

LEGISLATIVE BILL 168

Approved by the Governor February 14, 1975

Introduced by Stoney, 4

AN ACT to amend section 29-104, Reissue Revised Statutes of Nebraska, 1943, and section 29-404, Revised Statutes Supplement, 1974, relating to criminal procedure; to redefine terms; to provide duties of the city attorney or an assistant city attorney in cities of the metropolitan class as prescribed; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 29-104, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-104. The term prosecuting attorney signifies the same as shall mean any county attorney. Such term shall also mean any city attorney or assistant city attorney in a city of the metropolitan class when such attorney is prosecuting any violation designated as a misdemeanor or traffic infraction.

Sec. 2. That section 29-404, Revised Statutes Supplement, 1974, be amended to read as follows:

29-404. No complaint shall be filed with the magistrate, unless such complaint is in writing and upon oath, signed by the county prosecuting attorney or by any other complainant. If the complainant be other than the county prosecuting attorney he shall either have the consent of the county prosecuting attorney or shall furnish to the magistrate a bond with good and sufficient sureties in such amount as the magistrate shall determine to indemnify the person complained against for wrongful or malicious prosecution. Whenever a complaint shall be filed with the magistrate, charging any person with the commission of an offense against the laws of this state, it shall be the duty of such magistrate to issue a warrant for the arrest of the person accused, if he shall have reasonable grounds to believe that the offense charged has been committed. The county prosecuting attorney shall consent to the filing of such complaint if he is in possession of sufficient evidence to warrant the belief that the person named as defendant in such complaint is guilty of the crime alleged and can be

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convicted thereof. The Attorney General shall have the same power to consent to the filing of complaints as the county prosecuting attorneys have in their respective counties.

Sec. 3. That original section 29-104, Reissue Revised Statutes of Nebraska, 1943, and section 29-404, Revised Statutes Supplement, 1974, are repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.