

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1167

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 29-1816, Revised Statutes Cumulative Supplement, 2022; to provide a
3 deadline for arraignment of individuals arrested without a warrant;
4 to eliminate obsolete provisions; to harmonize provisions; and to
5 repeal the original section.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-1816, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 29-1816 (1)(a) The accused may be arraigned in county court or
4 district court:

5 (i) If the accused was eighteen years of age or older when the
6 alleged offense was committed;

7 (ii) If the accused was younger than eighteen years of age and was
8 fourteen years of age or older when an alleged offense punishable as a
9 Class I, IA, IB, IC, ID, II, or IIA felony was committed; or

10 (iii) If the alleged offense is a traffic offense as defined in
11 section 43-245, ~~;~~ ~~or~~

12 ~~(iv) Until January 1, 2017, if the accused was seventeen years of~~
13 ~~age when an alleged offense described in subdivision (1) of section~~
14 ~~43-247 was committed.~~

15 (b) Arraignment in county court or district court shall be by
16 reading to the accused the complaint or information, unless the reading
17 is waived by the accused when the nature of the charge is made known to
18 him or her. The accused shall then be asked whether he or she is guilty
19 or not guilty of the offense charged. If the accused appears in person
20 and by counsel and goes to trial before a jury regularly impaneled and
21 sworn, he or she shall be deemed to have waived arraignment and a plea of
22 not guilty shall be deemed to have been made.

23 (c) When the accused was arrested without a warrant pursuant to
24 section 29-404.02, the accused shall be arraigned within fourteen
25 calendar days after such arrest.

26 (2) At the time of the arraignment, the county court or district
27 court shall advise the accused, if the accused was younger than eighteen
28 years of age at the time the alleged offense was committed, that the
29 accused may move the county court or district court at any time not later
30 than thirty days after arraignment, unless otherwise permitted by the
31 court for good cause shown, to waive jurisdiction in such case to the

1 juvenile court for further proceedings under the Nebraska Juvenile Code.
2 This subsection does not apply if the case was transferred to county
3 court or district court from juvenile court.

4 (3) For motions to transfer a case from the county court or district
5 court to juvenile court:

6 (a) The county court or district court shall schedule a hearing on
7 such motion within fifteen days. The customary rules of evidence shall
8 not be followed at such hearing. The accused shall be represented by an
9 attorney. The criteria set forth in section 43-276 shall be considered at
10 such hearing. After considering all the evidence and reasons presented by
11 both parties, the case shall be transferred to juvenile court unless a
12 sound basis exists for retaining the case in county court or district
13 court; and

14 (b) The county court or district court shall make a decision on such
15 motion within thirty days after the hearing and shall set forth findings
16 for the reason for its decision. If the county court or district court
17 determines that the accused should be transferred to the juvenile court,
18 the complete file in the county court or district court shall be
19 transferred to the juvenile court and the complaint, indictment, or
20 information may be used in place of a petition therein. The county court
21 or district court making a transfer shall order the accused to be taken
22 forthwith to the juvenile court and designate where the juvenile shall be
23 kept pending determination by the juvenile court. The juvenile court
24 shall then proceed as provided in the Nebraska Juvenile Code.

25 (4) ~~(e)~~ An order granting or denying transfer of the case from
26 county or district court to juvenile court shall be considered a final
27 order for the purposes of appeal. Upon entry of an order, any party may
28 appeal to the Court of Appeals within ten days. Such review shall be
29 advanced on the court docket without an extension of time granted to any
30 party except upon a showing of exceptional cause. Appeals shall be
31 submitted, assigned, and scheduled for oral argument as soon as the

1 appellee's brief is due to be filed. The Court of Appeals shall conduct
2 its review in an expedited manner and shall render the judgment and
3 opinion, if any, as speedily as possible. During the pendency of an
4 appeal from an order transferring the case to juvenile court, the
5 juvenile court may enter temporary orders in the best interests of the
6 juvenile.

7 (5) (4) When the accused was younger than eighteen years of age when
8 an alleged offense was committed, the county attorney or city attorney
9 shall proceed under section 43-274.

10 Sec. 2. Original section 29-1816, Revised Statutes Cumulative
11 Supplement, 2022, is repealed.