

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 176

Introduced by Chambers, 11.

Read first time January 11, 2019

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-105, Revised Statutes Cumulative Supplement, 2018; to eliminate
- 3 certain mandatory minimum penalties; and to repeal the original
- 4 section.
- 5 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 | | Minimum Mandatory minimum—five years imprisonment |
| 13 | Class ID felony | Maximum—fifty years imprisonment |
| 14 | | Minimum 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) A person convicted of a felony for which a mandatory minimum
13 sentence is prescribed shall not be eligible for probation.

14 (5) All sentences of post-release supervision shall be served under
15 the jurisdiction of the Office of Probation Administration and shall be
16 subject to conditions imposed pursuant to section 29-2262 and subject to
17 sanctions authorized pursuant to section 29-2266.02.

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

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

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

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31 Supplement, 2018, is repealed.