

AMENDMENTS TO LB504

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 29-2261, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 29-2261 (1) Unless it is impractical to do so, when an offender has
6 been convicted of a felony other than murder in the first degree, the
7 court shall not impose sentence without first ordering a presentence
8 investigation of the offender and according due consideration to a
9 written report of such investigation. When an offender has been convicted
10 of murder in the first degree and (a) a jury renders a verdict finding
11 the existence of one or more aggravating circumstances as provided in
12 section 29-2520 or (b)(i) the information contains a notice of
13 aggravation as provided in section 29-1603 and (ii) the offender waives
14 his or her right to a jury determination of the alleged aggravating
15 circumstances, the court shall not commence the sentencing determination
16 proceeding as provided in section 29-2521 without first ordering a
17 presentence investigation of the offender and according due consideration
18 to a written report of such investigation.

19 (2) A court may order a presentence investigation in any case,
20 except in cases in which an offender has been convicted of a Class IIIA
21 misdemeanor, a Class IV misdemeanor, a Class V misdemeanor, a traffic
22 infraction, or any corresponding city or village ordinance.

23 (3) The presentence investigation and report shall include, when
24 available, an analysis of the circumstances attending the commission of
25 the crime, the offender's history of delinquency or criminality, physical
26 and mental condition, family situation and background, economic status,
27 education, occupation, and personal habits, and any other matters that

1 the probation officer deems relevant or the court directs to be included.
2 All local and state police agencies and Department of Correctional
3 Services adult correctional facilities shall furnish to the probation
4 officer copies of such criminal records, in any such case referred to the
5 probation officer by the court of proper jurisdiction, as the probation
6 officer shall require without cost to the court or the probation officer.

7 Such investigation shall also include:

8 (a) Any written statements submitted to the county attorney by a
9 victim; and

10 (b) Any written statements submitted to the probation officer by a
11 victim.

12 (4) If there are no written statements submitted to the probation
13 officer, he or she shall certify to the court that:

14 (a) He or she has attempted to contact the victim; and

15 (b) If he or she has contacted the victim, such officer offered to
16 accept the written statements of the victim or to reduce such victim's
17 oral statements to writing.

18 For purposes of subsections (3) and (4) of this section, the term
19 victim shall be as defined in section 29-119.

20 (5) Before imposing sentence, the court may order the offender to
21 submit to psychiatric observation and examination for a period of not
22 exceeding sixty days or such longer period as the court determines to be
23 necessary for that purpose. The offender may be remanded for this purpose
24 to any available clinic or mental hospital, or the court may appoint a
25 qualified psychiatrist to make the examination. The report of the
26 examination shall be submitted to the court.

27 (6) Any presentence report or psychiatric examination shall be
28 privileged and shall not be disclosed directly or indirectly to anyone
29 other than a judge, probation officers to whom an offender's file is duly
30 transferred, the probation administrator or his or her designee, or
31 others entitled by law to receive such information, including personnel

1 and mental health professionals for the Nebraska State Patrol
2 specifically assigned to sex offender registration and community
3 notification for the sole purpose of using such report or examination for
4 assessing risk and for community notification of registered sex
5 offenders. For purposes of this subsection, mental health professional
6 means (a) a practicing physician licensed to practice medicine in this
7 state under the Medicine and Surgery Practice Act, (b) a practicing
8 psychologist licensed to engage in the practice of psychology in this
9 state as provided in section 38-3111, or (c) a practicing mental health
10 professional licensed or certified in this state as provided in the
11 Mental Health Practice Act.

12 (7) The court may permit inspection of the report or examination of
13 parts thereof by the offender or his or her attorney, or other person
14 having a proper interest therein, whenever the court finds it is in the
15 best interest of a particular offender. Upon application by counsel, the
16 court shall provide a copy of the report or examination to counsel for
17 the defendant and the prosecution at no charge at least seven days in
18 advance of the sentencing hearing. The copy of the report may be provided
19 electronically. The court may order that the report or examination not be
20 reproduced or disseminated to persons other than the defendant and his or
21 her counsel and counsel for the prosecution. Upon application by counsel
22 for the prosecution or the defendant, the court may order that addresses,
23 telephone numbers, and other contact information for victims or witnesses
24 named in the report or examination be redacted upon a showing by a
25 preponderance of the evidence that such redaction is warranted in the
26 interests of public safety. The court may allow fair opportunity for an
27 offender to provide additional information for the court's consideration.

28 (8 7) If an offender is sentenced to imprisonment, a copy of the
29 report of any presentence investigation or psychiatric examination shall
30 be transmitted immediately to the Department of Correctional Services.
31 Upon request, the Board of Parole or the Office of Parole Administration

1 may receive a copy of the report from the department.

2 (9 8) Notwithstanding subsection (6) and (7) of this section, the
3 Supreme Court or an agent of the Supreme Court acting under the direction
4 and supervision of the Chief Justice shall have access to psychiatric
5 examinations and presentence investigations and reports for research
6 purposes. The Supreme Court and its agent shall treat such information as
7 confidential, and nothing identifying any individual shall be released.

8 Sec. 2. Original section 29-2261, Revised Statutes Cumulative
9 Supplement, 2014, is repealed.