

Legislation Bill Listing

08-3 Administrative Memorandum

Listing current as of March 2008

Contact Sheryl Connolly, Trial Court Services Director, 402-471-2671, sconnolly@nsc.state.ne.us.

NEW LAWS SIGNED BY THE GOVERNOR MARCH 10, 2008

LB 624 changes the penalty provisions for flight to avoid arrest.

LB 782 allows disclosure of child abuse or neglect information by HHS under certain circumstances.

LB 823 provides duties and powers to the Information Technology Commission, including collection of information from agencies relating to information technology projects and determining the format used for reporting information

LEGISLATION TO WATCH:

LB 775, which would allow deputy clerks of district courts to live outside the counties they serve and allows deputies for clerks of county courts, moved to Select File on March 17, 2008.

LB 1055 prohibits dogs from running at large, outlines penalties for violation and prohibits transportation of a dangerous dog to another county. This bill moved to Select File on March 10, 2008.

LB 844 was amended to make possession of more than an ounce but not more than a pound of marijuana a Class III Misdemeanor. Possession of less than an ounce of marijuana, first offense, would remain an infraction, but the penalty would increase to \$300 and conviction would require a drug education course. The amended bill moved to Select File on March 7, 2008.

LB 1130 came out of committee on March 17, 2008, with a major amendment which would create a new administrative organization for adult probation and parole supervision services, separate from both the AOC and Department of Corrections. Presentence investigations, problem solving court operations and all of juvenile probation would still remain with the Supreme Court under the new Office of Court Services.

LB 1014 EXPANDED TO INCLUDE OTHER COURT-RELATED BILLS

At Final Reading LB 1014 contains provisions of the following bills: LB 363, LB 606, LB 774, LB 804, LB 933, LB 935, LB 1025, LB 1085, LB 1107, LB 1159, and LB 1160.

Here is a 4 page summary of the bill.

LB 1014 as amended by Committee AM2006 and AM2196:

- Authorizes the district court to review small claims appeals on the record.
- Confirms the procedure for admitting the bill of exceptions on appeals from county court to district court to that procedure used by the Court of Appeals and the Nebraska Supreme Court.
- Confirms the procedure for appealing excessive sentences from the county court to district court to that procedure used by the Court of Appeals and the Nebraska Supreme Court.
- Authorizes county and separate juvenile court judges to appoint child support referees.
- Expands the authority of the courts to appoint a referee for any equity matter.
- Allows for the use of telephonic or videoconference hearings in non-evidentiary hearings and in evidentiary hearings if approved by the court and all parties provided the method used ensures the preservation of an accurate record and the public's right of access to the courts.
- Requires the mandatory filing of felony and misdemeanors in district court when they arise from the same incident.
- In an effort to more efficiently administer the caseload, requires the presiding judges of the district and county court in each judicial district to annually review the caseload of the two benches and determine whether to reassign between the courts cases involving domestic relations matters and Class IV felonies. The consent of the parties is not required for reassignment and such cases will remain filed in the court where they were originally filed.
- Amends current statutory language that limits the Supreme Court's ability to fairly compensate retire judges who might be willing to hear court proceedings on a temporary basis.

LB 363 as amended into LB 1014 by AM2107:

- Creates the Legal Education for Public Service Loan Repayment Act.
- Attorneys who work with non-profit organizations which provide legal services to indigent people will be able to apply to the Legal Education for Public Service Loan Repayment Board and administered by the Commission on Public Advocacy for a loan to refinance an existing educational loan, not to exceed \$6000.

LB 606 as amended into LB 1014 by Committee AM2006:

- Provides authority for Nebraska courts to refer civil cases to mediation and other forms of alternative dispute resolution (ADR).
- Once a case is refereed to ADR, the parties may file a motion to object to the referral.
- Permits an individual trial court, an appellate court, or the Supreme Court to adopt rules of practice regarding the referral process.

LB 774 as amended into LB 1014 by AM2175:

- Provides that the Department of Health and Human Services, a county attorney, or an authorized attorney is not responsible for reviewing or filing an application to modify child support obligations for those individuals who are incarcerated.

LB 804 as amended into LB 1014 by Committee AM2006:

- Permits jurors to take notes during civil and criminal trials regardless of whether the parties agree.
- Jurors' notes can be referred to during deliberations, but will be treated as confidential between the note taker and the other jurors.
- The notes must be destroyed once a verdict is returned.

LB 933 as amended into LB 1014 by Committee AM2006:

- Amends Neb. Rev. Stat. §24-508 to remove outdated provisions related clerk magistrates, including provisions related to the training of clerk magistrates.
- Clarifies that the Supreme Court has the authority to establish education requirements for clerk magistrates.

LB 935 as amended into LB 1014 by Committee AM2006:

- Amends Neb. Rev. Stat. §24-534 to remove provision regulating the service and delivery of court papers, including orders, motions, notices, or other documents. (Summons are excluded from the term "court papers.")
- Authorizes the Supreme Court to establish rules regarding service and delivery of court papers.

LB 1025 as amended into LB 1014 by AM2231 and FA197:

- Requires the court to provide written or oral notification to a defendant convicted of a misdemeanor crime of domestic violence as defined by in 18 U.S.C. 921 (a)(33) that it may be a violation of federal law for the individual to possess a firearm or ammunition. Requires AOC to provide form.
- Amends 42-925 which defines and implements the procedures for the issuance of ex parte orders, including the requirement that if a court issues an ex parte order the court must also immediately schedule an evidentiary hearing.
- Permits the court by rule or order to refer or assign all matters regarding orders to a referee for findings and recommendations.

LB 1085 (Flood) as amended into LB 1014 by Committee AM2006:

- Changes provisions in the Parenting Act that were passed into law last year in LB 554. Changes include:
 - Requiring a plaintiff living in an undisclosed location (to protect their safety) to provide an alternative address for the mailing of notice;
 - Limiting the duration of all ex-parte orders under §42-357 to 10 days or until the hearing is held determining the temporary custody of any minor children;
 - Removing a requirement that the court consider a separate financial plan that would be submitted with the parenting plan when determining the amount of child support;
 - Clarifying §42-364 as to what shall be contained in a decree for dissolution, legal separation or paternity order regarding various expenses;
 - Amending §42-371, which pertains to the release or subordination of a lien for a support order to provide that a judgment debtor can file a motion requesting such release or subordination.
 - Providing for a paternity proceeding and procedures in certain circumstances;

- Clarifying the definition of “domestic intimate partner abuse” in §42-2922;
- Adding a definition of “mediator” to §42-2922;
- Removing provisions regarding the consideration of the absence or relocation of a party in determining the “best interests of the child” in §42-2922;
- Removes requirement that judges and attorneys involved in parenting act cases participate in training to recognize and handle abuse cases, but retains the requirement that mediators take the training;
- Removing the authority of the judge to order a child of a party to attend a child of divorce class;
- Requiring that the “child information affidavit” be offered as an exhibit rather than be filed with the court as set forth in §42-2930;
- Revising §42-2930 to allow for the optional disclosure of information regarding abuse or conflict in the “child information affidavit”;
- Revising §42-2934 regarding certain inconsistent court orders;
- Changing references to a child’s “birthdate” to “year of birth” to protect the child’s privacy on support orders;
- Making it discretionary for the State Court Administrator to develop rules to implement the Parenting Act; and
- Making other technical and clerical changes.

LB 1107 as amended by Committee AM2006 and AM2212:

- Amends Neb. Rev. Stat. §§24-1301, 24-1302, 29-2246 to add problem solving courts to the statutes.

LB 1159 amended into LB 1014 by Committee AM2006:

- Changes rules of evidence to allow certified copies of school records related to attendance and performance to be admissible in cases where the custody of a child is at issue, or where a GAL has been appointed.
- Requires a foster child to attend the same school they attended before entering foster care unless the court finds it is not in the best interest of the child.
- The plan established by the court following the initial placement of a child in foster care shall contain the name of the school the child attended prior to placement.
- Adds a provision to the list of issues used to determine the best interest of the child to explicitly include concern for the child's attendance and progress in school.
- Adds a provision to the list of issues to be addressed in a parenting plan to explicitly include concern for the child's attendance and progress in school.
- Creates an exception to the statutory prohibition to publicly disclose information about a child to allow certified copies of school records related to attendance and performance to be admissible.
- Provides that a foster child shall be deemed a resident of the school district the child attended prior to placement unless the court finds it is not in the best interest of the child to remain in the school or school district the child was in prior to placement.

LB 1160 as amended into LB 1014 by Committee AM2006:

- Clarifies that a juvenile charged in criminal court (county or district court) can make a motion to have his or her case waived down to juvenile court no later than thirty days after their arraignment, unless good cause is shown for an extension. Under current law, the waiver motion can be made anytime, but no later than fifteen days before trial.
- Clarifies that the juvenile court has authority over parents of a juvenile under the court's jurisdiction regardless of whether that parent has custody.
- Clarifies that mediated pre-hearing conferences for children involved in the juvenile court are confidential and that any information shared during the conference will be protected except that which is required by mandatory reporting under §28-711 for new allegations of child abuse or neglect which were not previously known or reported.
- Adds to the list of matters that must be considered by the county attorney in deciding where to file and by the judge when considering the transfer of a case down to juvenile court in cases of concurrent jurisdiction. The county attorney and judge must consider any previous firearm related conviction or acknowledgment of unauthorized use or possession of a firearm and any order declaring the juvenile as not amenable to the rehabilitative treatment of the juvenile court.
- Gives authority to any party of a case to move the juvenile court for a hearing on the amenability of the juvenile to the rehabilitative services available under the juvenile code. Gives juvenile court judges the authority to issue an order, after a hearing on the matter, indicating that a juvenile is not amenable to the rehabilitative treatment of the juvenile court. This order could be used by the county attorney to show that a repeat juvenile offender should not be transferred down to juvenile court from criminal court.