

AMENDMENTS TO LB78

Introduced by Guereca, 7.

1 1. Insert the following new section:

2 **Sec. 5.** Section 29-2260, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 29-2260 (1) Whenever a person is adjudicated to be as described in
5 subdivision (1), (2), (3)(b), or (4) of section 43-247, his or her
6 disposition shall be governed by the Nebraska Juvenile Code.

7 (2) Whenever a court considers sentence for an offender convicted of
8 either a misdemeanor or a felony for which mandatory or mandatory minimum
9 imprisonment is not specifically required, the court may withhold
10 sentence of imprisonment unless, having regard to the nature and
11 circumstances of the crime and the history, character, and condition of
12 the offender, the court finds that imprisonment of the offender is
13 necessary for protection of the public because:

14 (a) The risk is substantial that during the period of probation the
15 offender will engage in additional criminal conduct;

16 (b) The offender is in need of correctional treatment that can be
17 provided most effectively by commitment to a correctional facility; or

18 (c) A lesser sentence will depreciate the seriousness of the
19 offender's crime or promote disrespect for law.

20 (3) The following grounds, while not controlling the discretion of
21 the court, shall be accorded weight in favor of withholding sentence of
22 imprisonment:

23 (a) The crime neither caused nor threatened serious harm;

24 (b) The offender did not contemplate that his or her crime would
25 cause or threaten serious harm;

26 (c) The offender acted under strong provocation;

27 (d) Substantial grounds were present tending to excuse or justify

1 the crime, though failing to establish a defense;

2 (e) The victim of the crime induced or facilitated commission of the
3 crime;

4 (f) The offender has compensated or will compensate the victim of
5 his or her crime for the damage or injury the victim sustained;

6 (g) The offender has no history of prior delinquency or criminal
7 activity and has led a law-abiding life for a substantial period of time
8 before the commission of the crime;

9 (h) The crime was the result of circumstances unlikely to recur;

10 (i) The character and attitudes of the offender indicate that he or
11 she is unlikely to commit another crime;

12 (j) The offender is likely to respond affirmatively to probationary
13 treatment; ~~and~~

14 (k) Imprisonment of the offender would entail excessive hardship to
15 his or her dependents; -

16 (l) The offender has been abused physically, sexually, or
17 psychologically by a family or household member as defined in section
18 42-903, a sexual partner, or a person who used the offender for financial
19 gain; or

20 (m) The offender is a trafficking victim as defined in section
21 28-830.

22 (4) When an offender who has been convicted of a crime is not
23 sentenced to imprisonment, the court may sentence him or her to
24 probation.

25 2. Renumber the remaining sections and correct the repealer
26 accordingly.