

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 921

Introduced by Lathrop, 12.

Read first time January 10, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-106, Reissue Revised Statutes of Nebraska, and section 28-105,
- 3 Revised Statutes Cumulative Supplement, 2020; to change where
- 4 certain sentences of imprisonment are served; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-105, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 28-105 (1) For purposes of the Nebraska Criminal Code and any
4 statute passed by the Legislature after the date of passage of the code,
5 felonies are divided into ten classes which are distinguished from one
6 another by the following penalties which are authorized upon conviction:

7	Class I felony	Death
8	Class IA felony	Life imprisonment
9	Class IB felony	Maximum—life imprisonment
10		Minimum—twenty years imprisonment
11	Class IC felony	Maximum—fifty years imprisonment
12		Mandatory minimum—five years imprisonment
13	Class ID felony	Maximum—fifty years imprisonment
14		Mandatory minimum—three years imprisonment
15	Class II felony	Maximum—fifty years imprisonment
16		Minimum—one year imprisonment
17	Class IIA felony	Maximum—twenty years imprisonment
18		Minimum—none
19	Class III felony	Maximum—four years imprisonment and two years
20		post-release supervision or
21		twenty-five thousand dollars fine, or both
22		Minimum—none for imprisonment and nine months
23		post-release supervision if imprisonment is imposed
24	Class IIIA felony	Maximum—three years imprisonment
25		and eighteen months post-release supervision or
26		ten thousand dollars fine, or both
27		Minimum—none for imprisonment and nine months
28		post-release supervision if imprisonment is imposed
29	Class IV felony	Maximum—two years imprisonment and twelve
30		months post-release supervision or

1 ten thousand dollars fine, or both
2 Minimum—none for imprisonment and none for
3 post-release supervision

4 (2)(a) {2} All sentences for maximum terms of imprisonment for one
5 year or more for Class I, IA, IB, IC, ID, II, or IIA felonies shall be
6 served in institutions under the jurisdiction of the Department of
7 Correctional Services.

8 (b) All sentences for Class III, IIIA, or IV felonies, regardless of
9 the length of the terms of imprisonment, and all sentences for maximum
10 terms of imprisonment of less than one year shall be served in the county
11 jail.

12 (c) If a person is sentenced as described in both subdivision (2)(a)
13 and (b) of this section, the sentence shall be served in an institution
14 under the jurisdiction of the department.

15 (3) Nothing in this section shall limit the authority granted in
16 sections 29-2221 and 29-2222 to increase sentences for habitual
17 criminals.

18 (4) A person convicted of a felony for which a mandatory minimum
19 sentence is prescribed shall not be eligible for probation.

20 (5) All sentences of post-release supervision shall be served under
21 the jurisdiction of the Office of Probation Administration and shall be
22 subject to conditions imposed pursuant to section 29-2262 and subject to
23 sanctions authorized pursuant to section 29-2266.02.

24 (6) Any person who is sentenced to imprisonment for a Class I, IA,
25 IB, IC, ID, II, or IIA felony and sentenced concurrently or consecutively
26 to imprisonment for a Class III, IIIA, or IV felony shall not be subject
27 to post-release supervision pursuant to subsection (1) of this section.

28 (7) Any person who is sentenced to imprisonment for a Class III,
29 IIIA, or IV felony committed prior to August 30, 2015, and sentenced
30 concurrently or consecutively to imprisonment for a Class III, IIIA, or
31 IV felony committed on or after August 30, 2015, shall not be subject to

1 post-release supervision pursuant to subsection (1) of this section.

2 (8) The changes made to the penalties for Class III, IIIA, and IV
3 felonies by Laws 2015, LB605, do not apply to any offense committed prior
4 to August 30, 2015, as provided in section 28-116.

5 Sec. 2. Section 28-106, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 28-106 (1) For purposes of the Nebraska Criminal Code and any
8 statute passed by the Legislature after the date of passage of the code,
9 misdemeanors are divided into seven classes which are distinguished from
10 one another by the following penalties which are authorized upon
11 conviction:

12 Class I misdemeanor..... Maximum – not more than one year
13 imprisonment, or one thousand dollars
14 fine, or both
15 Minimum – none

16 Class II misdemeanor..... Maximum – six months imprisonment, or
17 one thousand dollars fine, or both
18 Minimum – none

19 Class III misdemeanor..... Maximum – three months imprisonment,
20 or five hundred dollars fine, or both
21 Minimum – none

22 Class IIIA misdemeanor..... Maximum – seven days imprisonment, five
23 hundred dollars fine, or both
24 Minimum – none

25 Class IV misdemeanor..... Maximum – no imprisonment, five
26 hundred dollars fine
27 Minimum – none

28 Class V misdemeanor..... Maximum – no imprisonment, one
29 hundred dollars fine
30 Minimum – none

1 Class W misdemeanor..... Driving under the influence or implied
2 consent
3 First conviction
4 Maximum – sixty days imprisonment and
5 five hundred dollars fine
6 Mandatory minimum – seven days
7 imprisonment and five hundred dollars
8 fine
9 Second conviction
10 Maximum – six months imprisonment and
11 five hundred dollars fine
12 Mandatory minimum – thirty days
13 imprisonment and five hundred dollars
14 fine
15 Third conviction
16 Maximum – one year imprisonment and
17 one thousand dollars fine
18 Mandatory minimum – ninety days
19 imprisonment
20 and one thousand dollars fine

21 (2) Sentences of imprisonment in misdemeanor cases shall be served
22 in the county jail, except that such sentences may be served in
23 institutions under the jurisdiction of the Department of Correctional
24 Services if the sentence is to be served concurrently or consecutively
25 with a term for conviction of a Class I, IA, IB, IC, ID, II, or IIA
26 felony and the combined sentences total a term of one year or more. A
27 determinate sentence shall be imposed for a misdemeanor if the sentence
28 is to be served concurrently or consecutively with a determinate sentence
29 for a Class III, IIIA, or IV felony.

30 Sec. 3. Original section 28-106, Reissue Revised Statutes of

1 Nebraska, and section 28-105, Revised Statutes Cumulative Supplement,
2 2020, are repealed.