

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 307**

Introduced by Council, 11; Haar, 21.

Read first time January 15, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections  
2 28-101 and 28-105, Reissue Revised Statutes of Nebraska;  
3 to change sentencing requirements with respect to certain  
4 minors; to harmonize provisions; and to repeal the  
5 original sections.

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

1 Section 1. Section 28-101, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3 28-101 Sections 28-101 to 28-1350 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-105, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 28-105 (1) For purposes of the Nebraska Criminal Code and  
8 any statute passed by the Legislature after the date of passage  
9 of the code, felonies are divided into nine classes which are  
10 distinguished from one another by the following penalties which,  
11 except as provided in section 28-105.01 and section 3 of this act,  
12 are authorized upon conviction:

- 13 Class I felony           Death
- 14 Class IA felony        Life imprisonment without parole
- 15 Class IB felony        Maximum - life imprisonment
- 16                            Minimum - twenty years imprisonment
- 17 Class IC felony        Maximum - fifty years imprisonment
- 18                            Mandatory minimum - five years imprisonment
- 19 Class ID felony        Maximum - fifty years imprisonment
- 20                            Mandatory minimum - three years imprisonment
- 21 Class II felony        Maximum - fifty years imprisonment
- 22                            Minimum - one year imprisonment
- 23 Class III felony       Maximum - twenty years imprisonment, or
- 24                            twenty-five thousand dollars fine, or both
- 25                            Minimum - one year imprisonment

1 Class IIIA felony Maximum - five years imprisonment, or  
2 ten thousand dollars fine, or both  
3 Minimum - none  
4 Class IV felony Maximum - five years imprisonment, or  
5 ten thousand dollars fine, or both  
6 Minimum - none

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

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

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

1           Sec. 3. (1) Notwithstanding any other provision of law,  
2 any person convicted of a Class I or Class IA felony, who, at the  
3 time of the commission of the crime, was at least sixteen years of  
4 age but under eighteen years of age, shall be sentenced to fifty  
5 years to life imprisonment.

6           (2) Notwithstanding any other provision of law, any  
7 person convicted of a Class I or Class IA felony, who, at the time  
8 of the commission of the crime, was under sixteen years of age,  
9 shall be sentenced to forty years to life imprisonment.

10          (3) Notwithstanding any other provision of law, the  
11 minimum sentence of any person convicted of a Class IB felony, who,  
12 at the time of the commission of the crime, was under eighteen  
13 years of age, shall not exceed forty years imprisonment.

14           Sec. 4. Original sections 28-101 and 28-105, Reissue  
15 Revised Statutes of Nebraska, are repealed.