

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 584

Introduced by Spivey, 13.

Read first time January 22, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 28-105.02, Reissue Revised Statutes of Nebraska, and section
3 29-2204, Revised Statutes Cumulative Supplement, 2024; to change
4 penalties for certain felonies committed by persons under eighteen
5 years of age; to harmonize provisions; and to repeal the original
6 sections.

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

1 **Section 1.** Section 28-105.02, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 28-105.02 (1) Notwithstanding any other provision of law, the
4 penalty for any person convicted ~~of a Class IA felony~~ for an offense
5 committed when such person was under the age of eighteen years shall be:

6 (a) For a Class IA felony, a maximum sentence of not greater than
7 fifty years' life imprisonment and a minimum sentence of not less than
8 twenty forty years' imprisonment; -

9 (b) For a Class IB felony, a maximum sentence of not greater than
10 forty years' imprisonment and a minimum sentence of not less than ten
11 years' imprisonment;

12 (c) For a Class IC felony, a maximum sentence of not greater than
13 twenty years' imprisonment and a minimum sentence of not less than five
14 years' imprisonment;

15 (d) For a Class ID felony, a maximum sentence of not greater than
16 twenty years' imprisonment and a minimum sentence of not less than three
17 years' imprisonment;

18 (e) For a Class II felony, a maximum sentence of not greater than
19 twenty years' imprisonment and a minimum sentence of not less than one
20 year's imprisonment; and

21 (f) For a Class IIA felony, a maximum sentence of ten years'
22 imprisonment and a minimum sentence of no imprisonment.

23 (2) In determining the sentence of a convicted person under
24 ~~subsection (1)~~ of this section, the court shall consider mitigating
25 factors which led to the commission of the offense. The convicted person
26 may submit mitigating factors to the court, including, but not limited
27 to:

28 (a) The convicted person's age at the time of the offense;

29 (b) The impetuosity of the convicted person;

30 (c) The convicted person's family and community environment;

31 (d) The convicted person's ability to appreciate the risks and

1 consequences of the conduct;

2 (e) The convicted person's intellectual capacity; and

3 (f) The outcome of a comprehensive mental health evaluation of the
4 convicted person conducted by an adolescent mental health professional
5 licensed in this state. The evaluation shall include, but not be limited
6 to, interviews with the convicted person's family in order to learn about
7 the convicted person's prenatal history, developmental history, medical
8 history, substance abuse treatment history, if any, social history, and
9 psychological history.

10 **Sec. 2.** Section 29-2204, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 29-2204 (1) Except as provided in subsection (2) of this section and
13 except when a term of life imprisonment is required by law, in imposing a
14 sentence upon an offender for any class of felony other than a Class III,
15 IIIA, or IV felony, the court shall fix the minimum and the maximum terms
16 of the sentence to be served within the limits provided by law. The
17 maximum term shall not be greater than the maximum limit provided by law,
18 and:

19 (a) The minimum term fixed by the court shall be any term of years
20 less than the maximum term imposed by the court; or

21 (b) The minimum term shall be the minimum limit provided by law.

22 (2) In imposing a sentence for a Class IA, IB, IC, ID, II, or IIA
23 felony upon an offender who was under eighteen years of age at the time
24 of the offense, the court shall fix the minimum and the maximum terms of
25 the sentence as provided in section 28-105.02.

26 (3) {2} When a maximum term of life is imposed by the court for a
27 Class IB felony for an offender who was eighteen years of age or older at
28 the time of the offense, the minimum term fixed by the court shall be:

29 (a) Any term of years not less than the minimum limit provided by
30 law; or

31 (b) A term of life imprisonment.

1 (4) ~~(3)~~ When a maximum term of life is imposed by the court for a
2 Class IA felony for an offender who was eighteen years of age or older at
3 the time of the offense, the minimum term fixed by the court shall be a ÷

4 ~~(a) A term of life imprisonment. ÷ or~~

5 ~~(b) Any term of years not less than the minimum limit provided by~~
6 ~~law after consideration of the mitigating factors in section 28-105.02,~~
7 ~~if the defendant was under eighteen years of age at the time he or she~~
8 ~~committed the crime for which he or she was convicted.~~

9 (5) ~~(4)~~ When the court is of the opinion that imprisonment may be
10 appropriate but desires more detailed information as a basis for
11 determining the sentence to be imposed than has been provided by the
12 presentence report required by section 29-2261, the court may commit an
13 offender to the Department of Correctional Services. During that time,
14 the department shall conduct a complete study of the offender as provided
15 in section 29-2204.03.

16 (6) Whenever ~~(5) Except when a term of life is required by law,~~
17 ~~whenever~~ the defendant was under eighteen years of age at the time he or
18 she committed the crime for which he or she was convicted, the court may,
19 in its discretion, instead of imposing the penalty provided for the
20 crime, make such disposition of the defendant as the court deems proper
21 under the Nebraska Juvenile Code.

22 (7)(a) ~~(6)(a)~~ When imposing an indeterminate sentence upon an
23 offender under this section, the court shall:

24 (i) Advise the offender on the record the time the offender will
25 serve on his or her minimum term before attaining parole eligibility
26 assuming that no good time for which the offender will be eligible is
27 lost; and

28 (ii) Advise the offender on the record the time the offender will
29 serve on his or her maximum term before attaining mandatory release
30 assuming that no good time for which the offender will be eligible is
31 lost.

1 (b) If any discrepancy exists between the statement of the minimum
2 limit of the sentence and the statement of parole eligibility or between
3 the statement of the maximum limit of the sentence and the statement of
4 mandatory release, the statements of the minimum limit and the maximum
5 limit shall control the calculation of the offender's term.

6 (c) If the court imposes more than one sentence upon an offender or
7 imposes a sentence upon an offender who is at that time serving another
8 sentence, the court shall state whether the sentences are to be
9 concurrent or consecutive.

10 **Sec. 3.** Original section 28-105.02, Reissue Revised Statutes of
11 Nebraska, and section 29-2204, Revised Statutes Cumulative Supplement,
12 2024, are repealed.