

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT (CORRECTED)
LB44

Hearing Date: Friday February 08, 2013
Committee On: Judiciary
Introducer: Ashford
One Liner: Change penalty provisions with respect to Class IA felonies committed by persons under the age of eighteen

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	6	Senators Ashford, Christensen, Coash, Davis, McGill, Seiler
Nay:		
Absent:	2	Senators Chambers, Lathrop
Present Not Voting:		

Proponents:	Representing:
SEN. BRAD ASHFORD	INTRODUCER
KAYLA POPE	BOYS TOWN
JEREMY HERMAN	SELF
DANIEL GUTMAN	CFSY
WEBB BANCROFT	LANCASTER COUNTY PUBLIC DEFENDER
DENNIS MARKS	SARPY COUNTY PUBLIC DEFENDER'S OFFICE
JENNIFER KEARNEY	SELF
PATRICK CONDON	NE COUNTY ATTORNEY ASSOC.
THOMAS RILEY	DOUGLAS COUNTY PUBLIC DEFENDER
ADAM SIPPLE	NCDA
TOM STRIGENZ	NE CRIMINAL DEFENSE ATTORNEY ASSOCIATION
JERRY SOUCIE	SELF
MEL BECKMAN	SELF
JIM CUNNINGHAM	NE CATHOLIC CONFERENCE
SARAH FORREST	VOICES FOR CHILDREN
LOREN SCHMIT	SELF

Opponents: **Representing:**

Neutral: **Representing:**

Summary of purpose and/or changes:

LB 44 was introduced to bring Nebraska into compliance with the 2012 US Supreme Court ruling of Miller v. Alabama, which prohibited as a violation of the Eighth Amendment of the U.S. Constitution, the sentencing of juveniles to a mandatory sentence of life without the possibility of parole.

LB 44 would amend Nebraska Revised Statute 28-101 to add a minimum sentence of "XXX" years and would make the current life w/o parole the maximum sentence.

LB 44 as introduced does not attempt in its current form to address the issue of whether or not this change in penalty is retroactive to those individuals previously convicted under this statute. At current count, there are 26 individuals who have previously been convicted and sentenced under 28-101. (Please note: There is currently an ongoing Nebraska Supreme Court case to determine if the sentences of those previously convicted under this section are unconstitutional per the Miller v. Alabama ruling and that those individuals are entitled to re-sentencing.)

Explanation of amendments:

AM 151 would make the following changes to LB 44:

Sets the minimum sentence at 30 years;

Requires the sentencing court under this act to consider the following mitigating factors:

The convicted person's age at the time of the offense;

The impetuosity of the convicted person;

The convicted person's family and community environment;

The convicted person's ability to appreciate the risks and consequences of the conduct;

The convicted person's intellectual capacity; and

The outcome of a comprehensive mental health evaluation of the convicted person conducted by an adolescent mental health professional licensed in this state. The evaluation shall include, but not be limited to, interviews with the convicted person's family in order to learn about the convicted person's prenatal history, developmental history, medical history, substance abuse treatment history, if any, social history, and psychological history.

Provides that a person convicted of an offense when under the age of 18 who is denied parole shall be eligible for a parole hearing every year after the initial denial;

Requires during each parole hearing before the Board of Parole for an offender under Section 3 of this act to consider and review at a minimum the following:

The offender's educational and court documents;

The offender's participation in available rehabilitative and educational programs while incarcerated;

The offender's age at the time of the offense;

The offender's level of maturity;

The offender's ability to appreciate the risks and consequences of his or her conduct;

The offender's intellectual capacity;

The offender's level of participation in the offense;

The offender's efforts toward rehabilitation; and

Any other mitigating factor or circumstance submitted by the offender.

Brad Ashford, Chairperson