

AMENDMENTS TO LB 817

Introduced by Pirsch

1 1. Insert the following new section:

2 Section 1. Section 29-2264, Revised Statutes Cumulative
3 Supplement, 2010, is amended to read:

4 29-2264 (1) Whenever any person is placed on probation
5 by a court and satisfactorily completes the conditions of his or
6 her probation for the entire period or is discharged from probation
7 prior to the termination of the period of probation, the sentencing
8 court shall issue an order releasing the offender from probation.
9 Such order in all felony cases shall provide notice that the
10 person's voting rights are restored two years after completion of
11 probation. The order shall include information on restoring other
12 civil rights through the pardon process, including application to
13 and hearing by the Board of Pardons.

14 (2) Whenever any person is convicted of a misdemeanor or
15 felony and is placed on probation by the court or is sentenced to
16 a fine only, he or she may, after satisfactory fulfillment of the
17 conditions of probation for the entire period or after discharge
18 from probation prior to the termination of the period of probation
19 and after payment of any fine, petition the sentencing court to set
20 aside the conviction.

21 (3) In determining whether to set aside the conviction,
22 the court shall consider:

23 (a) The behavior of the offender after sentencing;

1 (b) The likelihood that the offender will not engage in
2 further criminal activity; and

3 (c) Any other information the court considers relevant.

4 (4) The court may grant the offender's petition and issue
5 an order setting aside the conviction when in the opinion of the
6 court the order will be in the best interest of the offender and
7 consistent with the public welfare. The order shall:

8 (a) Nullify the conviction; and

9 (b) Remove all civil disabilities and disqualifications
10 imposed as a result of the conviction.

11 (5) The setting aside of a conviction in accordance with
12 the Nebraska Probation Administration Act shall not:

13 (a) Require the reinstatement of any office, employment,
14 or position which was previously held and lost or forfeited as a
15 result of the conviction;

16 (b) Preclude proof of a plea of guilty whenever such plea
17 is relevant to the determination of an issue involving the rights
18 or liabilities of someone other than the offender;

19 (c) Preclude proof of the conviction as evidence of the
20 commission of the misdemeanor or felony whenever the fact of its
21 commission is relevant for the purpose of impeaching the offender
22 as a witness, except that the order setting aside the conviction
23 may be introduced in evidence;

24 (d) Preclude use of the conviction for the purpose of
25 determining sentence on any subsequent conviction of a criminal
26 offense;

27 (e) Preclude the proof of the conviction as evidence

1 of the commission of the misdemeanor or felony in the event an
2 offender is charged with a subsequent offense and the penalty
3 provided by law is increased if the prior conviction is proved;

4 (f) Preclude the proof of the conviction to determine
5 whether an offender is eligible to have a subsequent conviction set
6 aside in accordance with the Nebraska Probation Administration Act;

7 (g) Preclude use of the conviction as evidence of
8 commission of the misdemeanor or felony for purposes of determining
9 whether an application filed or a license issued under sections
10 71-1901 to 71-1906.01 or the Child Care Licensing Act or a
11 certificate issued under sections 79-806 to 79-815 should be
12 denied, suspended, or revoked;

13 (h) Preclude use of the conviction as evidence of
14 incompetence, neglect of duty, physical, mental, or emotional
15 incapacity, or final conviction of or pleading guilty or nolo
16 contendere to a felony for purposes of determining whether an
17 application filed or a certificate issued under sections 81-1401 to
18 81-1414 should be denied, suspended, or revoked;

19 ~~(h)~~ (i) Preclude proof of the conviction as evidence
20 whenever the fact of the conviction is relevant to a determination
21 of the registration period under section 29-4005; or

22 ~~(i)~~ (j) Relieve a person who is convicted of an
23 offense for which registration is required under the Sex Offender
24 Registration Act of the duty to register and to comply with the
25 terms of the act.

26 (6) Except as otherwise provided for the notice in
27 subsection (1) of this section, changes made to this section by

1 Laws 2005, LB 713, shall be retroactive in application and shall
2 apply to all persons, otherwise eligible in accordance with the
3 provisions of this section, whether convicted prior to, on, or
4 subsequent to September 4, 2005.

5 2. On page 6, line 9, after "Original" insert "section
6 29-2264, Revised Statutes Cumulative Supplement, 2010, and".

7 3. Renumber the remaining sections accordingly.