

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 545

Introduced by Harr, 8.

Read first time January 21, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-101 and 28-105, Revised Statutes Cumulative Supplement, 2014; to
- 3 provide for additional mandatory minimum sentencing as prescribed;
- 4 to harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1418.01, and 28-1429.03 and
4 section 3 of this act shall be known and may be cited as the Nebraska
5 Criminal Code.

6 Sec. 2. Section 28-105, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 28-105 (1) For purposes of the Nebraska Criminal Code and any
9 statute passed by the Legislature after the date of passage of the code,
10 felonies are divided into nine classes which are distinguished from one
11 another by the following penalties which are authorized upon conviction:

12	Class I felony	Death
13	Class IA felony	Life imprisonment
14	Class IB felony	Maximum – life imprisonment
15		Minimum – twenty years imprisonment
16	Class IC felony	Maximum – fifty years imprisonment
17		Mandatory minimum – five years imprisonment
18	Class ID felony	Maximum – fifty years imprisonment
19		Mandatory minimum – three years imprisonment
20	Class II felony	Maximum – fifty years imprisonment
21		Minimum – one year imprisonment
22	Class III felony	Maximum – twenty years imprisonment, or
23		twenty-five thousand dollars fine, or both
24		Minimum – one year imprisonment
25	Class IIIA felony	Maximum – five years imprisonment, or
26		ten thousand dollars fine, or both
27		Minimum – none
28	Class IV felony	Maximum – five years imprisonment, or
29		ten thousand dollars fine, or both
30		Minimum – none

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

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

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

18 Sec. 3. (1) A minimum sentence imposed by a court in this state as
19 a result of a criminal conviction shall be served as a mandatory minimum
20 sentence, unless a longer mandatory minimum sentence is otherwise
21 required by law, when the person being sentenced committed the offense
22 while serving a sentence under the jurisdiction of the Department of
23 Correctional Services.

24 (2) Subsection (1) of this section does not apply to:

25 (a) Any administrative sanction authorized by the department;

26 (b) Any term of parole; or

27 (c) Any offense for which the punishment is not more than one year.

28 (3) A mandatory minimum sentence imposed pursuant to subsection (1)
29 of this section shall be served consecutively to and not concurrently
30 with any previously imposed sentence.

31 Sec. 4. Original sections 28-101 and 28-105, Revised Statutes

1 Cumulative Supplement, 2014, are repealed.