

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB496

Hearing Date: Friday March 15, 2019
Committee On: Judiciary
Introducer: Wayne
One Liner: Increase penalties for tampering with witnesses, informants, jurors, or physical evidence and change provisions relating to discovery in criminal cases

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

Vote Results:
Aye: 5 Senators Brandt, Lathrop, Morfeld, Pansing Brooks, Wayne
Nay:
Absent: 3 Senators Chambers, DeBoer, Slama
Present Not Voting:

Oral Testimony:

Proponents:

Senator Justin Wayne
Mike Jensen
Aaron Hanson
Greg Gonzalez
Spike Eickholt
Thomas Riley

Representing:

Introducer
Nebraska County Attorneys Association
Omaha Police Officers Association
Omaha Police Department
Nebraska Criminal Defense Attorneys Association
Douglas County Public Defenders Office & Nebraska
Criminal Defense Attorneys Association

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB496 would increase penalties for tampering with witnesses, informants, juries, and physical evidence in certain situations and make changes to the discovery process in criminal trials.

Sections 2 and 3 would amend Sec. 28-919 and 28-922 to increase the penalties for tampering from a Class IV felony to a Class II felony when the tampering involves a case alleging a Class I, IA, IB, IC, ID, or II felony.

Section 4 would amend Sec. 29-1912 to make changes to the documents that a defendant could request the court to order the prosecution to produce. This section would clarify the definition of defendant's statements. This section would allow the defendant to request reports developed by law enforcement related to the investigation and law enforcement reports relating to prospective jurors. This section would also provide a new provision that would allow the prosecution to object to a discovery request on the grounds that a witness will be placed at risk or bodily harm or coercion.

Section 5 would amend Sec. 29-1914 to clarify that discoverable items and information include those that are accessible to the government.

Section 6 would amend Sec. 29-1916 to clarify that documents the defendant may be required to produce include those that are accessible to the defendant.

Section 8 would amend Sec. 29-1918 to require a party to notify the opposing party upon discovery of additional material that would have been responsive to a previous order for discovery.

Section 9 would amend Sec. 29-1919 to specifically authorize a court to dismiss a criminal case for a failure to comply with a discovery order.

Section 10 would amend Sec. 29-1923 to require prosecutors to notify a defendant of discovery of additional material required to be disclosed or made available for inspection at the time such information is discovered. This section would also be amended to order dismissal with or without prejudice for a failure to disclose information.

Section 11 would amend Sec. 29-1924 to simplify and clarify the definition of a statement made by a defendant.

Explanation of amendments:

AM787 replaces the original bill.

Section 2 would amend Sec. 28-919 to make witness or informant tampering a Class II felony when the underlying criminal proceeding alleges a Class II felony or higher, just as in the original bill. The amendment would reduce the penalty to a Class I misdemeanor when the underlying criminal proceeding alleges a Class II misdemeanor or lower.

Section 3 would amend Sec. 28-922 to make evidence tampering a Class II felony when the underlying criminal proceeding alleges a Class II felony or higher, just as in the original bill. The amendment would reduce the penalty to a Class I misdemeanor when the underlying criminal proceeding alleges a Class II misdemeanor or lower.

Section 4 would amend Sec. 29-1912 in a similar way to the original bill with some minor clarifications and reorganization.

Section 5 would amend Sec. 29-1914 in a similar way to the original bill, but would add that the discoverable information would be limited to information that directly relates to the underlying charge or charges.

Section 9 would amend Sec. 29-1919 as in the original bill, but would remove the provision that explicitly authorizes the order to include dismissal with or without prejudice.

Section 10 would amend Sec. 29-1923 as in the original bill, but would remove the provision that explicitly authorizes the order to include dismissal with or without prejudice.

Section 11 would amend Sec. 29-1924 in a similar way to the original bill, but would clarify that a discoverable statement by the defendant is limited to statements related to the underlying charge or charges.

Steve Lathrop, Chairperson