

ONE HUNDRED FIFTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 221

Introduced by Hansen, 26.

PURPOSE: Many states, and the federal government, have some version of deferred judgement probation or a type of sentencing scheme that allows offenders to avoid a criminal conviction by completing a court-ordered and court-supervised term of probation. Deferred judgement probation provides that offenders, particularly first-time offenders, are held accountable for their wrongful acts. At the same time, these offenders do not have a criminal conviction, and all of the negative collateral consequences that accompany such conviction, on their records.

In the last biennium, the Legislature made significant revisions to the criminal code and criminal procedure. One of the goals of the reform effort was to address the growing prison population. Consideration of a form of deferred judgement probation for Nebraska is consistent with this recent effort.

The purpose of this interim study is to examine the possibility of legislative reforms to Nebraska's sentencing laws to accommodate an option of deferred judgment probation. This interim study shall include, but not be limited to:

- (1) A review of the statutory sentencing process presently in statute;
- (2) A review of the types of crimes for which deferred judgment probation would be applicable;
- (3) A review of the process by which deferred judgment probation may be sought, for example, by election or choice of the defendant, by election or cooperation with the prosecuting attorney, or by authorization of a judge or panel of judges; and
- (4) A review and examination of any potential consequences of implementing statutory changes to create a sentencing option of deferred judgement

probation, either with respect to the penalty provisions in statute, or with respect to the procedural statutes relating to the filing of charges to ensure that courts are able to defer judgment and place eligible offenders on probation.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIFTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.