

ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011
COMMITTEE STATEMENT
LB669

Hearing Date: Thursday February 24, 2011
Committee On: Judiciary
Introducer: Flood
One Liner: Change provisions relating to sealing of juvenile court records

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Ashford, Coash, Council, Harr, Larson, Lathrop, Lautenbaugh, McGill
Nay:
Absent:
Present Not Voting:

Proponents:

SEN. MIKE FLOOD
MARTY CONBOY

Representing:

INTRODUCER
CITY OF OMAHA, DOUGLAS COUNTY CRIMINAL JUSTICE MANAGEMENT COURT

Opponents:

KATIE ZULKOSKI
LARRY GENDLER

Representing:

NE STATE BAR ASSOCIATION
SELF

Neutral:

HONORABLE ROSS STOFER

Representing:

SELF

Summary of purpose and/or changes:

Legislative Bill 669 would make changes to the process for sealing records of involvement with the juvenile justice system that was enacted under LB 800 in 2010. The proposed changes include:

- * The sealing process would not be available for any waiverable offense.
 - * Allowing the parent or guardian of the juvenile to file a motion to have a juvenile record sealed.
 - * Removing the authority for the court to initiate the sealing process and the automatic initiation of the sealing process when the juvenile reaches the age of 17.
 - * Extending the timeframe for hearings on a motion to seal the record from 30 days to 60 days.
 - * Expanding the factors that the judge may consider in determining whether a juvenile has been rehabilitated to a satisfactory degree in order to seal the juvenile's record.
 - * Clarifying the effect of having a juvenile record sealed.
 - * Clarifying that no person may release any information concerning a sealed record unless specifically authorized under this law.
 - * When a juvenile record has been sealed and the person subject to the record subsequently applies for bonding or education, the person cannot be questioned with respect to the offense for which the record was sealed.
 - * Removing the provision that prevents the person who is the subject of a sealed record from being subjected to any adverse action for responding to questions as if the offense never occurred.
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Explanation of amendments:

Committee Amendment AM 1342 would strike the original sections and insert provisions from the following bills:

Legislative Bill 451, as included in AM 1342, would enact provisions to increase flexibility for the Judiciary to administer justice. The bill would expand the Supreme Court's options for funding sources from which to compensate interpreters used by the court. The bill would provide for clerks and staff of the district courts and the county courts to assist one another in the provision of court services based on agreements with the Supreme Court and the State Court Administrator. The bill would provide for the creation of the new position of Judicial Hearing Officer. The Supreme Court would be authorized to appoint judicial hearing officer(s) as needed in county courts sitting as separate juvenile courts or separate juvenile courts to preside in, hear and determine cases initiated under the juvenile code. The bill would provide greater flexibility for scheduling the administrative offices of the courts by requiring that court services must be available on all days except weekends, the holidays mentioned in statute section 25-2221 and those days specifically designated by the Supreme Court. The bill would allow for a divorce decree to be entered without a hearing if: both parties waive the hearing requirement; both parties certify in writing that the marriage is irretrievably broken; at least one of the parties certifies that reasonable efforts at reconciliation have been made and both parties have signed an agreement resolving all issues of the divorce. The bill would also outright repeal statute section 24-512 which provided for divisions of a county court to be at a location other than the county seat and required certain cases to be filed with the county court clerk in the county seat.

Legislative Bill 339, as included in AM 1342, would amend statute section 43-258 relating to pre-adjudication evaluations, placement, reports, and costs. The bill would repeal current language that authorizes the court to order a juvenile to be placed in one of the facilities or institutions of the State of Nebraska for the completion of a pre-adjudication evaluation. The bill would add language authorizing the court to order a juvenile to be placed directly with the Department of Health and Human Services for the purpose of obtaining a pre-adjudication evaluation. The Department would make arrangements for the evaluation. The Department would determine whether the evaluation is made on a residential or nonresidential basis and placement with the Department for the evaluation would be for a period not to exceed thirty days. If necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. The bill would also clarify the responsibilities of the county and the state for covering costs incurred during the period of detention or evaluation of the juvenile prior to adjudication.

Legislative Bill 349 would amend statute sections 25-2705 and 25-2805 relating to the demand for a jury trial in county court cases and cases transferred from small claims court to county court. The bill would provide various deadlines for the filing of a jury demand in civil cases depending on the role of the litigant doing the filing. Under LB 349, the procedure for filing a jury demand in a case that is transferred from small claims court to county court would correspond to the jury demand procedure for other civil cases as changed in this bill.

Legislative Bill 476 would amend a law passed in 2009 under LB 35. The bill would clarify the authority for delivery of service by a commercial courier such as FedEx or UPS, known in the law as a designated delivery service. Under the bill, service by designated delivery service must be made within ten days of issuance, which is consistent with the certified mail service method. In addition, designated delivery service requires the filing of proof of service with the court including a copy of the signed delivery receipt. The bill would also require the State Court Administrator to maintain a list of designated delivery services on the Supreme Court website. There is an emergency clause attached to this section of AM 1342.

Brad Ashford, Chairperson