

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1079

Introduced by von Gillern, 4.

Read first time January 15, 2026

Committee:

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-2221, Revised Statutes Supplement, 2025; to change provisions
- 3 relating to the habitual criminal enhancement for theft offenses; to
- 4 harmonize provisions; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 29-2221, Revised Statutes Supplement, 2025, is
2 amended to read:

3 29-2221 (1) Whoever has been twice convicted of a crime, sentenced,
4 and committed to prison, in this or any other state or by the United
5 States or once in this state and once at least in any other state or by
6 the United States, for terms of not less than one year each shall, upon
7 conviction of a felony committed in this state, be deemed to be a
8 habitual criminal and shall be punished by imprisonment in a Department
9 of Correctional Services adult correctional facility for a mandatory
10 minimum term of ten years and a maximum term of not more than sixty
11 years, except that:

12 (a) If the felony committed is in violation of section 28-303,
13 28-304, 28-308, 28-313, 28-319, 28-319.01, 28-502, 28-929, or 28-1222,
14 and at least one of the habitual criminal's prior felony convictions was
15 for a violation of one of the sections listed in this subdivision or of a
16 similar statute in another state or of the United States, the mandatory
17 minimum term shall be twenty-five years and the maximum term not more
18 than sixty years;

19 (b) If the felony committed is in violation of subsection (3) of
20 section 28-306 and at least one of the prior convictions is in violation
21 of subsection (3) of section 28-306 and the other is in violation of one
22 of the sections set forth in subdivision (a) of this subsection or if the
23 felony committed is in violation of one of the sections set forth in
24 subdivision (a) of this subsection and both of the prior convictions are
25 in violation of subsection (3) of section 28-306, the mandatory minimum
26 term shall be twenty-five years and the maximum term not more than sixty
27 years;

28 (c) If the felony committed is in violation of subsection (3) of
29 section 28-416 ~~or in violation of sections 28-509 to 28-518~~ and all of
30 the habitual criminal's prior felony convictions are also violations of
31 such subsection ~~or sections~~ or of a similar statute in another state or

1 of the United States, the mandatory minimum term shall be three years and
2 the maximum term not more than twenty years; and

3 (d) If the felony committed is in violation of sections 28-509 to
4 28-518 and two or more of the habitual criminal's prior felony
5 convictions are also violations of such sections or of similar statutes
6 in another state or of the United States, the mandatory minimum shall be
7 three years and the maximum term not more than twenty years. The
8 enhancement provided for in this subdivision (1)(d) shall apply even if
9 one or more of such prior convictions did not result in any term of
10 imprisonment; and

11 (e) {d} If a greater punishment is otherwise provided by statute,
12 the law creating the greater punishment shall govern.

13 (2) When punishment of an accused as a habitual criminal is sought,
14 the facts with reference thereto shall be charged in the indictment or
15 information which contains the charge of the felony upon which the
16 accused is prosecuted, but the fact that the accused is charged with
17 being a habitual criminal shall not be an issue upon the trial of the
18 felony charge and shall not in any manner be disclosed to the jury. If
19 the accused is convicted of a felony, before sentence is imposed a
20 hearing shall be had before the court alone as to whether such person has
21 been previously convicted of prior felonies. The court shall fix a time
22 for the hearing and notice thereof shall be given to the accused at least
23 three days prior thereto. At the hearing, if the court finds from the
24 evidence submitted that the accused has been convicted two or more times
25 of felonies and sentences imposed therefor by the courts of this or any
26 other state or by the United States, the court shall sentence such person
27 so convicted as a habitual criminal.

28 (3) If the person so convicted shows to the satisfaction of the
29 court before which the conviction was had that he or she was released
30 from imprisonment upon either of such sentences upon a pardon granted for
31 the reason that he or she was innocent, such conviction and sentence

1 shall not be considered as such under this section and section 29-2222.

2 **Sec. 2.** Original section 29-2221, Revised Statutes Supplement,
3 2025, is repealed.