

ENGROSSED LEGISLATIVE BILL 78

Introduced by Bostar, 29.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 29-2260, 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska; to adopt the Domestic Violence and Sex Trafficking Survivor Assistance Act; to change the rate and allocation of the documentary stamp tax; to provide for sentencing consideration of a defendant's status as a victim of abuse or trafficking; to harmonize provisions; and to repeal the original sections.

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

Section 1. Sections 1 to 4 of this act shall be known and may be cited as the Domestic Violence and Sex Trafficking Survivor Assistance Act.

Sec. 2. For purposes of the Domestic Violence and Sex Trafficking Survivor Assistance Act:

- (1) Department means the Department of Health and Human Services;
- (2) Housing-related assistance includes rental payments, utility payments, security and utility deposits, and other related costs and payments;
- (3) Qualified third party means an organization that:
 - (a) Is a nonprofit organization organized under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or a federally recognized Indian tribe with a governmental body in this state; and
 - (b) Has an affiliation agreement with the Department of Health and Human Services to provide services to victims of domestic violence and sexual assault under the Protection from Domestic Abuse Act, or provides direct services to victims of trafficking;
- (4) Sex trafficking survivor means a person subjected to sex trafficking as defined in section 28-830 or sex trafficking of a minor as defined in section 28-830; and
- (5) Victim of domestic violence means a victim of any of the following:

- (a) Abuse as defined in section 42-903;
- (b) Domestic assault under section 28-323;
- (c) Sexual assault and sexual assault of a child under sections 28-319 to 28-320.01; and
- (d) Stalking under section 28-311.03.

Sec. 3. (1) The department shall encourage and facilitate housing stability for victims of domestic violence and trafficking, including:

(a) The provision of grants, loans, and other assistance for such purpose; and

(b) Reimbursement to providers of services to victims of domestic violence or sex trafficking survivors.

(2)(a) The department shall provide housing-related assistance for victims of domestic violence and sex trafficking survivors, except that if the department determines that all housing-related assistance obligations under this section have been fully satisfied, the department may distribute any excess, up to twenty percent of the cost of such assistance, to certified organizations serving victims of domestic violence or sex trafficking survivors for acquisition or rehabilitation of housing to assist such persons.

(b) The department shall manage and distribute such assistance based upon a formula established by the department, in consultation with domestic violence and trafficking organizations, in a manner consistent with and reasonably calculated to promote the purposes of housing stability for victims of domestic violence and sex trafficking survivors.

(c) The department may contract with qualified third party organizations for the provision of such assistance.

Sec. 4. The Domestic Violence and Sex Trafficking Survivor Housing Assistance Fund is created. The fund shall be administered by the department and shall contain money transferred by the Legislature and money received from any public or private source. The fund shall be used for purposes of the Domestic Violence and Sex Trafficking Survivor Assistance Act. Any money in the fund available for investment shall be invested by the state investment officer

pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

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

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

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

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

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

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

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

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

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

(c) The offender acted under strong provocation;

(d) Substantial grounds were present tending to excuse or justify the crime, though failing to establish a defense;

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

(f) The offender has compensated or will compensate the victim of his or

her crime for the damage or injury the victim sustained;

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

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

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

(j) The offender is likely to respond affirmatively to probationary treatment;

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

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

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

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

Sec. 6. Section 76-901, Reissue Revised Statutes of Nebraska, is amended to read:

76-901 There is hereby imposed a tax on the grantor executing the deed as defined in section 76-203 upon the transfer of a beneficial interest in or legal title to real estate at the rate of two dollars and thirty-two cents for each one thousand dollars value or fraction thereof. For purposes of sections 76-901 to 76-908, value means (1) in the case of any deed, not a gift, the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed, and (2) in the case of a gift or any deed with nominal consideration or without stated consideration, the current market value of the property transferred. Such tax shall be evidenced by stamps to be attached to the deed. All deeds purporting to transfer legal title or beneficial interest shall be presumed taxable unless it clearly appears on the face of the deed or sufficient documentary proof is presented to the register

of deeds that the instrument is exempt under section 76-902.

Sec. 7. Section 76-903, Reissue Revised Statutes of Nebraska, is amended to read:

76-903 The Tax Commissioner shall design such stamps in such denominations as in his or her judgment will be the most advantageous to all persons concerned. When any deed subject to the tax imposed by section 76-901 is offered for recordation, the register of deeds shall ascertain and compute the amount of the tax due thereon and shall collect such amount as a prerequisite to acceptance of the deed for recordation. If a dispute arises concerning the taxability of the transfer, the register of deeds shall not record the deed until the disputed tax is paid. If a disputed tax has been paid, the taxpayer may file for a refund pursuant to section 76-908. The taxpayer may also seek a declaratory ruling pursuant to rules and regulations adopted and promulgated by the Department of Revenue. From each two dollars and thirty-two cents of tax collected pursuant to section 76-901, the register of deeds shall retain fifty cents to be placed in the county general fund and shall remit the balance to the State Treasurer who shall credit ninety-five cents of such amount to the Affordable Housing Trust Fund, twenty-five cents of such amount to the Site and Building Development Fund, twenty-five cents of such amount to the Homeless Shelter Assistance Trust Fund, thirty cents of such amount to the Behavioral Health Services Fund, and seven cents of such amount to the Domestic Violence and Sex Trafficking Survivor Housing Assistance Fund.

Sec. 8. Section 77-1327, Reissue Revised Statutes of Nebraska, is amended to read:

77-1327 (1) It is the intent of the Legislature that accurate and comprehensive information be developed by the Property Tax Administrator and made accessible to the taxing officials and property owners in order to ensure the uniformity and proportionality of the assessments of real property valuations in the state in accordance with law and to provide the statistical and narrative reports pursuant to section 77-5027.

(2) All transactions of real property for which the statement required in

section 76-214 is filed shall be available for development of a sales file by the Property Tax Administrator. All transactions with stated consideration of more than one hundred dollars or upon which more than two dollars and thirty-two cents in documentary stamp taxes are paid shall be considered sales. All sales shall be deemed to be arm's length transactions unless determined to be otherwise under professionally accepted mass appraisal techniques. The Department of Revenue shall not overturn a determination made by a county assessor regarding the qualification of a sale unless the department reviews the sale and determines through the review that the determination made by the county assessor is incorrect.

(3) The Property Tax Administrator annually shall make and issue comprehensive assessment ratio studies of the average level of assessment, the degree of assessment uniformity, and the overall compliance with assessment requirements for each major class of real property subject to the property tax in each county. The comprehensive assessment ratio studies shall be developed in compliance with professionally accepted mass appraisal techniques and shall employ such statistical analysis as deemed appropriate by the Property Tax Administrator, including measures of central tendency and dispersion. The comprehensive assessment ratio studies shall be based upon the sales file as developed in subsection (2) of this section and shall be used by the Property Tax Administrator for the analysis of the level of value and quality of assessment for purposes of section 77-5027 and by the Property Tax Administrator in establishing the adjusted valuations required by section 79-1016. Such studies may also be used by assessing officials in establishing assessed valuations.

(4) For purposes of determining the level of value of agricultural and horticultural land subject to special valuation under sections 77-1343 to 77-1347.01, the Property Tax Administrator shall annually make and issue a comprehensive study developed in compliance with professionally accepted mass appraisal techniques to establish the level of value if in his or her opinion the level of value cannot be developed through the use of the comprehensive

assessment ratio studies developed in subsection (3) of this section.

(5) County assessors and other taxing officials shall electronically report data on the assessed valuation and other features of the property assessment process for such periods and in such form and content as the Property Tax Administrator shall deem appropriate. The Property Tax Administrator shall so construct and maintain the system used to collect and analyze the data to enable him or her to make intracounty comparisons of assessed valuation, including school districts and other political subdivisions, as well as intercounty comparisons of assessed valuation, including school districts and other political subdivisions. The Property Tax Administrator shall include analysis of real property sales pursuant to land contracts and similar transfers at the time of execution of the contract or similar transfer.

Sec. 9. Original sections 29-2260, 76-901, 76-903, and 77-1327, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 78 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR