

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 335

Introduced by Flood, 19.

Read first time January 13, 2021

Committee:

1 A BILL FOR AN ACT relating to criminal procedure; to require announcement
2 of the average cost of incarceration of a defendant at sentencing;
3 to define terms; and to provide duties for courts, the Department of
4 Correctional Services, the Nebraska Commission on Law Enforcement
5 and Criminal Justice, and the State Court Administrator; and to
6 provide for rules and regulations.

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

1 Section 1. (1) Beginning September 15, 2022, when sentencing a
2 defendant to any term of imprisonment in an institution of the
3 department, the court shall announce in open court and on the record the
4 total estimated cost to the taxpayers of such term of imprisonment. The
5 announcement shall be in substantially the following form: The cost to
6 the taxpayers of this state for the incarceration of [name of defendant]
7 is estimated to be [total estimated cost].

8 (2) On or before August 1, 2022, and on or before each August 1
9 thereafter the department shall calculate the average cost of
10 imprisonment for inmates in department institutions for the preceding
11 year and report such amount or amounts to the commission in a form and
12 manner prescribed by the commission.

13 (3) On or before September 1, 2022, and on or before each September
14 1 thereafter, the commission shall report to the administrator the data
15 received under subsection (2) of this section regarding the average cost
16 for defendants at department institutions.

17 (4) On or before September 15, 2022, and on or before each September
18 15 thereafter, the administrator shall disseminate the data provided by
19 the commission to all county and district courts.

20 (5) The commission may adopt and promulgate rules and regulations to
21 carry out this section.

22 (6) A failure to comply with this section shall not constitute
23 reversible error or grounds for appeal or resentencing.

24 (7) For purposes of this section:

25 (a) Administrator means the State Court Administrator;

26 (b) Average cost means the average cost of imprisonment for a
27 prisoner in an institution of the department, broken down into a daily or
28 an annual amount as appropriate, updated annually as provided in
29 subsection (2) of this section, and calculated in a manner prescribed by
30 the commission. The commission may require separate calculations of
31 average cost based on level of restriction or other factors as the

1 commission deems appropriate;

2 (c) Commission means the Nebraska Commission on Law Enforcement and
3 Criminal Justice;

4 (d) Department means the Department of Correctional Services;

5 (e) Life expectancy means the difference between the defendant's age
6 at the time of sentencing and the average life expectancy for people of
7 the defendant's gender, as determined by the commission. The commission
8 shall utilize a gender-based mortality table in making this determination
9 and shall consult an updated mortality table from time to time;

10 (f) Minimum term of imprisonment means the minimum term of
11 imprisonment that a defendant will actually serve, taking into account
12 the earliest possible date a defendant eligible for parole can be
13 released on parole;

14 (g) Maximum term of imprisonment means the maximum term that a
15 defendant will actually serve, taking into account the latest possible
16 date a defendant will be mandatorily discharged from imprisonment; and

17 (h) Total estimated cost means:

18 (i) For a sentence in which there is no difference between the
19 minimum and maximum term of imprisonment, a dollar amount equal to the
20 term of imprisonment multiplied by the average cost;

21 (ii) For a sentence with different minimum and maximum terms of
22 imprisonment, a range of dollar amounts with:

23 (A) A minimum dollar amount equal to the minimum term of
24 imprisonment multiplied by the average cost; and

25 (B) A maximum dollar amount equal to the maximum term of
26 imprisonment multiplied by the average cost;

27 (iii) For a life sentence, a dollar amount equal to the defendant's
28 life expectancy multiplied by the average cost; and

29 (iv) For a sentence of death, a dollar amount determined by the
30 department based on the average cost of incarceration of defendants
31 sentenced to death in the preceding twenty years.