

AMENDMENTS TO LB404

Introduced by Judiciary.

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

3        **Section 1.** Section 29-2262.06, Reissue Revised Statutes of Nebraska,  
4 is amended to read:

5        29-2262.06 (1) Except as otherwise provided in this section,  
6 whenever a district court or county court sentences an adult offender to  
7 probation, the court shall require the probationer to pay a one-time  
8 administrative enrollment fee and thereafter a monthly probation  
9 programming fee.

10        (2) Participants in non-probation-based programs or services in  
11 which probation personnel or probation resources are utilized pursuant to  
12 an interlocal agreement authorized by subdivision (16) of section 29-2252  
13 and in which all or a portion of the costs of such probation personnel or  
14 such probation resources are covered by funds provided pursuant to  
15 section 29-2262.07 shall pay the one-time administrative enrollment fee  
16 described in subdivision (3)(a) of this section and the monthly probation  
17 programming fee described in subdivision (3)(c) of this section. In  
18 addition, the provisions of subsections (4), (7), and (11) ~~(10)~~ of this  
19 section applicable to probationers apply to participants in non-  
20 probation-based programs or services. Any participant in a non-probation-  
21 based program or service who defaults on the payment of any such fees  
22 may, at the discretion of the court, be subject to removal from such non-  
23 probation-based program or service. This subdivision does not preclude a  
24 court or other governmental entity from charging additional local fees  
25 for participation in such non-probation-based programs and services or  
26 other similar non-probation-based programs and services.

27        (3) The court shall establish the administrative enrollment fee and

1 monthly probation programming fees as follows:

2 (a) Adult probationers placed on either probation or intensive  
3 supervision probation and participants in non-probation-based programs or  
4 services shall pay a one-time administrative enrollment fee of thirty  
5 dollars. The fee shall be paid in a lump sum upon the beginning of  
6 probation supervision or participation in a non-probation-based program  
7 or service;

8 (b) Adult probationers placed on probation shall pay a monthly  
9 probation programming fee of twenty-five dollars, not later than the  
10 tenth day of each month, for the duration of probation; and

11 (c) Adult probationers placed on intensive supervision probation and  
12 participants in non-probation-based programs or services shall pay a  
13 monthly probation programming fee of thirty-five dollars, not later than  
14 the tenth day of each month, for the duration of probation or  
15 participation in a non-probation-based program or service.

16 (4) The court shall waive payment of the monthly probation  
17 programming fees in whole or in part if after a hearing a determination  
18 is made that such payment would constitute an undue hardship on the  
19 offender due to limited income, employment or school status, or physical  
20 or mental handicap. Such waiver shall be in effect only during the period  
21 of time that the probationer or participant in a non-probation-based  
22 program or service is unable to pay his or her monthly probation  
23 programming fee.

24 (5) If a probationer defaults in the payment of monthly probation  
25 programming fees or any installment thereof, the court may revoke his or  
26 her probation for nonpayment, except that probation shall not be revoked  
27 nor shall the offender be imprisoned for such nonpayment if the  
28 probationer is financially unable to make the payment, if he or she so  
29 states to the court in writing under oath, and if the court so finds  
30 after a hearing.

31 (6) If the court determines that the default in payment described in

1 subsection (5) of this section was not attributable to a deliberate  
2 refusal to obey the order of the court or to failure on the probationer's  
3 part to make a good faith effort to obtain the funds required for  
4 payment, the court may enter an order allowing the probationer additional  
5 time for payment, reducing the amount of each installment, or revoking  
6 the fees or the unpaid portion in whole or in part.

7 (7) No probationer or participant in a non-probation-based program  
8 or service shall be required to pay more than one monthly probation  
9 programming fee per month. This subsection does not preclude local fees  
10 as provided in subsection (2) of this section.

11 (8) The imposition of monthly probation programming fees in this  
12 section shall be considered separate and apart from the fees described in  
13 subdivisions (2)(m) and (o) of section 29-2262.

14 (9) The court may waive payment of the fees described in  
15 subdivisions (2)(m) and (o) of section 29-2262 in whole or in part if the  
16 offender has been previously found to be indigent in the case for which  
17 he or she is placed on probation or if after a hearing a determination is  
18 made that such payment would constitute an undue hardship on the offender  
19 due to limited income, employment or school status, or physical or mental  
20 handicap. Such waiver shall be in effect only during the period of time  
21 that the probationer or participant in a non-probation-based program or  
22 service is unable to pay his or her monthly probation programming fee.

23 (10) (9) Any adult probationer received for supervision pursuant to  
24 section 29-2637 or the Interstate Compact for Adult Offender Supervision  
25 shall be assessed both a one-time administrative enrollment fee and  
26 monthly probation programming fees during the period of time the  
27 probationer is actively supervised by Nebraska probation authorities.

28 (11) (10) The probationer or participant in a non-probation-based  
29 program or service shall pay the fees described in this section to the  
30 clerk of the court. The clerk of the court shall remit all fees so  
31 collected to the State Treasurer for credit to the Probation Program Cash

1 Fund.

2 **Sec. 2.** Section 29-2263, Revised Statutes Cumulative Supplement,  
3 2024, is amended to read:

4 29-2263 (1)(a) Except as provided in subsection (2) of this section,  
5 when a court has sentenced an offender to probation, the court shall  
6 specify the term of such probation which shall be not more than five  
7 years upon conviction of a felony or second offense misdemeanor and two  
8 years upon conviction of a first offense misdemeanor.

9 (b) At sentencing, the court shall provide notice to the offender  
10 that the offender may be eligible to have the conviction set aside as  
11 provided in subsection (2) of section 29-2264 and shall provide  
12 information on how to file such a petition. The State Court Administrator  
13 shall develop standardized advisement language and any forms necessary to  
14 carry out this subdivision.

15 (c) The court, on application of a probation officer or of the  
16 probationer or on its own motion, may discharge a probationer at any  
17 time.

18 (2) When a court has sentenced an offender to post-release  
19 supervision, the court shall specify the term of such post-release  
20 supervision as provided in section 28-105. The court, on application of a  
21 probation officer or of the probationer or on its own motion, may  
22 discharge a probationer at any time.

23 (3) During the term of probation, the court on application of a  
24 probation officer or of the probationer, or its own motion, may modify or  
25 eliminate any of the conditions imposed on the probationer or add further  
26 conditions authorized by section 29-2262. The court on joint application  
27 of the probation officer and the probationer may extend the term of  
28 probation within the limits authorized by subdivision (1)(a) of this  
29 section. This subsection does not preclude a probation officer from  
30 imposing administrative sanctions with the probationer's full knowledge  
31 and consent as authorized by sections 29-2266.01 and 29-2266.02.

1           (4)(a) Upon completion of the term of probation, or the earlier  
2 discharge of the probationer, the probationer shall be relieved of any  
3 obligations imposed by the order of the court and shall have satisfied  
4 the sentence for his or her crime.

5           (b) Upon satisfactory fulfillment of the conditions of probation for  
6 the entire period or after discharge from probation prior to the  
7 termination of the period of probation, a probation officer shall notify  
8 the probationer that the probationer may be eligible to have the  
9 conviction set aside as provided in subsection (2) of section 29-2264.  
10 The notice shall include an explanation of the requirements for a  
11 conviction to be set aside, how to file a petition for a conviction to be  
12 set aside, and the effect of and limitations of having a conviction set  
13 aside and an advisement that the probationer consult with an attorney  
14 prior to filing a petition. The State Court Administrator shall develop  
15 standardized advisement language and any forms necessary to carry out  
16 this subdivision.

17           (5) Whenever a probationer disappears or leaves the jurisdiction of  
18 the court without permission, the time during which he or she keeps his  
19 or her whereabouts hidden or remains away from the jurisdiction of the  
20 court shall be added to the original term of probation.

21           **Sec. 3.** Section 29-2267, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           29-2267 (1) Whenever a motion or information to revoke probation is  
24 filed, the probationer shall be entitled to a prompt consideration of  
25 such charge by the sentencing court. The court shall not revoke probation  
26 or increase the probation requirements imposed on the probationer, except  
27 after a hearing upon proper notice where the violation of probation is  
28 established by clear and convincing evidence.

29           (2) The probationer shall have the right to receive, prior to the  
30 hearing, a copy of the information or written notice of the grounds on  
31 which the information is based. The probationer shall have the right to

1 hear and controvert the evidence against him or her, to offer evidence in  
2 his or her defense, and to be represented by counsel.

3 (3) For a probationer convicted of a felony, revocation proceedings  
4 may only be instituted in response to a substance abuse or noncriminal  
5 violation if the probationer has served ninety days of cumulative  
6 custodial sanctions during the current probation term.

7 (4) When a motion or information to revoke probation is filed, the  
8 probation term may be extended at the joint request of the probationer  
9 and prosecutor until final resolution of the motion or information to  
10 revoke probation or until the expiration of the statutorily defined  
11 maximum period of probation for the offense for which the probationer has  
12 been placed on probation. A court shall accept such request to extend a  
13 term of probation so long as the probationer is represented by counsel or  
14 the court finds, in open court, that the probationer makes the request  
15 freely, voluntarily, knowingly, and intelligently.

16 **Sec. 4.** Original sections 29-2262.06 and 29-2267, Reissue Revised  
17 Statutes of Nebraska, and section 29-2263, Revised Statutes Cumulative  
18 Supplement, 2024, are repealed.