

# One Hundred Fourth Legislature - First Session - 2015

## Introducer's Statement of Intent

### LB268

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**Chairperson: Senator Les Seiler**

**Committee: Judiciary**

**Date of Hearing: March 04, 2015**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 268 replaces the death penalty with a sentence of life without possibility of parole.

Section 1 presents “findings” that enumerate problems in carrying out judicial executions.

Section 20 leaves undisturbed the discretion of the sentencing court to order payment of restitution; and section 25 retains “aggravating” and “mitigating” circumstances by which the sentence is determined.

Section 21 provides: “In any criminal proceeding in which the death penalty has been imposed but not carried out prior to the effective date of this act, such penalty shall be changed to life imprisonment without possibility of parole.” The bill will be amended to include the words: “It is the intent of the Legislature that. . .”.

In addition to its negative propensity to diminish the value of human life, the death penalty exerted a degrading, corrupting impact on the Office of the Nebraska Attorney General which disingenuously prevailed on the Nebraska Supreme Court to issue a Death Warrant setting an execution date for inmate Carey Dean Moore, despite knowing no execution could be carried out due to the legal unavailability of sodium thiopental, one of the three drugs mandated by law for use in judicial executions – and remains so today.

The Attorney General’s Office deliberately withheld this critical, material fact from the Supreme Court (which was compelled to withdraw the death warrant), and triggered an extraordinary, harsh rebuke from the Douglas County district Court in its December 11, 2011 “Order Dismissing the Post Conviction Motion” of Moore:

Notwithstanding fairly persuasive proof that the (Department of Correctional Services) obtained controlled substances of unknown efficacy from a foreign distributor and manufacturer not inspected, registered or approved by the FDA or DEA, and a lack of transparency and candor, even with the Nebraska Supreme Court and the Douglas County Attorney’s Office by the A.G.’s Office beginning on January 24, 2011, and such acts require accountability, it is not available through post-conviction relief.” (Emphasis added.)

The inexcusable, unethical ambush of the Supreme Court and Douglas County Attorney’s Office by the A.G. is but another example of the corrupting influence of the death penalty and a substantive reason for its elimination.

The following informational chart was compiled by Senator Ernie Chambers.

**TOTAL NUMBER SENTENCED TO DEATH:..... 72 (1903 – 2010)**

**TOTAL NUMBER EXECUTED:..... 23**

HANGING: 8 (1903—1913)  
ELECTROCUTION:15(1920—1997)  
COMMUTED: 31  
DIED: 5 (3 Natural Causes; 2 Suicide)  
FURLOUGHED: 1 (1913, Jay O’Hearn)  
VACATED 1 (2001, Jeremy Sheets)  
CURRENTLY: 11(On Death Row)

**WHITE:**

TOTAL SENTENCED TO DEATH:..... 49

Hanging: 5  
Electrocution:11  
Commutated: 22  
Died: 5 (3, Natural; 2, Suicide)  
Furloughed: 1  
Vacated 1  
Currently: 4

**BLACK:**

TOTAL SENTENCED TO DEATH:..... 14

Hanging: 3  
Electrocution:3  
Commutated: 6  
Currently: 2

**HISPANIC:**

TOTAL SENTENCED TO DEATH:..... 6

Commutated:1  
Currently: 5

**NATIVE AMERICAN:**

TOTAL SENTENCE TO DEATH:..... 3

Electrocution:1  
Commutated:: 2

**Principal Introducer: \_\_\_\_\_**

**Senator Ernie Chambers**