

## LEGISLATIVE BILL 44

Approved by the Governor May 8, 2013

Introduced by Ashford, 20; Chambers, 11.

FOR AN ACT relating to crimes and punishment; to amend sections 28-101 and 83-1,135, Revised Statutes Cumulative Supplement, 2012; to change penalty provisions with respect to Class IA felonies committed by persons under eighteen years of age; to change parole procedures with respect to offenses committed by persons under eighteen years of age; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 28-101, Revised Statutes Cumulative Supplement, 2012, is amended to read:

28-101 Sections 28-101 to 28-1356 and section 2 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. (1) Notwithstanding any other provision of law, the penalty for any person convicted of a Class IA felony for an offense committed when such person was under the age of eighteen years shall be a maximum sentence of not greater than life imprisonment and a minimum sentence of not less than forty years' imprisonment.

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

- (a) The convicted person's age at the time of the offense;
- (b) The impetuosity of the convicted person;
- (c) The convicted person's family and community environment;
- (d) The convicted person's ability to appreciate the risks and consequences of the conduct;
- (e) The convicted person's intellectual capacity; and
- (f) The outcome of a comprehensive mental health evaluation of the convicted person conducted by an adolescent mental health professional licensed in this state. The evaluation shall include, but not be limited to, interviews with the convicted person's family in order to learn about the convicted person's prenatal history, developmental history, medical history, substance abuse treatment history, if any, social history, and psychological history.

Sec. 3. (1) Any offender who was under the age of eighteen years when he or she committed the offense for which he or she was convicted and incarcerated shall, if the offender is denied parole, be considered for release on parole by the Board of Parole every year after the denial.

(2) During each hearing before the Board of Parole for the offender, the board shall consider and review, at a minimum:

- (a) The offender's educational and court documents;
- (b) The offender's participation in available rehabilitative and educational programs while incarcerated;
- (c) The offender's age at the time of the offense;
- (d) The offender's level of maturity;
- (e) The offender's ability to appreciate the risks and consequences of his or her conduct;
- (f) The offender's intellectual capacity;
- (g) The offender's level of participation in the offense;
- (h) The offender's efforts toward rehabilitation; and
- (i) Any other mitigating factor or circumstance submitted by the offender.

Sec. 4. Section 83-1,135, Revised Statutes Cumulative Supplement, 2012, is amended to read:

83-1,135 Sections 83-170 to 83-1,135 and section 3 of this act shall be known and may be cited as the Nebraska Treatment and Corrections Act.

Sec. 5. Original sections 28-101 and 83-1,135, Revised Statutes Cumulative Supplement, 2012, are repealed.