

## LEGISLATIVE BILL 1054

Approved by the Governor March 23, 1988

Introduced by Chambers, 11

AN ACT relating to prison sentences; to amend section 83-1,106, Reissue Revised Statutes of Nebraska, 1943; to require credit for time spent in custody as prescribed; and to repeal the original section.

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

Section 1. That section 83-1,106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-1,106. (1) Credit against the maximum term and any minimum term may shall be given to an offender for time spent in custody as a result of the criminal charge for which a prison sentence is imposed or as a result of the conduct on which such a charge is based. This shall specifically include, but shall not be limited to, time spent in custody prior to trial, during trial, pending sentence, pending the resolution of an appeal, and prior to delivery of the offender to the custody of the Department of Correctional Services.

(2) Credit against the maximum term and any minimum term may shall be given to an offender for time spent in custody under a prior sentence if he or she is later reprobated and resented for the same offense or for another offense based on the same conduct. In the case of such a reprobation, this may shall include credit in accordance with subsection (1) of this section for time spent in custody as a result of both the original charge and any subsequent charge for the same offense or for another offense based on the same conduct.

(3) If an offender is serving consecutive or concurrent sentences, or both, and if one of the sentences is set aside as the result of a direct or collateral proceeding, credit against the maximum term and any minimum term of the remaining sentences may shall be given for all time served since the commission of the offenses on which the sentences set aside were based.

(4) If the offender is arrested on one charge and prosecuted on another charge growing out of conduct which occurred prior to his or her arrest, credit

against the maximum term and any minimum term of any sentence resulting from such prosecution ~~may shall~~ be given for all time spent in custody under the former charge which has not been credited against another sentence.

(5) Credit for time served ~~may shall~~ only be given in accordance with the procedure specified in this subsection:

(a) Credit to an offender who ~~may be is~~ eligible therefor under subsections (1), (2), and (4) of this section shall be set forth as a part of the sentence; or

(b) Credit to an offender who ~~may be is~~ eligible therefor under subsection (3) of this section ~~may shall~~ only be given by the court in which such sentence was set aside by entering such credit in the final order setting aside such sentence.

Sec. 2. That original section 83-1,106, Reissue Revised Statutes of Nebraska, 1943, is repealed.