

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 959

Introduced by Dungan, 26; Cavanaugh, J., 9; Hunt, 8.

Read first time January 04, 2024

Committee:

1 A BILL FOR AN ACT relating to criminal procedure; to amend section
2 29-1816, Revised Statutes Cumulative Supplement, 2022; to require
3 transfer of cases to juvenile court if a county or district court
4 fails to rule on a motion to transfer within thirty days after the
5 hearing; to eliminate obsolete provisions; to harmonize provisions;
6 and to repeal the original section.

7 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 (2) At the time of the arraignment, the county court or district
24 court shall advise the accused, if the accused was younger than eighteen
25 years of age at the time the alleged offense was committed, that the
26 accused may move the county court or district court at any time not later
27 than thirty days after arraignment, unless otherwise permitted by the
28 court for good cause shown, to waive jurisdiction in such case to the
29 juvenile court for further proceedings under the Nebraska Juvenile Code.
30 This subsection does not apply if the case was transferred to county
31 court or district court from juvenile court.

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

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

11 (b) Within thirty days after the hearing, the ~~The~~ county court or
12 district court shall issue ~~make~~ a written decision on such motion setting
13 ~~within thirty days after the hearing and shall set forth findings for the~~
14 reasons ~~reason~~ for its decision. If the county court or district court
15 determines that the accused should be transferred to the juvenile court,
16 the complete file in the county court or district court shall be
17 transferred to the juvenile court and the complaint, indictment, or
18 information may be used in place of a petition therein. The county court
19 or district court making a transfer shall order the accused to be taken
20 forthwith to the juvenile court and designate where the juvenile shall be
21 kept pending determination by the juvenile court. The juvenile court
22 shall then proceed as provided in the Nebraska Juvenile Code. If the
23 county court or district court does not issue a written decision within
24 thirty days after the hearing, the case shall be transferred to the
25 juvenile court.

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

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

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

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