

LEGISLATIVE BILL 1167

Approved by the Governor April 15, 2024

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

A BILL FOR AN ACT relating to criminal procedure; to amend section 29-404.02, Revised Statutes Cumulative Supplement, 2022; to change provisions relating to individuals who are arrested without a warrant; and to repeal the original section.

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

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

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

(a) A felony;

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

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

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

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

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

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

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

(a) Household members includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, other persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other; and

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

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