

# One Hundred Fifth Legislature - First Session - 2017

## Introducer's Statement of Intent

### LB509

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**Chairperson: Senator Laura Ebke**

**Committee: Judiciary**

**Date of Hearing: February 10, 2017**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB509 addresses civil procedure statutes.

**Section 1 – § 25-1223.** The bill revises the statute to eliminate the uncertainty about whether a district court judge can issue a subpoena and also makes it explicit that the court that can issue the subpoena is the one in which the action or proceeding is pending. Additionally, the bill allows an attorney to issue a subpoena. The bill moves the contents of § 25-1125 into § 25-1123, so the statutes are more user-friendly. The bill provides additional language about fees and mileage for witnesses and how to obtain such compensation. The bill provides that a subpoena may be served by a non-party. The bill sets the minimum age at 21 because that is the minimum age for a private process server in Nebraska.

**Section 2 – § 25-1224.** The bill modernizes this provision regarding documents, electronically stored information, or other things in an individual's possession. The bill provides that the Supreme Court may promulgate a rule of discovery.

**Section 3 – § 25-1126.** The first subsection addresses the methods of service and the second subsection addresses the time for service. The bill also provides that a court can shorten the time period for service "for good cause shown." This is meant to address true short-term situations, like a rebuttal witness in a short trial.

**Section 4 – § 25-1228.** The bill requires the fees to be tendered with the subpoena to eliminate the uncertainty and potential unfairness of the current statute.

**Section 5 – § 29-1901.** The bill contemplates approaching subpoenas in criminal cases the same way the statutes currently approach depositions in criminal cases. The one exception would be fees.

**Section 6 – § 29-1903.** The bill adds subsection (1) because the words "witness fee" and "mileage" are used elsewhere in the statute. Subsection (2) was moved from § 29-1901 because it seemed to fit better here given the way the bill amends § 29-1901. The bill adds "a misdemeanor or" at the beginning of subsection (3) to account for case law, and it eliminates the "provided" clause.

**Principal Introducer:** \_\_\_\_\_

Senator Laura Ebke