

AMENDMENTS TO LB530

Introduced by Judiciary.

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

3 **Sec. 10.** Section 29-3001, Revised Statutes Cumulative Supplement,
4 2024, is amended to read:

5 29-3001 (1) A prisoner in custody under sentence and claiming a
6 right to be released on the ground that there was such a denial or
7 infringement of the rights of the prisoner as to render the judgment void
8 or voidable under the Constitution of this state or the Constitution of
9 the United States, may file a verified motion, in the court which imposed
10 such sentence, stating the grounds relied upon and asking the court to
11 vacate or set aside the sentence.

12 (2) Unless the motion and the files and records of the case show to
13 the satisfaction of the court that the prisoner is entitled to no relief,
14 the court shall cause notice thereof to be served on the county attorney,
15 grant a prompt hearing thereon, and determine the issues and make
16 findings of fact and conclusions of law with respect thereto. If the
17 court finds that there was such a denial or infringement of the rights of
18 the prisoner as to render the judgment void or voidable under the
19 Constitution of this state or the Constitution of the United States, the
20 court shall vacate and set aside the judgment and shall discharge the
21 prisoner or resentence the prisoner or grant a new trial as may appear
22 appropriate. Proceedings under the provisions of sections 29-3001 to
23 29-3004 shall be civil in nature. Costs shall be taxed as in habeas
24 corpus cases.

25 (3) A court may entertain and determine such motion without
26 requiring the production of the prisoner, whether or not a hearing is
27 held. Testimony of the prisoner or other witnesses may be offered by

1 deposition. The court need not entertain a second motion or successive
2 motions for similar relief on behalf of the same prisoner.

3 (4) A one-year period of limitation shall apply to the filing of a
4 verified motion for postconviction relief. The one-year limitation period
5 shall run from the later of:

6 (a) The date the judgment of conviction became final by the
7 conclusion of a direct appeal or the expiration of the time for filing a
8 direct appeal;

9 (b) The date on which the factual predicate of the constitutional
10 claim or claims alleged could have been discovered through the exercise
11 of due diligence;

12 (c) The date on which an impediment created by state action, in
13 violation of the Constitution of the United States or the Constitution of
14 Nebraska or any law of this state, is removed, if the prisoner was
15 prevented from filing a verified motion by such state action;

16 (d) The date on which a constitutional claim asserted was initially
17 recognized by the Supreme Court of the United States or the Nebraska
18 Supreme Court, if the newly recognized right has been made applicable
19 retroactively to cases on postconviction collateral review; ~~or~~

20 (e) The date on which the Supreme Court of the United States denies
21 a writ of certiorari or affirms a conviction appealed from the Nebraska
22 Supreme Court. This subdivision only applies if, within thirty days after
23 petitioning the Supreme Court of the United States for a writ of
24 certiorari, the prisoner files a notice in the district court of
25 conviction stating that the prisoner has filed such petition; or -

26 (f) The date on which the prisoner reaches twenty-one years of age
27 for an offense committed when the prisoner was younger than eighteen
28 years of age.

29 **Sec. 33.** Original sections 28-306, 28-394, 29-2262.06, 29-2267,
30 60-682.01, 60-6,186, 60-6,213, and 60-6,378, Reissue Revised Statutes of
31 Nebraska, and sections 28-101, 28-416, 28-1204.05, 29-2263, 29-3001,

- 1 43-245, 43-250, 43-251.01, 43-253, 43-260.01, 43-286.01, 43-2,108,
- 2 43-2,108.05, 43-2,129, 60-601, and 60-605, Revised Statutes Cumulative
- 3 Supplement, 2024, are repealed.