

ONE HUNDRED SIXTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 146

Introduced by Wayne, 13.

PURPOSE: The purpose of this interim study is to examine the feasibility of introducing a "Prosecutor Transparency Act" in Nebraska and to examine the feasibility of developing a comprehensive data collection and reporting process for city and county prosecutors.

Prosecutors hold a unique and powerful role in the criminal justice system. County and city attorneys are public officials empowered with the responsibility to prosecute violations of law in the name of the public. Although they prosecute cases on behalf of the state, there is relatively little publicly available information about prosecutors' policies and practices with respect to how they carry out their duties. In most cities and counties, appointed and elected prosecutors report very little public data about the operations of their offices or how they utilize their very broad grant of discretion.

Charging decisions and discretionary policies and practices that prosecutors establish and follow have an impact on various matters of public policy, including incarceration levels in local jails and state prisons and the racial disparities that exist in the criminal justice system. Nebraska has a local jail and state prison overcrowding and conditions crisis. Prosecutor transparency is essential to understanding and addressing mass incarceration and racial disparities present at each and every stage in the criminal justice system.

While a growing number of prosecutors' offices across the country have started to make some information public, these efforts are piecemeal and subject to change depending on who is in office. That is why there is an emerging trend in various jurisdictions to ensure comprehensive transparency

from all prosecutors. For example, recent laws passed in Florida, Colorado, and Arizona require transparency and data reporting from law enforcement agencies and other actors and provide a sound roadmap for similar requirements from prosecutors. These and other jurisdictions have considered legislation that sets minimum transparency standards for elected prosecutors, ensuring that they collect and make public data and policies available to the communities that they serve. Such "Prosecutor Transparency Acts" can create a framework by which state legislators can hold their prosecutors accountable.

The issues addressed by this interim study shall include, but not be limited to:

(1) Identifying and defining the data points for prosecutors to collect and report, including information about demographics and charging decisions, while protecting individual privacy concerns, logistical challenges, and fiscal impacts;

(2) Identifying a central state agency responsible for making the data publicly available and issuing annual analyses and reports;

(3) Identifying written policies or policy guidance documents about bail and sentencing practices, plea-bargain guidelines, discovery practices, prosecution of youth as adults, mental health screenings, diversion, and parole and probation revocations;

(4) Identifying basic reporting on staff training and discipline in prosecutors' offices;

(5) Whether or not to establish community advisory boards for city and county prosecutors that include representatives of impacted communities, corrections officials, local elected officials, criminal defense attorneys, mental health professionals, or property tax advocates; and

(6) Consideration of prosecutorial transparency and accountability reforms in other municipalities and states.

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

1. That the Judiciary Committee of the Legislature 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.