

LEGISLATIVE BILL 900

Approved by the Governor February 19, 1998

Introduced by Executive Board: Coordsen, 32, Chairperson

AN ACT relating to crimes; to amend section 28-105, Revised Statutes Supplement, 1997; to harmonize provisions; to provide an operative date; to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-105, Revised Statutes Supplement, 1997, is amended to read:

28-105. (1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, felonies are divided into ~~eight~~ nine classes which are distinguished from one another by the following penalties which are authorized upon conviction:

- Class I felony Death
- Class IA felony Life imprisonment
- Class IB felony Maximum-life imprisonment
Minimum-twenty years imprisonment
- Class IC felony Maximum-fifty years imprisonment
Mandatory minimum-five years imprisonment
- Class ID felony Maximum-fifty years imprisonment
Mandatory minimum-three years imprisonment
- Class II felony Maximum-fifty years imprisonment
Minimum-one year imprisonment
- Class III felony ... Maximum-twenty years imprisonment, or
twenty-five thousand dollars fine, or both
Minimum-one year imprisonment
- Class IIIA felony .. Maximum-five years imprisonment, or
ten thousand dollars fine, or both
Minimum-six months imprisonment
- Class IV felony Maximum-five years imprisonment, or ten
thousand dollars fine, or both
Minimum-six months imprisonment

(2) All sentences of imprisonment for Class IA, IB, IC, ID, II, and III felonies and sentences of one year or more for Class IIIA and IV felonies shall be served in institutions under the jurisdiction of the Department of Correctional Services. Sentences of less than one year shall be served in the county jail except as provided in this subsection. If the department certifies that it has programs and facilities available for persons sentenced to terms of less than one year, the court may order that any sentence of six months or more be served in any institution under the jurisdiction of the department. Any such certification shall be given by the department to the State Court Administrator, who shall forward copies thereof to each judge having jurisdiction to sentence in felony cases.

(3) Nothing in this section shall limit the authority granted in sections 29-2221 and 29-2222 to increase sentences for habitual criminals.

(4) A person convicted of a felony for which a mandatory minimum sentence is prescribed shall not be eligible for probation.

Sec. 2. This act becomes operative July 1, 1998.

Sec. 3. Original section 28-105, Revised Statutes Supplement, 1997, is repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.