

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 299

Introduced by Schumacher, 22.

Read first time January 15, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-1927, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to admission of evidence of alibi; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-1927, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-1927 (1)(a) An attorney for the government may request in writing
4 that the defendant notify an attorney for the government of any intended
5 alibi defense. The request must state the time, date, and place of the
6 alleged offense.

7 (b) Within fourteen days after the request, or at some other time
8 the court sets, the defendant must serve written notice on an attorney
9 for the government of any intended alibi defense. The defendant's notice
10 must state:

11 (i) Each specific place where the defendant claims to have been at
12 the time of the alleged offense; and

13 (ii) The name, address, and telephone number of each alibi witness
14 on whom the defendant intends to rely.

15 (2)(a)(i) If the defendant serves a notice under subdivision (1)(b)
16 of this section, an attorney for the government must disclose in writing
17 to the defendant or the defendant's attorney:

18 (A) The name of each witness and the address and telephone number of
19 each witness other than a victim that the government intends to rely on
20 to establish that the defendant was present at the scene of the alleged
21 offense; and

22 (B) Each government rebuttal witness to the defendant's alibi
23 defense.

24 (ii) If the government intends to rely on a victim's testimony to
25 establish that the defendant was present at the scene of the alleged
26 offense and the defendant establishes a need for the victim's address and
27 telephone number, the court may:

28 (A) Order the government to provide the information in writing to
29 the defendant or the defendant's attorney; or

30 (B) Fashion a reasonable procedure that allows preparation of the
31 defense and also protects the victim's interests.

1 (b) Unless the court directs otherwise, an attorney for the
2 government must give its disclosure under subdivision (2)(a)(i) of this
3 section within fourteen days after the defendant serves notice under
4 subdivision (1)(b) of this section of an intended alibi defense but no
5 later than fourteen days before trial.

6 (c)(i) Both an attorney for the government and the defendant must
7 promptly disclose in writing to the other party the name of each
8 additional witness and the address and telephone number of each
9 additional witness other than a victim if:

10 (A) The disclosing party learns of the witness before or during
11 trial; and

12 (B) The witness should have been disclosed under subdivision (1) or
13 (2)(a) or (b) of this section if the disclosing party had known of the
14 witness earlier.

15 (ii) The address and telephone number of an additional victim
16 witness must not be disclosed except as provided in subdivision (2)(a)
17 (ii) of this section.

18 (3) For good cause, the court may grant an exception to any
19 requirement of subdivisions (1) and (2) of this section.

20 (4) If a party fails to comply with this rule, the court may exclude
21 the testimony of any undisclosed witness regarding the defendant's alibi.
22 This rule does not limit the defendant's right to testify.

23 (5) Evidence of an intention to rely on an alibi defense, later
24 withdrawn, or of a statement made in connection with that intention, is
25 not, in any civil or criminal proceeding, admissible against the person
26 who gave notice of the intention.

27 ~~No evidence offered by a defendant for the purpose of establishing~~
28 ~~an alibi to an offense shall be admitted in the trial of the case unless~~
29 ~~notice of intention to rely upon an alibi is given to the county attorney~~
30 ~~and filed with the court at least thirty days before trial, except that~~
31 ~~such notice shall be waived by the presiding judge if necessary in the~~

1 ~~interests of justice.~~

2 Sec. 2. Original section 29-1927, Reissue Revised Statutes of
3 Nebraska, is repealed.