

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 132

Introduced by Pansing Brooks, 28; DeBoer, 10; Howard, 9; Hunt, 8; Quick,
35; Vargas, 7; Wayne, 13.

Read first time January 10, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 28-105, Revised Statutes Cumulative Supplement, 2018; to change
3 provisions relating to certain penalties for persons under nineteen
4 years of age; to harmonize provisions; and to repeal the original
5 section.

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

1 Section 1. Section 28-105, Revised Statutes Cumulative Supplement,
2 2018, 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 nine months
3 post-release supervision if imprisonment is imposed

4 (2) All sentences for maximum terms of imprisonment for one year or
5 more for felonies shall be served in institutions under the jurisdiction
6 of the Department of Correctional Services. All sentences for maximum
7 terms of imprisonment of less than one year shall be served in the county
8 jail.

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

12 (4) The minimum term of imprisonment for any person convicted of a
13 Class IC or Class ID felony for an offense committed when such person was
14 under nineteen years of age shall not be a mandatory minimum but a
15 minimum term only.

16 (5) ~~(4)~~ A person convicted of a felony for which a mandatory minimum
17 sentence is prescribed shall not be eligible for probation.

18 (6) ~~(5)~~ All sentences of post-release supervision shall be served
19 under the jurisdiction of the Office of Probation Administration and
20 shall be subject to conditions imposed pursuant to section 29-2262 and
21 subject to sanctions authorized pursuant to section 29-2266.02.

22 (7) ~~(6)~~ Any person who is sentenced to imprisonment for a Class I,
23 IA, IB, IC, ID, II, or IIA felony and sentenced concurrently or
24 consecutively to imprisonment for a Class III, IIIA, or IV felony shall
25 not be subject to post-release supervision pursuant to subsection (1) of
26 this section.

27 (8) ~~(7)~~ Any person who is sentenced to imprisonment for a Class III,
28 IIIA, or IV felony committed prior to August 30, 2015, and sentenced
29 concurrently or consecutively to imprisonment for a Class III, IIIA, or
30 IV felony committed on or after August 30, 2015, shall not be subject to
31 post-release supervision pursuant to subsection (1) of this section.

1 (9) ~~(8)~~ The changes made to the penalties for Class III, IIIA, and
2 IV felonies by Laws 2015, LB605, do not apply to any offense committed
3 prior to August 30, 2015, as provided in section 28-116.

4 Sec. 2. Original section 28-105, Revised Statutes Cumulative
5 Supplement, 2018, is repealed.