

LEGISLATIVE BILL 828

Approved by the Governor April 10, 2014

Introduced by Seiler, 33.

FOR AN ACT relating to criminal procedure; to amend sections 29-4201 and 29-4206, Reissue Revised Statutes of Nebraska; to authorize county court and district court acceptance of certain written waivers and pleas; to provide a form; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 29-4201, Reissue Revised Statutes of Nebraska, is amended to read:

29-4201 It is the intent and purpose of sections 29-4201 to 29-4207 to authorize the usage of audiovisual court appearances and certain district court arraignments by writing written waivers and pleas in criminal proceedings consistent with the statutory and constitutional rights guaranteed by the Constitution of the United States and the Constitution of Nebraska.

Sec. 2. Section 29-4206, Reissue Revised Statutes of Nebraska, is amended to read:

29-4206 (1) The county courts and district courts may accept a written waiver of preliminary hearing and a written waiver of arraignment and plea of not guilty from any defendant. The written waivers shall only be accepted if the defendant is represented by counsel. The ~~form~~ written waivers shall contain the necessary consent and waiver of the right to a physical appearance and comply with subsection (2) of this section, shall be signed by the defendant and his or her counsel of record, if any, and shall be filed with the clerk of the court.

(2) The written waivers authorized under subsection (1) of this section shall be in substantially the following form:

STATE OF NEBRASKA, PLEA OF NOT GUILTY/
Plaintiff, WAIVER OF APPEARANCE
-vs- Case No.
..... Arrest No.
(Print or Type) Defendant

I, the defendant in the above-entitled action, advise the court that I have retained to represent me in this matter. I understand that I have been charged with the following violation(s):
..... Preliminary Hearing Date or Arraignment Date and in the event that the charges have been amended or new charges added I wish to waive a formal preliminary hearing or arraignment before the court and ask the court to enter plea(s) of not guilty on my behalf. My attorney has advised me of my rights: The right to trial and to a jury trial, if appropriate; my right to confront accusers; to subpoena witnesses; to remain silent; to counsel; to have this matter transferred to juvenile court, if appropriate; and my right to be presumed innocent until proven guilty beyond reasonable doubt. My attorney has also advised me of the possible penalties for the violations with which I am charged, and the possibility that I will be required to make restitution for damages, if appropriate.

I understand that my attorney will notify me of all appearance dates in this matter.

Date: Defendant's Signature:

APPEARANCE OF COUNSEL

I,, advise the court that I am the attorney of record for the above-named defendant. I have advised my client of all rights and the possible penalties for the charges filed against him or her. I understand that the court will expect me to represent the defendant in all hearings before the court in this matter.

(Please Print or Type)

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.....

Attorney's Name

Attorney's Address

.....

(Telephone Number)

(Attorney Number)

Date:.....

Attorney's Signature:

.....

(3) A defendant's use of written forms under this section shall not prevent his or her right to all other process, procedures, and defenses allowed by state and federal law.

Sec. 3. Original sections 29-4201 and 29-4206, Reissue Revised Statutes of Nebraska, are repealed.