

LEGISLATIVE BILL 343

Approved by the Governor April 10, 1991

Introduced by Hartnett, 45; Beyer, 3; Withem, 14

AN ACT relating to public defenders; to amend section 23-3401, Revised Statutes Supplement, 1990; to change provisions relating to the private practice of law by certain public defenders; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 23-3401, Revised Statutes Supplement, 1990, be amended to read as follows:

23-3401. There is hereby created in counties that have or that attain a population in excess of one hundred thousand inhabitants and in other counties upon approval by the county board the office of public defender who, in counties having a population in excess of one hundred thousand inhabitants which have not elected a public defender prior to July 10, 1984, shall be elected at the next general election following July 10, 1984, or the year in which the county attains a population of one hundred thousand inhabitants and who, in other counties, shall be elected at the first general election of county officers following approval by the county board and every four years thereafter.

The public defender shall be a lawyer licensed to practice law in this state. He or she shall take office after election and qualification at the same time that other county officers take office, except that upon the creation of such office in any county, a qualified person may be appointed by the county board to serve as public defender until such office can be filled by an election in accordance with this section.

In counties having a population of more than one hundred seventy thousand inhabitants, the public defender shall devote his or her full time to the legal work of the office of the public defender and shall not engage in the private practice of law. All assistant public defenders in such counties shall devote their full time to the legal work of such office of the public defender and shall not engage in the private practice of law so long as each assistant public defender receives the same annual salary as each deputy county attorney of comparable ability and experience receives in such

counties.

No public defender or assistant public defender shall solicit or accept any fee for representing a criminal defendant in a prosecution in which the public defender or assistant is already acting as the defendant's court-appointed counsel.

A public defender elected after November 1986 need not be a resident of the county when he or she files for election as public defender, but a public defender shall reside in the county in which he or she holds office, except that in counties with a population of one hundred thousand or less inhabitants, the public defender shall not be required to reside in the county in which he or she holds office.

Sec. 2. That original section 23-3401, Revised Statutes Supplement, 1990, is repealed.