

ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010
COMMITTEE STATEMENT
LB1026

Hearing Date: Wednesday February 03, 2010
Committee On: Judiciary
Introducer: Wightman
One Liner: Provide for transfers of civil actions in district court

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Christensen, Ashford, Coash, Council, Lathrop, Lautenbaugh,
McGill, Rogert

Nay:

Absent:

Present Not Voting:

Proponents:

Sen. John Wightman
Janet Wiechelman
Beth Bazyn Ferrell
Thomas Maul

Representing:

Introducer
Clerk of the District Court Association
NACO (Nebraska Association of County Officials)
Nebraska State Bar Association

Opponents:

Kent Radke

Representing:

Nebraska Land and Title Association

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 1026 would create a statutory process for transferring civil actions from one district court to a district court in another county in the state. The current law provides for the transfer of such cases, but does not provide statutory guidance on the procedure for the transfer.

Under LB 1026, the transfer may occur before or after the entry of a judgment. Any judgment shall commence in the transferee court on the first day of the month following the order of transfer. The transferor court would issue an order providing direction to the clerk of the transferor court to: transfer the action to the transferee court within 15 days after the date of the order; certify the proceedings; file the original paper of such action; certify a transcript of docket entries and certify the payment of any judgment, except judgments involving support order records maintained by the Title IV-D Division. The court order to transfer must specify how filing fees for the filing of a new civil action shall be paid by the transferring party. Also, if the transferred case involves a child support judgment, the Title IV-D Division is to transfer the records of the action to the transferee court.

Explanation of amendments:

Committee Amendment AM 1802 would amend the provisions of the original bill and place them into the existing statute section 25-410. The amendments would clarify the transfer process and make it more timely by requiring the transfer of the action to occur within ten days, rather than fifteen days, after the entry of the transfer order. The amendment would

provide that no additional court fees shall be required for the transfer. The clerk of the transferor court must file with the transferee court certification of the payment records of any judgment in the action maintained by the transferor court, including those involving support orders. Under the amendment, the judgment shall commence, and shall be a lien on the property of the debtor in any county in which such judgment is filed, once it is filed and entered on the judgment record of the transferee court. However, if the transferred case involves a support order with payment records maintained by the Title IV-D Division, the transferor court order must notify the division to make changes in the records and support payments shall commence in the transferee court on the first day of the month following the order of transfer.

Brad Ashford, Chairperson