

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 684

Introduced by Lathrop, 12.

Read first time January 23, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 29-2268, Reissue Revised Statutes of Nebraska, and section 28-105,
3 Revised Statutes Cumulative Supplement, 2018; to change provisions
4 relating to sentences of post-release supervision for Class IV
5 felonies; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 28-105, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 28-105 (1) For purposes of the Nebraska Criminal Code and any
4 statute passed by the Legislature after the date of passage of the code,
5 felonies are divided into ten classes which are distinguished from one
6 another by the following penalties which are authorized upon conviction:

- | | | |
|----|-------------------|---|
| 7 | Class I felony | Death |
| 8 | Class IA felony | Life imprisonment |
| 9 | Class IB felony | Maximum—life imprisonment |
| 10 | | Minimum—twenty years imprisonment |
| 11 | Class IC felony | Maximum—fifty years imprisonment |
| 12 | | Mandatory minimum—five years imprisonment |
| 13 | Class ID felony | Maximum—fifty years imprisonment |
| 14 | | Mandatory minimum—three years imprisonment |
| 15 | Class II felony | Maximum—fifty years imprisonment |
| 16 | | Minimum—one year imprisonment |
| 17 | Class IIA felony | Maximum—twenty years imprisonment |
| 18 | | Minimum—none |
| 19 | Class III felony | Maximum—four years imprisonment and two years |
| 20 | | post-release supervision or |
| 21 | | twenty-five thousand dollars fine, or both |
| 22 | | Minimum—none for imprisonment and nine months |
| 23 | | post-release supervision if imprisonment is imposed |
| 24 | Class IIIA felony | Maximum—three years imprisonment |
| 25 | | and eighteen months post-release supervision or |
| 26 | | ten thousand dollars fine, or both |
| 27 | | Minimum—none for imprisonment and nine months |
| 28 | | post-release supervision if imprisonment is imposed |
| 29 | Class IV felony | Maximum—two years imprisonment and twelve |
| 30 | | months post-release supervision or |

1 ten thousand dollars fine, or both
2 Minimum—none for imprisonment and nine months
3 post-release supervision if imprisonment is imposed
4 in an institution under the jurisdiction
5 of the Department of Correctional Services

6 (2) All sentences for maximum terms of imprisonment for one year or
7 more for felonies shall be served in institutions under the jurisdiction
8 of the Department of Correctional Services. All sentences for maximum
9 terms of imprisonment of less than one year shall be served in the county
10 jail.

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

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

16 (5) All sentences of post-release supervision shall be served under
17 the jurisdiction of the Office of Probation Administration and shall be
18 subject to conditions imposed pursuant to section 29-2262 and subject to
19 sanctions authorized pursuant to section 29-2266.02.

20 (6) Any person who is sentenced to imprisonment for a Class I, IA,
21 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively
22 to imprisonment for a Class III, IIIA, or IV felony shall not be subject
23 to post-release supervision pursuant to subsection (1) of this section.

24 (7) Any person who is sentenced to imprisonment for a Class III,
25 IIIA, or IV felony committed prior to August 30, 2015, and sentenced
26 concurrently or consecutively to imprisonment for a Class III, IIIA, or
27 IV felony committed on or after August 30, 2015, shall not be subject to
28 post-release supervision pursuant to subsection (1) of this section.

29 (8) The changes made to the penalties for Class III, IIIA, and IV
30 felonies by Laws 2015, LB605, do not apply to any offense committed prior
31 to August 30, 2015, as provided in section 28-116.

1 Sec. 2. Section 29-2268, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 29-2268 (1) If the court finds that the probationer, other than a
4 probationer serving a term of post-release supervision, did violate a
5 condition of his or her probation, it may revoke the probation and impose
6 on the offender such new sentence as might have been imposed originally
7 for the crime of which he or she was convicted.

8 (2) If the court finds that a probationer serving a term of post-
9 release supervision did violate a condition of his or her post-release
10 supervision, it may revoke the post-release supervision and impose on the
11 offender a term of imprisonment up to the original ~~remaining~~ period of
12 post-release supervision. The term shall be served in an institution
13 under the jurisdiction of the Department of Correctional Services or in
14 county jail subject to subsection (2) of section 28-105.

15 (3) If the court finds that the probationer did violate a condition
16 of his or her probation, but is of the opinion that revocation is not
17 appropriate, the court may order that:

18 (a) The probationer receive a reprimand and warning;

19 (b) Probation supervision and reporting be intensified;

20 (c) The probationer be required to conform to one or more additional
21 conditions of probation which may be imposed in accordance with the
22 Nebraska Probation Administration Act;

23 (d) A custodial sanction be imposed on a probationer convicted of a
24 felony, subject to the provisions of section 29-2266.03; and

25 (e) The probationer's term of probation be extended, subject to the
26 provisions of section 29-2263.

27 Sec. 3. Original section 29-2268, Reissue Revised Statutes of
28 Nebraska, and section 28-105, Revised Statutes Cumulative Supplement,
29 2018, are repealed.