

TITLE 78 - NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE

CHAPTER 2 - RULE AND REGULATION TO PRESCRIBE FORMS FOR DISPOSITION REPORTING AND TO ESTABLISH A DISPOSITION REPORTING SYSTEM

001 Purpose - To prescribe forms to be used for reporting dispositions of criminal cases and to establish an efficient system of reporting dispositions to ensure criminal history information maintained in Nebraska is complete and accurate.

002 Scope - This regulation shall apply to all criminal justice agencies in the State of Nebraska as defined by Section 29-3501 through 29-3528, R.R.S. 1943.

003 Authority - This regulation is adopted in accordance with the provisions of Article 9, Chapter 84, R.R.S., 1943, as amended to date, and pursuant to the authority contained in Section 81-1423, R.R.S. 1943.

003.01 - These rules are intended and designed to meet the requirements of Laws 1978, LB 713 and of Title 28 of the Code of Federal Regulations, Chapter 1, Part 20, as amended December 6, 1977.

004 Effective Date - This regulation shall become effective June 15, 1982.

005 Prescription of Forms - all arresting agencies will use Form 1. All forms, except Form 1 must be used by agencies that do not possess the capacity for electronic reporting. Those agencies which do possess the capacity for electronic reporting are encouraged to do so. Data submitted electronically shall contain all information required by Forms 3, 4, and 5 as prescribed by this rule.

005.01 - Form 1 - Arrest card (card stock, bottom section) shall be used by all law enforcement agencies. This form is the fingerprint card supplied by the Nebraska State Patrol as referenced by Section 29-209 R.R.S. 1943 and amended by LB 713 (1978).

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005.02 - Form 2 - Arrest card (multi-copy, top section) shall be used by all law

enforcement agencies. It shall also be used by all prosecutorial agencies in the State of Nebraska when any arrested individual is referred to the prosecutorial agency.

005.03 - Form 3 - Preliminary Disposition form shall be used by all courts which hold preliminary hearing jurisdiction in felony matters.

005.04 - Form 4 - Final Disposition Form shall be used by all courts which have felony jurisdiction.

005.05 - Form 5 - Appeal/Modification Form shall be used by all courts which have felony jurisdiction or courts having appellate jurisdiction in felony matters.

005.06 - Form 6 - Incarceration Disposition Form 1 shall be used by all administering authorities for jail facilities.

006 Recommended Forms - Forms described in this section are recommendations only and need not be followed if satisfactory reporting arrangements have been worked out among the local agencies involved.

006.01 - Form L1 - Prosecution Disposition Forms may be used by all prosecutorial agencies in the State of Nebraska.

006.02 - Form L2 - Misdemeanor Disposition Form may be used by all courts having misdemeanor jurisdiction (same form as Form 3, above.)

006.03 - Form L3 - Appeal/Modification Form may be used by all courts having misdemeanor jurisdiction or courts having appellate jurisdiction in misdemeanor matters.

006.04 - Form L4 - Incarceration Disposition Form 2 may be used by the administration of all local incarceration facilities.

007 Offenses Specified:

007.01 - Forms prescribe in paragraph 005 above shall be used for reporting of proceedings in criminal offenses for which there is a felony arrest under Nebraska statutes, arrests of persons identified as felony fugitives of other jurisdictions, and persons arrested for any reason against whom felony charges are filed.

007.02 - Forms prescribed in paragraph 006 may be used for all other criminal arrests made in the State of Nebraska.

008 - Procedure

008.01 - NOTE: As used in this Rule, disposition information shall include a description of any sentence imposed. Sentence information shall include location and length of confinement, length of probation, and amount of fine. Terms of probation are not included.

008.01A - for all arrests made in the State of Nebraska as specified in 007.01 above:

008.01A1 - the arresting agency will send one copy of FBI fingerprint card and Form 1 to the Nebraska State Patrol.

008.01A1a - Exception:

008.01A1a(1) - Form 1 and FBI fingerprint card shall not be sent to the State patrol for any child less than 18 years old unless: (1) the child has been convicted of a felony; (2) the child has unlawfully terminated his or her commitment to a Youth Development Center; or (3) the child is a runaway, and a fingerprint check is needed for identification purposes to return the child to his or her parents.

008.01A1a(2) - When a person for whom a warrant has been issued for any offense surrenders him or herself to a prosecutor, the prosecutor shall promptly arrange to have the person formally booked by the appropriate law enforcement agency. If a person has not been formally booked for a non-felony arrest and felony charges are subsequently filed, the prosecutor shall promptly arrange formal booking.

008.01A1a(3) - When the arrested person is not held for prosecution, that action shall be

entered in the Final Disposition area of Form 1 and sent to the Nebraska State Patrol.

008.01A2 - The arresting agency will retain the card stock of Form 2 and will forward all paper copies to the prosecutor unless final disposition of all matters is had in the arresting agency.

008.01A3 - The prosecuting agency will denote its action on Form 2. If no changes are filed, a copy of Form 2 shall be filed with the Clerk of the County Court, who will forward same to the office of the State Court Administrator. The State Court Administrator shall forward same to the Nebraska State Patrol. If charges are filed, a copy of Form 2 shall be filed with the Clerk of the Court assuming jurisdiction. In either case, a copy of form 2 shall be returned to the arresting agency.

008.01A4 - If any charges are filed, the court assuming jurisdiction shall send one copy of Form 3 to the Office of the State Court Administrator.

008.01A5 - Upon the departure of the case(s) from the jurisdiction of the court, such court shall send a second copy of Form 3 to the Office of the State Court Administrator and return a copy to the arresting agency and;

In the case of a felony bind over fill in identification information on Form 4 and submit that along with a copy of Form 3 to the district court or;

In the case of a misdemeanor conviction submit a copy of Form 3 to the agency assuming jurisdiction if any.

008.01A6 - Upon formal filing in the district court, that court will complete the filing information on Form 4 and send one copy of Form 4 to the Office of the State Court Administrator.

008.01A7 - Upon disposition of each case in district court the remainder of Form 4 will be filled out and copies sent to the Office of the State Court Administrator and the arresting agency and;

A copy of Form 4 will be transmitted to the agency, if any, assuming jurisdiction over the individual.

008.01A8 - If after a felony bind over the prosecutor, in its discretion, declines to pursue prosecution, the prosecutor's action and date of action shall be recorded on the prosecutor's copy of Form 2. Photostatic copies of Form 2 shall be made and distributed to: (a) The original arresting agency; (b) the Clerk of the County Court (who shall send same to the Office of the State Court Administrator). The State Court Administrator shall forward same to the Nebraska State Patrol.

008.01A9 - Form 6 will be submitted to and through the Department of Correctional Services.

008.01A10 - Upon change of probation status (completion, revocation, etc.), a copy of Form 4 showing the nature and date of such change shall be sent by the field Probation Officer to the State Probation Administrator. He shall forward same to the Nebraska State Patrol.

008.01A11 - Post-conviction modifications within the State Court System shall be reported on Form 5 by the modifying court and shall, within 15 days, be sent to the State Court Administrator and the arresting agency.

008.01A12 - If the defendant in any felony action pursues relief in the federal courts, it shall be the obligation of the State Attorney General to report to the Nebraska State Patrol and arresting agency on Form 5 only if such action results in the alteration of any conviction or sentence previously reported.

008.01A13 - If the modification is an order for a new trial, and a new trial is not held, the prosecutor's action and date of action shall be recorded on the prosecutor's copy of Form 2. Photostatic copies of Form 2 shall be made and distributed to: (a) The original arresting agency; (b) The Clerk of the County Court (who shall send same to the Office of the State Court Administrator). The State Court Administrator shall forward same to the Nebraska State Patrol.

008.01B - For all arrests made in the State of Nebraska as specified in 007.02 above:

008.01B1 - A record shall be kept of the arrest by the arresting agency or by the operator of the local criminal history record information system in which the agency participates.

008.01B2 - When the arresting agency does not refer the case to a prosecutor, the agency shall, within 15 days, enter that action and the nature of the action on the arrest record as a disposition.

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008.01B3 - When the prosecuting agency declines to file charges or chooses to divert the person arrested, the agency shall, within 15 days, notify the arresting agency or the operator of the local CHRI system of the action and the nature of the action.

008.01B4 - The court making final disposition of the case shall, within 15 days, notify the arresting agency or the operator of the local CHRI of that disposition. Form 3 may be used for this purpose.

008.01B5 - Any court making modification to any previously recorded disposition shall, within 15 days, notify the arresting agency or the operator of the local CHRI system of that modification. Form 5 may be used for this purpose.

008.01B6 - The administering agency for a local incarceration facility shall, within 15 days, notify the arresting agency or the operator of the local CHRI of any disposition of that incarceration.

008.01B7 - The State Probation Administrator shall, within 15 days, notify the arresting agency or the operator of the local

CHRI of any disposition of any probationer which comes under the jurisdiction of the State Probation Department.

Effective Date: July 15, 1982