LEGISLATURE OF NEBRASKA

ONE HUNDRED SEVENTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 33

Introduced by Pansing Brooks, 28.

Read first time January 07, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to criminal procedure; to amend section

2   29-2204, Revised Statutes Cumulative Supplement, 2020; to change

3   provisions relating to sentencing; and to repeal the original

4   section.

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

1   Section 1. Section 29-2204, Revised Statutes Cumulative Supplement,

2 2020, is amended to read:

3   29-2204 (1) Except when a term of life imprisonment is required by

4 law, in imposing a sentence upon an offender for any class of felony

5 other than a Class III, IIIA, or IV felony, the court shall fix the

6 minimum and the maximum terms of the sentence to be served within the

7 limits provided by law. The maximum term shall not be greater than the

8 maximum limit provided by law, and:

9   (a) The minimum term fixed by the court shall be any term of years

10 no more less than one-half of the maximum term imposed by the court; or

11   (b) The minimum term shall be the minimum limit provided by law.

12   (2) When a maximum term of life is imposed by the court for a Class

13 IB felony, the minimum term fixed by the court shall be any (a) Any term

14 of years not less than the minimum limit provided by law. ; or (b) A term

15 of life imprisonment.

16   (3) When a maximum term of life is imposed by the court for a Class

17 IA felony, the minimum term fixed by the court shall be:

18   (a) A term of life imprisonment; or

19   (b) Any term of years not less than the minimum limit provided by

20 law after consideration of the mitigating factors in section 28-105.02,

21 if the defendant was under eighteen years of age at the time he or she

22 committed the crime for which he or she was convicted.

23   (4) When the court is of the opinion that imprisonment may be

24 appropriate but desires more detailed information as a basis for

25 determining the sentence to be imposed than has been provided by the

26 presentence report required by section 29-2261, the court may commit an

27 offender to the Department of Correctional Services. During that time,

28 the department shall conduct a complete study of the offender as provided

29 in section 29-2204.03.

30   (5) Except when a term of life is required by law, whenever the

31 defendant was under eighteen years of age at the time he or she committed

1 the crime for which he or she was convicted, the court may, in its

2 discretion, instead of imposing the penalty provided for the crime, make

3 such disposition of the defendant as the court deems proper under the

4 Nebraska Juvenile Code.

5 (6)(a) When imposing an indeterminate sentence upon an offender

6 under this section, the court shall:

7 (i) Advise the offender on the record the time the offender will

8 serve on his or her minimum term before attaining parole eligibility

9 assuming that no good time for which the offender will be eligible is

10 lost; and

11 (ii) Advise the offender on the record the time the offender will

12 serve on his or her maximum term before attaining mandatory release

13 assuming that no good time for which the offender will be eligible is

14 lost.

15 (b) If any discrepancy exists between the statement of the minimum

16 limit of the sentence and the statement of parole eligibility or between

17 the statement of the maximum limit of the sentence and the statement of

18 mandatory release, the statements of the minimum limit and the maximum

19 limit shall control the calculation of the offender's term.

20 (c) If the court imposes more than one sentence upon an offender or

21 imposes a sentence upon an offender who is at that time serving another

22 sentence, the court shall state whether the sentences are to be

23 concurrent or consecutive.

24 Sec. 2.   Original section 29-2204, Revised Statutes Cumulative

25 Supplement, 2020, is repealed.