

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB125

Hearing Date: Friday January 25, 2019
Committee On: Judiciary
Introducer: Lathrop
One Liner: Include certain intimate partners who are victims of theft within victim rights statutes

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye:	7	Senators Brandt, DeBoer, Lathrop, Morfeld, Pansing Brooks, Slama, Wayne
Nay:		
Absent:	1	Senator Chambers
Present Not Voting:		

Oral Testimony:

Proponents:

Senator Steve Lathrop
Korby Gilbertson

Representing:

Introducer
self

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

Section 29-119(2) currently provides a definition of "victim" for various other statutes. LB125 would expand this definition to include a person who has had property taken in a theft by an intimate partner.

The definition includes four specific theft offenses, the value of the thing is \$1,500 or more, and the victim and perpetrator were intimate partners.

The four specific offenses enumerated in the bill are: Sec.28-511 (theft by unlawful taking), Sec. 28-512 (theft by deception), Sec. 28-513 (theft by extortion), and Sec. 28-517 (theft by receiving stolen property).

The value threshold of \$1,500 is consistent with the felony theft threshold under Sec. 28-518.

"Intimate partner" is defined by reference to Sec. 28-323(8) as "a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this subsection , dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context."

Being defined as a victim under Sec. 29-119 entitles a person to the rights described below.

Pursuant to Article I Section 28 of the Nebraska Constitution, the victim of a crime has the right to be informed of all

criminal court proceedings; the right to be present at trial unless the trial court finds sequestration necessary for a fair trial for the defendant; and the right to be informed of, be present at, and make an oral or written statement at sentencing, parole, pardon, commutation, and conditional release proceedings. These rights are more specifically set forth in Sections 81-1843 through 81-1851.

A victim is entitled to receive the pamphlet on victim's rights prepared by the Crime Commission pursuant to Sec. 81-1844.01. A victim has many enumerated rights under Sec. 81-1848 to receive notice and information about various stages of the criminal case. Under Sec. 81-1848.01, a victim is entitled to notice of the filing and progress of an appeal in the case. Under Sec. 81-1848.02, a victim is entitled to notice of the escape of a person incarcerated for committing the crime against the victim. Under Sec. 81-1850, a victim is entitled to notice and information about the parole, pardon, or release of the person convicted of committing the crime against the victim.

Under Sec. 23-1201, a county attorney is required to consult with or make a good faith effort to consult with the victim regarding the content of and reasons for a plea agreement prior to reaching a plea agreement with defense counsel. Under a similar provision in Sec. 29-120, a prosecuting attorney prosecuting a city or village DUI ordinance is required to consult with or make a good faith effort to consult with the victim regarding the content of and reasons for a plea agreement prior to reaching a plea agreement with defense counsel.

Pursuant to Sec. 29-2261, a presentence investigation is required to include any written statements submitted by a victim to the county attorney or probation officer. If no written statements are submitted, the probation officer is required to contact the victim to offer to accept a written statement or reduce a victim's oral statement to writing.

Steve Lathrop, Chairperson