

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1036

Introduced by Lathrop, 12.

Read first time January 13, 2022

Committee:

- 1 A BILL FOR AN ACT relating to courts; to amend sections 24-1301 and
- 2 24-1302, Reissue Revised Statutes of Nebraska; to provide for
- 3 problem-solving court referees and related court rules; and to
- 4 repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 24-1301, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 24-1301 The Legislature finds and declares that when left untreated,
4 substance use disorders and mental illness contribute to increased crime
5 in Nebraska, cost millions of dollars in lost productivity, and
6 contribute to the burden placed upon law enforcement, court, and
7 correctional systems in Nebraska.

8 The Legislature also finds and declares that problem-solving ~~problem~~
9 ~~solving~~ courts, including drug, veterans, mental health, driving under
10 the influence, reentry, and other problem-solving ~~problem-solving~~ courts,
11 are effective in reducing recidivism of persons who participate in and
12 complete such courts. The Legislature recognizes that problem-solving
13 ~~problem-solving~~ courts offer a person accused of drug, alcohol, and other
14 offenses alternatives to traditional criminal justice proceedings or
15 juvenile justice dispositions.

16 Sec. 2. Section 24-1302, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 24-1302 (1) Drug, veterans, mental health, driving under the
19 influence, reentry, and other problem-solving ~~problem-solving~~ courts
20 shall be subject to rules which shall be promulgated by the Supreme Court
21 for procedures to be implemented in the administration of such courts.

22 (2) It is the intent of the Legislature that funds be appropriated
23 separately to the Supreme Court for each of the problem-solving ~~problem~~
24 ~~solving~~ courts to carry out this section and section 24-1301.

25 Sec. 3. (1) The Supreme Court may use problem-solving court
26 referees to facilitate the establishment and expansion of problem-solving
27 courts in district courts, separate juvenile courts, and county courts.

28 (2) Problem-solving court referees may be employed by the Supreme
29 Court to serve more than one judicial district if the Supreme Court
30 determines it is necessary.

31 (3) To be qualified as a problem-solving court referee, a person

1 shall be an attorney in good standing admitted to the practice of law in
2 the State of Nebraska and shall meet any other requirements imposed by
3 the Supreme Court. A referee shall be sworn or affirmed to well and
4 faithfully hear and examine the cause and to make a just and true report
5 according to the best of the referee's understanding. The oath or
6 affirmation may be administered by the referring court.

7 Sec. 4. The Supreme Court may promulgate rules to permit a problem-
8 solving court to refer any of the following matters to a problem-solving
9 court referee for findings and recommendations: eligibility for
10 participation in the problem-solving court, terms and conditions of such
11 participation, and termination of participation. Such referral may
12 require a referee to facilitate team meetings and preside over hearings
13 or other problem-solving court proceedings.

14 Sec. 5. (1) A hearing before a problem-solving court referee shall
15 be conducted in the same manner as a hearing before the referring court.
16 A referee shall have the power to summon and enforce the attendance of
17 parties and witnesses, administer all necessary oaths, supervise pretrial
18 preparation pursuant to the rules of discovery adopted pursuant to
19 section 25-1273.01, grant continuations and adjournments, recommend the
20 appointment of counsel for indigent parties, and carry out any other
21 duties permitted by law and assigned by the Supreme Court by rule.

22 (2) Testimony in matters heard by a problem-solving court referee
23 shall be preserved by recording or other prescribed measures and in
24 accordance with prescribed standards. Transcripts of all hearings shall
25 be available upon request and all costs of preparing the transcript shall
26 be paid by the party for whom it is prepared.

27 (3) A problem-solving court referee shall, in all cases, orally
28 announce the referee's findings and recommendations to the parties or
29 their attorneys and submit a written report to the referring court
30 containing such findings and recommendations.

31 Sec. 6. In any and all matters referred to a problem-solving court

1 referee, the parties shall have the right to take exceptions to the
2 findings and recommendations made by the referee and to have a further
3 hearing before the problem-solving court for final disposition. The
4 court, upon receipt of the findings and recommendations, shall review the
5 referee's report and may accept or reject all or any part of the report
6 and enter judgment based on the court's own determination.

7 Sec. 7. Original sections 24-1301 and 24-1302, Reissue Revised
8 Statutes of Nebraska, are repealed.