

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 11

Introduced by Blood, 3.

Read first time January 05, 2023

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Protection from Domestic Abuse Act; to
- 2 amend sections 42-903 and 42-924, Revised Statutes Cumulative
- 3 Supplement, 2022; to define a term; to provide for additional relief
- 4 for protection orders as prescribed; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 42-903, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 42-903 For purposes of the Protection from Domestic Abuse Act,
4 unless the context otherwise requires:

5 (1) Abuse means the occurrence of one or more of the following acts
6 between family or household members:

7 (a) Attempting to cause or intentionally and knowingly causing
8 bodily injury with or without a dangerous instrument;

9 (b) Placing, by means of credible threat, another person in fear of
10 bodily injury. For purposes of this subdivision, credible threat means a
11 verbal or written threat, including a threat performed through the use of
12 an electronic communication device, or a threat implied by a pattern of
13 conduct or a combination of verbal, written, or electronically
14 communicated statements and conduct that is made by a person with the
15 apparent ability to carry out the threat so as to cause the person who is
16 the target of the threat to reasonably fear for his or her safety or the
17 safety of his or her family. It is not necessary to prove that the person
18 making the threat had the intent to actually carry out the threat. The
19 present incarceration of the person making the threat shall not prevent
20 the threat from being deemed a credible threat under this section; or

21 (c) Engaging in sexual contact or sexual penetration without consent
22 as defined in section 28-318;

23 (2) Department means the Department of Health and Human Services;

24 (3) Family or household members includes spouses or former spouses,
25 children, persons who are presently residing together or who have resided
26 together in the past, persons who have a child in common whether or not
27 they have been married or have lived together at any time, other persons
28 related by consanguinity or affinity, and persons who are presently
29 involved in a dating relationship with each other or who have been
30 involved in a dating relationship with each other. For purposes of this
31 subdivision, dating relationship means frequent, intimate associations

1 primarily characterized by the expectation of affectional or sexual
2 involvement, but does not include a casual relationship or an ordinary
3 association between persons in a business or social context;~~and~~

4 (4) Household pet means any animal maintained for companionship or
5 pleasure but does not include any animal kept primarily for commercial
6 purposes or for consumption or any livestock animal as defined in section
7 54-902; and

8 (5) (4) Law enforcement agency means the police department or town
9 marshal in incorporated municipalities, the office of the sheriff in
10 unincorporated areas, and the Nebraska State Patrol.

11 Sec. 2. Section 42-924, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

13 42-924 (1)(a) Any victim of domestic abuse may file a petition and
14 affidavit for a protection order as provided in this section. Upon the
15 filing of such a petition and affidavit in support thereof, the court may
16 issue a protection order without bond granting the following relief:

17 (i) Enjoining the respondent from imposing any restraint upon the
18 petitioner or upon the liberty of the petitioner;

19 (ii) Enjoining the respondent from threatening, assaulting,
20 molesting, attacking, or otherwise disturbing the peace of the
21 petitioner;

22 (iii) Enjoining the respondent from telephoning, contacting, or
23 otherwise communicating with the petitioner;

24 (iv) Removing and excluding the respondent from the residence of the
25 petitioner, regardless of the ownership of the residence;

26 (v) Ordering the respondent to stay away from any place specified by
27 the court;

28 (vi) Awarding the petitioner temporary custody of any minor children
29 not to exceed ninety days;

30 (vii) Enjoining the respondent from possessing or purchasing a
31 firearm as defined in section 28-1201;~~or~~

1 (viii) Directing the care, custody, or control of any household pet
2 owned, possessed, leased, kept, or held by the petitioner, the
3 respondent, or any family or household member residing in the household
4 of the petitioner or respondent;

5 (ix) Enjoining the respondent from coming into contact with,
6 harming, or killing any household pet possessed, leased, kept, or held by
7 the petitioner, the respondent, or any family or household member of the
8 petitioner or respondent; or

9 (x) ~~(viii)~~ Ordering such other relief deemed necessary to provide
10 for the safety and welfare of the petitioner and any designated family or
11 household member.

12 (b) The petition for a protection order shall state the events and
13 dates or approximate dates of acts constituting the alleged domestic
14 abuse, including the most recent and most severe incident or incidents.

15 (c) The protection order shall specify to whom relief under this
16 section was granted.

17 (2) Petitions for protection orders shall be filed with the clerk of
18 the district court, and the proceeding may be heard by the county court
19 or the district court as provided in section 25-2740. A petition for a
20 protection order may not be withdrawn except upon order of the court.

21 (3)(a) A protection order shall specify that it is effective for a
22 period of one year and, if the order grants temporary custody, the number
23 of days of custody granted to the petitioner unless otherwise modified by
24 the court.

25 (b)(i) Any victim of domestic abuse may file a petition and
26 affidavit to renew a protection order. Such petition and affidavit for
27 renewal shall be filed any time within forty-five days before the
28 expiration of the previous protection order, including the date the order
29 expires.

30 (ii) A protection order may be renewed on the basis of the
31 petitioner's affidavit stating that there has been no material change in

1 relevant circumstances since entry of the order and stating the reason
2 for the requested renewal if:

3 (A) The petitioner seeks no modification of the order; and

4 (B)(I) The respondent has been properly served with notice of the
5 petition for renewal and notice of hearing and fails to appear at the
6 hearing; or

7 (II) The respondent indicates that he or she does not contest the
8 renewal.

9 (iii) Such renewed order shall specify that it is effective for a
10 period of one year to commence on the first calendar day following the
11 expiration of the previous order or on the calendar day the court grants
12 the renewal if such day is subsequent to the first calendar day after
13 expiration of the previous order and, if the court grants temporary
14 custody, the number of days of custody granted to the petitioner unless
15 otherwise modified by the court.

16 (4) Any person, except the petitioner, who knowingly violates a
17 protection order issued pursuant to this section or section 42-931 after
18 service or notice as described in subsection (2) of section 42-926 shall
19 be guilty of a Class I misdemeanor, except that any person convicted of
20 violating such order who has a prior conviction for violating a
21 protection order shall be guilty of a Class IV felony.

22 (5) If there is any conflict between sections 42-924 to 42-926 and
23 any other provision of law, sections 42-924 to 42-926 shall govern.

24 Sec. 3. Original sections 42-903 and 42-924, Revised Statutes
25 Cumulative Supplement, 2022, are repealed.