary rules and regulations
17 for the effective delivery of all programs of continuing legal
18 education, including instruction providing a working knowledge of
19 electronic speed measurement principles and instruction on the
20 investigation and prosecution of crimes against children, for
21 county attorneys and deputy county attorneys as required under
22 sections 23-1212 to 23-1222 and sections 3 to 6 of this act;

23 (8) Do all things necessary to carry out the purpose of
24 training county attorneys and deputy county attorneys as required
25 by sections 23-1212 to 23-1222 and sections 3 to 6 of this act; and

1 (9) Receive and distribute appropriated funds to the
2 Nebraska County Attorneys Association to develop, administer, and
3 conduct continuing legal education seminars, prepare and publish
4 trial manuals and other publications, and take any other measure
5 that will enhance the investigation and prosecution of crime in
6 this state.

7 Sec. 8. Original sections 23-1212, 23-1213, and 23-1218,
8 Reissue Revised Statutes of Nebraska, are repealed.