

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 296

Introduced by Coash, 27.

Read first time January 12, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend sections 29-404
2 and 29-1603, Reissue Revised Statutes of Nebraska; to
3 eliminate the oath requirements for filing of a criminal
4 complaint and for verifying of informations; and to
5 repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-404, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 29-404 No complaint shall be filed with the magistrate,
4 unless such complaint is in writing and ~~upon oath,~~ signed by the
5 prosecuting attorney or by any other complainant. If the complainant
6 ~~be~~ is a person other than the prosecuting attorney or a city or
7 village attorney prosecuting the violation of a municipal ordinance,
8 he or she shall either have the consent of the prosecuting attorney
9 or shall furnish to the magistrate a bond with good and sufficient
10 sureties in such amount as the magistrate shall determine to
11 indemnify the person complained against for wrongful or malicious
12 prosecution. Whenever a complaint shall be filed with the magistrate,
13 charging any person with the commission of an offense against the
14 laws of this state, it shall be the duty of such magistrate to issue
15 a warrant for the arrest of the person accused, if he ~~shall have~~ or
16 she has reasonable grounds to believe that the offense charged has
17 been committed. The prosecuting attorney shall consent to the filing
18 of such complaint if he or she is in possession of sufficient
19 evidence to warrant the belief that the person named as defendant in
20 such complaint is guilty of the crime alleged and can be convicted
21 thereof. The Attorney General shall have the same power to consent to
22 the filing of complaints as the prosecuting attorneys have in their
23 respective counties.

24 Sec. 2. Section 29-1603, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 29-1603 (1) All informations shall be ~~verified by the~~
2 ~~eath of~~ in writing and signed by the county attorney, complainant, or
3 some other person, and the offenses charged therein shall be stated
4 with the same fullness and precision in matters of substance as is
5 required in indictments in like cases.

6 (2)(a) Any information charging a violation of section
7 28-303 and in which the death penalty is sought shall contain a
8 notice of aggravation which alleges one or more aggravating
9 circumstances, as such aggravating circumstances are provided in
10 section 29-2523. The notice of aggravation shall be filed as provided
11 in section 29-1602. It shall constitute sufficient notice to describe
12 the alleged aggravating circumstances in the language provided in
13 section 29-2523.

14 (b) The state shall be permitted to add to or amend a
15 notice of aggravation at any time up to and including the thirtieth
16 day prior to the trial of guilt.

17 (c) The existence or contents of a notice of aggravation
18 shall not be disclosed to the jury until after the verdict is
19 rendered in the trial of guilt.

20 (3) Different offenses and different degrees of the same
21 offense may be joined in one information, in all cases in which the
22 same might by different counts be joined in one indictment; and in
23 all cases a defendant or defendants shall have the same right, as to
24 proceedings therein, as the defendant or defendants would have if
25 prosecuted for the same offense upon indictment.

1 Sec. 3. Original sections 29-404 and 29-1603, Reissue
2 Revised Statutes of Nebraska, are repealed.