

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 307

Introduced by Kolowski, 31.

Read first time January 15, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-311.02 and 28-311.03, Reissue Revised Statutes of Nebraska, and
- 3 section 28-323, Revised Statutes Cumulative Supplement, 2014; to
- 4 change provisions relating to stalking and domestic assault; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-311.02, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 28-311.02 ~~(1) It is the intent of the Legislature to enact laws~~
4 ~~dealing with stalking offenses which will protect victims from being~~
5 ~~willfully harassed, intentionally terrified, threatened, or intimidated~~
6 ~~by individuals who intentionally follow, detain, stalk, or harass them or~~
7 ~~impose any restraint on their personal liberty and which will not~~
8 ~~prohibit constitutionally protected activities.~~

9 (1 2) For purposes of sections 28-311.02 to 28-311.05, 28-311.09,
10 and 28-311.10:

11 (a) Harass means to engage in a knowing and willful course of
12 conduct directed at a specific person which seriously terrifies,
13 threatens, or intimidates the person ~~and which serves no legitimate~~
14 ~~purpose;~~

15 (b) Course of conduct means a pattern of conduct composed of a
16 series of acts over a period of time, however short, evidencing a
17 continuity of purpose, including a series of acts of following,
18 detaining, restraining the personal liberty of, ~~or stalking the person or~~
19 telephoning, contacting, or otherwise communicating with the person,
20 including communicating by electronic means;

21 (c) Family or household member means a spouse or former spouse of
22 the victim, children of the victim, a person presently residing with the
23 victim or who has resided with the victim in the past, a person who had a
24 child in common with the victim, other persons related to the victim by
25 consanguinity or affinity, or any person presently involved in a dating
26 relationship with the victim or who has been involved in a dating
27 relationship with the victim. For purposes of this subdivision, dating
28 relationship means frequent, intimate associations primarily
29 characterized by the expectation of affectional or sexual involvement but
30 does not include a casual relationship or an ordinary association between
31 persons in a business or social context; and

1 (d) Substantially conforming criminal violation means a guilty plea,
2 a nolo contendere plea, or a conviction for a violation of any federal
3 law or law of another state or any county, city, or village ordinance of
4 this state or another state substantially similar to section 28-311.03.
5 Substantially conforming is a question of law to be determined by the
6 court.

7 Sec. 2. Section 28-311.03, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 28-311.03 (1) A person commits the offense of stalking if he or she
10 intentionally, knowingly, or recklessly engages in a course of conduct
11 directly, indirectly, or through third parties directed at a specific
12 person or a family or household member of such person which terrifies,
13 threatens, intimidates, follows, detains, disturbs, or imposes any
14 restraint on such person.

15 (2) Venue for the prosecution and trial of a violation of this
16 section may be commenced and maintained in any county in which an element
17 of the offense occurred, including the county where a victim resides.

18 ~~Any person who willfully harasses another person or a family or~~
19 ~~household member of such person with the intent to injure, terrify,~~
20 ~~threaten, or intimidate commits the offense of stalking.~~

21 Sec. 3. Section 28-323, Revised Statutes Cumulative Supplement,
22 2014, is amended to read:

23 28-323 (1) A person commits the offense of domestic assault in the
24 third degree if he or she:

25 (a) Intentionally and knowingly causes bodily injury to his or her
26 intimate partner;

27 (b) Threatens an intimate partner with imminent bodily injury; or

28 (c) Threatens an intimate partner in a menacing manner.

29 (2) A person commits the offense of domestic assault in the second
30 degree if he or she:

31 (a) Intentionally ~~intentionally~~ and knowingly causes bodily injury

1 to his or her intimate partner with a dangerous instrument; -

2 (b) Recklessly causes serious bodily injury to his or her intimate
3 partner with a dangerous instrument; or

4 (c) Intentionally and knowingly causes substantial bodily injury to
5 his or her intimate partner;

6 (d) Intentionally and unlawfully causes substantial bodily injury to
7 an unborn child by intentionally and unlawfully inflicting any injury
8 upon the mother of such child;

9 (e) With intent to inflict bodily harm, administers to or causes to
10 be taken by another, poison or any other destructive or noxious
11 substance; or

12 (f) Knowingly inflicts bodily harm which by design causes such pain
13 or agony as to be the equivalent of that produced by torture.

14 (3) A person commits the offense of domestic assault in the first
15 degree if he or she intentionally and knowingly causes serious bodily
16 injury to his or her intimate partner.

17 (4) Violation of subdivision (1)(a) or (b) of this section is a
18 Class I misdemeanor for a first offense, except that for any subsequent
19 violation of subdivision (1)(a) or (b) of this section, any person so
20 offending is guilty of a Class IV felony for a second offense, and a
21 Class III felony for any third or subsequent offense.

22 (5) Violation of subdivision (1)(c) of this section is a Class I
23 misdemeanor for a first offense, a Class IV felony for a second offense,
24 and a Class IIIA felony for any third or subsequent offense.

25 (6) Violation of subsection (2) of this section is a Class III IIIA
26 felony for a first offense, except that for any second or subsequent
27 violation of such subsection, any person so offending is guilty of a
28 Class II III felony for a second offense, and a Class ID felony for any
29 third or subsequent offense.

30 (7) Violation of subsection (3) of this section is a Class II III
31 felony for a first offense, except that for any second or subsequent

1 ~~violation under such subsection, any person so offending is guilty of a~~
2 ~~Class II felony for a second offense, and a Class IC felony for any third~~
3 ~~or subsequent offense.~~

4 (8) For enhancement purposes under this section, the sentencing
5 court shall make a finding on the record concerning the number of the
6 defendant's prior convictions.

7 (9 8) For purposes of this section, intimate partner means a spouse;
8 a former spouse; persons who have a child in common whether or not they
9 have been married or lived together at any time; and persons who are or
10 were involved in a dating relationship. For purposes of this subsection,
11 dating relationship means frequent, intimate associations primarily
12 characterized by the expectation of affectional or sexual involvement,
13 but does not include a casual relationship or an ordinary association
14 between persons in a business or social context.

15 (10) For purposes of this section:

16 (a) Substantial bodily injury means bodily injury that causes
17 temporary but substantial disfigurement, substantial impairment of the
18 function of any bodily part, or a fracture of any bodily part; and

19 (b) Torture means intentionally subjecting a person to extreme pain,
20 suffering, or agony.

21 Sec. 4. Original sections 28-311.02 and 28-311.03, Reissue Revised
22 Statutes of Nebraska, and section 28-323, Revised Statutes Cumulative
23 Supplement, 2014, are repealed.