

AMENDMENTS TO LB 36

Introduced by Dierks, 40.

1           1. Insert the following new section:

2           Sec. 18. Section 29-3903, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           29-3903 At a felony defendant's first appearance before  
5 a judge, the judge shall advise him or her of the right to  
6 court-appointed counsel if such person is indigent. If he or she  
7 asserts indigency, the court shall make a reasonable inquiry to  
8 determine such person's financial condition and shall require him  
9 or her to execute an affidavit of indigency for filing with the  
10 clerk of the court.

11           If the court determines the defendant to be indigent,  
12 it shall formally appoint the public defender or, in counties not  
13 having a public defender, an attorney or attorneys licensed to  
14 practice law in this state, not exceeding two, to represent the  
15 indigent felony defendant at all future critical stages of the  
16 criminal proceedings against such defendant, consistent with the  
17 provisions of section 23-3402, but appointed counsel other than the  
18 public defender must obtain leave of court before being authorized  
19 to proceed beyond an initial direct appeal to either the Court of  
20 Appeals or the Supreme Court of Nebraska to any further direct,  
21 collateral, or postconviction appeals to state or federal courts.  
22 If the criminal proceedings involve a capital offense, the public  
23 defender or appointed counsel shall have been licensed to practice

1 law in the State of Nebraska for at least five years prior to the  
2 date of appointment, and shall be experienced in the practice of  
3 criminal defense, including the defense of capital offenses.

4           A felony defendant who is not indigent at the time of his  
5 or her first appearance before a judge may nevertheless assert his  
6 or her indigency at any subsequent stage of felony proceedings, at  
7 which time the judge shall consider appointing counsel as otherwise  
8 provided in this section.

9           The judge shall make a notation of such appointment and  
10 all appearances of appointed counsel upon the court's docket. If at  
11 the time of appointment of counsel the indigent felony defendant  
12 and appointed counsel have not had a reasonable opportunity to  
13 consult concerning the prosecution, the judge shall continue the  
14 arraignment, trial, or other next stage of the felony proceedings  
15 for a reasonable period of time to allow for such consultation.

16           2. On page 15, line 4, strike "and" and after the last  
17 comma insert "and 29-3903,".

18           3. Renumber the remaining sections accordingly.