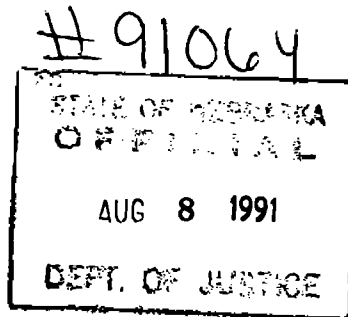


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DATE: July 30, 1991

SUBJECT: Board of Pardons, LB 327

REQUESTED BY: Senator LaVon Crosby

WRITTEN BY: Don Stenberg, Attorney General
J. Kirk Brown, Assistant Attorney General

I.

You have asked whether, if LB 327 were enacted, a person receiving a sentence of "life imprisonment without possibility of parole" would be subject to having their sentence reduced to a term of years, a fine, or entirely eliminated by a majority vote of the State of Nebraska Board of Pardons. The answer is: Yes.

Under Article IV, Section 13 of the Constitution of the State of Nebraska the Board of Pardons has the authority to reduce or excuse any criminal penalty imposed upon an individual by the courts of this state. That power would be clearly applicable to a sentence of life imprisonment without possibility of parole.

II.

You next inquire whether some action of the Legislature, e.g. statute or resolution, could eliminate or restrict the currently existing power of the State of Nebraska Board of Pardons to reduce a criminal sentence of life imprisonment without possibility of parole. The answer is: No.

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Senator LaVon Crosby
July 30, 1991
Page -2-

It would require an amendment of this state's constitution to limit the current powers of the Board of Pardons. The legislative branch of government may not unilaterally alter or amend the provisions of the Constitution of the State of Nebraska. Article XVI, Constitution of the State of Nebraska.

Respectfully submitted,

DON STENBERG
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APPROVED BY:


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45-29-2