

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 881

Introduced by Hansen, M., 26.

Read first time January 09, 2020

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to criminal procedure; to amend section
- 2 29-2206, Revised Statutes Cumulative Supplement, 2018; to change
- 3 provisions relating to collection of fines and costs; and to repeal
- 4 the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2206, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 29-2206 (1)(a) In all cases in which courts or magistrates have now
4 or may hereafter have the power to punish offenses, either in whole or in
5 part, by requiring the offender to pay fines or costs, or both, such
6 courts or magistrates may make it a part of the sentence that the party
7 stand committed and be imprisoned in the jail of the proper county until
8 the fines or costs are paid or secured to be paid or the offender is
9 otherwise discharged according to law if the court or magistrate
10 determines that the offender has the financial ability to pay such fines
11 or costs. The court or magistrate may make such determination at the
12 sentencing hearing or at a separate hearing prior to sentencing. A
13 separate hearing shall not be required. In making such determination, the
14 court or magistrate may consider the information or evidence adduced in
15 an earlier proceeding pursuant to section 29-3902, 29-3903, 29-3906, or
16 29-3916. At any such hearing, the offender shall have the opportunity to
17 present information as to his or her income, assets, debts, or other
18 matters affecting his or her financial ability to pay. Following such
19 hearing and prior to imposing sentence, the court or magistrate shall
20 determine the offender's financial ability to pay the fines or costs,
21 including his or her financial ability to pay in installments under
22 subsection (2) of this section.

23 (b) If the court or magistrate determines that the offender is
24 financially able to pay the fines or costs and the offender refuses to
25 pay, the court or magistrate may:

26 (i) Make it a part of the sentence that the offender stand committed
27 and be imprisoned in the jail of the proper county until the fines or
28 costs are paid or secured to be paid or the offender is otherwise
29 discharged according to law; or

30 (ii) Order the offender, in lieu of paying such fines or costs, to
31 complete community service for a specified number of hours pursuant to

1 sections 29-2277 to 29-2279.

2 (c) If the court or magistrate determines that the offender is
3 financially unable to pay the fines or costs, the court or magistrate:

4 (i) Shall either:

5 (A) Impose a sentence without such fines or costs; or

6 (B) Enter an order pursuant to subdivision (1)(d) of this section
7 discharging the offender of such fines or costs; and

8 (ii) May order, as a term of the offender's sentence or as a
9 condition of probation, that he or she complete community service for a
10 specified number of hours pursuant to sections 29-2277 to 29-2279.

11 (d) An order discharging the offender of any fines or costs shall be
12 set forth in or accompanied by a judgment entry. Such order shall operate
13 as a complete release of such fines or costs.

14 (2) If the court or magistrate determines, pursuant to subsection
15 (1) of this section, that an offender is financially unable to pay such
16 fines or costs in one lump sum but is financially capable of paying in
17 installments, the court or magistrate shall make arrangements suitable to
18 the court or magistrate and to the offender by which the offender may pay
19 in installments. The court or magistrate shall enter an order specifying
20 the terms of such arrangements and the dates on which payments are to be
21 made. When the judgment of conviction provides for the suspension or
22 revocation of a motor vehicle operator's license and the court authorizes
23 the payment of fines or costs by installments, the revocation or
24 suspension shall be effective as of the date of judgment.

25 (3) As an alternative to a lump-sum payment or as an alternative or
26 in conjunction with installment payments, the court or magistrate may
27 deduct ~~fines or costs~~ only from a bond posted by the offender to the
28 extent that such bond is not otherwise encumbered by a valid lien, levy,
29 execution, or assignment to counsel of record or the person who posted
30 the bond.

31 Sec. 2. Original section 29-2206, Revised Statutes Cumulative

1 Supplement, 2018, is repealed.