

## LEGISLATIVE BILL 504

Approved by the Governor April 1, 1986

Introduced by Remmers, 1

AN ACT relating to crimes and punishment; to amend section 29-2262, Reissue Revised Statutes of Nebraska, 1943, and section 28-416, Revised Statutes Supplement, 1985; to require mandatory conditions on probation as prescribed; to provide an eligibility requirement for parole; and to repeal the original sections.

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

Section 1. That section 28-416, Revised Statutes Supplement, 1985, be amended to read as follows:

28-416. (1) Except as authorized by this article, it shall be unlawful for any person knowingly or intentionally: (a) To manufacture, distribute, deliver, dispense, or possess with intent to manufacture, distribute, deliver, or dispense; a controlled substance; or (b) to create, distribute, or possess with intent to distribute, a counterfeit controlled substance.

(2) Any person who violates subsection (1) of this section with respect to: (a) A controlled substance classified in Schedule I, II, or III of section 28-405 which is an exceptionally hazardous drug shall be guilty of a Class II felony; (b) any other controlled substance classified in Schedule I, II, or III of section 28-405, shall be guilty of a Class III felony; or (c) a controlled substance classified in Schedule IV or V of section 28-405, shall be guilty of a Class IV felony.

(3) A person knowingly or intentionally possessing a controlled substance, except marijuana, unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his or her professional practice, or except as otherwise authorized by this article, shall be guilty of a Class IV felony.

(4) Any person knowingly or intentionally possessing marijuana weighing more than one ounce, but not more than one pound shall be guilty of a Class IIIA misdemeanor.

(5) Any person knowingly or intentionally possessing marijuana weighing more than one pound shall be guilty of a Class IV felony.

(6) Any person knowingly or intentionally possessing marijuana weighing one ounce or less shall:

(a) For the first offense, be guilty of an infraction, receive a citation, be fined one hundred dollars, and be assigned to attend a course as prescribed in section 29-433 if the judge determines that attending such course is in the best interest of the individual defendant;

(b) For the second offense, be guilty of a Class IV misdemeanor, receive a citation, and be fined two hundred dollars and may be imprisoned not to exceed five days; and

(c) For the third and all subsequent offenses, be guilty of a Class IIIA misdemeanor, receive a citation, be fined three hundred dollars, and be imprisoned not to exceed seven days.

(7) if a Any person is convicted of violating this section, if placed on probation, shall, as a condition of probation, he or she shall satisfactorily attend and complete appropriate treatment and counseling on drug abuse conducted by one of the community mental health facilities as provided by Chapter 71, article 50, or other licensed drug treatment facility.

(8) Any person convicted of violating subsection (1), (2), or (3) of this section shall only become eligible for parole upon the satisfactory attendance and completion of appropriate treatment and counseling on drug abuse.

Sec. 2. That section 29-2262, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2262. (1) When a court sentences an offender to probation, it shall attach such reasonable conditions as it deems necessary or likely to insure that the offender will lead a law-abiding life.

(2) The court, as a condition of its sentence, may require the offender:

(a) To refrain from unlawful conduct;

(b) To be confined periodically in the county jail or to return to custody after specified hours, but not to exceed ninety days;

(c) To meet his or her family responsibilities;

(d) To devote himself or herself to a specific employment or occupation;

(e) To undergo medical or psychiatric

treatment and to enter and remain in a specified institution for that purpose;

(f) To pursue a prescribed secular course of study or vocational training;

(g) To attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;

(h) To refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(i) To have in his or her possession no firearm or other dangerous weapon unless granted written permission;

(j) To make restitution of the fruits of his or her crime or to make such reparation as the court determines to be appropriate for the loss or damage caused thereby;

(k) To remain within the jurisdiction of the court and to notify the court or the probation officer of any change in his or her address or his or her employment;

(l) To report as directed to the court or a probation officer and to permit the officer to visit his or her home;

(m) To pay a fine in one or more payments, as ordered;

(n) To work, in lieu of or in addition to any fine, on public streets, parks, or other public property for a period not exceeding twenty working days. Such work shall be under the supervision of the probation officer or a law enforcement officer in the jurisdiction in which the work is performed;

(o) To pay for blood, urine, or breath alcohol tests, psychological evaluations, and rehabilitative services required in the identification, evaluation, and treatment of offenders if such offender has the financial ability to pay for such services; or

(p) To satisfy any other conditions reasonably related to the rehabilitation of the offender.

(3) In all cases in which the offender is guilty of assault or battery and the victim is the offender's spouse, a condition of probation shall be mandatory counseling as provided by ~~sections 42-901 to 42-927~~ the Protection from Domestic Abuse Act.

(4) In all cases in which the offender is guilty of violating section 28-416, a condition of probation shall be mandatory treatment and counseling as provided by subsection (7) of section 28-416.

Sec. 3. That original section 29-2262,

LB 504

LB 504

Reissue Revised Statutes of Nebraska, 1943, and section 28-416, Revised Statutes Supplement, 1985, are repealed.