

AMENDMENTS TO LB 543

Introduced by Coash

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 23-3406, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 23-3406 (1) The contract negotiated between the county
6 board and the contracting attorney shall specify the categories of
7 cases in which the contracting attorney is to provide services.

8 (2) The contract negotiated between the county board and
9 the contracting attorney shall be awarded for at least a two-year
10 term. Removal of the contracting attorney short of the agreed term
11 may be for good cause only.

12 (3) The contract between the county board and the
13 contracting attorney may specify a maximum allowable caseload for
14 each full-time or part-time attorney who handles cases under the
15 contract. Caseloads shall allow each lawyer to give every client
16 the time and effort necessary to provide effective representation.

17 (4) The contract between the county board and the
18 contracting attorney shall provide that the contracting attorney be
19 compensated at a minimum rate which reflects the following factors:

20 (a) The customary compensation in the community for
21 similar services rendered by a privately retained counsel to a
22 paying client or by government or other publicly paid attorneys to
23 a public client;

1 (b) The time and labor required to be spent by the
2 attorney; and

3 (c) The degree of professional ability, skill, and
4 experience called for and exercised in the performance of the
5 services.

6 (5) The contract between the county board and the
7 contracting attorney shall provide that the contracting attorney
8 may decline to represent clients with no reduction in compensation
9 if the contracting attorney is assigned more cases which require an
10 extraordinary amount of time and preparation than the contracting
11 attorney can competently handle.

12 (6) The contract between the contracting attorney and
13 the county board shall provide that the contracting attorney shall
14 receive at least ten hours of continuing legal education annually
15 in the area of criminal law. The contract between the county board
16 and the contracting attorney shall provide funds for the continuing
17 legal education of the contracting attorney in the area of criminal
18 law.

19 (7) The contract between the county board and the
20 contracting attorney shall require that the contracting attorney
21 provide legal counsel to all clients in a professional, skilled
22 manner consistent with minimum standards set forth by the American
23 Bar Association and the Canons of Ethics for Attorneys in the
24 State of Nebraska. The contract between the county board and the
25 contracting attorney shall provide that the contracting attorney
26 shall be available to eligible defendants upon their request, or
27 the request of someone acting on their behalf, at any time the

1 Constitution of the United States or the Constitution of Nebraska
2 requires the appointment of counsel.

3 (8) The contract between the county board and the
4 contracting attorney shall provide for reasonable compensation
5 over and above the normal contract price for cases which require an
6 extraordinary amount of time and preparation. ~~including capital~~
7 ~~cases.~~

8 Sec. 2. Section 24-1106, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 24-1106 (1) In cases which were appealable to the Supreme
11 Court before September 6, 1991, the appeal, if taken, shall be to
12 the Court of Appeals except in ~~capital cases~~, cases in which life
13 imprisonment without possibility of parole has been imposed, and
14 cases involving the constitutionality of a statute.

15 (2) Any party to a case appealed to the Court of Appeals
16 may file a petition in the Supreme Court to bypass the review
17 by the Court of Appeals and for direct review by the Supreme
18 Court. The procedure and time for filing the petition shall be
19 as provided by rules of the Supreme Court. In deciding whether to
20 grant the petition, the Supreme Court may consider one or more of
21 the following factors:

22 (a) Whether the case involves a question of first
23 impression or presents a novel legal question;

24 (b) Whether the case involves a question of state or
25 federal constitutional interpretation;

26 (c) Whether the case raises a question of law regarding
27 the validity of a statute;

1 (d) Whether the case involves issues upon which there is
2 an inconsistency in the decisions of the Court of Appeals or of the
3 Supreme Court; and

4 (e) Whether the case is one of significant public
5 interest.

6 When a petition for direct review is granted, the case
7 shall be docketed for hearing before the Supreme Court.

8 (3) The Supreme Court shall by rule provide for the
9 removal of a case from the Court of Appeals to the Supreme Court
10 for decision by the Supreme Court at any time before a final
11 decision has been made on the case by the Court of Appeals. The
12 removal may be on the recommendation of the Court of Appeals or on
13 motion of the Supreme Court. Cases may be removed from the Court of
14 Appeals for decision by the Supreme Court for any one or more of
15 the reasons set forth in subsection (2) of this section or in order
16 to regulate the caseload existing in either the Court of Appeals
17 or the Supreme Court. The Chief Judge of the Court of Appeals and
18 the Chief Justice of the Supreme Court shall regularly inform each
19 other of the number and nature of cases docketed in the respective
20 court.

21 Sec. 3. Section 25-1140.09, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 25-1140.09 On the application of the county attorney or
24 any party to a suit in which a record of the proceedings has
25 been made, ~~upon receipt of the notice provided in section 29-2525,~~
26 or upon the filing of a praecipe for a bill of exceptions by an
27 appealing party in the office of the clerk of the district court

1 as provided in section 25-1140, the court reporter shall prepare
2 a transcribed copy of the proceedings so recorded or any part
3 thereof. The reporter shall be entitled to receive, in addition
4 to his or her salary, a per-page fee as prescribed by the Supreme
5 Court for the original copy and each additional copy, to be paid by
6 the party requesting the same except as otherwise provided in this
7 section.

8 When the transcribed copy of the proceedings is required
9 by the county attorney, the fee therefor shall be paid by the
10 county in the same manner as other claims are paid. When the
11 defendant in a criminal case, after conviction, makes an affidavit
12 that he or she is unable by reason of his or her poverty to pay
13 for such copy, the court or judge thereof may, by order endorsed
14 on such affidavit, direct delivery of such transcribed copy to such
15 defendant, and the fee shall be paid by the county in the same
16 manner as other claims are allowed and paid. ~~When such copy is
17 prepared in any criminal case in which the sentence adjudged is
18 capital, the fees therefor shall be paid by the county in the same
19 manner as other claims are allowed or paid.~~

20 The fee for preparation of a bill of exceptions and
21 the procedure for preparation, settlement, signature, allowance,
22 certification, filing, and amendment of a bill of exceptions shall
23 be regulated and governed by rules of practice prescribed by the
24 Supreme Court. The fee paid shall be taxed, by the clerk of the
25 district court, to the party against whom the judgment or decree
26 is rendered except as otherwise ordered by the presiding district
27 judge.

1 Sec. 4. Section 55-480, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 55-480 Though not specifically mentioned in ~~this code~~,
4 the Nebraska Code of Military Justice, all disorders and neglects
5 to the prejudice of good order and discipline in the armed forces,
6 all conduct of a nature to bring discredit upon the armed forces,
7 and all crimes and offenses ~~not capital~~, of which persons subject
8 to ~~this~~ the code may be guilty, shall be taken cognizance of by a
9 court-martial, according to the nature and degree of the offense,
10 and shall be punished at the discretion of that court.

11 Sec. 5. Original sections 23-3406, 24-1106, 25-1140.09,
12 and 55-480, Reissue Revised Statutes of Nebraska, are repealed.