

AMENDMENTS TO LB504

Introduced by Krist, 10.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 29-2261, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 29-2261 (1) Unless it is impractical to do so, when an offender has
6 been convicted of a felony other than murder in the first degree, the
7 court shall not impose sentence without first ordering a presentence
8 investigation of the offender and according due consideration to a
9 written report of such investigation. When an offender has been convicted
10 of murder in the first degree and (a) a jury renders a verdict finding
11 the existence of one or more aggravating circumstances as provided in
12 section 29-2520 or (b)(i) the information contains a notice of
13 aggravation as provided in section 29-1603 and (ii) the offender waives
14 his or her right to a jury determination of the alleged aggravating
15 circumstances, the court shall not commence the sentencing determination
16 proceeding as provided in section 29-2521 without first ordering a
17 presentence investigation of the offender and according due consideration
18 to a written report of such investigation.

19 (2) A court may order a presentence investigation in any case,
20 except in cases in which an offender has been convicted of a Class IIIA
21 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
22 infraction, or any corresponding city or village ordinance.

23 (3) The presentence investigation and report shall include, when
24 available, an analysis of the circumstances attending the commission of
25 the crime, the offender's history of delinquency or criminality, physical
26 and mental condition, family situation and background, economic status,
27 education, occupation, and personal habits, and any other matters that

1 the probation officer deems relevant or the court directs to be included.
2 All local and state police agencies and Department of Correctional
3 Services adult correctional facilities shall furnish to the probation
4 officer copies of such criminal records, in any such case referred to the
5 probation officer by the court of proper jurisdiction, as the probation
6 officer shall require without cost to the court or the probation officer.

7 Such investigation shall also include:

8 (a) Any written statements submitted to the county attorney by a
9 victim; and

10 (b) Any written statements submitted to the probation officer by a
11 victim.

12 (4) If there are no written statements submitted to the probation
13 officer, he or she shall certify to the court that:

14 (a) He or she has attempted to contact the victim; and

15 (b) If he or she has contacted the victim, such officer offered to
16 accept the written statements of the victim or to reduce such victim's
17 oral statements to writing.

18 For purposes of subsections (3) and (4) of this section, the term
19 victim shall be as defined in section 29-119.

20 (5) Before imposing sentence, the court may order the offender to
21 submit to psychiatric observation and examination for a period of not
22 exceeding sixty days or such longer period as the court determines to be
23 necessary for that purpose. The offender may be remanded for this purpose
24 to any available clinic or mental hospital, or the court may appoint a
25 qualified psychiatrist to make the examination. The report of the
26 examination shall be submitted to the court.

27 (6) Any presentence report, substance abuse evaluation, or
28 psychiatric examination shall be privileged and shall not be disclosed
29 directly or indirectly to anyone other than a judge, probation officers
30 to whom an offender's file is duly transferred, the probation
31 administrator or his or her designee, alcohol and drug counselors, mental

1 health practitioners, psychiatrists, and psychologists licensed or
2 certified under the Uniform Credentialing Act to conduct substance abuse
3 evaluations and treatment, or others entitled by law to receive such
4 information, including personnel and mental health professionals for the
5 Nebraska State Patrol specifically assigned to sex offender registration
6 and community notification for the sole purpose of using such report,
7 evaluation, or examination for assessing risk and for community
8 notification of registered sex offenders. For purposes of this
9 subsection, mental health professional means (a) a practicing physician
10 licensed to practice medicine in this state under the Medicine and
11 Surgery Practice Act, (b) a practicing psychologist licensed to engage in
12 the practice of psychology in this state as provided in section 38-3111,
13 or (c) a practicing mental health professional licensed or certified in
14 this state as provided in the Mental Health Practice Act.

15 (7) The court shall permit inspection of the presentence report,
16 substance abuse evaluation, or psychiatric examination or parts of the
17 report, evaluation, or examination, as determined by the court, by the
18 prosecuting attorney and defense counsel. Beginning July 1, 2016, such
19 inspection shall be by electronic access only unless the court determines
20 such access is not available to the prosecuting attorney or defense
21 counsel. The State Court Administrator shall determine and develop the
22 means of electronic access to such presentence reports, evaluations, and
23 examinations. Upon application by the prosecuting attorney or defense
24 counsel, the court may order that addresses, telephone numbers, and other
25 contact information for victims or witnesses named in the report,
26 evaluation, or examination be redacted upon a showing by a preponderance
27 of the evidence that such redaction is warranted in the interests of
28 public safety. The court may permit inspection of the presentence report,
29 substance abuse evaluation, or psychiatric examination or examination of
30 parts of the report, evaluation, or examination thereof by any the
31 offender or his or her attorney, or other person having a proper interest

1 therein, whenever the court finds it is in the best interest of a
2 particular offender. The court may allow fair opportunity for an offender
3 to provide additional information for the court's consideration.

4 (8 7) If an offender is sentenced to imprisonment, a copy of the
5 report of any presentence investigation, substance abuse evaluation, or
6 psychiatric examination shall be transmitted immediately to the
7 Department of Correctional Services. Upon request, the Board of Parole or
8 the Office of Parole Administration may receive a copy of the report from
9 the department.

10 (9 8) Notwithstanding subsections ~~subsection~~ (6) and (7) of this
11 section, the Supreme Court or an agent of the Supreme Court acting under
12 the direction and supervision of the Chief Justice shall have access to
13 psychiatric examinations, substance abuse evaluations, and presentence
14 investigations and reports for research purposes. The Supreme Court and
15 its agent shall treat such information as confidential, and nothing
16 identifying any individual shall be released.

17 Sec. 2. Original section 29-2261, Revised Statutes Cumulative
18 Supplement, 2014, is repealed.