

AMENDMENTS TO LB496

(Amendments to Standing Committee amendments, AM1054)

Introduced by Wayne, 13.

1 1. Strike section 7 and insert the following sections:

2 Section 1. Section 29-1401, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-1401 (1) The district courts are hereby vested with power to call
5 grand juries.

6 (2) A grand jury may be called and summoned in the manner provided
7 by law on such day of a regular term of the district court in each year
8 in each county of the state as the district court may direct and at such
9 other times and upon such notice as the district court may deem
10 necessary.

11 (3) District courts shall call a grand jury in each case that a
12 petition meets the requirements of section 32-628, includes a recital as
13 to the reason for requesting the convening of the grand jury and a
14 specific reference to the statute or statutes which are alleged to have
15 been violated, and is signed not more than ninety days prior to the date
16 of filing under section 29-1401.02 by not less than ten percent of the
17 registered voters of the county who cast votes for the office of Governor
18 in such county at the most recent general election held for such office.

19 (4) District courts shall call a grand jury in each case upon
20 certification by the county coroner or coroner's physician that a person
21 has died while being apprehended by or while in the custody of a law
22 enforcement officer or detention personnel. In each case subject to this
23 subsection:

24 (a) Law enforcement personnel from the jurisdiction in which the
25 death occurred shall immediately secure the scene, preserve all evidence,
26 and investigate the matter as in any other homicide. The case shall be

1 treated as an open, ongoing matter until all evidence, reports, and other
2 relevant material which has been assembled are transferred to the special
3 prosecutor appointed a prosecuting attorney selected pursuant to
4 subdivision (b) of this subsection;

5 (b) ~~The county attorney or a member of his or her staff shall be the~~
6 ~~prosecuting attorney.~~ Except as provided in subdivision (d) of this
7 subsection, ~~the prosecuting attorney shall,~~ as soon as practicable, the
8 court shall appoint a special prosecutor who has had at least five years
9 experience in criminal litigation, including felony litigation. The
10 special prosecutor shall select a team of three peace officers trained to
11 investigate homicides. At least two of such investigators shall be from
12 jurisdictions outside the jurisdiction where agencies other than the
13 agency under which the death occurred. The team shall examine all
14 evidence concerning the cause of death and present the findings of its
15 investigation to the special prosecutor ~~prosecuting attorney~~;

16 (c) A grand jury shall be impaneled within thirty days after the
17 certification by the county coroner or coroner's physician, unless the
18 court extends such time period upon the showing of a compelling reason;
19 and

20 (d) A special prosecutor need not be appointed in ~~In~~ those cases in
21 which the death has been certified by a licensed practicing physician to
22 be from natural causes and ~~,~~ the county attorney or a member of his or
23 her staff may present such finding to a grand jury ~~without selecting a~~
24 ~~three-member team of peace officers to investigate.~~

25 Sec. 8. Sections 2, 3, 4, 5, 6, 7, and 10 of this act become
26 operative on January 1, 2022. The other sections of this act become
27 operative on their effective date.

28 Sec. 9. Original section 29-1401, Reissue Revised Statutes of
29 Nebraska, is repealed.

30 2. On page 5, line 21, strike "act" and insert "section".

31 3. Renumber the remaining sections accordingly.