A BILL FOR AN ACT relating to county attorneys; to amend sections 23-1201, 23-1205, 23-1212, 23-1218, 23-1220, and 77-5007.01, Reissue Revised Statutes of Nebraska, and sections 32-567 and 32-604, Revised Statutes Cumulative Supplement, 2022; to provide for the powers and duties of county attorneys and deputy county attorneys to be performed by district attorneys and deputy district attorneys appointed by the Attorney General; to eliminate provisions relating to powers and duties and elections of county attorneys; to provide powers and duties for the Attorney General; to harmonize provisions; to provide operative dates; to repeal the original sections; and to outright repeal sections 23-1201.01, 23-1201.02, 23-1204, 23-1204.01, 23-1204.03, 23-1204.04, 23-1204.05, 23-1204.06, 23-1206.01, 23-1206.02, 23-1209, 23-1221, 23-1222, 23-1223, and 32-522, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,
Section 1. (1) Beginning January 1, 2025, the powers and duties of county attorneys and deputy county attorneys in each of the counties of Nebraska shall be performed by district attorneys and deputy district attorneys as provided in this section.

(2) The Attorney General shall designate a district attorney for each of the district court judicial districts described in section 24-301.02, to begin serving effective January 1, 2025. A district attorney shall serve as the county attorney for each of the counties contained within the judicial district.

(3) The Attorney General may assign additional deputy district attorneys and support staff to each district attorney as necessary to handle the workload in the district. All district attorneys, deputy district attorneys, and staff assigned by the Attorney General to a district shall be full-time employees of the office of the Attorney General and shall not engage in the private practice of law.

Sec. 2. Section 23-1201, Reissue Revised Statutes of Nebraska, is amended to read:

23-1201 (1) Except as provided in subdivision (2) of section 84-205 or if a person is participating in a pretrial diversion program established pursuant to sections 29-3601 to 29-3604 or a juvenile pretrial diversion program established pursuant to sections 43-260.02 to 43-260.07, it shall be the duty of the county attorney, when in possession of sufficient evidence to warrant the belief that a person is guilty and can be convicted of a felony or misdemeanor, to prepare, sign, verify, and file the proper complaint against such person and to appear in the several courts of the county and prosecute the appropriate criminal proceeding on behalf of the state and county. Prior to reaching a plea agreement with defense counsel, the county attorney shall consult with or make a good faith effort to consult with the victim regarding the content of and reasons for such plea agreement. The county attorney shall record such consultation or effort in his or her office file.
(2) It shall be the duty of the county attorney to prosecute or defend, on behalf of the state and county, all suits, applications, or motions, civil or criminal, arising under the laws of the state in which the state or the county is a party or interested. The county attorney may be directed by the Attorney General to represent the state in any action or matter in which the state is interested or a party. When such services require the performance of duties which are in addition to the ordinary duties of the county attorney, he or she shall receive such fee for his or her services, in addition to the salary as county attorney, as (a) the court shall order in any action involving court appearance or (b) the Attorney General shall authorize in other matters, with the amount of such additional fee to be paid by the state. It shall also be the duty of the county attorney to appear and prosecute or defend on behalf of the state and county all such suits, applications, or motions which may have been transferred by change of venue from his or her county to any other county in the state. Any counsel who may have been assisting the county attorney in any such suits, applications, or motions in his or her county may be allowed to assist in any other county to which such cause has been removed.

(3) The county attorney shall file the annual inventory statement with the county board of county personal property in his or her possession as provided in sections 23-346 to 23-350. It shall be the further duty of the county attorney of each county, within three days from the calling to his or her attention of any violation of the requirements of the law concerning annual inventory statements from county officers, to institute proceedings against such offending officer and in addition thereto to prosecute the appropriate action to remove such county officer from office. When it is the county attorney who is charged with failure to comply with this section, the Attorney General may bring the action. It shall be the duty of the county attorney to make a report on the tenth day of each quarter to the county board which shall
show final disposition of all criminal cases the previous quarter, 
criminal cases pending on the last day of the previous quarter, and 
criminal cases appealed during the past quarter. The county board may 
waive the duty to make such report.

Sec. 3. Section 23-1205, Reissue Revised Statutes of Nebraska, is 
amended to read:

23-1205 Due to the absence, sickness, disability, or conflict of 
interest of the county attorney and his or her deputies, or upon request 
of the county attorney for good cause, the Attorney General Supreme 
Court, the Court of Appeals, or any district court, separate juvenile 
court, or county court before which the cause may be heard may appoint an 
attorney to act as county attorney in any investigation, appearance, or 
trial by an order entered upon the minutes of the court. Such attorney 
shall be allowed compensation for such services as the court determines, 
to be paid by order of the county treasurer upon presenting to the county 
board the certificate of the judge before whom the cause was tried 
certifying to services rendered by such attorney and the amount of 
compensation.

Sec. 4. Section 23-1212, Reissue Revised Statutes of Nebraska, is 
amended to read:

23-1212 For purposes of sections 23-1212 to 23-1220, unless 
the context otherwise requires:

(1) County attorney shall mean the county attorney of a county in 
this state whether such position is elective or appointive and regardless 
of whether such position is full time or part time;

(2) Deputy county attorney shall mean an attorney employed by a 
county in this state for the purpose of assisting the county attorney in 
carrying out his or her responsibilities regardless of whether such 
position is full time or part time;

(1) (3) Council shall mean the Nebraska County Attorney Standards 
Advisory Council;
(2) Attorney General shall mean the Nebraska Attorney General;

(3) Commission shall mean the Nebraska Commission on Law Enforcement and Criminal Justice; and

(4) Continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, shall mean that type of legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, which has application to and seeks to maintain and improve the skills of the county attorney and deputy county attorney in carrying out the responsibilities of his or her office or position.

Sec. 5. Section 23-1218, Reissue Revised Statutes of Nebraska, is amended to read:

23-1218 The Nebraska Commission on Law Enforcement and Criminal Justice, after consultation with the council, shall:

(1) Establish curricula for the implementation of a mandatory continuing legal education program, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, for county attorneys and deputy county attorneys;

(2) Administer all programs of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, for county attorneys and deputy county attorneys required under sections 23-1212 to 23-1220 23-1222;

(3) Evaluate the effectiveness of programs of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, required under sections 23-1212 to 23-1220 23-1222;
(4) Certify the number of hours of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, completed by a county attorney and deputy county attorney as required under sections 23-1212 to 23-1220 23-1222 and maintain all records relating thereto;

(5) Report to the Attorney General the names of all county attorneys and deputy county attorneys who have failed to complete the number of hours of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, as required under section 23-1217;

(6) Establish tuition and fees for all programs of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, as required under sections 23-1212 to 23-1220 23-1222;

(7) Adopt and promulgate necessary rules and regulations for the effective delivery of all programs of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, for county attorneys and deputy county attorneys as required under sections 23-1212 to 23-1220 23-1222;

(8) Do all things necessary to carry out the purpose of training county attorneys and deputy county attorneys as required by sections 23-1212 to 23-1220 23-1222; and

(9) Receive and distribute appropriated funds to the Nebraska County Attorneys Association to develop, administer, and conduct continuing legal education seminars, prepare and publish trial manuals and other publications, and take any other measure that will enhance the investigation and prosecution of crime in this state.
Sec. 6. Section 23-1220, Reissue Revised Statutes of Nebraska, is amended to read:

23-1220 Upon being advised by the commission of a failure on the part of a county attorney or deputy county attorney to complete the number of hours of continuing legal education, including instruction providing a working knowledge of electronic speed measurement principles and instruction on the investigation and prosecution of crimes against children, required by section 23-1217, the Attorney General shall take appropriate action to discipline or remove such county attorney or district attorney from office and appoint a replacement. Commence a civil action in the district court of the county in which the county attorney holds office, or in the case of a deputy county attorney in the district court of the county in which he or she is employed, seeking his or her removal from office or employment. Such action shall be brought in the name of the county. Such action shall be tried in the same manner as other civil actions under Chapter 25, except that such action shall be tried exclusively to the court without a jury.

Sec. 7. Section 32-567, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-567 Vacancies in office shall be filled as follows:

(1) In state and judicial district offices and in the membership of any board or commission created by the state when no other method is provided, by the Governor;

(2) In county offices other than county attorney, by the county board;

(3) In the membership of the county board, by the county clerk, county attorney, and county treasurer;

(4) In the membership of the city council, according to section 32-568 or 32-569, as applicable;

(5) In township offices, by the township board or, if there are two or more vacancies on the township board, by the county board;
(6) In offices in public power and irrigation districts, according to section 70-615;

(7) In offices in natural resources districts, according to section 2-3215;

(8) In offices in community college areas, according to section 85-1514;

(9) In offices in educational service units, according to section 79-1217;

(10) In offices in hospital districts, according to section 23-3534;

(11) In offices in metropolitan utilities districts, according to section 14-2104;

(12) In membership on airport authority boards, according to section 3-502, 3-611, or 3-703, as applicable;

(13) In membership on the board of trustees of a road improvement district, according to section 39-1607;

(14) In membership on the council of a municipal county, by the council;

(15) For learning community coordinating councils, according to section 32-546.01; and

(16) For regional metropolitan transit authority boards, according to section 18-808.

Sec. 8. Section 32-604, Revised Statutes Cumulative Supplement, 2022, is amended to read:

32-604 (1) Except as provided in subsection (2) or (4) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(2) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may
simultaneously serve in another elective office which is filled at an
election held in conjunction with the annual meeting of a public body.

(3) Whenever an incumbent serving as a member of the Legislature or
in an elective office described in Article IV, section 1 or 20, or
Article VII, section 3 or 10, of the Constitution of Nebraska assumes
another elective office, except an elective office filled at an election
held in conjunction with the annual meeting of a public body, the office
first held by the incumbent shall be deemed vacant.

(4) No person serving in a high elective office shall simultaneously
serve in any other high elective office, except that a county attorney
may serve as the county attorney for more than one county if appointed
under subsection (2) of section 23-1201.01.

(5) Notwithstanding subsection (4) of this section, any person
holding more than one high elective office upon July 15, 2010, shall be
entitled to serve the remainder of all terms for which he or she was
elected or appointed.

(6) For purposes of this section, (a) elective office has the
meaning found in section 32-109 and includes an office which is filled at
an election held in conjunction with the annual meeting of a public body
created by an act of the Legislature but does not include a member of a
learning community coordinating council appointed pursuant to subsection
(5) or (7) of section 32-546.01 prior to January 5, 2017, and (b) high
elective office means a member of the Legislature, an elective office
described in Article IV, section 1 or 20, or Article VII, section 3 or
10, of the Constitution of Nebraska, or a county, city, community college
area, learning community, regional metropolitan transit authority, or
school district elective office.

Sec. 9. Section 77-5007.01, Reissue Revised Statutes of Nebraska, is
amended to read:

77-5007.01 In appeals by a county assessor in his or her official
capacity pursuant to section 77-5007, the county assessor may request
that the district court appoint an attorney to represent the county assessor before the commission. Upon a showing of good cause, the district court may make such an appointment by an order to be entered upon the minutes of the court. Any attorney so appointed shall receive no compensation from the county except as provided for in section 23-1204.01.

Sec. 10. Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, and 12 of this act become operative on January 1, 2025. The other sections of this act become operative on their effective date.

Sec. 11. Original sections 23-1201, 23-1205, 23-1212, 23-1218, 23-1220, and 77-5007.01, Reissue Revised Statutes of Nebraska, and sections 32-567 and 32-604, Revised Statutes Cumulative Supplement, 2022, are repealed.

Sec. 12. The following sections are outright repealed: Sections 23-1201.01, 23-1201.02, 23-1204, 23-1204.01, 23-1204.03, 23-1204.04, 23-1204.05, 23-1204.06, 23-1206.01, 23-1206.02, 23-1209, 23-1221, 23-1222, 23-1223, and 32-522, Reissue Revised Statutes of Nebraska.