

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 843**

Introduced by Pedersen, 39; Burling, 33; Chambers, 11; Kruse, 13;  
Nantkes, 46; Preister, 5; Synowiecki, 7.

Read first time January 10, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section  
2 28-105, Revised Statutes Cumulative Supplement, 2006, and  
3 section 28-101, Revised Statutes Supplement, 2007; to  
4 change sentencing requirements with respect to certain  
5 minors; to harmonize provisions; and to repeal the  
6 original sections.

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

1 Section 1. Section 28-101, Revised Statutes Supplement,  
2 2007, is amended to read:

3 28-101 Sections 28-101 to 28-1350 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Criminal Code.

5 Sec. 2. Section 28-105, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 28-105 (1) For purposes of the Nebraska Criminal Code and  
8 any statute passed by the Legislature after the date of passage  
9 of the code, felonies are divided into nine classes which are  
10 distinguished from one another by the following penalties which,  
11 except as provided in section 28-105.01 and section 3 of this act,  
12 are authorized upon conviction:

13	Class I felony	Death
14	Class IA felony	Life imprisonment without parole
15	Class IB felony	Maximum - life imprisonment
16		Minimum - twenty years imprisonment
17	Class IC felony	Maximum - fifty years imprisonment
18		Mandatory minimum - five years imprisonment
19	Class ID felony	Maximum - fifty years imprisonment
20		Mandatory minimum - three years imprisonment
21	Class II felony	Maximum - fifty years imprisonment
22		Minimum - one year imprisonment

1     Class III felony           Maximum - twenty years imprisonment, or  
2                                   twenty-five thousand dollars fine, or both  
3                                   Minimum - one year imprisonment

4     Class IIIA felony         Maximum - five years imprisonment, or  
5                                   ten thousand dollars fine, or both  
6                                   Minimum - none

7     Class IV felony           Maximum - five years imprisonment, or  
8                                   ten thousand dollars fine, or both  
9                                   Minimum - none

10                   (2) All sentences of imprisonment for Class IA, IB,  
11 IC, ID, II, and III felonies and sentences of one year or more  
12 for Class IIIA and IV felonies shall be served in institutions  
13 under the jurisdiction of the Department of Correctional Services.  
14 Sentences of less than one year shall be served in the county jail  
15 except as provided in this subsection. If the department certifies  
16 that it has programs and facilities available for persons sentenced  
17 to terms of less than one year, the court may order that any  
18 sentence of six months or more be served in any institution under  
19 the jurisdiction of the department. Any such certification shall  
20 be given by the department to the State Court Administrator, who  
21 shall forward copies thereof to each judge having jurisdiction to  
22 sentence in felony cases.

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

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

6           Sec. 3. (1) Notwithstanding any other provision of law,  
7 any person convicted of a Class I or Class IA felony, who, at the  
8 time of the commission of the crime, was at least sixteen years of  
9 age but under eighteen years of age, shall be sentenced to fifty  
10 years to life imprisonment.

11           (2) Notwithstanding any other provision of law, any  
12 person convicted of a Class I or Class IA felony, who, at the time  
13 of the commission of the crime, was under sixteen years of age,  
14 shall be sentenced to forty years to life imprisonment.

15           (3) Notwithstanding any other provision of law, the  
16 minimum sentence of any person convicted of a Class IB felony, who,  
17 at the time of the commission of the crime, was under eighteen  
18 years of age, shall not exceed forty years imprisonment.

19           Sec. 4. Original section 28-105, Revised Statutes  
20 Cumulative Supplement, 2006, and section 28-101, Revised Statutes  
21 Supplement, 2007, are repealed.