

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1167

FINAL READING

Introduced by DeBoer, 10; Cavanaugh, J., 9; Conrad, 46; Dungan, 26;
Wayne, 13.

Read first time January 11, 2024

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-404.02, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to individuals who are arrested without a
- 4 warrant; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-404.02, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 29-404.02 (1) Except as provided in sections 28-311.11 and 42-928, a
4 peace officer may arrest a person without a warrant if the officer has
5 reasonable cause to believe that such person has committed:

6 (a) A felony;

7 (b) A misdemeanor, and the officer has reasonable cause to believe
8 that such person either (i) will not be apprehended unless immediately
9 arrested, (ii) may cause injury to himself or herself or others or damage
10 to property unless immediately arrested, (iii) may destroy or conceal
11 evidence of the commission of such misdemeanor, or (iv) has committed a
12 misdemeanor in the presence of the officer; or

13 (c) One or more of the following acts to one or more household
14 members, whether or not committed in the presence of the peace officer:

15 (i) Attempting to cause or intentionally and knowingly causing
16 bodily injury with or without a dangerous instrument;

17 (ii) Placing, by physical menace, another in fear of imminent bodily
18 injury; or

19 (iii) Engaging in sexual contact or sexual penetration without
20 consent as defined in section 28-318.

21 (2) An individual arrested without a warrant under this section who
22 remains in custody shall be brought before a court in the county where
23 the arrest occurred for an appearance no later than seven days after such
24 arrest. The appearance may be in person or conducted remotely by means of
25 videoconferencing. The individual shall have the right to appear in
26 person but must agree to waive the seven-day deadline if an in-person
27 appearance within such time is not reasonably practicable.

28 (3) ~~(2)~~ For purposes of this section:

29 (a) Household members includes spouses or former spouses, children,
30 persons who are presently residing together or who have resided together
31 in the past, persons who have a child in common whether or not they have

1 been married or have lived together at any time, other persons related by
2 consanguinity or affinity, and persons who are presently involved in a
3 dating relationship with each other or who have been involved in a dating
4 relationship with each other; and

5 (b) Dating relationship means frequent, intimate associations
6 primarily characterized by the expectation of affectional or sexual
7 involvement, but does not include a casual relationship or an ordinary
8 association between persons in a business or social context.

9 Sec. 2. Original section 29-404.02, Revised Statutes Cumulative
10 Supplement, 2022, is repealed.