

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 150

Introduced by Bosn, 25.

Read first time January 13, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal procedure; to amend section
2 29-2221, Revised Statutes Cumulative Supplement, 2024; to change
3 provisions relating to the habitual criminal enhancement; and to
4 repeal the original section.

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

1 **Section 1.** Section 29-2221, Revised Statutes Cumulative Supplement,
2 2024, is 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; and

28 ~~(c) If the felony committed and at least one of the prior felony~~
29 ~~convictions do not involve sexual contact, sexual penetration, the threat~~
30 ~~to inflict serious bodily injury or death on another person, the~~
31 ~~infliction of serious bodily injury on another person, a deadly or~~

1 ~~dangerous weapon, or a firearm, the mandatory minimum term shall be three~~
2 ~~years and the maximum term not more than the maximum term for the felony~~
3 ~~committed or twenty years, whichever is greater. For this subdivision (1)~~
4 ~~(c) to apply, no prior felony conviction may be a violation described in~~
5 ~~subdivision (1)(a) of this section; and~~

6 (c) (d) If a greater punishment is otherwise provided by statute,
7 the law creating the greater punishment shall govern.

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

23 (3) If the person so convicted shows to the satisfaction of the
24 court before which the conviction was had that he or she was released
25 from imprisonment upon either of such sentences upon a pardon granted for
26 the reason that he or she was innocent, such conviction and sentence
27 shall not be considered as such under this section and section 29-2222.

28 **Sec. 2.** Original section 29-2221, Revised Statutes Cumulative
29 Supplement, 2024, is repealed.