

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1117

Introduced by Pansing Brooks, 28.

Read first time January 22, 2020

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 28-105.02, 29-2204.02, and 43-246.01, Reissue Revised Statutes of
3 Nebraska, sections 28-105.01, 29-1816, and 29-2204, Revised Statutes
4 Cumulative Supplement, 2018, and section 43-274, Revised Statutes
5 Supplement, 2019; to change provisions relating to certain criminal
6 sentences; to require consideration of certain factors at
7 sentencing; to change provisions relating to the jurisdiction of
8 county, district, and juvenile courts; to harmonize provisions; and
9 to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-105.01, Revised Statutes Cumulative
2 Supplement, 2018, is amended to read:

3 28-105.01 (1) Notwithstanding any other provision of law, the death
4 penalty or life imprisonment shall not be imposed upon any person who was
5 under the age of twenty-one ~~eighteen~~ years at the time of the commission
6 of the crime.

7 (2) Notwithstanding any other provision of law, the death penalty
8 shall not be imposed upon any person with an intellectual disability.

9 (3) As used in subsection (2) of this section, intellectual
10 disability means significantly subaverage general intellectual
11 functioning existing concurrently with deficits in adaptive behavior. An
12 intelligence quotient of seventy or below on a reliably administered
13 intelligence quotient test shall be presumptive evidence of intellectual
14 disability.

15 (4) If (a) a jury renders a verdict finding the existence of one or
16 more aggravating circumstances as provided in section 29-2520 or (b)(i)
17 the information contains a notice of aggravation as provided in section
18 29-1603 and (ii) the defendant waives his or her right to a jury
19 determination of the alleged aggravating circumstances, the court shall
20 hold a hearing prior to any sentencing determination proceeding as
21 provided in section 29-2521 upon a verified motion of the defense
22 requesting a ruling that the penalty of death be precluded under
23 subsection (2) of this section. If the court finds, by a preponderance of
24 the evidence, that the defendant is a person with an intellectual
25 disability, the death sentence shall not be imposed. A ruling by the
26 court that the evidence of diminished intelligence introduced by the
27 defendant does not preclude the death penalty under subsection (2) of
28 this section shall not restrict the defendant's opportunity to introduce
29 such evidence at the sentencing determination proceeding as provided in
30 section 29-2521 or to argue that such evidence should be given mitigating
31 significance.

1 Sec. 2. Section 28-105.02, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-105.02 (1) Notwithstanding any other provision of law, the
4 penalty for any person convicted of a Class IA felony for an offense
5 committed when such person was under the age of twenty-one ~~eighteen~~ years
6 shall be a maximum sentence of not greater than eighty years'
7 imprisonment ~~life imprisonment~~ and a minimum sentence of not greater ~~less~~
8 than forty years' imprisonment.

9 (2) Notwithstanding any other provision of law, the penalty for any
10 person convicted of a Class IB felony for an offense committed when such
11 person was under the age of twenty-one years shall be a maximum sentence
12 of not greater than sixty years' imprisonment and a minimum sentence of
13 not greater than twenty years' imprisonment, except as provided in
14 section 28-319.01.

15 (3) ~~(2)~~ In determining the sentence of a convicted person under
16 ~~subsection (1)~~ of this section, the court shall consider mitigating
17 factors which led to the commission of the offense. The convicted person
18 may submit mitigating factors to the court, including, but not limited
19 to:

- 20 (a) The convicted person's age at the time of the offense;
- 21 (b) The impetuosity of the convicted person;
- 22 (c) The convicted person's family and community environment;
- 23 (d) The convicted person's ability to appreciate the risks and
24 consequences of the conduct;
- 25 (e) The convicted person's intellectual capacity; and
- 26 (f) The outcome of a comprehensive mental health evaluation of the
27 convicted person conducted by an adolescent mental health professional
28 licensed in this state. The evaluation shall include, but not be limited
29 to, interviews with the convicted person's family in order to learn about
30 the convicted person's prenatal history, developmental history, medical
31 history, substance abuse treatment history, if any, social history, and

1 psychological history.

2 Sec. 3. Section 29-1816, Revised Statutes Cumulative Supplement,
3 2018, is amended to read:

4 29-1816 (1)(a) The accused may be arraigned in county court or
5 district court:

6 (i) If the accused was eighteen years of age or older when the
7 alleged offense was committed;

8 (ii) If the accused was younger than eighteen years of age and was
9 fourteen years of age or older when an alleged offense punishable as a
10 Class I, IA, IB, IC, ID, II, or IIA felony was committed, following a
11 transfer from juvenile court as provided in sections 43-246.01 and
12 43-247;

13 (iii) If the alleged offense is a traffic offense as defined in
14 section 43-245 and the accused was eleven years of age or older at the
15 time the alleged traffic offense was committed; or

16 (iv) If Until January 1, 2017, if the accused was sixteen years of
17 age or seventeen years of age when an alleged offense described in
18 subdivision (1) of section 43-247 was committed, following a transfer
19 from juvenile court as provided in sections 43-246.01 and 43-247.

20 (b) Arraignment in county court or district court shall be by
21 reading to the accused the complaint or information, unless the reading
22 is waived by the accused when the nature of the charge is made known to
23 him or her. The accused shall then be asked whether he or she is guilty
24 or not guilty of the offense charged. If the accused appears in person
25 and by counsel and goes to trial before a jury regularly impaneled and
26 sworn, he or she shall be deemed to have waived arraignment and a plea of
27 not guilty shall be deemed to have been made.

28 (2) At the time of the arraignment, the county court or district
29 court shall advise the accused, if the accused was younger than eighteen
30 years of age at the time the alleged offense was committed, that the
31 accused may move the county court or district court at any time not later

1 than thirty days after arraignment, unless otherwise permitted by the
2 court for good cause shown, to waive jurisdiction in such case to the
3 juvenile court for further proceedings under the Nebraska Juvenile Code.
4 This subsection does not apply if the case was transferred to county
5 court or district court from juvenile court.

6 (3) For motions to transfer a case from the county court or district
7 court to juvenile court:

8 (a) The county court or district court shall schedule a hearing on
9 such motion within fifteen days. The customary rules of evidence shall
10 not be followed at such hearing. The accused shall be represented by an
11 attorney. The criteria set forth in section 43-276 shall be considered at
12 such hearing. After considering all the evidence and reasons presented by
13 both parties, the case shall be transferred to juvenile court unless a
14 sound basis exists for retaining the case in county court or district
15 court; and

16 (b) The county court or district court shall set forth findings for
17 the reason for its decision. If the county court or district court
18 determines that the accused should be transferred to the juvenile court,
19 the complete file in the county court or district court shall be
20 transferred to the juvenile court and the complaint, indictment, or
21 information may be used in place of a petition therein. The county court
22 or district court making a transfer shall order the accused to be taken
23 forthwith to the juvenile court and designate where the juvenile shall be
24 kept pending determination by the juvenile court. The juvenile court
25 shall then proceed as provided in the Nebraska Juvenile Code.

26 (c) An order granting or denying transfer of the case from county or
27 district court to juvenile court shall be considered a final order for
28 the purposes of appeal. Upon entry of an order, any party may appeal to
29 the Court of Appeals within ten days. Such review shall be advanced on
30 the court docket without an extension of time granted to any party except
31 upon a showing of exceptional cause. Appeals shall be submitted,

1 assigned, and scheduled for oral argument as soon as the appellee's brief
2 is due to be filed. The Court of Appeals shall conduct its review in an
3 expedited manner and shall render the judgment and opinion, if any, as
4 speedily as possible. During the pendency of an appeal from an order
5 transferring the case to juvenile court, the juvenile court may enter
6 temporary orders in the best interests of the juvenile.

7 (4) When the accused was younger than eighteen years of age when an
8 alleged offense was committed, the county attorney or city attorney shall
9 proceed under section 43-274.

10 Sec. 4. Section 29-2204, Revised Statutes Cumulative Supplement,
11 2018, is amended to read:

12 29-2204 (1) Except as provided in subsection (2) of this section and
13 except when a term of life imprisonment is required by law, in imposing a
14 sentence upon an offender for any class of felony other than a Class III,
15 IIIA, or IV felony, the court shall fix the minimum and the maximum terms
16 of the sentence to be served within the limits provided by law. The
17 maximum term shall not be greater than the maximum limit provided by law,
18 and:

19 (a) The minimum term fixed by the court shall be any term of years
20 less than the maximum term imposed by the court; or

21 (b) The minimum term shall be the minimum limit provided by law.

22 (2) In imposing a sentence for a Class IA or IB felony upon an
23 offender who was under twenty-one years of age at the time of the
24 offense, the court shall fix the minimum and the maximum terms of the
25 sentence as provided in section 28-105.02.

26 (3) (2) When a maximum term of life is imposed by the court for a
27 Class IB felony for an offender who was twenty-one years of age or older
28 at the time of the offense, the minimum term fixed by the court shall be
29 any ÷ (a) Any term of years not less than the minimum limit provided by
30 law. ÷ or

31 (b) A term of life imprisonment.

1 ~~(4) (3)~~ When a maximum term of life is imposed by the court for a
2 Class IA felony for an offender who was twenty-one years of age or older
3 at the time of the offense, the minimum term fixed by the court shall be
4 a ~~÷~~ (a) A term of life imprisonment. ~~;~~ or

5 ~~(b) Any term of years not less than the minimum limit provided by~~
6 ~~law after consideration of the mitigating factors in section 28-105.02,~~
7 ~~if the defendant was under eighteen years of age at the time he or she~~
8 ~~committed the crime for which he or she was convicted.~~

9 ~~(5) (4)~~ When the court is of the opinion that imprisonment may be
10 appropriate but desires more detailed information as a basis for
11 determining the sentence to be imposed than has been provided by the
12 presentence report required by section 29-2261, the court may commit an
13 offender to the Department of Correctional Services. During that time,
14 the department shall conduct a complete study of the offender as provided
15 in section 29-2204.03.

16 ~~(6)~~ If the defendant was under twenty-one years of age at the time
17 the defendant committed the crime for which the defendant was convicted,
18 the court shall consider the mitigating factors in section 28-105.02
19 prior to sentencing.

20 ~~(7) Whenever (5) Except when a term of life is required by law,~~
21 ~~whenever~~ the defendant was under eighteen years of age at the time he or
22 she committed the crime for which he or she was convicted, the court may,
23 in its discretion, instead of imposing the penalty provided for the
24 crime, make such disposition of the defendant as the court deems proper
25 under the Nebraska Juvenile Code.

26 ~~(8)(a) (6)(a)~~ When imposing an indeterminate sentence upon an
27 offender under this section, the court shall:

28 (i) Advise the offender on the record the time the offender will
29 serve on his or her minimum term before attaining parole eligibility
30 assuming that no good time for which the offender will be eligible is
31 lost; and

1 (ii) Advise the offender on the record the time the offender will
2 serve on his or her maximum term before attaining mandatory release
3 assuming that no good time for which the offender will be eligible is
4 lost.

5 (b) If any discrepancy exists between the statement of the minimum
6 limit of the sentence and the statement of parole eligibility or between
7 the statement of the maximum limit of the sentence and the statement of
8 mandatory release, the statements of the minimum limit and the maximum
9 limit shall control the calculation of the offender's term.

10 (c) If the court imposes more than one sentence upon an offender or
11 imposes a sentence upon an offender who is at that time serving another
12 sentence, the court shall state whether the sentences are to be
13 concurrent or consecutive.

14 Sec. 5. Section 29-2204.02, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 29-2204.02 (1) Except when a term of probation is required by law as
17 provided in subsection (2) of this section or except as otherwise
18 provided in subsection (4) of this section, in imposing a sentence upon
19 an offender for a Class III, IIIA, or IV felony, the court shall:

20 (a) Impose a determinate sentence of imprisonment within the
21 applicable range in section 28-105; and

22 (b) Impose a sentence of post-release supervision, under the
23 jurisdiction of the Office of Probation Administration, within the
24 applicable range in section 28-105.

25 (2) If the criminal offense is a Class IV felony, the court shall
26 impose a sentence of probation unless:

27 (a) The defendant is concurrently or consecutively sentenced to
28 imprisonment for any felony other than another Class IV felony;

29 (b) The defendant has been deemed a habitual criminal pursuant to
30 section 29-2221; or

31 (c) There are substantial and compelling reasons why the defendant

1 cannot effectively and safely be supervised in the community, including,
2 but not limited to, the criteria in subsections (2) and (3) of section
3 29-2260. Unless other reasons are found to be present, that the offender
4 has not previously succeeded on probation is not, standing alone, a
5 substantial and compelling reason.

6 (3) If a sentence of probation is not imposed, the court shall state
7 its reasoning on the record, advise the defendant of his or her right to
8 appeal the sentence, and impose a sentence as provided in subsection (1)
9 of this section.

10 (4) For any sentence of imprisonment for a Class III, IIIA, or IV
11 felony for an offense committed on or after August 30, 2015, imposed
12 consecutively or concurrently with (a) a sentence for a Class III, IIIA,
13 or IV felony for an offense committed prior to August 30, 2015, or (b) a
14 sentence of imprisonment for a Class I, IA, IB, IC, ID, II, or IIA
15 felony, the court shall impose an indeterminate sentence within the
16 applicable range in section 28-105 that does not include a period of
17 post-release supervision, in accordance with the process set forth in
18 section 29-2204.

19 (5) For any sentence of imprisonment for a misdemeanor imposed
20 consecutively or concurrently with a sentence of imprisonment for a Class
21 III, IIIA, or IV felony for an offense committed on or after August 30,
22 2015, the court shall impose a determinate sentence within the applicable
23 range in section 28-106 unless the person is also committed to the
24 Department of Correctional Services in accordance with section 29-2204
25 for (a) a sentence of imprisonment for a Class III, IIIA, or IV felony
26 committed prior to August 30, 2015, or (b) a sentence of imprisonment for
27 a Class I, IA, IB, IC, ID, II, or IIA felony.

28 (6) If the defendant was under twenty-one years of age at the time
29 the defendant committed the crime for which the defendant was convicted,
30 the court shall consider the mitigating factors in section 28-105.02
31 prior to sentencing.

1 (7) ~~(6)~~ If the defendant was under eighteen years of age at the time
2 he or she committed the crime for which he or she was convicted, the
3 court may, in its discretion, instead of imposing the penalty provided
4 for the crime, make such disposition of the defendant as the court deems
5 proper under the Nebraska Juvenile Code.

6 (8)(a) ~~(7)(a)~~ When imposing a determinate sentence upon an offender
7 under this section, the court shall:

8 (i) Advise the offender on the record the time the offender will
9 serve on his or her term of imprisonment before his or her term of post-
10 release supervision assuming that no good time for which the offender
11 will be eligible is lost;

12 (ii) Advise the offender on the record the time the offender will
13 serve on his or her term of post-release supervision; and

14 (iii) When imposing a sentence following revocation of post-release
15 supervision, advise the offender on the record the time the offender will
16 serve on his or her term of imprisonment, including credit for time
17 served, assuming that no good time for which the offender will be
18 eligible is lost.

19 (b) If a period of post-release supervision is required but not
20 imposed by the sentencing court, the term of post-release supervision
21 shall be the minimum provided by law.

22 (c) If the court imposes more than one sentence upon an offender or
23 imposes a sentence upon an offender who is at that time serving another
24 sentence, the court shall state whether the sentences are to be
25 concurrent or consecutive.

26 (d) If the offender has been sentenced to two or more determinate
27 sentences and one or more terms of post-release supervision, the offender
28 shall serve all determinate sentences before being released on post-
29 release supervision.

30 Sec. 6. Section 43-246.01, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 43-246.01 ~~The juvenile court shall have:~~

2 (1) The juvenile court shall have exclusive ~~Exclusive~~ original
3 jurisdiction as to:

4 (a) Any juvenile described in subdivision (3) or (11) of section
5 43-247;

6 (b) Any juvenile who was under eighteen ~~sixteen~~ years of age at the
7 time the alleged offense was committed and the offense falls under
8 subdivision (1) of section 43-247, except that proceedings initiated
9 under this subdivision may be transferred to county court or district
10 court as provided in section 43-274 if the juvenile was sixteen years of
11 age or seventeen years of age at the time the alleged offense was
12 committed;

13 (c) A party or proceeding described in subdivision (5) or (7) of
14 section 43-247; ~~and~~

15 (d) Any juvenile who was under fourteen years of age at the time the
16 alleged offense was committed and the offense falls under subdivision (2)
17 of section 43-247; and

18 ~~(2) Exclusive original jurisdiction as to:~~

19 ~~(a) Beginning January 1, 2015, any juvenile who is alleged to have~~
20 ~~committed an offense under subdivision (1) of section 43-247 and who was~~
21 ~~sixteen years of age at the time the alleged offense was committed, and~~
22 ~~beginning January 1, 2017, any juvenile who is alleged to have committed~~
23 ~~an offense under subdivision (1) of section 43-247 and who was sixteen~~
24 ~~years of age or seventeen years of age at the time the alleged offense~~
25 ~~was committed; and~~

26 ~~(e) (b)~~ Any juvenile who was fourteen years of age or older at the
27 time the alleged offense was committed and the offense falls under
28 subdivision (2) of section 43-247, except that proceedings initiated
29 under this subdivision may be transferred to county court or district
30 court as provided in section 43-274 ~~except offenses enumerated in~~
31 ~~subdivision (1)(a)(ii) of section 29-1816.~~

1 Proceedings initiated under this subdivision (2) may be transferred
2 as provided in section 43-274; and

3 (2) The juvenile court shall have concurrent ~~(3) Concurrent~~ original
4 jurisdiction with the county court or district court as to:

5 (a) Any juvenile described in subdivision (4) of section 43-247; and

6 (b) Any proceeding under subdivision (6), (8), (9), or (10) of
7 section 43-247. ÷

8 ~~(c) Any juvenile described in subdivision (1)(a)(ii) of section~~
9 ~~29-1816; and~~

10 ~~(d) Until January 1, 2017, any juvenile who is alleged to have~~
11 ~~committed an offense under subdivision (1) of section 43-247 and who was~~
12 ~~seventeen years of age at the time the alleged offense was committed.~~

13 (3) In cases in which there is concurrent jurisdiction, proceedings
14 Proceedings initiated under this section ~~subdivision (3)~~ may be
15 transferred as provided in section 43-274.

16 (4) The changes made to this section by this legislative bill shall
17 not divest any court of jurisdiction for a proceeding initiated in
18 juvenile, county, or district court prior to the effective date of this
19 act.

20 Sec. 7. Section 43-274, Revised Statutes Supplement, 2019, is
21 amended to read:

22 43-274 (1) The county attorney or city attorney, having knowledge of
23 a juvenile within his or her jurisdiction who appears to be a juvenile
24 described in subdivision (1), (2), (3)(b), or (4) of section 43-247 and
25 taking into consideration the criteria in section 43-276, may proceed as
26 provided in this section.

27 (2) The county attorney or city attorney may offer pretrial
28 diversion to the juvenile in accordance with a juvenile pretrial
29 diversion program established pursuant to sections 43-260.02 to
30 43-260.07.

31 (3)(a) If a juvenile appears to be a juvenile described in

1 subdivision (1), (2), (3)(b), or (4) of section 43-247, the county
2 attorney or city attorney may utilize restorative justice practices or
3 services as a form of, or condition of, diversion or plea bargaining or
4 as a recommendation as a condition of disposition, through a referral to
5 a restorative justice facilitator.

6 (b) For victim-involved offenses, a restorative justice facilitator
7 shall conduct a separate individual intake and assessment session with
8 each juvenile and victim to determine which, if any, restorative justice
9 practice is appropriate. All participation by the victim shall be
10 voluntary. If the victim declines to participate in any or all parts of
11 the restorative justice practice, a victim surrogate may be invited to
12 participate with the juvenile. If, after assessment, participation by the
13 juvenile is deemed inappropriate, the restorative justice facilitator
14 shall return the referral to the referring county attorney or city
15 attorney.

16 (c) A victim or his or her parent or guardian shall not be charged a
17 fee. A juvenile or his or her parent or guardian may be charged a fee
18 according to the policies and procedures of the restorative justice
19 facilitator and the referring county attorney or city attorney.
20 Restorative justice facilitators shall use a sliding fee scale based on
21 income and shall not deny services based upon the inability of a juvenile
22 or his or her parent or guardian to pay, if funding is otherwise
23 available.

24 (d) Prior to participating in any restorative justice practice or
25 service under this section, the juvenile, the juvenile's parent or
26 guardian, and the victim, if he or she is participating, shall sign a
27 consent to participate form.

28 (e) If a reparation plan agreement is reached, the restorative
29 justice facilitator shall forward a copy of the agreement to the
30 referring county attorney or city attorney. The terms of the reparation
31 plan agreement shall specify provisions for reparation, monitoring,

1 completion, and reporting. An agreement may include, but is not limited
2 to, one or more of the following:

3 (i) Participation by the juvenile in certain community service
4 programs;

5 (ii) Payment of restitution by the juvenile to the victim;

6 (iii) Reconciliation between the juvenile and the victim;

7 (iv) Apology, when appropriate, between the juvenile and the victim;

8 and

9 (v) Any other areas of agreement.

10 (f) The restorative justice facilitator shall give notice to the
11 county attorney or city attorney regarding the juvenile's compliance with
12 the terms of the reparation plan agreement. If the juvenile does not
13 satisfactorily complete the terms of the agreement, the county attorney
14 or city attorney may:

15 (i) Refer the matter back to the restorative justice facilitator for
16 further restorative justice practices or services; or

17 (ii) Proceed with filing a juvenile court petition or criminal
18 charge.

19 (g) If a juvenile meets the terms of the reparation plan agreement,
20 the county attorney or city attorney shall either:

21 (i) Not file a juvenile court petition or criminal charge against
22 the juvenile for the acts for which the juvenile was referred for
23 restorative justice practice or services when referred as a diversion or
24 an alternative to diversion; or

25 (ii) File a reduced charge as previously agreed when referred as a
26 part of a plea negotiation.

27 (4) The county attorney or city attorney shall file the petition in
28 the court with jurisdiction as outlined in section 43-246.01.

29 (5) When a transfer from juvenile court to county court or district
30 court is authorized because there is concurrent jurisdiction or as
31 described in subdivision (1)(b) or (e) of section 43-246.01, the county

1 attorney or city attorney may move to transfer the proceedings. Such
2 motion shall be filed with the juvenile court petition unless otherwise
3 permitted for good cause shown. The juvenile court shall schedule a
4 hearing on such motion within fifteen days after the motion is filed. The
5 county attorney or city attorney has the burden by a preponderance of the
6 evidence to show why such proceeding should be transferred. The juvenile
7 shall be represented by counsel at the hearing and may present the
8 evidence as to why the proceeding should be retained. After considering
9 all the evidence and reasons presented by both parties, the juvenile
10 court shall retain the proceeding unless the court determines that a
11 preponderance of the evidence shows that the proceeding should be
12 transferred to the county court or district court. The court shall make a
13 decision on the motion within thirty days after the hearing. The juvenile
14 court shall set forth findings for the reason for its decision.

15 An order granting or denying transfer of the case from juvenile
16 court to county or district court shall be considered a final order for
17 the purposes of appeal. Upon the entry of an order, any party may appeal
18 to the Court of Appeals within ten days. Such review shall be advanced on
19 the court docket without an extension of time granted to any party except
20 upon a showing of exceptional cause. Appeals shall be submitted,
21 assigned, and scheduled for oral argument as soon as the appellee's brief
22 is due to be filed. The Court of Appeals shall conduct its review in an
23 expedited manner and shall render the judgment and opinion, if any, as
24 speedily as possible. During the pendency of any such appeal, the
25 juvenile court may continue to enter temporary orders in the best
26 interests of the juvenile pursuant to section 43-295.

27 If the proceeding is transferred from juvenile court to the county
28 court or district court, the county attorney or city attorney shall file
29 a criminal information in the county court or district court, as
30 appropriate, and the accused shall be arraigned as provided for a person
31 eighteen years of age or older in subdivision (1)(b) of section 29-1816.

1 Sec. 8. Original sections 28-105.02, 29-2204.02, and 43-246.01,
2 Reissue Revised Statutes of Nebraska, sections 28-105.01, 29-1816, and
3 29-2204, Revised Statutes Cumulative Supplement, 2018, and section
4 43-274, Revised Statutes Supplement, 2019, are repealed.