

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 363

Introduced by Dorn, 30.

Read first time January 12, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to courts; to amend sections 22-417, 23-120,
2 23-121, 24-337.04, 24-507, 32-524, and 43-512.05, Reissue Revised
3 Statutes of Nebraska, and section 33-106.02, Revised Statutes
4 Cumulative Supplement, 2022; to change provisions relating to
5 consolidation of county offices, duties of counties to supply
6 materials, and residency requirements for elected clerks of the
7 district courts; to provide for transitioning the duties of clerk of
8 the district court in certain counties to clerk magistrates; to
9 change certain county employees to state employees; to change
10 provisions relating to elections for clerks of the district court,
11 court fees, and reimbursement for costs relating to administration
12 and enforcement of child, spousal, and medical support; to harmonize
13 provisions; and to repeal the original sections.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 22-417, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 22-417 (1) Any county may consolidate the office of ~~clerk of the~~
4 ~~district court,~~ county assessor, county clerk, county engineer, county
5 surveyor, or register of deeds, except that the consolidated officeholder
6 shall meet the qualifications of each office as required by law. The
7 consolidated office shall have the powers and duties provided by law for
8 each office consolidated. The county board may adopt a resolution for the
9 consolidation of any of such offices and submit the issue of the
10 consolidated office to the registered voters for approval at the next
11 general election or at a special election called for such purpose. The
12 county board shall hold a public hearing prior to adoption of a
13 resolution for the consolidation of offices and shall give notice of the
14 hearing by publication in a newspaper of general circulation in the
15 county once each week for three consecutive weeks prior to the hearing.
16 Final publication shall be within seven calendar days prior to the
17 hearing. The notice shall describe the offices to be consolidated and
18 that the holder of the offices to be consolidated shall have his or her
19 term of office end on the first Thursday after the first Tuesday in
20 January following the general election in which the holder of the
21 consolidated office is elected.

22 (2) The county board shall adopt the resolution for the
23 consolidation of offices by majority vote of the board and shall submit
24 the issue of consolidation to the registered voters for approval at the
25 next general election or at a special election called for such purpose.
26 For each consolidated office submitted for approval, the question shall
27 be submitted to the voters in substantially the following form:

28 "Shall (name of each office proposed to be consolidated) be
29 consolidated into one consolidated office according to the resolution
30 adopted by the county board of (name of county) on (date of adoption of
31 the resolution by the county board)? Yes No".

1 (3) If the majority of the registered voters in the county voting on
2 the question vote in favor of consolidation, the consolidated office
3 shall be filled at the next general election, and the terms of the
4 incumbents shall end on the first Thursday after the first Tuesday in
5 January following the general election in which the holder of the
6 consolidated office is elected.

7 (4) The term of a consolidated officer shall be four years or until
8 his or her successor is elected and qualified, except that the term of a
9 consolidated officer elected in the year 2000 or any fourth year
10 thereafter shall be two years or until his or her successor is elected
11 and qualified.

12 (5) Any election under this section shall be in accordance with the
13 Election Act.

14 Sec. 2. Section 23-120, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 23-120 (1)(a) ~~(1)~~ The county board shall acquire, purchase,
17 construct, renovate, remodel, furnish, equip, add to, improve, or provide
18 a suitable courthouse, jail, and other county buildings and a site or
19 sites for such buildings therefor and for such purposes borrow money and
20 issue the bonds of the county to pay for the same. Agreements entered
21 into under section 25-412.03 shall be deemed to be in compliance with
22 this section. The board shall keep such buildings in repair and provide
23 suitable rooms, ~~and~~ offices, furniture, and equipment for the
24 accommodation of the:

25 (i) Several ~~several~~ courts of record, Nebraska Workers' Compensation
26 Court or any judge thereof, Commissioner of Labor for the conduct and
27 operation of the state free employment service, county board, county
28 clerk, county treasurer, county sheriff, ~~clerk of the district court,~~
29 county surveyor, and county agricultural agent;

30 (ii) Clerk of the district court, including in counties in which the
31 clerk magistrate is performing the duties of the clerk of the district

1 court pursuant to section 24-507 or 32-524; and

2 (iii) County ~~, and county~~ attorney if the county attorney holds his
3 or her office at the county seat ~~and shall provide suitable furniture and~~
4 ~~equipment therefor.~~

5 (b) All such courts which desire such accommodation shall be
6 suitably housed in the courthouse.

7 (2) No levy exceeding (a) two million dollars in counties having in
8 excess of two hundred fifty thousand inhabitants, (b) one million dollars
9 in counties having in excess of one hundred thousand inhabitants and not
10 in excess of two hundred fifty thousand inhabitants, (c) three hundred
11 thousand dollars in counties having in excess of thirty thousand
12 inhabitants and not in excess of one hundred thousand inhabitants, or (d)
13 one hundred fifty thousand dollars in all other counties shall be made
14 within a one-year period for any of the purposes specified in subsection
15 (1) of this section without first submitting the proposition to a vote of
16 the people of the county at a general election or a special election
17 ordered by the board for that purpose and obtaining the approval of a
18 majority of the legal voters thereon.

19 (3)(a) The county board of any county in this state may, when
20 requested so to do by petition signed by at least a majority of the legal
21 voters in the county based on the average vote of the two preceding
22 general elections, make an annual levy of not to exceed seventeen and
23 five-tenths cents on each one hundred dollars upon the taxable value of
24 all the taxable property in the county for any of the purposes specified
25 in subsection (1) of this section.

26 (b) If a county on the day it first initiates a project for any of
27 the purposes specified in subsection (1) of this section had no bonded
28 indebtedness payable from its general fund levy, the county board may
29 make an annual levy of not to exceed five and two-tenths cents on each
30 one hundred dollars upon the taxable value of all the taxable property of
31 the county for a project or projects for any of the purposes specified in

1 subsection (1) of this section without the filing of a petition described
2 in subdivision (3)(a) of this section. The county board shall designate
3 the particular project for which such levy shall be expended, the period
4 of years, which shall not exceed twenty, for which the tax will be levied
5 for such project, and the number of cents of the levy for each year of
6 the levy thereof. The county board may designate more than one project
7 and levy a tax pursuant to this section for each such project,
8 concurrently or consecutively, as the case may be, if the aggregate levy
9 in each year and the duration of each levy will not exceed the
10 limitations specified in this subsection. Each levy for a project which
11 is authorized by this subdivision may be imposed for such duration
12 specified by the county board notwithstanding the contemporaneous
13 existence or subsequent imposition of any other levy or levies for
14 another project or projects imposed pursuant to this subdivision and
15 notwithstanding the subsequent issuance by the county of bonded
16 indebtedness payable from its general fund levy.

17 Sec. 3. Section 23-121, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 23-121 The county board shall provide and keep in repair, when the
20 finances of the county will permit, suitable fireproof safes for the
21 county clerk and county treasurer. It shall provide suitable books and
22 stationery for the use of the county board, county clerk, county
23 treasurer, county judge, sheriff, clerk of the district court, if
24 elected, county school administrator, county surveyor, and county
25 attorney.

26 Sec. 4. Section 24-337.04, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 24-337.04 A clerk of the district court elected after 2008 need not
29 be a resident of the county when he or she files for election as clerk of
30 the district court, but an elected a clerk of the district court shall
31 reside in a county for which he or she holds office.

1 Sec. 5. Section 24-507, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-507 (1) There shall be appointed a clerk magistrate to serve each
4 county. Clerk magistrates shall be appointed by the county judge, or
5 judges if the district has more than one county judge, and shall serve at
6 the pleasure of the county judge or judges, subject to personnel rules
7 adopted by the Supreme Court.

8 (2) The clerk magistrate shall be the clerk of the county court and
9 if appointed as clerk magistrate for more than one county shall be the
10 clerk of the county court for each county.

11 (3) In counties when the district court clerk or staff is
12 temporarily unavailable, the clerk magistrate as clerk of the county
13 court shall, under the direction of the district court judge and in
14 cooperation and agreement with the Supreme Court, State Court
15 Administrator, and clerk of the district court, assist the clerk of the
16 district court in the provision of district court services which would
17 otherwise require the presence of district court staff. Any agreement
18 entered into under this subsection must be signed and stipulated to by
19 the State Court Administrator, the county board, and the clerk of the
20 district court after obtaining input from the clerk of the county court,
21 a district court judge, a county court judge, and the county attorney.
22 Any agreement entered into under this subsection may include, but is not
23 limited to, financial considerations and scheduling.

24 (4) For purposes of this section, transition date means:

25 (a) January 1, 2024, for district court judicial district numbers 8,
26 11, and 12; and

27 (b) January 1, 2025, for district court judicial district numbers 1,
28 2, 3, 4, 5, 6, 7, 9, and 10.

29 (5) Before the transition date:

30 (a) {4} When an agreement has been reached pursuant to subdivision
31 (1)(b) of section 32-524 or subsection (3) of section 32-524 for a clerk

1 magistrate as clerk of the county court to be ex officio clerk of the
2 district court, the clerk magistrate shall perform the duties required by
3 law of the clerk of the district court under the direction of the
4 district court judge for the county and the State Court Administrator;
5 and -

6 (b) In any county in which the office of clerk of the district court
7 was eliminated as provided in subdivision (1)(d) of section 32-524, the
8 clerk magistrate shall perform the duties required by law of the clerk of
9 the district court under the direction of the district court judge for
10 the county and the State Court Administrator.

11 (6) On and after the transition date:

12 (a) In any county in which, as of the transition date, the duties of
13 the clerk of the district court were being performed by the county clerk
14 as ex officio clerk of the district court, such duties shall be
15 transferred to the clerk magistrate for such county, who shall perform
16 the duties required by law of the clerk of the district court under the
17 direction of the district court judge for the county and the State Court
18 Administrator;

19 (b) In any county in which, as of the transition date, an agreement
20 was in effect pursuant to subdivision (1)(b) of section 32-524 between
21 the county board of such county and the State Court Administrator
22 pursuant to which the clerk magistrate acted as ex officio clerk of the
23 district court and performed the duties of such officer:

24 (i) The agreement shall terminate as of the transition date; and

25 (ii) The clerk magistrate for such county shall perform the duties
26 required by law of the clerk of the district court under the direction of
27 the district court judge for the county and the State Court
28 Administrator;

29 (c) In any county in which, as of the transition date, the duties of
30 the clerk of the district court were being performed by the clerk
31 magistrate pursuant to subdivision (5)(b) of this section and subdivision

1 (1)(d) of section 32-524, the clerk magistrate shall continue to perform
2 the duties required by law of the clerk of the district court under the
3 direction of the district court judge for the county and the State Court
4 Administrator; and

5 (d) In any county in which, on or after the transition date, the
6 office of clerk of the district court is eliminated as provided in
7 subsection (2) of section 32-524, the duties of the clerk of the district
8 court shall be transferred to the clerk magistrate for such county, who
9 shall perform the duties required by law of the clerk of the district
10 court under the direction of the district court judge for the county and
11 the State Court Administrator.

12 (7) At any time before, on, or after the transition date, in a
13 county in which the duties of the clerk of the district court are
14 performed by the clerk magistrate:

15 (a) The county board of such county may request in writing that the
16 State Court Administrator review office space provided by the county for
17 the court to determine if the court has adequate office space within the
18 county-owned buildings. The State Court Administrator shall respond in
19 writing to such request within thirty days after receiving the request.
20 The final decision with respect to maintaining, increasing, or reducing
21 office space provided by such county shall be made by the county board;

22 (b) All furniture, computers, equipment, and personal property owned
23 by the county to perform the clerk of the district court function prior
24 to a transfer of such duties to the clerk magistrate shall remain the
25 property of the county, and all books, files, and similar records related
26 to such duties shall be transferred to the State Court Administrator; and

27 (c) All financial records and bank accounts related to clerk of the
28 district court functions shall be transferred to the Supreme Court.

29 (8) Nothing in this section shall prevent a review and subsequent
30 reduction in staffing by the State Court Administrator or Supreme Court.

31 Sec. 6. Section 32-524, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 32-524 (1) Before the transition date as defined in section 24-507
3 ~~Except as provided in section 22-417:~~

4 (a) In counties having a population of seven thousand inhabitants or
5 more, there shall be elected one clerk of the district court at the
6 statewide general election in 1962 and every four years thereafter; ~~and~~

7 (b) In counties having a population of less than seven thousand
8 inhabitants, there shall be elected a clerk of the district court at the
9 first statewide general election following a determination by the county
10 board and the district judge for the county that such officer should be
11 elected and each four years thereafter. When such a determination is not
12 made in such a county, the county clerk shall be ex officio clerk of the
13 district court and perform the duties of such ~~by law devolving upon that~~
14 officer, unless there is an agreement between the State Court
15 Administrator and the county board that the clerk magistrate ~~of the~~
16 ~~county court~~ for such county shall be the ex officio clerk of the
17 district court and perform such duties; -

18 (c) ~~(2)~~ In any county upon presentation of a petition to the county
19 board (i) ~~(a)~~ not less than sixty days before the statewide general
20 election in 1976 or every four years thereafter, (ii) ~~(b)~~ signed by
21 registered voters of the county equal in numbers to at least fifteen
22 percent of the total vote cast for Governor at the most recent
23 gubernatorial election in the county, secured in not less than two-fifths
24 of the townships or precincts of the county, and (iii) ~~(c)~~ asking that
25 the question of not electing a clerk of the district court in the county
26 be submitted to the registered voters of the county ~~therein~~, the county
27 board, at the next statewide general election, shall order the submission
28 of the question to the registered voters of the county. The form of
29 submission upon the ballot shall be as follows:

30 For election of a clerk of the district court;

31 Against election of a clerk of the district court; -

1 ~~(d) (3)~~ If a majority of the votes cast on the question under
2 subdivision (1)(c) of this section are against the election of a clerk of
3 the district court in such county; ~~τ~~

4 ~~(i)~~ The clerk magistrate for such county shall perform the duties
5 required by law of the clerk of the district court under the direction of
6 the district court judge for the county and the State Court
7 Administrator; and

8 ~~(ii) The shall be performed by the county clerk, unless there is an~~
9 ~~agreement between the State Court Administrator and the county board that~~
10 ~~the clerk of the county court for such county shall be the ex officio~~
11 ~~clerk of the district court and perform such duties, and the office of~~
12 ~~clerk of the district court shall either cease with the expiration of the~~
13 ~~term of the incumbent or continue to be abolished if no such office~~
14 ~~exists at such time; and τ~~

15 ~~(e) (4)~~ If a majority of the votes cast on the question under
16 subdivision (1)(c) of this section are in favor of the election of a
17 clerk of the district court, the office shall continue or a clerk of the
18 district court shall be elected at the next statewide general election as
19 provided in subdivision (1)(a) or (b) subsection (1) of this section.

20 (2) On and after the transition date as defined in section 24-507:

21 (a) In a county with a population of seven thousand inhabitants or
22 more, there shall be elected a clerk of the district court at the
23 statewide general election in 1962 and every four years thereafter unless
24 the registered voters of the county have voted against election of a
25 clerk of the district court;

26 (b) In a county with a population of less than seven thousand
27 inhabitants:

28 (i) If such county had an elected clerk of the district court as of
29 the transition date, there shall be elected a clerk of the district court
30 unless the registered voters of the county have voted against election of
31 a clerk of the district court; and

1 (ii) If, as of the transition date, the duties of the clerk of the
2 district court were being performed by the county clerk or clerk
3 magistrate as described in subdivision (6)(a), (b), or (c) of section
4 24-507, the clerk magistrate shall perform the duties required by law of
5 the clerk of the district court under the direction of the district court
6 judge for the county and the State Court Administrator;

7 (c) In any county that has an elected clerk of the district court,
8 upon presentation of a petition to the county board (i) not less than
9 sixty days before the statewide general election in 1976 or every four
10 years thereafter, (ii) signed by registered voters of the county equal in
11 number to at least fifteen percent of the total vote cast for Governor at
12 the most recent gubernatorial election in the county, secured in not less
13 than two-fifths of the townships or precincts of the county, and (iii)
14 asking that the question of not electing a clerk of the district court in
15 the county be submitted to the registered voters of the county, the
16 county board shall, at the next statewide general election, order the
17 submission of the question to the registered voters of the county. The
18 form of submission upon the ballot shall be as follows:

19 For election of a clerk of the district court;

20 Against election of a clerk of the district court;

21 (d) If a majority of the votes cast on the question under
22 subdivision (2)(c) of this section are against the election of a clerk of
23 the district court in such county:

24 (i) The clerk magistrate for such county shall perform the duties
25 required by law of the clerk of the district court under the direction of
26 the district court judge for the county and the State Court
27 Administrator; and

28 (ii) The office of clerk of the district court shall cease with the
29 expiration of the term of the incumbent; and

30 (e) If a majority of the votes cast on the question under
31 subdivision (2)(c) of this section are in favor of the election of a

1 clerk of the district court, the office shall continue.

2 (3) For an elected clerk of the district court:

3 (a) (5) The term of the clerk of the district court shall be four
4 years or until his or her successor is elected and qualified; ~~–~~

5 (b) The clerk of the district court shall meet the qualifications
6 found in section 24-337.04; and ~~–~~

7 (c) The clerk of the district court shall be elected on the partisan
8 ballot.

9 Sec. 7. Section 33-106.02, Revised Statutes Cumulative Supplement,
10 2022, is amended to read:

11 33-106.02 (1) The clerk of the district court of each county shall
12 not retain for his or her own use any fees, revenue, perquisites, or
13 receipts, fixed, enumerated, or provided in this or any other section of
14 the statutes of the State of Nebraska or any fees authorized by federal
15 law to be collected or retained by a county official.

16 (2) In a county that has an elected clerk of the district court:

17 (a) The clerk shall on or before the fifteenth day of each month
18 make a report to the county board, under oath, showing the different
19 items of such fees, revenue, perquisites, or receipts received, from
20 whom, at what time, and for what service, and the total amount received
21 by such officer since the last report, and also the amount received for
22 the current year; and ~~–~~

23 (b) (2) The clerk shall account for and pay any fees, revenue,
24 perquisites, or receipts not later than the fifteenth day of the month
25 following the calendar month in which such fees, revenue, perquisites, or
26 receipts were received in the following manner:

27 (i) (a) Of the forty-two-dollar docket fee imposed pursuant to
28 section 33-106, ~~one dollar shall be remitted to the State Treasurer for~~
29 ~~credit to the General Fund and six dollars shall be remitted to the State~~
30 ~~Treasurer for credit to the Nebraska Retirement Fund for Judges through~~
31 ~~June 30, 2021. Beginning July 1, 2021, seven dollars of such forty-two-~~

1 ~~dollar docket fee~~ shall be remitted to the State Treasurer for credit to
2 the Nebraska Retirement Fund for Judges;

3 (ii) (b) Of the twenty-seven-dollar docket fee imposed for appeal of
4 a criminal case to the district court pursuant to section 33-106, two
5 dollars shall be remitted to the State Treasurer for credit to the
6 Nebraska Retirement Fund for Judges; and

7 (iii) (e) The remaining fees, revenue, perquisites, or receipts
8 shall be credited to the general fund of the county.

9 (3) In a county in which the duties of the clerk of the district
10 court are being performed by the clerk magistrate pursuant to section
11 24-507 or 32-524, the clerk magistrate shall account for and pay any
12 fees, revenue, perquisites, or receipts not later than the fifteenth day
13 of the month following the calendar month in which such fees, revenue,
14 perquisites, or receipts were received in the following manner:

15 (a) Of the forty-two-dollar docket fee imposed pursuant to section
16 33-106, seven dollars shall be remitted to the State Treasurer for credit
17 to the Nebraska Retirement Fund for Judges;

18 (b) Of the twenty-seven-dollar docket fee imposed for appeal of a
19 criminal case to the district court pursuant to section 33-106, two
20 dollars shall be remitted to the State Treasurer for credit to the
21 Nebraska Retirement Fund for Judges; and

22 (c) The remaining fees, revenue, perquisites, or receipts shall be
23 credited to the general fund of the county.

24 Sec. 8. Section 43-512.05, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 43-512.05 (1) It shall be the duty of the clerks of the district
27 courts to furnish the Department of Health and Human Services monthly
28 statistical information and any other information required by the
29 department to properly account for child, spousal, and medical support
30 payments.

31 (2)(a) In a county that has an elected clerk of the district court,

1 ~~the~~ The clerk of ~~the~~ each district court shall negotiate and enter into a
2 written agreement with the department in order to receive reimbursement
3 for the costs incurred in carrying out sections 43-512 to 43-512.10 and
4 43-512.12 to 43-512.18.

5 (b) In a county in which the duties of the clerk of the district
6 court are being performed by the clerk magistrate pursuant to section
7 24-507 or 32-524, the State Court Administrator shall negotiate and enter
8 into a written agreement with the department in order to receive
9 reimbursement for the direct costs incurred by the clerk magistrate in
10 carrying out sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18.

11 (3) (2) The department and the governing board of the county, county
12 attorney, or authorized attorney may enter into a written agreement
13 regarding the determination of paternity and child, spousal, and medical
14 support enforcement for the purpose of implementing ~~such~~ sections 43-512
15 to 43-512.10 and 43-512.12 to 43-512.18. Paternity shall be established
16 when it can be determined that the collection of child support is
17 feasible.

18 (4) (3) The department shall adopt and promulgate rules and
19 regulations regarding the rate and manner of reimbursement for costs
20 incurred in carrying out ~~such~~ sections 43-512 to 43-512.10 and 43-512.12
21 to 43-512.18, taking into account relevant federal law, available federal
22 funds, and any appropriations made by the Legislature.

23 (5)(a) In a county that has an elected clerk of the district court,
24 any ~~Any~~ reimbursement funds shall be added to the budgets of those county
25 officials who have performed the services as called for in the
26 cooperative agreements and carried over from year to year as required by
27 law.

28 (b) In a county in which the duties of the clerk of the district
29 court are being performed by the clerk magistrate pursuant to section
30 24-507 or 32-524, any federal fund reimbursement received for direct
31 costs as provided in subdivision (2)(b) of this section shall be

1 transferred to the State Treasurer for credit to Agency 5 - Supreme
2 Court.

3 Sec. 9. Original sections 22-417, 23-120, 23-121, 24-337.04,
4 24-507, 32-524, and 43-512.05, Reissue Revised Statutes of Nebraska, and
5 section 33-106.02, Revised Statutes Cumulative Supplement, 2022, are
6 repealed.