

LEGISLATIVE BILL 729

Approved by the Governor June 16, 1997

Introduced by Landis, 46

AN ACT relating to legal services for the indigent; to amend sections 29-3924 and 29-3927, Reissue Revised Statutes of Nebraska; to provide a system to provide civil legal services; to create a fund; to provide duties for the Commission on Public Advocacy; to harmonize provisions; to provide operative dates; and to repeal the original sections.

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

Section 1. A legal services fee of two dollars shall be taxed as costs in each case filed in each separate juvenile court and district court, including appeals to such courts, and on each case filed in each county court except those filed in county court pursuant to its jurisdiction under subdivision (4) of section 24-517 or section 25-2802. A legal services fee of two dollars shall be taxed as costs for each appeal and original action filed in the Court of Appeals and the Supreme Court. Such fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.

Sec. 2. A docket fee of fifteen dollars shall be collected by the clerk of the county court or the clerk of the district court for each proceeding to modify a decree of dissolution or annulment of marriage, a modification of an award of child support, or a modification of child custody or visitation. Such fees shall be remitted to the State Treasurer on forms provided by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.

Sec. 3. The Legal Aid and Services Fund is created. Money in the fund shall be used to provide civil legal services to eligible low-income persons. The State Treasurer shall distribute all money in the fund monthly to service providers of civil legal services to eligible low-income persons as determined by the Commission on Public Advocacy pursuant to section 6 of this act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 4. For purposes of sections 3 to 6 of this act:

(1) Eligible low-income person means any person (a) whose income is less than one hundred twenty-five percent of the federal poverty level, (b) who is financially eligible under the service provider's eligibility guidelines, (c) who resides in one of the counties in the service provider's area, and (d) who has a civil legal problem that falls within the guidelines established by the Commission on Public Advocacy;

(2) Service area means the counties in Nebraska defined by the commission as the area to be served by a service provider; and

(3) Service provider means a nonprofit entity that is engaged in or desires to become engaged in the provision of free civil legal services to eligible low-income persons.

Sec. 5. (1) The Commission on Public Advocacy shall establish eligibility criteria and guidelines to determine on an annual basis (a) the service areas, (b) the legal services to be provided and the priorities for providing the services, and (c) the service provider or providers for each service area. The commission shall annually certify one or more service providers for each service area. A single service provider may be certified for more than one service area. Such certification entitles the service provider to a distribution of funds as defined and determined by section 6 of this act.

(2) The commission shall accept applications for certification on an annual basis from entities interested in providing free civil legal services to eligible low-income persons. In the application, each applicant shall certify to the commission that the applicant intends to provide free civil legal services to eligible low-income persons as determined by the commission.

Sec. 6. (1) Each service provider certified by the Commission on Public Advocacy shall receive funds from the Legal Aid and Services Fund to provide free civil legal services to eligible low-income persons in the service area for which it is certified. The funds granted to each service provider from the Legal Aid and Services Fund shall be determined by the commission. The commission shall provide the State Treasurer the amount of the available funds to be distributed to each service provider. Such funds

shall be distributed on a monthly basis.

(2) Each service provider is authorized to use funds received from the Legal Aid and Services Fund to provide legal services in civil matters to any eligible low-income person.

(3) A service provider which has received funds from the Legal Aid and Services Fund shall be audited annually.

Sec. 7. Section 29-3924, Reissue Revised Statutes of Nebraska, is amended to read:

29-3924. The commission shall consist of nine members appointed by the Governor from a list of attorneys submitted by the executive council of the Nebraska State Bar Association after consultation with the board of directors of the Nebraska Criminal Defense Attorneys Association. A member shall be appointed from each of the six Supreme Court judicial districts, and three members shall be appointed at large. The executive council of the Nebraska State Bar Association shall ensure that the selection process promotes appointees who are independent from partisan political influence. To be eligible for appointment, a person shall be a member of the Nebraska State Bar Association who has substantial experience in criminal defense work and, for appointments made after the operative date of this section, substantial experience in civil legal matters that commonly affect low-income persons and, at the time of selection or at any time during the term of office, shall not be a prosecutor, law enforcement official, or judge. All members shall be committed to the principle of providing indigent defense services and civil legal services to low-income persons free from unwarranted judicial or political influence. Each member shall serve for a term of six years, except that three of the initial appointees shall serve terms of two years and three shall serve terms of four years as designated by the Governor. Members may be removed from the commission by the Governor for cause.

Sec. 8. Section 29-3927, Reissue Revised Statutes of Nebraska, is amended to read:

29-3927. (1) With respect to its duties related to the criminal defense of indigent persons, the The commission shall:

(1) (a) Adopt and promulgate rules and regulations for its organization and internal management and rules and regulations governing the exercise of its powers and the fulfillment of its purpose;

(2) (b) Appoint and abolish such advisory committees as may be necessary for the performance of its functions and delegate appropriate powers and duties to them;

(3) (c) Accept and administer loans, grants, and donations from the United States and its agencies, the State of Nebraska and its agencies, and other sources, public and private, for carrying out the functions of the commission;

(4) (d) Enter into contracts, leases, and agreements necessary, convenient, or desirable for carrying out its purposes and the powers granted under this section with agencies of state or local government, corporations, or persons;

(5) (e) Acquire, hold, and dispose of personal property in the exercise of its powers; and

(6) (f) Provide legal services to indigent persons through the divisions in section 29-3930.

(2) With respect to its duties related to the provision of civil legal services to eligible low-income persons, the commission shall have such powers and duties as described in sections 3 to 6 of this act.

Sec. 9. Sections 1 to 6, 8, and 10 of this act become operative on January 1, 1998. The other sections of this act become operative on their effective date.

Sec. 10. Original section 29-3927, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 11. Original section 29-3924, Reissue Revised Statutes of Nebraska, is repealed.