

## LEGISLATIVE BILL 19

Approved by the Governor February 8, 1985

Introduced by Beutler, 28, Chairperson, Executive Board

AN ACT relating to criminal procedure; to amend sections 28-801, 29-422, 29-424, 29-428, and 29-435, Reissue Revised Statutes of Nebraska, 1943; to eliminate an obsolete statute which provided operative dates for certain provisions; to harmonize provisions; and to repeal the original sections, and also section 29-430, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 28-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-801. (1) Any person who performs, offers, or agrees to perform any act of sexual penetration, as defined in subdivision (5) of section 28-318, with any person not his or her spouse in exchange for money or other thing of value commits prostitution.

Any person violating this section shall be issued a citation in lieu of arrest pursuant to sections 29-422 to ~~29-430~~ 29-429.

(2) Prostitution is a Class V misdemeanor.

Sec. 2. That section 29-422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-422. It is hereby declared to be the policy of the State of Nebraska to issue citations in lieu of arrest or continued custody to the maximum extent consistent with the effective enforcement of the law and the protection of the public. In furtherance of that policy, any peace officer shall be authorized to issue a citation in lieu of arrest or continued custody for any offense which is a traffic infraction, any other infraction, or misdemeanor and for any violation of a city or village ordinance. Such authorization shall be carried out in the manner specified in sections 29-422 to ~~29-430~~ 29-429, 39-6,105, 39-6,107, 39-6,108, and 39-6,112.

Sec. 3. That section 29-424, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-424. When a citation is used by a peace officer, he or she shall enter thereon all required information, including the name and address of the cited person, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the citation. One copy of the citation shall be delivered to

the person cited, and a duplicate thereof shall be signed by such person, giving his or her promise to appear at the time and place stated therein. Such person thereupon shall be released from custody. As soon as practicable, one copy of the citation shall be filed with the court specified therein, and the copy signed by the person cited shall be delivered to the prosecuting attorney. At least twenty-four hours before the time set for the appearance of the cited person, the prosecuting attorney or other person authorized by law to issue a complaint for the particular offense shall either issue and file a complaint charging such person with an offense, or file with the court and deliver to such person a notice that a complaint has been refused and that such person is released from his the obligation to appear or that the offense charged in the original citation has been changed or amended as specified. A person cited pursuant to sections 29-422 to 29-430 29-429 may waive his or her right to trial. The Supreme Court may prescribe uniform rules for such waivers.

Sec. 4. That section 29-428, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-428. Nothing in sections 29-422 to 29-430 29-429, 39-6,105, 39-6,107, 39-6,108, and 39-6,112 shall be construed to affect the rights, lawful procedures, or responsibilities of law enforcement agencies or peace officers using the citation procedure in lieu of the arrest or warrant procedure.

Sec. 5. That section 29-435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-435. Except as provided in section 29-427, for any offense classified as an infraction, a citation shall be issued in lieu of arrest or continued custody pursuant to sections 29-422 to 29-430 29-429.

Sec. 6. That original sections 28-801, 29-422, 29-424, 29-428, and 29-435, Reissue Revised Statutes of Nebraska, 1943, and also section 29-430, Reissue Revised Statutes of Nebraska, 1943, are repealed.