

AMENDMENTS TO LB 543

Introduced by Coash

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

3           Section 1. Section 29-1603, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5           29-1603 (1) All informations shall be in writing and  
6 signed by the county attorney, complainant, or some other person,  
7 and the offenses charged therein in the informations shall be  
8 stated with the same fullness and precision in matters of substance  
9 as is required in indictments in like cases.

10           ~~(2)(a) Any information charging a violation of section~~  
11 ~~28-303 and in which the death penalty is sought shall contain~~  
12 ~~a notice of aggravation which alleges one or more aggravating~~  
13 ~~circumstances, as such aggravating circumstances are provided in~~  
14 ~~section 29-2523. The notice of aggravation shall be filed as~~  
15 ~~provided in section 29-1602. It shall constitute sufficient notice~~  
16 ~~to describe the alleged aggravating circumstances in the language~~  
17 ~~provided in section 29-2523.~~

18           ~~(b) The state shall be permitted to add to or amend a~~  
19 ~~notice of aggravation at any time up to and including the thirtieth~~  
20 ~~day prior to the trial of guilt.~~

21           ~~(c) The existence or contents of a notice of aggravation~~  
22 ~~shall not be disclosed to the jury until after the verdict is~~  
23 ~~rendered in the trial of guilt.~~

1           ~~(3)~~ (2) Different offenses and different degrees of the  
2 same offense may be joined in one information, in all cases  
3 in which the same might by different counts be joined in one  
4 indictment; and in all cases a defendant or defendants shall have  
5 the same right, as to proceedings therein, as the defendant or  
6 defendants would have if prosecuted for the same offense upon  
7 indictment.

8           Sec. 2. Section 29-1822, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           29-1822 A person who becomes mentally incompetent after  
11 the commission of a crime or misdemeanor shall not be tried for the  
12 offense during the continuance of the incompetency. If, after the  
13 verdict of guilty and before judgment is pronounced, such person  
14 becomes mentally incompetent, then no judgment shall be given  
15 while such incompetency ~~shall continue; and if, after judgment and~~  
16 ~~before execution of the sentence, such person shall become mentally~~  
17 ~~incompetent, then in case the punishment be capital, the execution~~  
18 ~~thereof shall be stayed until the recovery of such person from the~~  
19 ~~incompetency.~~ continues.

20           Sec. 3. Section 29-2004, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22           29-2004 (1) All parties may stipulate that the jury may  
23 be selected up to thirty-one days prior to the date of trial. The  
24 stipulation must be unanimous among all parties and evidenced by a  
25 joint stipulation to the county court.

26           (2) In all cases, except as may be otherwise expressly  
27 provided, the accused shall be tried by a jury drawn, summoned, and

1 impaneled according to provisions of the code of civil procedure,  
2 except that whenever in the opinion of the court the trial is  
3 likely to be a protracted one, the court may, immediately after  
4 the jury is impaneled and sworn, direct the calling of one or two  
5 additional jurors, to be known as alternate jurors. Such jurors  
6 shall be drawn from the same source and in the same manner, and  
7 have the same qualifications as regular jurors, and be subject to  
8 examination and challenge as such jurors, except that each party  
9 shall be allowed one peremptory challenge to each alternate juror.  
10 The alternate jurors shall take the proper oath or affirmation,  
11 ~~and~~ shall be seated near the regular jurors with equal facilities  
12 for seeing and hearing the proceedings in the cause, and shall  
13 attend at all times upon the trial of the cause in company with  
14 the regular jurors. They shall obey all orders and admonitions of  
15 the court, and if the regular jurors are ordered to be kept in the  
16 custody of an officer during the trial of the cause, the alternate  
17 jurors shall also be kept with the other jurors and, except as  
18 hereinafter provided, shall be discharged upon the final submission  
19 of the cause to the jury. ~~If an information charging a violation~~  
20 ~~of section 28-303 and in which the death penalty is sought contains~~  
21 ~~a notice of aggravation, the alternate jurors shall be retained as~~  
22 ~~provided in section 29-2520.~~ If, before the final submission of the  
23 cause, a regular juror dies or is discharged, the court shall order  
24 the alternate juror, if there is but one, to take his or her place  
25 in the jury box. If there are two alternate jurors, the court shall  
26 select one by lot, who shall then take his or her place in the jury  
27 box. After an alternate juror is in the jury box, he or she shall

1 be subject to the same rules as a regular juror.

2           Sec. 4. Section 29-2005, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           29-2005 Every person arraigned for any crime punishable  
5 ~~with death,~~ by imprisonment for life without possibility of parole  
6 or imprisonment for life, shall be admitted on his or her trial  
7 to a peremptory challenge of twelve jurors. Every ~~and no more,~~  
8 every person arraigned for any offense that may be punishable by  
9 imprisonment for a term exceeding eighteen months and less than  
10 life, shall be admitted to a peremptory challenge of six jurors. In  
11 ~~and in~~ all other criminal trials, the defendant shall be allowed  
12 a peremptory challenge of three jurors. The attorney prosecuting  
13 on behalf of the state shall be admitted to a peremptory challenge  
14 of twelve jurors in all cases when the offense is punishable ~~with~~  
15 ~~death~~ by imprisonment for life without possibility of parole or  
16 imprisonment for life, six jurors when the offense is punishable  
17 by imprisonment for a term exceeding eighteen months and less than  
18 life, and three jurors in all other cases. In each case for which  
19 ~~Provided,~~ that in all cases where alternate jurors are called, as  
20 provided in section 29-2004, ~~then in that case~~ both the defendant  
21 and the attorney prosecuting for the state shall each be allowed  
22 one added peremptory challenge to each alternate juror.

23           Sec. 5. Section 29-2006, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           29-2006 (1) The following shall be good causes for  
26 challenge to any person called as a juror or alternate juror, on  
27 the trial of any indictment:

1           ~~(1)~~ (a) That he or she was a member of the grand jury  
2 which found the indictment;

3           ~~(2) that he~~ (b) That he or she has formed or expressed  
4 an opinion as to the guilt or innocence of the accused. However,  
5 ~~+ Provided,~~ if a juror or alternate juror ~~shall state~~ states that  
6 he or she has formed or expressed an opinion as to the guilt or  
7 innocence of the accused, the court shall thereupon proceed to  
8 examine, on oath, such juror or alternate juror as to the ground of  
9 such opinion; and if it ~~shall appear~~ appears to have been founded  
10 upon reading newspaper statements, communications, comments, or  
11 reports, or upon rumor or hearsay, and not upon conversations with  
12 witnesses of the transactions or reading reports of their testimony  
13 or hearing them testify, and the juror or alternate juror ~~shall~~  
14 say says on oath that he or she feels able, notwithstanding such  
15 opinion, to render an impartial verdict upon the law and the  
16 evidence, the court, if satisfied that such juror or alternate  
17 juror is impartial and will render such verdict, may, in its  
18 discretion, admit such juror or alternate juror as competent to  
19 serve in such case;

20           ~~(3) in indictments for an offense the punishment whereof~~  
21 ~~is capital, that his opinions are such as to preclude him from~~  
22 ~~finding the accused guilty of an offense punishable with death;~~ ~~(4)~~  
23 ~~that he~~ (c) That he or she is a relation within the fifth degree  
24 to the person alleged to be injured or attempted to be injured, or  
25 to the person on whose complaint the prosecution was instituted, or  
26 to the defendant;

27           ~~(5) that he~~ (d) That he or she has served on the petit

1 jury which was sworn in the same cause against the same defendant  
2 and which jury either rendered a verdict which was set aside or was  
3 discharged, after hearing the evidence;

4 ~~(6) that he~~ (e) That he or she has served as a juror in a  
5 civil case brought against the defendant for the same act;

6 ~~(7) that he~~ (f) That he or she has been in good faith  
7 subpoenaed as a witness in the case; or

8 ~~(8) that he~~ (g) That he or she is a habitual drunkard. ~~+~~

9 ~~(9) the~~ (2) In addition, the same challenges shall be as  
10 are allowed in eriminal prosecutions that are allowed to parties in  
11 civil cases shall be allowed in criminal prosecutions.

12 Sec. 6. Section 29-2020, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 29-2020 ~~Except as provided in section 29-2525 for cases~~  
15 ~~when the punishment is capital,~~ In all criminal cases when a  
16 defendant feels aggrieved by any opinion or decision of the court,  
17 he or she may order a bill of exceptions. The ordering, preparing,  
18 signing, filing, correcting, and amending of the bill of exceptions  
19 shall be governed by the rules established in such matters in civil  
20 cases.

21 Sec. 7. Section 29-2027, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 29-2027 In all trials for murder the jury before whom  
24 such trial is had, if they find the prisoner guilty thereof,  
25 shall ascertain in their verdict whether it is murder in the first  
26 or second degree or manslaughter. If ~~+~~ and if such person is  
27 convicted by confession in open court, the court shall proceed by

1 examination of witnesses in open court, to determine the degree of  
2 the crime, and shall pronounce sentence accordingly, ~~or as provided~~  
3 ~~in sections 29-2519 to 29-2524 for murder in the first degree.~~

4 Sec. 8. Section 29-2204, Revised Statutes Cumulative  
5 Supplement, 2012, is amended to read:

6 29-2204 (1) Except when a term of life imprisonment is  
7 required by law, the defendant is found guilty of a Class IA  
8 felony, in imposing an indeterminate sentence upon an offender, the  
9 court shall:

10 ~~(a)(i) Until July 1, 1998, fix the minimum and maximum~~  
11 ~~limits of the sentence to be served within the limits provided by~~  
12 ~~law, except that when a maximum limit of life is imposed by the~~  
13 ~~court for a Class IB felony, the minimum limit may be any term of~~  
14 ~~years not less than the statutory mandatory minimum, and~~

15 ~~(ii) Beginning July 1, 1998:~~

16 ~~(A) (a)(i) Fix the minimum and maximum limits of the~~  
17 ~~sentence to be served within the limits provided by law for any~~  
18 ~~class of felony other than a Class IV felony, except that when~~  
19 ~~a maximum limit of life is imposed by the court for a Class IB~~  
20 ~~felony, the minimum limit may be any term of years not less than~~  
21 ~~the statutory mandatory minimum. If the criminal offense is a Class~~  
22 ~~IV felony, the court shall fix the minimum and maximum limits of~~  
23 ~~the sentence, but the minimum limit fixed by the court shall not be~~  
24 ~~less than the minimum provided by law nor more than one-third of~~  
25 ~~the maximum term and the maximum limit shall not be greater than~~  
26 ~~the maximum provided by law; or~~

27 ~~(B) (ii) Impose a definite term of years, in which event~~

1 the maximum term of the sentence shall be the term imposed by the  
2 court and the minimum term shall be the minimum sentence provided  
3 by law;

4 (b) Advise the offender on the record the time the  
5 offender will serve on his or her minimum term before attaining  
6 parole eligibility assuming that no good time for which the  
7 offender will be eligible is lost; and

8 (c) Advise the offender on the record the time the  
9 offender will serve on his or her maximum term before attaining  
10 mandatory release assuming that no good time for which the offender  
11 will be eligible is lost.

12 If any discrepancy exists between the statement of  
13 the minimum limit of the sentence and the statement of parole  
14 eligibility or between the statement of the maximum limit of the  
15 sentence and the statement of mandatory release, the statements  
16 of the minimum limit and the maximum limit shall control the  
17 calculation of the offender's term. If the court imposes more  
18 than one sentence upon an offender or imposes a sentence upon  
19 an offender who is at that time serving another sentence, the  
20 court shall state whether the sentences are to be concurrent or  
21 consecutive.

22 (2) (a) When the court is of the opinion that imprisonment  
23 may be appropriate but desires more detailed information as a  
24 basis for determining the sentence to be imposed than has been  
25 provided by the presentence report required by section 29-2261, the  
26 court shall commit an offender to the Department of Correctional  
27 Services for a period not exceeding ninety days. The department

1 shall conduct a complete study of the offender during that time,  
2 inquiring into such matters as his or her previous delinquency or  
3 criminal experience, social background, capabilities, and mental,  
4 emotional, and physical health and the rehabilitative resources  
5 or programs which may be available to suit his or her needs. By  
6 the expiration of the period of commitment or by the expiration  
7 of such additional time as the court shall grant, not exceeding  
8 a further period of ninety days, the offender shall be returned  
9 to the court for sentencing and the court shall be provided  
10 with a written report of the results of the study, including  
11 whatever recommendations the department believes will be helpful to  
12 a proper resolution of the case. After receiving the report and the  
13 recommendations, the court shall proceed to sentence the offender  
14 in accordance with subsection (1) of this section. The term of the  
15 sentence shall run from the date of original commitment under this  
16 subsection.

17 (b) In order to encourage the use of this procedure  
18 in appropriate cases, all costs incurred during the period the  
19 defendant is held in a state institution under this subsection  
20 shall be a responsibility of the state and the county shall  
21 be liable only for the cost of delivering the defendant to the  
22 institution and the cost of returning him or her to the appropriate  
23 court for sentencing or such other disposition as the court may  
24 then deem appropriate.

25 (3) Except when a ~~term of life is required by law,~~  
26 the defendant is found guilty of a Class IA felony, whenever the  
27 defendant was under eighteen years of age at the time he or she

1 committed the crime for which he or she was convicted, the court  
2 may, in its discretion, instead of imposing the penalty provided  
3 for the crime, make such disposition of the defendant as the court  
4 deems proper under the Nebraska Juvenile Code. Prior to making a  
5 disposition which commits the juvenile to the Office of Juvenile  
6 Services, the court shall order the juvenile to be evaluated by the  
7 office if the juvenile has not had an evaluation within the past  
8 twelve months.

9           Sec. 9. Section 29-2261, Revised Statutes Cumulative  
10 Supplement, 2012, is amended to read:

11           29-2261 (1) Unless it is impractical to do so, when an  
12 offender has been convicted of a felony, ~~other than murder in the~~  
13 ~~first degree,~~ the court shall not impose sentence without first  
14 ordering a presentence investigation of the offender and according  
15 due consideration to a written report of such investigation. When  
16 an offender has been convicted of murder in the first degree and  
17 ~~(a) a jury renders a verdict finding the existence of one or more~~  
18 ~~aggravating circumstances as provided in section 29-2520 or (b)(i)~~  
19 ~~the information contains a notice of aggravation as provided in~~  
20 ~~section 29-1603 and (ii) the offender waives his or her right to~~  
21 ~~a jury determination of the alleged aggravating circumstances,~~ the  
22 court shall not commence the sentencing determination proceeding as  
23 provided in section 29-2521 without first ordering a presentence  
24 investigation of the offender and according due consideration to a  
25 written report of such investigation.

26           (2) A court may order a presentence investigation in any  
27 case, except in cases in which an offender has been convicted

1 of a Class IIIA misdemeanor, a Class IV misdemeanor, a Class V  
2 misdemeanor, a traffic infraction, or any corresponding city or  
3 village ordinance.

4 (3) The presentence investigation and report shall  
5 include, when available, an analysis of the circumstances attending  
6 the commission of the crime, the offender's history of delinquency  
7 or criminality, physical and mental condition, family situation and  
8 background, economic status, education, occupation, and personal  
9 habits, and any other matters that the probation officer deems  
10 relevant or the court directs to be included. All local and state  
11 police agencies and Department of Correctional Services adult  
12 correctional facilities shall furnish to the probation officer  
13 copies of such criminal records, in any such case referred to  
14 the probation officer by the court of proper jurisdiction, as the  
15 probation officer shall require without cost to the court or the  
16 probation officer.

17 Such investigation shall also include:

18 (a) Any written statements submitted to the county  
19 attorney by a victim; and

20 (b) Any written statements submitted to the probation  
21 officer by a victim.

22 (4) If there are no written statements submitted to the  
23 probation officer, he or she shall certify to the court that:

24 (a) He or she has attempted to contact the victim; and

25 (b) If he or she has contacted the victim, such officer  
26 offered to accept the written statements of the victim or to reduce  
27 such victim's oral statements to writing.

1           For purposes of subsections (3) and (4) of this section,  
2 the term victim shall be as defined in section 29-119.

3           (5) Before imposing sentence, the court may order the  
4 offender to submit to psychiatric observation and examination for  
5 a period of not exceeding sixty days or such longer period as the  
6 court determines to be necessary for that purpose. The offender  
7 may be remanded for this purpose to any available clinic or mental  
8 hospital, or the court may appoint a qualified psychiatrist to make  
9 the examination. The report of the examination shall be submitted  
10 to the court.

11           (6) Any presentence report or psychiatric examination  
12 shall be privileged and shall not be disclosed directly or  
13 indirectly to anyone other than a judge, probation officers to whom  
14 an offender's file is duly transferred, the probation administrator  
15 or his or her designee, or others entitled by law to receive such  
16 information, including personnel and mental health professionals  
17 for the Nebraska State Patrol specifically assigned to sex offender  
18 registration and community notification for the sole purpose of  
19 using such report or examination for assessing risk and for  
20 community notification of registered sex offenders. For purposes of  
21 this subsection, mental health professional means (a) a practicing  
22 physician licensed to practice medicine in this state under the  
23 Medicine and Surgery Practice Act, (b) a practicing psychologist  
24 licensed to engage in the practice of psychology in this state  
25 as provided in section 38-3111, or (c) a practicing mental health  
26 professional licensed or certified in this state as provided in  
27 the Mental Health Practice Act. The court may permit inspection of

1 the report or examination of parts thereof by the offender or his  
2 or her attorney, or other person having a proper interest therein,  
3 whenever the court finds it is in the best interest of a particular  
4 offender. The court may allow fair opportunity for an offender to  
5 provide additional information for the court's consideration.

6 (7) If an offender is sentenced to imprisonment, a copy  
7 of the report of any presentence investigation or psychiatric  
8 examination shall be transmitted immediately to the Department of  
9 Correctional Services. Upon request, the Board of Parole or the  
10 Office of Parole Administration may receive a copy of the report  
11 from the department.

12 (8) Notwithstanding subsection (6) of this section, the  
13 Supreme Court or an agent of the Supreme Court acting under the  
14 direction and supervision of the Chief Justice shall have access to  
15 psychiatric examinations and presentence investigations and reports  
16 for research purposes. The Supreme Court and its agent shall  
17 treat such information as confidential, and nothing identifying any  
18 individual shall be released.

19 Sec. 10. Section 29-2282, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 29-2282 In determining restitution, if the offense  
22 results in damage, destruction, or loss of property, the court may  
23 require: (1) Return of the property to the victim, if possible;  
24 (2) payment of the reasonable value of repairing the property,  
25 including property returned by the defendant; or (3) payment of  
26 the reasonable replacement value of the property, if return or  
27 repair is impossible, impractical, or inadequate. If the offense

1 results in bodily injury, the court may require payment of  
2 necessary medical care, including, but not limited to, physical or  
3 psychological treatment and therapy, and payment for income lost  
4 due to such bodily injury. If the offense results in the death of  
5 the victim, the court may require payment to be made to the estate  
6 of the victim for any pain and suffering of the victim caused by  
7 the offense, for the cost of any medical care prior to death, and  
8 for funeral and burial expenses.

9           Sec. 11. Section 29-2407, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           29-2407 Judgments for fines and costs in criminal cases  
12 shall be a lien upon all the property of the defendant within the  
13 county from the time of docketing the case by the clerk of the  
14 proper court, and judgments upon forfeited recognizance shall be a  
15 like lien from the time of forfeiture. No property of any convict  
16 shall be exempt from execution issued upon any such judgment as  
17 set out in this section against such convict except in cases when  
18 the convict is sentenced to a Department of Correctional Services  
19 adult correctional facility for a period of more than two years, ~~or~~  
20 ~~to suffer death,~~ in which cases there shall be the same exemptions  
21 as at the time may be provided by law for civil cases. The lien  
22 on real estate of any such judgment for costs shall terminate as  
23 provided in section 25-1716.

24           Sec. 12. Section 29-2801, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           29-2801 If any person, except persons convicted of some  
27 crime or offense for which they stand committed, ~~or persons~~

1 ~~committed for treason or felony, the punishment whereof is capital,~~  
2 ~~plainly and specially expressed in the warrant of commitment, now~~  
3 ~~or in the future, is or shall be~~ confined in any jail of this  
4 state, ~~or shall be~~ is unlawfully deprived of his or her liberty,  
5 and ~~shall make~~ makes application, either by ~~him~~ himself or herself  
6 or by any person on his or her behalf, to any one of the judges  
7 of the district court, or to any county judge, and does at the  
8 same time produce to such judge a copy of the commitment or cause  
9 of detention of such person, or if the person so imprisoned or  
10 detained is imprisoned or detained without any legal authority,  
11 upon making the same appear to such judge, by oath or affirmation,  
12 ~~it shall be his duty~~ is the duty of the judge forthwith to allow  
13 a writ of habeas corpus, which writ shall be issued forthwith by  
14 the clerk of the district court, or by the county judge, as the  
15 case may require, under the seal of the court whereof the person  
16 allowing such writ is a judge, directed to the proper officer,  
17 person, ~~or persons who detains~~ detain such prisoner.

18           Sec. 13. Section 29-3205, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           29-3205 ~~Sections 29-3201 to 29-3210 of~~ The Uniform  
21 Rendition of Prisoners as Witnesses in Criminal Proceedings Act  
22 does not apply to any person in this state confined as mentally  
23 ill, or under sentence of death.

24           Sec. 14. Section 29-3920, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           29-3920 The Legislature finds that:

27           (1) County property owners should be given some relief

1 from the obligation of providing mandated indigent defense services  
2 which in most instances are required because of state laws  
3 establishing crimes and penalties;

4 (2) Property tax relief can be accomplished if the state  
5 begins to assist the counties with the obligation of providing  
6 indigent defense services required by state laws establishing  
7 crimes and penalties;

8 (3) Property tax relief in the form of state assistance  
9 to the counties of Nebraska in providing for indigent defense  
10 services will also increase accountability because the state,  
11 which is the governmental entity responsible for passing criminal  
12 statutes, will likewise be responsible for paying some of the  
13 costs;

14 (4) Property tax relief in the form of state assistance  
15 to the counties of Nebraska in providing for indigent defense  
16 services will also improve inconsistent and inadequate funding of  
17 indigent defense services by the counties;

18 (5) Property tax relief in the form of state assistance  
19 to the counties of Nebraska in providing for indigent defense  
20 services will also lessen the impact on county property taxpayers  
21 of the cost of a high profile ~~death penalty~~ first-degree murder  
22 case which can significantly affect the finances of the counties;  
23 and

24 (6) To accomplish property tax relief in the form of the  
25 state assisting the counties of Nebraska in providing for indigent  
26 defense services, the Commission on Public Advocacy Operations Cash  
27 Fund should be established to fund the operation of the Commission

1 on Public Advocacy and to fund reimbursement requests as determined  
2 by section 29-3933.

3 Sec. 15. Section 29-3922, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5 29-3922 For purposes of the County Revenue Assistance  
6 Act:

7 (1) Chief counsel means an attorney appointed to be  
8 the primary administrative officer of the commission pursuant to  
9 section 29-3928;

10 (2) Commission means the Commission on Public Advocacy;

11 (3) Commission staff means attorneys, investigators,  
12 and support staff who are performing work for the ~~capital~~  
13 first-degree murder litigation division, appellate division, DNA  
14 testing division, and major case resource center;

15 (4) Contracting attorney means an attorney contracting to  
16 act as a public defender pursuant to sections 23-3404 to 23-3408;

17 (5) Court-appointed attorney means an attorney other than  
18 a contracting attorney or a public defender appointed by the court  
19 to represent an indigent person;

20 (6) Indigent defense services means legal services  
21 provided to indigent persons by an indigent defense system in  
22 ~~capital~~ first-degree murder cases, felony cases, misdemeanor cases,  
23 juvenile cases, mental health commitment cases, child support  
24 enforcement cases, and paternity establishment cases;

25 (7) Indigent defense system means a system of providing  
26 services, including any services necessary for litigating a case,  
27 by a contracting attorney, court-appointed attorney, or public

1 defender;

2 (8) Indigent person means a person who is indigent  
3 and unable to obtain legal counsel as determined pursuant to  
4 subdivision (3) of section 29-3901; and

5 (9) Public defender means an attorney appointed or  
6 elected pursuant to sections 23-3401 to 23-3403.

7 Sec. 16. Section 29-3928, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 29-3928 The commission shall appoint a chief counsel. The  
10 responsibilities and duties of the chief counsel shall be defined  
11 by the commission and shall include the overall supervision of  
12 the workings of the various divisions of the commission. The chief  
13 counsel shall be qualified for his or her position, shall have been  
14 licensed to practice law in the State of Nebraska for at least five  
15 years prior to the effective date of the appointment, and shall  
16 be experienced in the practice of criminal defense, including the  
17 defense of ~~capital~~ first-degree murder cases. The chief counsel  
18 shall serve at the pleasure of the commission. The salary of the  
19 chief counsel shall be set by the commission.

20 Sec. 17. Section 29-3929, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 29-3929 The primary duties of the chief counsel shall be  
23 to provide direct legal services to indigent defendants, and the  
24 chief counsel shall:

25 (1) Supervise the operations of the appellate division,  
26 the ~~capital~~ first-degree murder litigation division, the DNA  
27 testing division, and the major case resource center;

1           (2) Prepare a budget and disburse funds for the  
2 operations of the commission;

3           (3) Present to the commission an annual report on the  
4 operations of the commission, including an accounting of all funds  
5 received and disbursed, an evaluation of the cost-effectiveness of  
6 the commission, and recommendations for improvement;

7           (4) Convene or contract for conferences and training  
8 seminars related to criminal defense;

9           (5) Perform other duties as directed by the commission;

10          (6) Establish and administer projects and programs for  
11 the operation of the commission;

12          (7) Appoint and remove employees of the commission and  
13 delegate appropriate powers and duties to them;

14          (8) Adopt and promulgate rules and regulations for the  
15 management and administration of policies of the commission and the  
16 conduct of employees of the commission;

17          (9) Transmit monthly to the commission a report of the  
18 operations of the commission for the preceding calendar month;

19          (10) Execute and carry out all contracts, leases, and  
20 agreements authorized by the commission with agencies of federal,  
21 state, or local government, corporations, or persons; and

22          (11) Exercise all powers and perform all duties necessary  
23 and proper in carrying out his or her responsibilities.

24          Sec. 18. Section 29-3930, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26          29-3930 The following divisions are established within  
27 the commission:

1           (1) The ~~capital~~ first-degree murder litigation division  
2 shall be available to assist in the defense of ~~capital~~ first-degree  
3 murder cases in Nebraska, subject to caseload standards of the  
4 commission;

5           (2) The appellate division shall be available to  
6 prosecute appeals to the Court of Appeals and the Supreme Court,  
7 subject to caseload standards of the commission;

8           (3) The violent crime and drug defense division shall  
9 be available to assist in the defense of certain violent and  
10 drug crimes as defined by the commission, subject to the caseload  
11 standards of the commission;

12           (4) The DNA testing division shall be available to assist  
13 in representing persons who are indigent who have filed a motion  
14 pursuant to the DNA Testing Act, subject to caseload standards; and

15           (5) The major case resource center shall be available to  
16 assist public defenders, contracting attorneys, or court-appointed  
17 attorneys with the defense of a felony offense, subject to caseload  
18 standards of the commission.

19           Sec. 19. Original sections 29-1822, 29-2004, 29-2005,  
20 29-2006, 29-2020, 29-2027, 29-2282, 29-2407, 29-2801, 29-3205,  
21 29-3920, 29-3928, 29-3929, and 29-3930, Reissue Revised Statutes  
22 of Nebraska, and sections 28-105, 29-1603, 29-2204, 29-2261,  
23 and 29-3922, Revised Statutes Cumulative Supplement, 2012, are  
24 repealed.