

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 131

Introduced by Pansing Brooks, 28; DeBoer, 10; Lathrop, 12; Wayne, 13.

Read first time January 10, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and punishment; to amend section
- 2 29-2204, Revised Statutes Cumulative Supplement, 2018; to change
- 3 provisions relating to minimum sentences; and to repeal the original
- 4 section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2204, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 29-2204 (1) Except when a term of life imprisonment is required by
4 law, in imposing a sentence upon an offender for any class of felony
5 other than a Class III, IIIA, or IV felony, the court shall fix the
6 minimum and the maximum terms of the sentence to be served within the
7 limits provided by law. The maximum term shall not be greater than the
8 maximum limit provided by law, and:

9 (a) The minimum term fixed by the court shall not be less than the
10 minimum or mandatory minimum provided in section 28-105 and shall not be
11 greater than one-third of the maximum limit provided by law ~~be any term~~
12 ~~of years less than the maximum term imposed by the court; or~~

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

14 (2) When a maximum term of life is imposed by the court for a Class
15 IB felony, the minimum term fixed by the court shall be any ~~(a) Any~~
16 term of years not less than the minimum limit provided by law. ~~or~~

17 ~~(b) A term of life imprisonment.~~

18 (3) When a maximum term of life is imposed by the court for a Class
19 IA felony, the minimum term fixed by the court shall be:

20 (a) A term of life imprisonment; or

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

25 (4) When the court is of the opinion that imprisonment may be
26 appropriate but desires more detailed information as a basis for
27 determining the sentence to be imposed than has been provided by the
28 presentence report required by section 29-2261, the court may commit an
29 offender to the Department of Correctional Services. During that time,
30 the department shall conduct a complete study of the offender as provided
31 in section 29-2204.03.

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

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

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

13 (ii) Advise the offender on the record the time the offender will
14 serve on his or her maximum term before attaining mandatory release
15 assuming that no good time for which the offender will be eligible is
16 lost.

17 (b) If any discrepancy exists between the statement of the minimum
18 limit of the sentence and the statement of parole eligibility or between
19 the statement of the maximum limit of the sentence and the statement of
20 mandatory release, the statements of the minimum limit and the maximum
21 limit shall control the calculation of the offender's term.

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

26 Sec. 2. Original section 29-2204, Revised Statutes Cumulative
27 Supplement, 2018, is repealed.