

Nebraska Criminal Justice Review

Vol. 18 No. 2
June, 2017

A quarterly publication of Holy Family Church, Omaha, Nebraska, since 2000.

The Execution of LB75

By Shakur Abdullah,
for Justus15vote

At the end of the day with results yielding the same outcome, there's a scintilla of difference between a lynching and an execution. That small difference is captured in the semantics of the act. A lynching being unauthorized while an execution is framed by its legalities, process, procedures etc...the latter being made palatable to the public under guise of being "legal."

LB75 (the elimination of the 2-year waiting period to vote for returning citizens who have discharged their sentences) was introduced by District 13, freshman State Senator Justin Wayne. This was Senator Wayne's priority bill for the session. Amongst all the other issues he could have prioritized, he chose to confront the issue of voting rights for returning citizens. LB75 passed all three rounds voting (general file (32 Yes/8 No), select file (28 Yes/8 No) and final reading (27 Yes/13 No)). LB75 was sent to the governor to sign on April 24, 2017 - he vetoed LB75 on April 27, 2017.

That set the stage for an override vote of the governor's veto on Monday, May 8, 2017. Senator Wayne at one point during his opening argument for the override vote of Governor Rickett's veto for LB75 said he was "hoping for a miracle Monday." Senator Wayne's hope for a miracle Monday was rooted in efforts the Governor had unleashed to further erode support for LB75. I won't say the opponents worked harder than the proponents of LB75. However, I must admit and accept that the opponents were more effective in reaching their goal. All right, a lesson learned.

LB75 needed 30 votes to become law. In a final vote of 23 Yes and 23 No, LB75 was effectively executed on the floor of the Legislature. Executed by some senators who lost the conscience, the will, or courage to vote as they had previously voted in support of LB75. It was a highly political execution, spurred on, in part, by the Governor's attempt to sway some senators not to support LB75.

An additional argument from the opponents of LB75 was that it would be unconstitutional if passed (an alleged violation of the distribution of power, which prevents one branch of government from exercising powers granted to another (NE Const. Art. 2, Sec. 1). The argument is that LB75 would have exercised pardon board authority by allowing returning citizens the right to vote

upon completion of their sentence without having that right restored via the Board of Pardons. That's exactly what happens now with the current law.

Voting rights are automatically restored after the 2-year waiting period. Of course, neither the Governor nor the attorney general claim the current law is unconstitutional based on the reasoning about LB75. It's the same thing, LB75 would have simply accelerated the ability to vote. In fact, the Governor has essentially endorsed and approved of the 2-year waiting period as necessary to allow returning citizens to prove themselves. This is inconsistent with discharging a sentence.

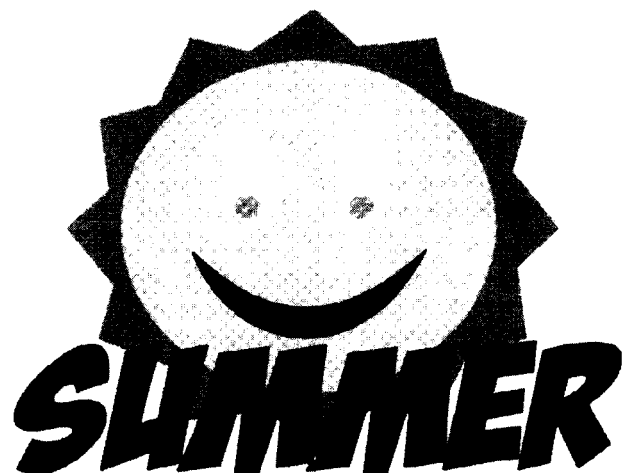
What the Governor and others describe as a necessary period of time for returning citizens to prove they'll be law abiding and perhaps civically engaged already happens. It's supervised release, probation and parole. Remember LB 605 a few years ago? That was the intent behind it. That's the nature or purpose of those
(Continued on page 2)

Keep prison reform on the front burner

By John Krejci

Even though taxes and beer sales have filled the headlines, it is heartening to know that prison reform is still on the minds of Nebraskans and on the agenda of the Legislature. Despite a modest 3.5% reduction in prison population, overcrowding continues to be at 150% of capacity. The recent riots and five murders in Nebraska's prisons witness to the fact that inmates are frustrated and impatient. The focus of reform has been on brick and

(Continued on page 2)



Execution of LB 75 (Continued from page 1)

forms of release – the sentence isn't over and you need to demonstrate that you can and will abide by the stipulation of your release. None of these conditions exist when you are discharged. No stipulations can legally be imposed on you. So, the two-year waiting period is a backdoor way of voter suppression for two years after a returning citizen has completed his or her sentence.

What's unconstitutional is the 17,000+ Nebraskans affected by the current law for the 2-year waiting period (7,800+ of those who have discharged) who are paying both state and federal taxes without representation or participation in the process they help to fund. Taxation without representation is unconstitutional. What's also unconstitutional is the right to vote guarantee of the 15th Amendment of the U.S. Constitution (ratified in 1870) not being realized in 2017.

The Ballot vs. The Bullet

Malcolm X gave an iconic lecture entitled, "The ballot or the bullet." It was a lecture to rally the disenfranchised to their option to participate in the political process. The clear message was either the disenfranchised would be allowed to cast ballots or they should cast bullets. I was reminded of this lecture not by the failure of LB75 but by the victory of LB478 this legislative session.

LB478 was sponsored by District #42 State Senator, Mike Groene. It provides for the possession of archery weapons and knives for recreational purposes. LB478 garnered very little news coverage. Senator Groene sponsored the bill for constituents in his district who had felony convictions and were prohibited from possessing weapons, even for recreational (hunting) purposes. LB478 like LB75 passed all 3 rounds of voting. However, it was signed into law by the Governor on May 9, 2017.

LB478 was passed by the Legislature (46 voting yes) and signed into law with an e (emergency) clause. An emergency clause provides, "***Since an emergency exists, this act takes effect when passed and approved according to law.***" In other words, when signed by the Governor, said law becomes operative. In most instances, laws become operative 90 days after being signed by the Governor. I'm unaware of any articulated facts and or circumstances that constituted an emergency to necessitate LB478 becoming operative so quickly.

My greatest takeaway from the 105th Nebraska Legislature is the importance and power of voting. Returning citizens are feared more with a vote in our hands (LB75) than a crossbow and knife (LB478) in our hands. Look at that contrast. It speaks volumes. Regarding LB478, there were no claims or calls for a waiting period nor any claims of its constitutionality. LB478 is a good thing but for the same logic and reasons LB75 should have been just as good of a thing for senators to override its veto.

Returning citizens should understand our votes are important enough to be delayed and denied by those who fear a possible vote against them. The effort to eliminate the arbitrary 2-year waiting to vote failed this time. Our efforts going forward should be renewed, sustained and galvanized based on what occurred during this effort. The curtain has been snatched open and the truth revealed (like the scene in the Wizard of Oz.)

What's Next?

Personally, my voting clock is winding down. Early next year my voting rights will be restored. I'll definitely be exercising them. The spirit and motivation behind Justus15vote wasn't just to get me the right to vote but also the other thousands upon thousands of us whose voting voices have been muzzled and silenced.

Justus15vote will adjust its goals and efforts in the following manner:

- The elimination of the 2-year waiting period to vote in Nebraska after discharge. Form coalitions with other national efforts to eliminate voting barriers targeted at returning citizens.
- Raise awareness of the current law in Nebraska.
- Convince the sleeping giant (those affected by the current law), pre-and post release, of the importance of voting.
- Encourage the families of those affected by the current law to become more proactive and engaged with the voting rights of the returning citizens.

Now that LB75 has failed, I'm curious to see who shows up at the next Justus15vote strategy meeting. Again, thanks to everyone who contributed assistance (great and small) to LB75. Your assistance will be needed again next year. J15!

Prison reform (Continued from page 1)

mortar and more prison staff and not programming. Despite modest expansion of programs, 410 are on waiting lists for anger management and another 480 for substance abuse programs. Perhaps the ACLU's threatened lawsuit will accelerate the needed changes!

It is easy for citizens to forget about inmates. But this neglect comes at a high price in tax dollars and community safety. Over 90% of inmates will be released—about 2000 per year. Their success in reentering the community depends on programming in prison and support after release. In addition to the community correction centers—minimum security facilities for inmates to transition back to the community—Nebraska should set up halfway houses with support programs for jobs, housing, and reintegration with families. Post-release supervision has increased but about 30% of those released will return to prison. Mental health issues are not being adequately addressed. This leads to substance abuse and other criminal behavior.

The issues are indeed daunting, but to neglect them will only continue violence in our prisons, spend more tax dollars, and decrease safety in communities. We need to keep prison reform on the front burner—and perhaps turn up the heat!