

LEGISLATIVE BILL 34

Approved by the Governor February 12, 1987

Introduced by Labedz, 5, Chairperson, Executive Board

AN ACT relating to criminal procedure; to amend section 29-1816, Reissue Revised Statutes of Nebraska, 1943; to change a reference to a section that was repealed in 1981; and to repeal the original section.

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

Section 1. That section 29-1816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1816. The accused shall be arraigned by reading to him or her the indictment or information, unless the reading ~~shall~~ be is waived by the accused ~~where when~~ the nature of the charge is made known to him ~~7 and he or her.~~ The accused shall then be asked whether he or she is guilty or not guilty of the offense charged. If the accused appears in person and by counsel and goes to trial before a jury regularly impaneled and sworn, he or she shall be deemed to have waived arraignment and a plea of not guilty shall be deemed to have been made.

At the time of the arraignment the court shall advise the defendant, if he or she was were less than eighteen years of age at the time of the commitment of the alleged crime, that he or she may move the district court at any time not later than fifteen days before trial to waive jurisdiction in such case to the juvenile court for further proceedings under ~~Chapter 43, article 2 the Nebraska Juvenile Code~~. The court shall schedule a hearing on such motion within fifteen days. The customary rules of evidence shall not be followed at such hearing. ~~The 7 and the~~ county attorney shall present the evidence and reasons why such case should be retained, ~~and~~ the defendant shall present the evidence and reasons why the case should be transferred, and both sides shall consider the criteria set forth in section ~~43-202-01 43-276~~. After considering all the evidence and reasons presented by both parties, pursuant to section ~~43-202-01 43-276~~, the case shall be transferred unless a sound basis exists for retaining the case.

In deciding such motion the court shall consider, among other matters, the matters set forth in

section ~~43-202-01~~ 43-276 for consideration by the county attorney when determining the type of case to file.

The court shall set forth findings for the reason for its decision, which shall not be a final order for the purpose of enabling an appeal. If the court determines that the child should be transferred to the juvenile court, the complete file in the district court shall be transferred to the juvenile court and the indictment or information may be used in place of a petition therein. The court making a transfer shall order the minor to be taken forthwith to the juvenile court and designate where the minor shall be kept pending determination by the juvenile court. The juvenile court shall then proceed as provided in ~~Chapter 43, article 2~~ the Nebraska Juvenile Code.

Sec. 2. That original section 29-1816, Reissue Revised Statutes of Nebraska, 1943, is repealed.