

AMENDMENTS TO LB307

(Amendments to Standing Committee amendments, AM273)

Introduced by Groene, 42.

1 1. Insert the following new section:

2 Section 1. Section 43-272, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 43-272 ~~(1) When (1)(a) In counties having a population of less than~~
5 ~~one hundred fifty thousand inhabitants, when~~ any juvenile shall be
6 brought without counsel before a juvenile court, the court shall advise
7 such juvenile and his or her parent or guardian of their right to retain
8 counsel and shall inquire of such juvenile and his or her parent or
9 guardian as to whether they desire to retain counsel. The court shall
10 inform such juvenile and his or her parent or guardian of such juvenile's
11 right to counsel at county expense if none of them is able to afford
12 counsel. If the juvenile or his or her parent or guardian desires to have
13 counsel appointed for such juvenile, or the parent or guardian of such
14 juvenile cannot be located, and the court ascertains that none of such
15 persons are able to afford an attorney, the court shall forthwith appoint
16 an attorney to represent such juvenile for all proceedings before the
17 juvenile court, except that if an attorney is appointed to represent such
18 juvenile and the court later determines that a parent of such juvenile is
19 able to afford an attorney, the court shall order such parent or juvenile
20 to pay for services of the attorney to be collected in the same manner as
21 provided by section 43-290. If the parent willfully refuses to pay any
22 such sum, the court may commit him or her for contempt, and execution may
23 issue at the request of the appointed attorney or the county attorney or
24 by the court without a request.

25 ~~(b) In counties having a population of one hundred fifty thousand or~~
26 ~~more inhabitants, when any juvenile court petition is filed alleging~~

1 ~~jurisdiction of a juvenile pursuant to subdivision (1), (2), (3)(b), or~~
2 ~~(4) of section 43-247, counsel shall be appointed for such juvenile. The~~
3 ~~court shall inform such juvenile and his or her parent or guardian of~~
4 ~~such juvenile's right to counsel at county expense if none of them is~~
5 ~~able to afford counsel. If the juvenile or his or her parent or guardian~~
6 ~~desires to have counsel appointed for such juvenile, or the parent or~~
7 ~~guardian of such juvenile cannot be located, and the court ascertains~~
8 ~~that none of such persons are able to afford an attorney, the court shall~~
9 ~~forthwith appoint an attorney to represent such juvenile for all~~
10 ~~proceedings before the juvenile court, except that if an attorney is~~
11 ~~appointed to represent such juvenile and the court later determines that~~
12 ~~a parent of such juvenile is able to afford an attorney, the court shall~~
13 ~~order such parent or juvenile to pay for services of the attorney to be~~
14 ~~collected in the same manner as provided by section 43-290. If the parent~~
15 ~~willfully refuses to pay any such sum, the court may commit him or her~~
16 ~~for contempt, and execution may issue at the request of the appointed~~
17 ~~attorney or the county attorney or by the court without a request.~~

18 (2) The court, on its own motion or upon application of a party to
19 the proceedings, shall appoint a guardian ad litem for the juvenile: (a)
20 If the juvenile has no parent or guardian of his or her person or if the
21 parent or guardian of the juvenile cannot be located or cannot be brought
22 before the court; (b) if the parent or guardian of the juvenile is
23 excused from participation in all or any part of the proceedings; (c) if
24 the parent is a juvenile or an incompetent; (d) if the parent is
25 indifferent to the interests of the juvenile; or (e) in any proceeding
26 pursuant to the provisions of subdivision (3)(a) of section 43-247.

27 A guardian ad litem shall have the duty to protect the interests of
28 the juvenile for whom he or she has been appointed guardian, and shall be
29 deemed a parent of the juvenile as to those proceedings with respect to
30 which his or her guardianship extends.

31 (3) The court shall appoint an attorney as guardian ad litem. A

1 guardian ad litem shall act as his or her own counsel and as counsel for
2 the juvenile, unless there are special reasons in a particular case why
3 the guardian ad litem or the juvenile or both should have separate
4 counsel. In such cases the guardian ad litem shall have the right to
5 counsel, except that the guardian ad litem shall be entitled to appointed
6 counsel without regard to his or her financial ability to retain counsel.
7 Whether such appointed counsel shall be provided at the cost of the
8 county shall be determined as provided in subsection (1) of this section.

9 (4) By July 1, 2015, the Supreme Court shall provide by court rule
10 standards for guardians ad litem for juveniles in juvenile court
11 proceedings.

12 (5) By July 1, 2017, the Supreme Court shall provide guidelines
13 setting forth standards for all attorneys who practice in juvenile court.

14 2. On page 1, insert the following new subsection after line 23:

15 "(4) A waiver of the right to counsel shall be denied upon request
16 of the county attorney or city attorney."; and in line 24 strike "(4)"
17 and insert "(5)".

18 3. On page 2, line 1, strike "(5)" and insert "(6)"; in line 3
19 strike "(6)" and insert "(7)"; and in line 5 strike "(7)" and insert
20 "(8)".

21 4. Renumber the remaining sections and correct the repealer
22 accordingly.