

AMENDMENTS TO LB 476

Introduced by Flood, 19

1           1. Strike original sections 20, 21, 22, and 23 and insert  
2 the following new sections:

3           Sec. 10. Section 29-1602, Revised Statutes Cumulative  
4 Supplement, 2006, is amended to read:

5           29-1602 All informations shall be filed in the court  
6 having jurisdiction of the offense specified therein, by the  
7 prosecuting attorney of the proper county as informant. The  
8 prosecuting attorney shall subscribe his or her name thereto  
9 and endorse thereon the names of the witnesses known to him or her  
10 at the time of filing. After the information has been filed, the  
11 prosecuting attorney shall endorse on the information the names of  
12 such other witnesses as shall then be known to him or her as the  
13 court in its discretion may prescribe, ~~except that if a notice of~~  
14 ~~aggravation is contained in the information as provided in section~~  
15 ~~29-1603, the prosecuting attorney may endorse additional witnesses~~  
16 ~~at any time up to and including the thirtieth day prior to the~~  
17 ~~trial of guilt.~~

18           Sec. 19. Section 29-2261, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20           29-2261 (1) Unless it is impractical to do so, when an  
21 offender has been convicted of a felony, ~~other than murder in the~~  
22 ~~first degree,~~ the court shall not impose sentence without first  
23 ordering a presentence investigation of the offender and according

1 due consideration to a written report of such investigation. When  
2 an offender has been convicted of murder in the first degree and  
3 (a) a jury renders a verdict finding the existence of one or more  
4 aggravating circumstances as provided in section 29-2520 or (b)(i)  
5 the information contains a notice of aggravation as provided in  
6 section 29-1603 and (ii) the offender waives his or her right to  
7 a jury determination of the alleged aggravating circumstances, the  
8 court shall not commence the sentencing determination proceeding as  
9 provided in section 29-2521 without first ordering a presentence  
10 investigation of the offender and according due consideration to a  
11 written report of such investigation.

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

17 (3) The presentence investigation and report shall  
18 include, when available, an analysis of the circumstances attending  
19 the commission of the crime, the offender's history of delinquency  
20 or criminality, physical and mental condition, family situation and  
21 background, economic status, education, occupation, and personal  
22 habits, and any other matters that the probation officer deems  
23 relevant or the court directs to be included. All local and state  
24 police agencies and Department of Correctional Services adult  
25 correctional facilities shall furnish to the probation officer  
26 copies of such criminal records, in any such case referred to  
27 the probation officer by the court of proper jurisdiction, as the

1 probation officer shall require without cost to the court or the  
2 probation officer.

3 Such investigation shall also include:

4 (a) Any written statements submitted to the county  
5 attorney by a victim; and

6 (b) Any written statements submitted to the probation  
7 officer by a victim.

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

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

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

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

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

24 (6) Any presentence report or psychiatric examination  
25 shall be privileged and shall not be disclosed directly or  
26 indirectly to anyone other than a judge, probation officers  
27 to whom an offender's file is duly transferred, the probation

1 administrator or his or her designee, or others entitled by law  
2 to receive such information, including personnel and mental health  
3 professionals for the Nebraska State Patrol specifically assigned  
4 to sex offender registration and community notification for the  
5 sole purpose of using such report or examination for assessing  
6 risk and for community notification of registered sex offenders.  
7 For purposes of this subsection, mental health professional means  
8 (a) a practicing physician licensed to practice medicine in this  
9 state under the provisions of section 71-102, (b) a practicing  
10 psychologist licensed to engage in the practice of psychology in  
11 this state as provided in section 71-1,206.14, or (c) a practicing  
12 mental health professional licensed or certified in this state as  
13 provided in section 71-1,333. The court may permit inspection of  
14 the report or examination of parts thereof by the offender or his  
15 or her attorney, or other person having a proper interest therein,  
16 whenever the court finds it is in the best interest of a particular  
17 offender. The court may allow fair opportunity for an offender to  
18 provide additional information for the court's consideration.

19 (7) If an offender is sentenced to imprisonment, a copy  
20 of the report of any presentence investigation or psychiatric  
21 examination shall be transmitted immediately to the Department of  
22 Correctional Services. Upon request, the Board of Parole or the  
23 Office of Parole Administration may receive a copy of the report  
24 from the department.

25 (8) Notwithstanding subsection (6) of this section, the  
26 Nebraska Commission on Law Enforcement and Criminal Justice under  
27 the direction and supervision of the Chief Justice of the Supreme

1 Court shall have access to presentence investigations and reports  
2 for the sole purpose of carrying out the study required under  
3 subdivision (7) of section 81-1425. The commission shall treat such  
4 information as confidential, and nothing identifying any individual  
5 shall be released by the commission.

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

13 2. On page 19, strike beginning with "The" in line 4  
14 through line 8 and show the old matter as stricken; and strike  
15 lines 16 through 25 and show the old matter as stricken.

16 3. On page 20, strike lines 1 through 5 and show as  
17 stricken; and in line 6 strike "(3)", show as stricken, and insert  
18 "(2)".

19 4. On page 21, line 25, strike "If an information  
20 charging a" and show as stricken.

21 5. On page 22, strike beginning with "violation" in line  
22 1 through the period in line 4 and show the old matter as stricken.

23 6. On page 25, strike beginning with "or" in line 17  
24 through line 19, show the old matter as stricken, and insert an  
25 underscored period.

26 7. On page 39, strike beginning with "imposed" in line 20  
27 through "29-2523" in line 21; and in line 25 strike "pursuant to

1 section 29-2520".

2 8. On page 40, line 1, strike "to 29-2523".

3 9. On page 51, line 25, after "28-303," insert  
4 "29-1602,".

5 10. On page 52, line 1, strike "29-2520, 29-2521,  
6 29-2522, 29-2523," and insert "29-2261,"; in line 11 after the  
7 last comma insert "29-2520, 29-2521,"; and in line 11 after  
8 "29-2521.02," insert "29-2521.05, 29-2522, 29-2523,".

9 11. Renumber the remaining sections accordingly.