

Report of the States: Nebraska Minority Justice Committee

Petition to Revise the Rules of Professional Conduct

Several states are in the process of exploring and proposing a revision to the Rules of Professional Conduct (Rule 4.4: Respect for Rights of Third Persons) to specifically prohibit a lawyer from using a third person's immigration status for the purpose of intimidation, coercion, or to obstruct that person from participating in the judicial process. The Committee explored and documented the prevalence of this issue in Nebraska (this frequently happens in family law, workers comp, employment law, etc.) and has petitioned the Nebraska Supreme Court in May of 2014 to revise the comment to the Rules of Professional Conduct to specifically prohibit a lawyer from using a third person's immigration status for the purpose of intimidation, coercion, or to obstruct that person from participating in the judicial process. The petition is currently pending.

Supreme Court Rules Regarding Transparency in the Court Appointment Process

The issue of bias, perceived or actual, in court appointments is of concern to the Committee because it threatens trust and confidence in the fairness of the judicial system. If such claims are actual, this hinders diversity in the legal profession by limiting opportunities for minority attorneys. In 2009, the Minority Justice Committee received memoranda from several attorneys voicing claims of racial bias in the process of appointing counsel for indigent criminal defendants. Data on court appointments collected by the Committee (2009) indicated that court appointments were not distributed on an equitable basis. More specifically, data indicated that of the 62 attorneys receiving 526 court appointments in Douglas County Court (Nebraska's most populous county) (January through August of 2009) eight attorneys received 55.2% of all court appointments in Douglas County Court (and 48.1% of all of the fees). Given the overall distribution of court appointments it is understandable that attorneys (regardless of race) would perceive there to be patronage/bias in the appointment of counsel.

Based on the Committee's research, an Ad-Hoc Committee was appointed by the Nebraska Supreme Court to make recommendations regarding the Court Appointment Process in Nebraska's court system. On February 12, 2014, the Nebraska Supreme Court adopted revisions to its Rules of Practice and Procedure, mandating that every judicial district have a transparent process for appointment of counsel for indigent defendants including: how the list of attorneys will be maintained, the district's process for appointments, and how an attorney may be added to or removed from the court appointed attorney list.

Language Access Needs Assessment

As a recipient of federal funding, Nebraska's Judicial Branch is obligated to develop a plan for how the courts will provide meaningful access to Limited English Proficient (LEP) populations. To this end, the Administrative Office of the Courts together with the Minority Justice Committee, through a series of surveys and focus group discussions, undertook an assessment of interpreter services in Nebraska's state court system. The report and recommendations are available as a resource to other states working on Language Access Plans (www.nebar.com).