

AMENDMENTS TO LB253

(Amendments to Standing Committee amendments, AM2978)

Introduced by Wayne, 13.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. For purposes of sections 1 to 7 of this act:

4 (1) Case plan means a set of goals, conditions, and programs that
5 is:

6 (a) Based on a professional risk and needs assessment;

7 (b) Tailored to the specific risks and needs of the veteran; and

8 (c) Developed in collaboration with the veteran;

9 (2) Condition from military service means substance-use disorder,
10 military sexual trauma, traumatic brain injury, post-traumatic stress
11 disorder, or another mental health condition that is related to an
12 individual's military service in some manner and includes psychological
13 effects from a veteran's time in service as well as from the period of
14 family separation related to deployment;

15 (3) Intimate partner has the same meaning as in section 28-323;

16 (4) Serious bodily injury has the same meaning as in section 28-109;

17 (5) Sexual contact and sexual penetration have the same meanings as
18 in section 28-318;

19 (6) Veteran means an individual who:

20 (a) Is serving in the United States Armed Forces, including any
21 reserve component or the National Guard;

22 (b) Has served in such armed forces and was discharged or released
23 from such service under conditions other than dishonorable; or

24 (c) Has served in such armed forces and received a dishonorable
25 discharge and such individual has been diagnosed with substance-use
26 disorder, military sexual trauma, traumatic brain injury, post-traumatic

1 stress disorder, or another mental health condition; and

2 (7) Veteran justice program means the program described in sections
3 2 to 4 of this act through which a veteran may request a court to defer
4 entry of judgment of conviction for an offense pending completion of the
5 program, and upon successful completion, avoid entry of judgment of
6 conviction.

7 Sec. 2. (1) Except as provided in subsection (2) of this section, a
8 defendant is eligible to participate in a veteran justice program if the
9 defendant is a veteran and can show by clear and convincing evidence that
10 a condition from military service contributed to the offense.

11 (2) A veteran is not eligible for participation in a veteran justice
12 program if:

13 (a) The veteran is charged with:

14 (i) An offense that is not eligible for probation;

15 (ii) An offense that is listed in subdivision (1)(a)(i) of section
16 29-4003;

17 (iii) A violation of section 60-6,196 or 60-6,197, or a city or
18 village ordinance enacted in conformance with section 60-6,196 or
19 60-6,197, following two or more previous convictions for a violation of
20 any such section or ordinance; or

21 (iv) An offense that resulted in the death of another person; or

22 (b) Deferring the entry of judgment would be prohibited under
23 section 60-4,147.01.

24 (3) Any document or materials received by the court pursuant to
25 sections 2 to 4 of this act that contain military or medical records,
26 reports, or evaluations shall be privileged and shall not be disclosed
27 directly or indirectly to anyone other than a judge; attorneys to parties
28 in the case; probation officers to whom a defendant's file is duly
29 transferred; the probation administrator or his or her designee; alcohol
30 and drug counselors, mental health practitioners, psychiatrists, and
31 psychologists licensed or certified under the Uniform Credentialing Act

1 to conduct substance abuse evaluations and treatment; or others entitled
2 by law to receive such information, including personnel affiliated with
3 the veteran justice program.

4 (4) Upon a court determination of eligibility for participation in a
5 veteran justice program, the court shall provide notice to any victim or
6 alleged victim of the offense committed by the veteran of such
7 determination and the right of the veteran to request participation in a
8 veteran justice program.

9 Sec. 3. (1) The probation administrator shall create a veteran
10 justice program as provided in sections 2 to 4 of this act and subject to
11 the Supreme Court's rules. The program shall be available in every
12 district court and county court. A veteran justice program shall not
13 supersede, alter, or otherwise interfere with the establishment,
14 functioning, participation, or operation of a problem solving court
15 established pursuant to section 24-1302.

16 (2) A veteran justice program shall be operated by use of deferred
17 judgments as provided in this section.

18 (3) Upon a finding of guilt for which a judgment of conviction may
19 be rendered, a defendant that is eligible to participate in a veteran
20 justice program may request the court defer the entry of judgment of
21 conviction under this section. Upon such request, the court shall provide
22 notice to any victim of the offense of the request and provide an
23 opportunity for the victim to provide a statement for consideration by
24 the court. After giving the prosecutor and defendant the opportunity to
25 be heard, the court may defer the entry of a judgment of conviction and
26 the imposition of a sentence and place the defendant on probation, upon
27 conditions as the court may require under section 29-2262 and section 4
28 of this act. If the court defers the entry of judgment, the court shall
29 provide notice to victims of the offense.

30 (4)(a) Whenever a court considers a request to defer judgment under
31 this section, the court shall consider the following:

1 (i) The factors set forth in subsections (2) and (3) of section
2 29-2260 and section 2 of this act;

3 (ii) The supervision, treatment, and other programming options
4 available in the community; and

5 (iii) Any other information the court deems relevant.

6 (b) Except as provided in subdivision (4)(c) of this section, there
7 shall be a presumption that a veteran eligible under section 2 of this
8 act shall be allowed to participate in a veteran justice program. The
9 presumption shall only be overcome by a judicial finding, based on an
10 individualized assessment of the veteran and consideration of the factors
11 set forth in subdivisions (4)(a)(i), (ii), and (iii) of this section,
12 that entry of judgment of conviction should not be deferred. The fact
13 that a veteran has previously absconded from or violated pretrial
14 release, probation, parole, supervised release, post-release supervision,
15 or another form of court-ordered supervision, including a violation
16 arising from commission of a new offense or an offense committed while
17 previously participating in a veteran justice program, is not, standing
18 alone, a sufficient basis to overcome the presumption.

19 (c) The presumption provided for in subdivision (4)(b) of this
20 section does not apply to a veteran charged with:

21 (i) A violation of section 60-6,196 or 60-6,197, or a city or
22 village ordinance enacted in conformance with section 60-6,196 or
23 60-6,197, following a previous conviction for a violation of any such
24 section or ordinance; or

25 (ii) An offense that resulted in serious bodily injury to another
26 person.

27 (5) Except as otherwise provided in this section and sections
28 29-2293 and 29-2294, the supervision of a defendant on probation pursuant
29 to a deferred judgment shall be governed by the Nebraska Probation
30 Administration Act and sections 29-2270 to 29-2273.

31 (6) After a hearing providing the prosecutor and defendant an

1 opportunity to be heard and upon a finding that a defendant has violated
2 a condition of his or her probation, the court may enter any order
3 authorized by section 29-2268 or pronounce judgment and impose such new
4 sentence as might have been originally imposed for the offense for which
5 the defendant was convicted.

6 (7) Upon satisfactory completion of the conditions of probation and
7 the payment or waiver of all administrative and programming fees assessed
8 under section 29-2293, the defendant or prosecutor may file a motion to
9 withdraw any plea entered by the defendant and to dismiss the action
10 without entry of judgment. The court shall not grant such motion until a
11 victim of the offense has received notice and the opportunity to be
12 heard, as required by subsection (4) of section 4 of this act.

13 (8) Sections 2 to 4 of this act apply to offenses committed on or
14 after July 1, 2025. For purposes of this subsection, an offense shall be
15 deemed to have been committed prior to July 1, 2025, if any element of
16 the offense occurred prior to such date.

17 Sec. 4. (1) A veteran justice program shall include the following
18 elements:

19 (a) Evidence-based treatment tailored to address the specific
20 challenges facing veterans, such as post-traumatic stress disorder,
21 traumatic brain injury, military sexual trauma, or another condition from
22 military service; and

23 (b) A case plan that meets the requirements set forth in this
24 section. The case plan shall be:

25 (i) Developed by the court with probation and appropriate experts;

26 (ii) Based on a professional assessment of the veteran's specific
27 risks and needs. The assessment shall include an assessment of risk of
28 intimate partner violence, regardless of the nature of the offense;

29 (iii) Created in conjunction with input from the veteran;

30 (iv) Designed to contain clear and individualized supervision and
31 treatment goals, including guidelines that detail the program rules,

1 consequences for violating the rules, and incentives for compliance; and
2 (v) Communicated to the veteran at the start of the program.

3 (2) If the offense includes sexual contact or sexual penetration,
4 the victim of the offense is an intimate partner, or the assessment of
5 the veteran under subdivision (1)(b)(ii) of this section identifies an
6 increased risk of intimate partner violence, the case plan shall include
7 specifically tailored treatment or programming to address sexual assaults
8 and domestic violence. For any veteran required to participate in such
9 treatment or programming, the court shall include conditions of
10 supervision to protect victim safety that include, but are not limited
11 to, requiring the surrender of firearms while participating in the
12 veteran justice program.

13 (3) In the implementation of a veteran justice program, the district
14 court or county court shall retain discretion in:

15 (a) Determining eligibility for participation, subject to sections 2
16 and 3 of this act;

17 (b) Establishing the conditions of the program, including the
18 creation of the case plan;

19 (c) Setting the terms of successful program completion and release
20 upon that successful completion; and

21 (d) Determining if the veteran has successfully completed the
22 program at a final hearing.

23 (4) A victim of the offense shall be entitled to notice of the
24 veteran's participation in the veteran justice program. Upon request of
25 the victim, a victim shall be entitled to updates on the veteran's status
26 and participation in the program. The victim shall be entitled to advance
27 reasonable notice of a final hearing to determine successful program
28 completion and the opportunity to be heard or submit a written statement
29 at such hearing.

30 (5) Upon successful completion of a veteran justice program, the
31 veteran shall be entitled to the relief provided for a deferred judgment

1 under section 3 of this act.

2 Sec. 5. (1) When arraigning any defendant, the court shall offer
3 the defendant the ability to communicate his or her veteran status
4 through counsel or by other means. The court shall not require that the
5 defendant self-identify as a veteran in open court.

6 (2) When sentencing a defendant who is a veteran for any offense,
7 the court shall recognize the defendant's veteran status as a mitigating
8 factor in determining the sentence.

9 (3) The court shall consider a defendant's veteran status as a
10 mitigating factor in addition to any other mitigating factors provided by
11 law or considered by the court. The fact that a defendant may have
12 suffered trauma unrelated to military service or veteran status shall not
13 be used to deny the impact of any military trauma or condition of
14 military service.

15 (4) The court may take into consideration individual merit earned
16 during military service, overseas deployment, exposure to danger, and
17 service-connected disability ratings when considering sentencing
18 mitigation. When considering multiple factors, a court should give
19 additional credit for each factor.

20 (5) If a defendant is a veteran, is eligible for probation, and
21 demonstrates by clear and convincing evidence a connection between the
22 offense and a condition from military service, a sentence of imprisonment
23 is not appropriate unless the court finds, based on the criteria in
24 subsections (2) and (3) of section 29-2260, that imprisonment is
25 necessary for the protection of the public.

26 (6) The court shall not:

27 (a) Use veteran status as an aggravating factor; or

28 (b) Require a connection between the offense and a condition from
29 military service in order to consider veteran status as a mitigating
30 factor.

31 (7) This section applies regardless of whether a veteran is eligible

1 for participation in a veteran justice program.

2 Sec. 6. (1) Law enforcement, court, and correctional personnel
3 shall verify the veteran status of any individual being processed through
4 the criminal justice system in order to identify individuals who may be
5 eligible for participation in a veteran justice program or for sentencing
6 mitigation as provided in section 5 of this act.

7 (2) Law enforcement, court, and correctional personnel shall receive
8 training designed to increase their understanding of cases involving
9 veterans, including veterans' exposure to violence and trauma. Such
10 training shall include attention on issues that disproportionately impact
11 female veterans, such as military sexual trauma.

12 Sec. 7. (1) The State Court Administrator shall compile information
13 on the number of veterans receiving, successfully completing, declining,
14 and denied participation in a veteran justice program and the sentencing
15 mitigation described in section 5 of this act.

16 (2) The State Court Administrator shall track outcomes among
17 veterans who participate in a veteran justice program, including
18 completion status, recidivism, and housing and employment status.

19 (3) Data collected under this section shall be disaggregated by
20 race, ethnicity, gender, age, military discharge characterization, and
21 the offense involved.

22 (4) On or before July 1, 2026, and on or before each July 1
23 thereafter, the State Court Administrator shall electronically submit a
24 report to the Judiciary Committee of the Legislature. The report shall
25 contain de-identified data collected pursuant to this section and shall
26 analyze the outcomes, successes, and areas for improvement of the veteran
27 justice programs and the sentencing mitigation described in section 5 of
28 this act.

29 Sec. 8. Section 28-1206, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 28-1206 (1) A person commits the offense of possession of a deadly

1 weapon by a prohibited person if he or she:

2 (a) Possesses a firearm, a knife, or brass or iron knuckles and he
3 or she:

4 (i) Has previously been convicted of a felony;

5 (ii) Is a fugitive from justice;

6 (iii) Is the subject of a current and validly issued domestic
7 violence protection order, harassment protection order, or sexual assault
8 protection order and is knowingly violating such order; or

9 (iv) Is on probation pursuant to a deferred judgment for a felony
10 under section 29-2292 or section 3 of this act; or

11 (b) Possesses a firearm or brass or iron knuckles and he or she has
12 been convicted within the past seven years of a misdemeanor crime of
13 domestic violence.

14 (2) The felony conviction may have been had in any court in the
15 United States, the several states, territories, or possessions, or the
16 District of Columbia.

17 (3)(a) Possession of a deadly weapon which is not a firearm by a
18 prohibited person is a Class III felony.

19 (b) Possession of a deadly weapon which is a firearm by a prohibited
20 person is a Class ID felony for a first offense and a Class IB felony for
21 a second or subsequent offense.

22 (4) Subdivision (1)(a)(i) of this section shall not prohibit:

23 (a) Possession of archery equipment for lawful purposes; or

24 (b) If in possession of a recreational license, possession of a
25 knife for purposes of butchering, dressing, or otherwise processing or
26 harvesting game, fish, or furs.

27 (5)(a) For purposes of this section, misdemeanor crime of domestic
28 violence means a crime that:

29 (i) Is classified as a misdemeanor under the laws of the United
30 States or the District of Columbia or the laws of any state, territory,
31 possession, or tribe;

1 (ii) Has, as an element, the use or attempted use of physical force
2 or the threatened use of a deadly weapon; and

3 (iii) Is committed by another against his or her spouse, his or her
4 former spouse, a person with whom he or she has a child in common whether
5 or not they have been married or lived together at any time, or a person
6 with whom he or she is or was involved in a dating relationship as
7 defined in section 28-323.

8 (b) For purposes of this section, misdemeanor crime of domestic
9 violence also includes the following offenses, if committed by a person
10 against his or her spouse, his or her former spouse, a person with whom
11 he or she is or was involved in a dating relationship as defined in
12 section 28-323, or a person with whom he or she has a child in common
13 whether or not they have been married or lived together at any time:

14 (i) Assault in the third degree under section 28-310;

15 (ii) Stalking under subsection (1) of section 28-311.04;

16 (iii) False imprisonment in the second degree under section 28-315;

17 (iv) First offense domestic assault in the third degree under
18 subsection (1) of section 28-323; or

19 (v) Any attempt or conspiracy to commit any of such offenses.

20 (c) A person shall not be considered to have been convicted of a
21 misdemeanor crime of domestic violence unless:

22 (i) The person was represented by counsel in the case or knowingly
23 and intelligently waived the right to counsel in the case; and

24 (ii) In the case of a prosecution for a misdemeanor crime of
25 domestic violence for which a person was entitled to a jury trial in the
26 jurisdiction in which the case was tried, either:

27 (A) The case was tried to a jury; or

28 (B) The person knowingly and intelligently waived the right to have
29 the case tried to a jury.

30 (6) In addition, for purposes of this section:

31 (a) Archery equipment means:

1 (i) A longbow, recurve bow, compound bow, or nonelectric crossbow
2 that is drawn or cocked with human power and released by human power; and

3 (ii) Target or hunting arrows, including arrows with broad, fixed,
4 or removable heads or that contain multiple sharp cutting edges;

5 (b) Domestic violence protection order means a protection order
6 issued pursuant to section 42-924;

7 (c) Harassment protection order means a protection order issued
8 pursuant to section 28-311.09 or that meets or exceeds the criteria set
9 forth in section 28-311.10 regarding protection orders issued by a court
10 in any other state or a territory, possession, or tribe;

11 (d) Recreational license means a state-issued license, certificate,
12 registration, permit, tag, sticker, or other similar document or
13 identifier evidencing permission to hunt, fish, or trap for furs in the
14 State of Nebraska; and

15 (e) Sexual assault protection order means a protection order issued
16 pursuant to section 28-311.11 or that meets or exceeds the criteria set
17 forth in section 28-311.12 regarding protection orders issued by a court
18 in any other state or a territory, possession, or tribe.

19 Sec. 9. Section 29-2202, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 29-2202 Except as provided in sections 29-2292 to 29-2294 or
22 sections 1 to 4 of this act, if the defendant has nothing to say, or if
23 he or she shows no good and sufficient cause why judgment should not be
24 pronounced, the court shall proceed to pronounce judgment as provided by
25 law. The court, in its discretion, may for any cause deemed by it good
26 and sufficient, suspend execution of sentence for a period not to exceed
27 ninety days from the date judgment is pronounced. If the defendant is not
28 at liberty under bail, he or she may be admitted to bail during the
29 period of suspension of sentence as provided in section 29-901.

30 Sec. 10. Section 29-2246, Revised Statutes Cumulative Supplement,
31 2022, is amended to read:

1 29-2246 For purposes of the Nebraska Probation Administration Act
2 and sections 43-2,123.01 and 83-1,102 to 83-1,104, unless the context
3 otherwise requires:

4 (1) Association means the Nebraska District Court Judges
5 Association;

6 (2) Court means a district court, county court, or juvenile court as
7 defined in section 43-245;

8 (3) Office means the Office of Probation Administration;

9 (4) Probation means a sentence under which a person found guilty of
10 a crime upon verdict or plea or adjudicated delinquent or in need of
11 special supervision is released by a court subject to conditions imposed
12 by the court and subject to supervision. Probation includes post-release
13 supervision and supervision ordered by a court pursuant to a deferred
14 judgment under section 29-2292 or section 3 of this act;

15 (5) Probationer means a person sentenced to probation or post-
16 release supervision;

17 (6) Probation officer means an employee of the system who supervises
18 probationers and conducts presentence, predisposition, or other
19 investigations as may be required by law or directed by a court in which
20 he or she is serving or performs such other duties as authorized pursuant
21 to section 29-2258, except unpaid volunteers from the community;

22 (7) Juvenile probation officer means any probation officer who
23 supervises probationers of a separate juvenile court;

24 (8) Juvenile intake probation officer means an employee of the
25 system who is called upon by a law enforcement officer in accordance with
26 section 43-250 to make a decision regarding the furtherance of a
27 juvenile's detention;

28 (9) Chief probation officer means the probation officer in charge of
29 a probation district;

30 (10) System means the Nebraska Probation System;

31 (11) Administrator means the probation administrator;

1 (12) Non-probation-based program or service means a program or
2 service established within the district, county, or juvenile courts and
3 provided to individuals not sentenced to probation who have been charged
4 with or convicted of a crime for the purpose of diverting the individual
5 from incarceration or to provide treatment for issues related to the
6 individual's criminogenic needs. Non-probation-based programs or services
7 include, but are not limited to, problem solving courts established
8 pursuant to section 24-1302 and the treatment of problems relating to
9 substance abuse, mental health, sex offenses, or domestic violence;

10 (13) Post-release supervision means the portion of a split sentence
11 following a period of incarceration under which a person found guilty of
12 a crime upon verdict or plea is released by a court subject to conditions
13 imposed by the court and subject to supervision by the office; and

14 (14) Rules and regulations means policies and procedures written by
15 the office and approved by the Supreme Court.

16 Sec. 11. Section 29-2293, Revised Statutes Cumulative Supplement,
17 2022, is amended to read:

18 29-2293 Upon entry of a deferred judgment pursuant to section
19 29-2292 or section 3 of this act, the court shall order the defendant to
20 pay all administrative and programming fees authorized under section
21 29-2262.06, unless waived under such section. The defendant shall pay any
22 such fees to the clerk of the court. The clerk of the court shall remit
23 all fees so collected to the State Treasurer for credit to the Probation
24 Program Cash Fund.

25 Sec. 12. Section 29-2294, Revised Statutes Cumulative Supplement,
26 2022, is amended to read:

27 29-2294 An entry of deferred judgment pursuant to section 29-2292 or
28 section 3 of this act is a final order as defined in section 25-1902.

29 Sec. 13. This act becomes operative on July 1, 2025.

30 Sec. 14. Original sections 28-1206, 29-2202, 29-2246, 29-2293, and
31 29-2294, Revised Statutes Cumulative Supplement, 2022, are repealed.