

AMENDMENTS TO LB146

Introduced by Hansen, 26.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 29-2264, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 29-2264 (1) Whenever any person is placed on probation by a court
6 and satisfactorily completes the conditions of his or her probation for
7 the entire period or is discharged from probation prior to the
8 termination of the period of probation, the sentencing court shall issue
9 an order releasing the offender from probation. Such order in all felony
10 cases shall provide notice that the person's voting rights are restored
11 two years after completion of probation. The order shall include
12 information on restoring other civil rights through the pardon process,
13 including application to and hearing by the Board of Pardons.

14 (2) Whenever any person is convicted of an infraction, a
15 misdemeanor, or a felony and is placed on probation by the court or is
16 sentenced to a fine only, he or she may, after satisfactory fulfillment
17 of the conditions of probation for the entire period or after discharge
18 from probation prior to the termination of the period of probation and
19 after payment of any fine, petition the sentencing court to set aside the
20 conviction.

21 (3) In determining whether to set aside the conviction, the court
22 shall consider:

23 (a) The behavior of the offender after sentencing;

24 (b) The likelihood that the offender will not engage in further
25 criminal activity; and

26 (c) Any other information the court considers relevant.

27 (4) The court may grant the offender's petition and issue an order

1 setting aside the conviction when in the opinion of the court the order
2 will be in the best interest of the offender and consistent with the
3 public welfare. The order shall:

4 (a) Nullify the conviction; and

5 (b) Remove all civil disabilities and disqualifications imposed as a
6 result of the conviction.

7 (5) The setting aside of a conviction in accordance with the
8 Nebraska Probation Administration Act shall not:

9 (a) Require the reinstatement of any office, employment, or position
10 which was previously held and lost or forfeited as a result of the
11 conviction;

12 (b) Preclude proof of a plea of guilty whenever such plea is
13 relevant to the determination of an issue involving the rights or
14 liabilities of someone other than the offender;

15 (c) Preclude proof of the conviction as evidence of the commission
16 of the infraction, misdemeanor, or felony whenever the fact of its
17 commission is relevant for the purpose of impeaching the offender as a
18 witness, except that the order setting aside the conviction may be
19 introduced in evidence;

20 (d) Preclude use of the conviction for the purpose of determining
21 sentence on any subsequent conviction of a criminal offense;

22 (e) Preclude the proof of the conviction as evidence of the
23 commission of the infraction, misdemeanor, or felony in the event an
24 offender is charged with a subsequent offense and the penalty provided by
25 law is increased if the prior conviction is proved;

26 (f) Preclude the proof of the conviction to determine whether an
27 offender is eligible to have a subsequent conviction set aside in
28 accordance with the Nebraska Probation Administration Act;

29 (g) Preclude use of the conviction as evidence of commission of the
30 infraction, misdemeanor, or felony for purposes of determining whether an
31 application filed or a license issued under sections 71-1901 to

1 71-1906.01, the Child Care Licensing Act, or the Children's Residential
2 Facilities and Placing Licensure Act or a certificate issued under
3 sections 79-806 to 79-815 should be denied, suspended, or revoked;

4 (h) Preclude use of the conviction as evidence of incompetence,
5 neglect of duty, physical, mental, or emotional incapacity, or final
6 conviction of or pleading guilty or nolo contendere to a felony for
7 purposes of determining whether an application filed or a certificate
8 issued under sections 81-1401 to 81-1414.10 should be denied, suspended,
9 or revoked;

10 (i) Preclude proof of the conviction as evidence whenever the fact
11 of the conviction is relevant to a determination of the registration
12 period under section 29-4005; or

13 (j) Relieve a person who is convicted of an offense for which
14 registration is required under the Sex Offender Registration Act of the
15 duty to register and to comply with the terms of the act.

16 (6) Except as otherwise provided for the notice in subsection (1) of
17 this section, changes made to this section by Laws 2005, LB 713, shall be
18 retroactive in application and shall apply to all persons, otherwise
19 eligible in accordance with the provisions of this section, whether
20 convicted prior to, on, or subsequent to September 4, 2005.

21 (7) The changes made to this section by this legislative bill shall
22 be retroactive in application and shall apply to all persons, otherwise
23 eligible in accordance with the provisions of this section, whether
24 convicted prior to, on, or subsequent to the effective date of this act.

25 Sec. 2. Original section 29-2264, Reissue Revised Statutes of
26 Nebraska, is repealed.