STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

DOUGLAS J. PETERSON
ATTORNEY GENERAL

15-006

NO. STATE OF NEBRASKA
OFFICIAL
MAY 05 2015
DEPT. OF JUSTICE

SUBJECT: Parole eligibility for sentence to life in prison

REQUESTED BY: Senator Colby Coash
Nebraska Legislature

WRITTEN BY: Douglas J. Peterson, Attorney General
James D. Smith, Solicitor General

You have asked whether, *apart from a Pardons Board commutation*, does the absence of the words "without the possibility of parole" open the possibility of parole for an inmate sentenced to "life in prison?"

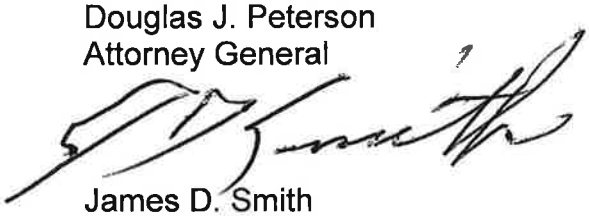
The answer to your question is, "No."

Under current Nebraska law, a sentence of life imprisonment is effectively life imprisonment without parole. See, *State v. Castaneda*, 287 Neb. 289, 313 (2014). Nebraska's current parole system does not apply unless and until executive clemency is granted in the form of sentence commutation by the Board of Pardons. *State v. Castaneda, supra.*

We caution that our opinion answers only the limited question that you asked. We emphasize that our opinion is limited only to amending the penalty for a person who commits the crime of first degree murder in the future from death to a penalty of life imprisonment under Nebraska's current statutes. Broader or additional legislative

amendments are beyond the scope of this opinion. We have not attempted to analyze a myriad of potential legislative amendments.

Douglas J. Peterson
Attorney General



James D. Smith
Solicitor General

Approved by:

Attorney General

pc: Patrick J. O'Donnell
Clerk of the Nebraska Legislature

07-944-29