

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 354

Introduced by Lathrop, 12.

Read first time January 13, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-1816, Revised Statutes Cumulative Supplement, 2020; to require a
- 3 court to issue a decision on a motion to transfer jurisdiction
- 4 within thirty days after the hearing; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-1816, Revised Statutes Cumulative Supplement,
2 2020, 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;

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) The county court or district court shall make a decision on such
12 motion within thirty days after the hearing and shall set forth findings
13 for the reason for its decision. If the county court or district court
14 determines that the accused should be transferred to the juvenile court,
15 the complete file in the county court or district court shall be
16 transferred to the juvenile court and the complaint, indictment, or
17 information may be used in place of a petition therein. The county court
18 or district court making a transfer shall order the accused to be taken
19 forthwith to the juvenile court and designate where the juvenile shall be
20 kept pending determination by the juvenile court. The juvenile court
21 shall then proceed as provided in the Nebraska Juvenile Code.

22 (c) An order granting or denying transfer of the case from county or
23 district court to juvenile court shall be considered a final order for
24 the purposes of appeal. Upon entry of an order, any party may appeal to
25 the Court of Appeals within ten days. Such review shall be advanced on
26 the court docket without an extension of time granted to any party except
27 upon a showing of exceptional cause. Appeals shall be submitted,
28 assigned, and scheduled for oral argument as soon as the appellee's brief
29 is due to be filed. The Court of Appeals shall conduct its review in an
30 expedited manner and shall render the judgment and opinion, if any, as
31 speedily as possible. During the pendency of an appeal from an order

1 transferring the case to juvenile court, the juvenile court may enter
2 temporary orders in the best interests of the juvenile.

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

6 Sec. 2. Original section 29-1816, Revised Statutes Cumulative
7 Supplement, 2020, is repealed.