

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 159

Introduced by Guereca, 7.

Read first time January 13, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-2260, Reissue Revised Statutes of Nebraska; to provide for
- 3 sentencing consideration of an offender's status as a victim of
- 4 abuse or trafficking; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 29-2260, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

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

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

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

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

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

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

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

25 (c) The offender acted under strong provocation;

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

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

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

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

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

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

7 (j) The offender is likely to respond affirmatively to probationary
8 treatment; ~~and~~

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

11 (l) The offender has been abused physically, sexually, or
12 psychologically by a family or household member as defined in section
13 42-903, a sexual partner, or a person who used the offender for financial
14 gain; or

15 (m) The offender is a trafficking victim as defined in section
16 28-830.

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

20 **Sec. 2.** Original section 29-2260, Reissue Revised Statutes of
21 Nebraska, is repealed.