



Administrative Memorandum

Administrative Memorandum 06-3
March 2006

Nebraska Supreme Court
Administrative Office of the Courts & Probation
P. O. Box 98910
Lincoln, NE 68509
402-471-3730

John V. Hendry, Chief Justice
Janice K. Walker, State Court Administrator
Ellen Fabian Brokofsky, State Probation Administrator

Administrative Memoranda available at www.nebraskacourt.com under "Court Administrator's Office" on the main page, left hand menu.

SPECIAL PROJECTS AND EVENTS

National Mediation Month – March

In celebration of National Mediation Month, the Office of Dispute Resolution held a proclamation signing ceremony with Governor Dave Heineman on Tuesday, March 21, in the State Capitol declaring March as Mediation Month in Nebraska. Supreme Court liaison to the Office of Dispute Resolution Justice Michael McCormack, ODR Mediation Center representatives, other interested members of the ADR/NSBA and the community were in attendance.

Contact *Debora Brownyard, Dispute Resolution Services/Rural Court Services, 402-471-2766, dbrownya@nsc.state.ne.us*

Judicial Workload Assessment Study

The judicial workload assessment study is in full swing. According to the National Center for State Courts, 95% of the judges and child support referees in the state had made entries as of March 20, 2006.

This study will replace the weighted caseload study completed in 1996 and will provide information for future weighted caseload reports to be used by the Judicial Resources Commission in determining the need for judges in the state.

If you are unsure of something, the study Web site has frequently asked questions and answers. Check the FAQ resource site at http://ncscsurveys.org/NE_judicial/time_login.php.

All information will be collected and analyzed by the National Center for State Courts and the results released later this summer. Chief Justice Hendry has expressed his wishes for 100% compliance by all eligible participants.

Contact *Eileen Janssen, Administrative Assistant, 402-471-4427, ejanssen@nsc.state.ne.us*

Law Day Essay Question Written for High School Students

This year's law day essay question was written by Marc Pearce, law clerk to Federal Judge Warren Urbom:

The separation of powers ensures that each branch of government serves as a check upon the other branches. However, government authority ultimately rests in the people. How can the people serve as a check upon the legislative, executive, and judicial branches of government? In what ways are the people's abilities to check the powers of the three branches frustrated, and what can be done to help ensure that the people can act as an effective check upon the government?

The question is designed to address the following categories: citizen participation, education, and information; more specifically, voting and jury selection; the right to free assembly; government/civics education; and the role of the free press.

The Administrative Office of the Courts will be looking for volunteers to grade the essays in mid April.

Contact *Janet Bancroft, Public Information Officer, 402-471-3205, jhammer@nsc.state.ne.us*

Supreme Court to hear cases at Creighton Law School on April 6

The Nebraska Supreme Court will travel to the Creighton University School of Law in Omaha to hear arguments on April 6. For educational purposes, the Court travels annually to each of Nebraska's law schools.

A description of the cases that are scheduled to be heard by the Court can be found on the Web site of the Nebraska Judicial Branch at www.nebraskacourt.com/call/sccasesummary.htm.

County Court FTE Report Online

The 2005 "FTE" or Caseload per Full-time Employees Equivalent Report for County Court is now available on the Judicial Branch Web site. Find the report at www.nebraskacourt.com in the "Court Administrator's Office" section under "Administrative Reports." The direct link is: <http://court.nol.org/community/05fte.pdf>.

Contact Kathy Moore, Financial Officer, 402-471-4428, kmoore@nsc.state.ne.us

Year of the Juror

The first two "Juror Appreciation Week" proclamation ceremonies were held in Grand Island and Norfolk. Comments during the ceremonies were provided by judges and certified court interpreters. The events were paired with city council meetings where they were televised and played within each of the communities following the event. In addition to the event, the Minority and Justice Implementation Committee disseminated information on jury service to the local high schools, community colleges, minority community organizations, and citizenship classes in the area. The newly updated juror information booklets were distributed to the community via the Chamber of Commerce. A radio spot on jury service aired on local area radio stations before and after the events. The project was also featured in each of the area's newspaper.

The Minority and Justice Implementation Committee will meet again before approaching the remaining targeted communities of Scottsbluff, Lexington, Lincoln and Omaha.

If clerks or judges are interested in assisting with the promotion of *The Year of the Juror*, please contact Janet Bancroft or Liz Neeley.

Contact Janet Bancroft, Public Information Officer, 402-471-3205, jhammer@nsc.state.ne.us

Contact Liz Neeley, Project Director, Minority & Justice Implementation Committee, 402-475-7091, lneeley@nebar.com

Registration Underway for Registered Provider List

The Office of Probation Administration Community Corrections Programs Division has begun registering substance abuse providers for the Registered Providers List in conjunction with the requirements of the Standardized Model for Substance Abuse Services. Beginning February 15, 2006, providers were invited to request an application to be on the Registered Provider List. As of March 17, 2006, over 600 applications had been sent to prospective providers throughout the state and approximately 150 applications had been received and processed. The first printing of the Registered Provider List was done on March 16, 2006, and faxed/e-mailed to all District Probation Chiefs. The list will be updated weekly until it is available on-line.

A local copy of the Registered Provider List will be distributed to the judiciary through the local probation offices. If anyone would like to receive a full copy of the Registered Provider List, they can either contact the Chief Probation Officer in their district or call 402-471-8572 and be added to the e-mail distribution.

Contact Deb Minardi, Deputy Probation Administrator/Community Corrections Programs Division, 402-471-3525, dminardi@nsc.state.ne.us

PEOPLE

New Judge Appointed

W. Russell Bowie III of Omaha was appointed to the Douglas County District Court bench by Gov. Heineman on March 6, 2006.

Mr. Bowie has worked as a sole practitioner in Omaha since 1993. He previously worked as an associate at Bradford, Coenen & Ashford, as a partner at Ashford, Bowie & Higgins, and as a legal intern in the U.S. Attorney's Office and in the Omaha City Attorney's Office. His 24 years of legal experience also includes roughly 17 years as a hearing officer for the Nebraska Department of Education. He also currently serves as a public arbitrator for the National Association of Securities Dealers.

Bowie is a graduate of Purdue University in West Lafayette, Indiana, and the Creighton University School of Law. He is admitted to practice law before the Nebraska Supreme Court, the U.S. District Court of Nebraska, the Eighth Circuit U.S. Court of Appeals, the Colorado Supreme Court, and the U.S. Supreme Court.

He is a member of the Omaha Bar Association and the Nebraska State Bar Association and the Nebraska Association of Criminal Defense Attorneys. He also has volunteered for the Muscular Dystrophy Association and the Nebraska State Mock Trial Competition.

New Court Personnel

Kari R. Kuehn, Clerk Magistrate II, Otoe County, effective March 27, 2006.

New Probation Personnel

Ron Broich, Chief Probation Officer, District #4, effective February 16, 2006.

Jodi York, Chief Probation Officer, District #5, effective February 13, 2006.

Retirements

Ronald D. Olberding, District Court Judge, 8th Judicial District, retiring effective April 30, 2006.

Jack B. Lindner, County Court Judge, 3rd Judicial District, retiring effective April 30, 2006.

Thomas B. Dawson, Separate Juvenile Court Judge, Lancaster County, retiring effective June 1, 2006.

Jane Wray, Financial Administrative Assistant, Administrative Office of Probation, retiring effective May 5, 2006.

TECHNOLOGY UPDATES

Online Business and Technical Training Courses Available Now

On February 28, 2006, the Administrative Office of the Courts sent out an e-mail regarding the availability of Computer Based Training (CBT) online for judges and staff of the district and county courts. A joint effort of the Judicial Branch Education group and the Information Technology group has made these CBT courses available online. CBT contains over 250 courses that can improve your knowledge on business or technical subjects. The e-mail contained a User Guide designed to help employees register and enroll for classes. There is no cost to you for taking these courses. The first time you log in you must register using the instructions in the User Guide. Once registered, it is very easy to select courses and begin training online. Please read and carefully follow the User Guide Instructions for registering and taking the courses.

Contact *Bill Miller*, Deputy State Court Administrator for IT, 402-471-3049, bmiller@nsc.state.ne.us

COMMITTEES • COMMISSIONS

Judicial Resources Commission to meet April 11, 2006

Agenda items include the determination of judicial vacancies in the following judicial offices:

- County judge, 3rd Judicial District, due to the retirement of the Honorable Jack B. Lindner, effective April 30, 2006.
- District judge, 8th Judicial District, due to the retirement of the Honorable Ronald D. Olberding, effective April 30, 2006.
- Separate Juvenile Court judge in Lancaster County, due to the retirement of the Honorable Tom Dawson, effective June 1, 2006.

The hearing is scheduled for Tuesday, April 11, 2006, at 1:30 p.m., central time via video conferencing from room 1525 in the State Capitol Building in Lincoln; the Panhandle Learning Center, 4502 Avenue I, High Plains Room, Scottsbluff; and from the State Office Building, Room 207, Second Floor, 1313 Farnam Street, Omaha.

POLICY AND RULE CHANGES

Child Support Guidelines

On March 1, 2006, the Supreme Court adopted an increase in the Nebraska Child Support Guidelines, paragraph R, and table 1, increasing the Basic Subsistence Limitation.

Rules Amended for Official Court Reporters

On February 23, 2006, the Nebraska Supreme Court adopted amendments to Neb. Ct. R. of Official Ct. Rptrs. 4 eliminating certain requirements of the exam.

Amendments Adopted to Rules of Practice & Procedure

The Supreme Court adopted amendments to Neb. Ct. R. of Prac. 5B(3)b(i) on February 23, 2006. The amendment allows bills of exceptions to be e-mailed with certain requirements.

These rules can be found on the Judicial Branch website, www.nebraskacourt.com under "Supreme Court Rules."

STATEWIDE PROBLEM-SOLVING COURTS

Drug Court Funding Received

The Community Corrections Council graciously approved start-up funds for two new adult drug courts. The Northeast Nebraska Adult Drug Court (Madison County) overseen by Judges Patrick Rogers and Robert Enszt, and the Midwest Nebraska Adult Drug Court (Dawson County) under Judge Jim Doyle were successful in securing funds from the Council to begin and/or sustain operation of drug courts until the outcome of requested State appropriations is determined.

Scott Carlson, Statewide Coordinator for Problem-Solving Courts, and Crystal Newton, Scotts Bluff County Juvenile Drug Court Coordinator, recently returned from Washington D.C. as the Nebraska delegates to the Congress of State Drug Court Associations of the National Association of Drug Court Professionals. Time was spent with Nebraska's Congressional Representatives to update them on the status of problem-solving courts in Nebraska. The delegates were well received and heard much support from all.

Contact Scott Carlson, Statewide Coordinator of Problem-Solving Courts, 402-471-4415, scarlson@nsc.state.ne.us

LEGISLATION

Governor Signs LB 1115

LB 1115 was signed by the Governor on March 16, 2006, with an emergency clause. (The bill had several other pending bills attached to it prior to passage.) Section 28 was effective March 17, 2006. Sections 29, 30, 38, 39, 40 and 45 will be effective January 1, 2007. All other sections will be effective three calendar months after adjournment.

Sections 1 to 7: Adoption of the Uniform Conflict of Laws Limitation Act in Nebraska. The act addresses the question of the application of statutes of limitation when Nebraska courts apply the laws of other states under the conflict of laws principles. (originally LB 1135).

Sections 8 to 16: Changes provisions relating to civil actions and updates certain statutes to include female pronouns in places where only male pronouns were previously used. It also removes other references to male pronouns and replaces them with nouns. (originally LB 1115).

Sections 17 - 20 and 33: Includes the Court of Appeals in the term of court statute and changes the term of court in county court from the first Monday of each calendar month to January 1. Allows county court, including a county court sitting as a juvenile court, to set aside default judgments and to vacate or modify its own judgments during or after the term at which the judgment or order was made. Allows county court judges to issue search warrants for execution anywhere in the state. Allows affidavits to be submitted to a judge or magistrate, and search warrants to be issued by such judge or magistrate, by facsimile or other electronic means. Allows any person authorized to administer oaths to also administer oaths for search warrant affidavits. Allows separate juvenile courts and county courts sitting as juvenile courts to vacate and modify their own judgments and orders. (originally LB 824).

Sections 21 to 26: Amends statutes pertaining to audiovisual appearances of detainees or prisoners at nonevidentiary criminal proceedings. Provides that appearance shall not be videotaped and that the court reporter's record is the sole record of the proceeding. Allows district court to accept a written waiver of arraignment and plea of not guilty from any defendant, which shall thereafter be filed with the clerk of the district court. Provides that Supreme Court may promulgate rules of practice and procedure for audiovisual appearances. (originally LB 1133).

Section 27: Changes the monetary or personal property amount that may be delivered to a minor, pursuant to § 30-2603, from ten thousand to twenty-five thousand dollars. (originally LB 1137).

Section 28: Adds retired clerk magistrates to the list of persons who may perform marriage ceremonies in Nebraska. Emergency clause effective March 17, 2006. (originally LB 826).

Section 29, 30, 38, 39, and 40: Provides that an “abstract of marriage” may be used in place of a certified copy of a marriage license for providing proof of marriage to all courts and the Nebraska Department of Health and Human Services. Effective January 1, 2007. (originally LB 802).

Sections 31 and 37: Amends juvenile code to provide that the district court shall have exclusive jurisdiction over juveniles in proceedings brought pursuant to § 71-510, for an order of the district court mandating testing for certain infectious diseases. (originally LB 825).

Section 34: Providing that notice to a foster parent, preadoptive parent or relative providing care for a child does not mean that person is a “necessary party” to the court review. A court may inquire into the well-being of the foster child by asking questions of the foster parent, preadoptive parent, or relative providing care for the child. (originally LB 770).

Section 35: Replaces reference to the Code of Professional Responsibility with the recently adopted Nebraska Rules of Professional Conduct. (originally LB 1040).

Section 42: Allows an agency to modify its findings and decision in the case when the district court remands a case for further modifications, new findings, additional evidence or decision. (originally LB 1136).

CALENDAR ITEMS

Judicial Branch Education Meetings/Trainings

April 21, Clerk Magistrates' Orientation, Lincoln

June 14 - 16, District Judges' Association Meeting, Nebraska City

June 14 - 16, Official Court Reporters' Meeting, Nebraska City

June 15 & 16, Clerks of the District Court Summer Workshop Embassy Suites, Lincoln

(Contact Jacque Stewart, jacquelyn.stewart@courts.ne.gov, for more information on the CDC Summer Workshop.)

June 27 - 29, County Judges' Association Meeting, Nebraska City

August 1, Law Clerks' Orientation, Lincoln

August 10 - 11, County Judges' Orientation, Lincoln

September 18 - 20, Clerk Magistrates' Meeting, Kearney

September 25 - 27, Children's Summit, Nebraska City

October 5 - 6, District Judges' Orientation, Lincoln

October 25, Clerk Magistrates' Orientation, Lincoln

October 31 - November 3, NSBA Fall Meeting, Omaha

Contact Philip Gould, Judicial Branch Education Director, 402-471-3072, pgould@nsc.state.ne.us

JUSTICE Training

County Court, May 8 - 12, North Platte

District Court, May 16 - 18, Lincoln

County Court, July 10 - 14, Lincoln

Probation Meetings/Trainings

April 25 - 27, Executive Management Meeting, Holiday Inn, Hastings

Contact Linda Zabel, Administrative Secretary, 402-471-4140, lzabel@nsc.state.ne.us

ENCLOSURES

[Judicial Qualifications Commission Annual Report](#)

[Judicial News Special Edition on New Probation Programming](#)