

ONE HUNDRED SEVENTH LEGISLATURE

SECOND SESSION

LEGISLATIVE RESOLUTION 423

Introduced by Cavanaugh, J., 9.

PURPOSE: The purpose of this resolution is to propose an interim study to determine whether the current arrangement of court appointment of attorneys is appropriate and whether this arrangement is adequately meeting the needs of providing indigent defense for the counties of Nebraska. Additionally, the study should examine whether counties are fairly assessed the costs of indigent defense costs, particularly in counties in which a public defender office does not exist or for prosecuting complex or high-profile cases, which might lead to increased fees for court appointment of attorneys. The study should also examine whether the current funding mechanism at county expense is the appropriate means to fund indigent defense and whether such costs should be funded by the state General Fund, a shared-cost arrangement with the counties, or some other manner of funding. Finally, the study should assess whether the difference in court-appointed fee rates and the process for providing indigent defense ensures that indigent defendants are receiving adequate representation in criminal and juvenile cases. In order to carry out the purpose of this resolution, the committee shall obtain input from the public and impacted individuals relating to the subject matter of this resolution.

The Nebraska statutes require that counties are responsible for the costs of providing representation to indigent people charged with criminal offenses. Larger counties in Nebraska have created public defender offices to maintain regular and robust representation of indigent defendants and to minimize expense to the counties.

In instances in which a public defender office does not exist in a county or cannot ethically or practically be appointed to represent criminal defendants, counties appoint private attorneys to represent indigent

defendants. In such situation, counties will generally pay such private attorneys an hourly rate to represent indigent defendants in criminal and juvenile cases. The hourly rates vary in differing counties. Additionally, the rate is set by local county officials or by judges appointing counsel.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED SEVENTH LEGISLATURE OF NEBRASKA, SECOND SESSION:

1. That the Judiciary Committee shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.