

## LEGISLATIVE BILL 536

Approved by the Governor April 17, 1979

Introduced by Judiciary Committee, Nichol, 48, Chmn.;  
Pirsch, 10; Stoney, 4; Wagner, 41; Reutzel, 15

AN ACT to amend sections 29-2209, 29-2248, 29-2251, 29-2253, 29-2258, and 29-2259, Reissue Revised Statutes of Nebraska, 1943, sections 29-2249 and 29-2250, Revised Statutes Supplement, 1978, and section 29-2252, Revised Statutes Supplement, 1978, as amended by section 9, Legislative Bill 322, Eighty-sixth Legislature, First Session, 1979, relating to judgment or conviction; to change the responsibilities and duties of the Nebraska District Court Judges Association and the Nebraska Probation System Committee with reference to the State Probation Administrator and the Field Probation Service; and to repeal the original sections.

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

Section 1. That section 29-2209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2209. The judges of all municipal and--county courts in the state may from time to time appoint a person or persons to perform the duties of probation officer or officers, as defined by law, within the jurisdiction of the courts of such judges and under the direction of such judges, to hold office during the pleasure of the judge or judges making such appointment; and one copy of the order of appointment shall be delivered to the officer so appointed, and one copy filed with the city clerk. Any officer or member of the police force of any city or incorporated village who may be detailed to do duty in such court, or any constable or peace officer may be appointed as probation officer upon the order of any magistrate. An ex-offender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such ex-offender shall maintain a record free of arrests, except for minor traffic violations, for one year immediately preceding his appointment. No probation officer appointed under the provisions of this section shall receive any compensation for his services as such probation officer except as provided by law; but this shall not be construed to deprive any officer or member of the police force, or any constable or peace officer, appointed probation officer as herein provided, from

receiving the salary attached to his official employment; Provided, that any full-time probation officer appointed by the judges of a municipal court of a city of the metropolitan or primary class shall receive compensation for his services from funds to be appropriated by the city council.

Sec. 2. That section 29-2248, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2248. The association shall:

~~{1} Supervise and administer the office;~~

{2} (1) Encourage development and implementation of uniform criteria for sentencing criminals;

{3} (2) Convene from time to time for the purpose of holding institutes and seminars for all judges in this state who sentence criminals or juveniles to discuss problems related to sentencing criminals or juveniles;

{4} (3) Conduct, from time to time, orientation programs for new judges, such programs to include discussions of sentencing alternatives, procedures, and purposes;

{5} (4) Visit from time to time correctional facilities of this state;

{6} (5) Encourage creation and development of community resources of value to the probation system;

{7} (6) Conduct such other programs of whatever nature of interest to its members; and

{8} (7) Exercise all powers and perform all duties necessary and proper to carry out its responsibilities.

Sec. 3. That section 29-2249, Revised Statutes Supplement, 1978, be amended to read as follows:

29-2249. The Office of Probation Administration is hereby created within the judicial branch of government and directly responsible to the association ~~with the concurrence of the~~ Nebraska Probation System Committee. The office shall consist of the probation administrator, the Field Probation Service, and such other employees as may be necessary to carry out its functions.

Sec. 4. That section 29-2250, Revised Statutes Supplement, 1978, be amended to read as follows:

29-2250. The office shall:

- (1) Supervise and administer the service;
- (2) Establish probation policies and standards for the service, with the concurrence of the ~~association and the~~ Nebraska Probation System Committee; and
- (3) Supervise offenders placed on probation in another state who are within the state pursuant to the provisions of section 29-2637.

Sec. 5. That section 29-2251, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2251. The association Nebraska Probation System Committee shall appoint a probation administrator who shall be a person with appropriate experience in the field of probation or with training in relevant disciplines at a recognized college or university, and who shall serve at the pleasure of the association Nebraska Probation System Committee.

Sec. 6. That section 29-2252, Revised Statutes Supplement, 1978, as amended by section 9, Legislative Bill 322, Eighty-sixth Legislature, First Session, 1979, be amended to read as follows:

29-2252. The administrator shall:

- (1) Supervise and administer the office;
- (2) Establish and maintain policies, standards, and procedures for the service, with the concurrence of the ~~association--and--the~~ Nebraska Probation System Committee;
- (3) Prescribe and furnish such forms for records and reports for the service as shall be deemed necessary for uniformity, efficiency, and statistical accuracy;
- (4) Establish minimum qualifications for employment as a probation officer in this state and establish and maintain such additional qualifications as he deems appropriate for appointment to the service. An exoffender released from a penal complex or a county jail may be appointed to a position of deputy probation or parole officer. Such exoffender shall maintain a record free of arrests, except for minor traffic violations, for

one year immediately preceding his appointment;

(5) Establish and maintain advanced periodic in-service training requirements for the service;

(6) Cooperate with all agencies, public or private, which are concerned with treatment or welfare of persons on probation;

(7) Organize and conduct training programs for probation officers;

(8) Collect, develop, and maintain statistical information concerning probationers, probation practices, and the operation of the probation system;

(9) Interpret the probation program to the public with a view toward developing a broad base of public support;

(10) Conduct research for the purpose of evaluating and improving the effectiveness of the probation system;

(11) Adopt such rules and regulations as may be necessary or proper for the operation of the office or service;

~~{12} Appoint an advisory committee of county court judges, juvenile court judges, and other appropriate officials to advise him and the association on matters relating to probation in county and juvenile courts;~~

{13} ~~{12}~~ Transmit annually to the association and the advisory committee Nebraska Probation System Committee a report of the operation of the office for the preceding calendar year, which report shall be transmitted by the association Nebraska Probation System Committee to the Governor and the Clerk of the Legislature; and

{14} ~~{13}~~ Exercise all powers and perform all duties necessary and proper to carry out his responsibilities.

Each member of the Legislature shall receive a copy of the report required by subdivision (13) of this section by making a request for it to the administrator.

Sec. 7. That section 29-2253, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2253. (1) The administrator, with the concurrence of the association Nebraska Probation System Committee, shall divide the state into probation districts and may from time to time alter the boundaries of such districts in order to maintain the most economical, efficient, and effective utilization of the service.

(2) The administrator shall, with the concurrence of all a majority of the district judges and county judges within each probation district, appoint for such district a district probation officer, deputy probation officers, if required, and such other employees as may be required to provide adequate probation services for such district, and set the salaries thereof. In the event the administrator is unable to obtain a concurrence of all of the district judges and county judges within a district, the duties prescribed by this section shall be performed by the Nebraska Probation System Committee.

(3) The administrator may direct a probation officer of one probation district to temporarily act as probation officer for a court in another probation district and such probation officer while so serving shall have all the powers and responsibilities as if he were serving in the probation district to which he was originally appointed.

(4) The administrator, with the concurrence of the association Nebraska Probation System Committee, shall designate the location of the principal office of the service within each probation district.

Sec. 8. That section 29-2258, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2258. A district probation officer shall:

(1) Make presentence and other investigations, as may be required by law or directed by a court in which he is serving;

(2) Supervise probationers in accordance with the rules and regulations of the office and the directions of the sentencing court;

(3) Advise the sentencing court, in accordance with the provisions of sections 29-2246 to 29-2268 and such rules and regulations of the office, of violations of the conditions of probation by individual probationers;

(4) Advise the sentencing court, in accordance with the rules and regulations of the office and the direction of the court, when the situation of a probationer may require a modification of the conditions of probation, or when a probationer's adjustment is such as to warrant termination of probation;

(5) Provide each probationer with a statement of the period and conditions of his probation;

(6) Whenever necessary, exercise the power of arrest as provided in section 29-2266;

(7) Establish procedures for the direction and guidance of deputy probation officers under his jurisdiction and advise such officers in regard to the most effective performance of their duties;

(8) Supervise and evaluate deputy probation officers under his jurisdiction;

(9) Delegate such duties and responsibilities to a deputy probation officer as he deems appropriate;

(10) Make such reports as required by the administrator, the judges of the probation district in which he serves, or the ~~association~~ Nebraska Probation System Committee;

(11) Keep accurate and complete accounts of all money or property collected or received from probationers and give receipts therefor;

(12) Cooperate fully with and render all reasonable assistance to other probation officers;

(13) Perform such other duties not inconsistent with the provisions of sections 29-2246 to 29-2268 or the rules and regulations of the office as a court may from time to time direct; and

(14) Exercise all powers and perform all duties necessary and proper to carry out his responsibilities.

Sec. 9. That section 29-2259, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2259. (1) The salaries, actual and necessary expenses, and expenses incident to the conduct and maintenance of the office shall be paid by the state.

(2) The salaries and actual and necessary travel expenses of the service shall be paid by the state.

(3) The expenses incident to the conduct and maintenance of the principal office within each probation district shall in the first instance be paid by the county in which it is located but such county shall be reimbursed for such expenses by all other counties within the probation district to the extent and in the proportions determined by the ~~district--judges--of--the~~ probation-district Nebraska Probation System Committee based upon population, number of investigations and probation cases handled, or upon such other basis as the ~~judges-deem~~ committee deems fair and equitable.

(4) Each county shall provide office space and necessary facilities for probation officers performing their official duties and shall bear the costs incident to maintenance of such offices, other than salaries and travel expenses.

(5) The probation administrator shall prepare a budget and request for appropriations for the office and shall submit such request to the association Nebraska Probation System Committee and with its approval to the appropriate authority in accordance with law.

Sec. 10. That original sections 29-2209, 29-2248, 29-2251, 29-2253, 29-2258, and 29-2259, Reissue Revised Statutes of Nebraska, 1943, sections 29-2249 and 29-2250, Revised Statutes Supplement, 1978, and section 29-2252, Revised Statutes Supplement, 1978, as amended by section 9, Legislative Bill 322, Eighty-sixth Legislature, First Session, 1979, are repealed.