

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 913

Introduced by McDonnell, 5; Lowe, 37.

Read first time January 08, 2018

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-934, Reissue Revised Statutes of Nebraska; to change provisions
- 3 relating to assault with a bodily fluid against a public safety
- 4 officer; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-934, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-934 (1) Any person who knowingly and intentionally strikes any
4 public safety officer with any bodily fluid is guilty of assault with a
5 bodily fluid against a public safety officer.

6 (2) Except as provided in subsection (3) of this section, assault
7 with a bodily fluid against a public safety officer is a Class I
8 misdemeanor.

9 (3) Assault with a bodily fluid against a public safety officer is a
10 Class IIIA felony if the person committing the offense strikes with a
11 bodily fluid the eyes, mouth, or skin of a public safety officer and knew
12 the source of the bodily fluid was infected with the human
13 immunodeficiency virus, hepatitis B, or hepatitis C at the time the
14 offense was committed.

15 (4) Upon a showing of probable cause by affidavit to a judge of this
16 state that an offense as defined in subsection (1) of this section has
17 been committed and that identifies the probable source of the bodily
18 fluid or bodily fluids used to commit the offense, the judge shall grant
19 an order or issue a search warrant authorizing the collection of any
20 evidence, including any bodily fluid or medical records or the
21 performance of any medical or scientific testing or analysis, that may
22 assist with the determination of whether or not the person committing the
23 offense or the person from whom the person committing the offense
24 obtained the bodily fluid or bodily fluids is infected with the human
25 immunodeficiency virus, hepatitis B, or hepatitis C.

26 (5) As used in this section:

27 (a) Bodily fluid means any naturally produced secretion or waste
28 product generated by the human body and shall include, but not be limited
29 to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal
30 fluid, or feces; and

31 (b) Public safety officer includes any of the following persons who

1 are engaged in the performance of their official duties at the time of
2 the offense: A peace officer; a probation officer; a firefighter; an out-
3 of-hospital emergency care provider as defined in section 28-929.01; a
4 health care professional as defined in section 28-929.01; an employee of
5 a county, city, or village jail; an employee of the Department of
6 Correctional Services; an employee of the secure youth confinement
7 facility operated by the Department of Correctional Services, if the
8 person committing the offense is committed to such facility; an employee
9 of the Youth Rehabilitation and Treatment Center-Geneva or the Youth
10 Rehabilitation and Treatment Center-Kearney; or an employee of the
11 Department of Health and Human Services if the person committing the
12 offense is committed as a dangerous sex offender under the Sex Offender
13 Commitment Act.

14 Sec. 2. Original section 28-934, Reissue Revised Statutes of
15 Nebraska, is repealed.