

AMENDMENTS TO LB 771

Introduced by Judiciary.

1 1. Strike original sections 2 to 9 and insert the
2 following new sections:

3 Sec. 2. Section 28-201, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-201 (1) A person shall be guilty of an attempt to
6 commit a crime if he or she:

7 (a) Intentionally engages in conduct which would
8 constitute the crime if the attendant circumstances were as he or
9 she believes them to be; or

10 (b) Intentionally engages in conduct which, under the
11 circumstances as he or she believes them to be, constitutes a
12 substantial step in a course of conduct intended to culminate in
13 his or her commission of the crime.

14 (2) When causing a particular result is an element of
15 the crime, a person shall be guilty of an attempt to commit the
16 crime if, acting with the state of mind required to establish
17 liability with respect to the attendant circumstances specified in
18 the definition of the crime, he or she intentionally engages in
19 conduct which is a substantial step in a course of conduct intended
20 or known to cause such a result.

21 (3) Conduct shall not be considered a substantial step
22 under this section unless it is strongly corroborative of the
23 defendant's criminal intent.

1 (4) Criminal attempt is:

2 (a) A Class II felony when the crime attempted is a Class
3 I, ~~Class IA,~~ ~~or Class IB~~ IA, IB, IC, or ID felony;

4 (b) A Class III felony when the crime attempted is a
5 Class II felony;

6 (c) A Class IIIA felony when the crime attempted
7 is ~~assault in the first degree under section 28-308,~~ sexual
8 assault in the second degree under section 28-320, ~~manufacturing,~~
9 ~~distributing,~~ ~~delivering,~~ ~~dispensing,~~ ~~or possessing with intent to~~
10 ~~manufacture,~~ ~~distribute,~~ ~~deliver,~~ ~~or dispense controlled substances~~
11 ~~listed in Schedule I, II, or III of section 28-405 under section~~
12 ~~28-416 except for an exceptionally hazardous drug,~~ a violation of
13 subdivision (2)(b) of section 28-416, incest under section 28-703,
14 child abuse under subsection (5) of section 28-707, ~~assault on an~~
15 ~~officer in the second degree under section 28-930,~~ or assault by
16 a confined person with a deadly or dangerous weapon under section
17 28-932;

18 (d) A Class IV felony when the crime attempted is a Class
19 III felony not listed in subdivision (4)(c) of this section;

20 (e) A Class I misdemeanor when the crime attempted is a
21 Class IIIA or Class IV felony;

22 (f) A Class II misdemeanor when the crime attempted is a
23 Class I misdemeanor; and

24 (g) A Class III misdemeanor when the crime attempted is
25 a Class II misdemeanor.

26 Sec. 3. Section 28-309, Revised Statutes Supplement,
27 2009, is amended to read:

1 28-309 (1) A person commits the offense of assault in the
2 second degree if he or she:

3 (a) Intentionally or knowingly causes bodily injury to
4 another person with a dangerous instrument;

5 (b) Recklessly causes serious bodily injury to another
6 person with a dangerous instrument; or

7 ~~(c)~~ (c) (i) While during confinement or legally confined
8 in a jail or an adult correctional or penal institution, (ii)
9 while otherwise in legal custody of the Department of Correctional
10 Services, or in any county jail, (iii) while committed as a
11 dangerous sex offender under the Sex Offender Commitment Act,
12 unlawfully strikes or wounds another.

13 (2) Assault in the second degree shall be a Class III
14 felony.

15 Sec. 4. Section 28-929, Revised Statutes Supplement,
16 2009, is amended to read:

17 28-929 (1) A person commits the offense of assault on an
18 officer in the first degree if he or she intentionally or knowingly
19 causes serious bodily injury: ~~to~~

20 (a) (i) To a peace officer, a probation officer, or an
21 employee of the Department of Correctional Services; or

22 (ii) To an employee of the Department of Health and Human
23 Services, if the person committing the offense is committed as a
24 dangerous sex offender under the Sex Offender Commitment Act; and

25 (b) The offense is committed while such officer or
26 employee is engaged in the performance of his or her official
27 duties.

1 (2) Assault on an officer in the first degree shall be a
2 Class ID felony.

3 Sec. 5. Section 28-930, Revised Statutes Supplement,
4 2009, is amended to read:

5 28-930 (1) A person commits the offense of assault on an
6 officer in the second degree if he or she:

7 (a) Intentionally or knowingly causes bodily injury with
8 a dangerous instrument; ~~te~~

9 (i) (A) To a peace officer, a probation officer, or an
10 employee of the Department of Correctional Services; or

11 (B) To an employee of the Department of Health and Human
12 Services, if the person committing the offense is committed as a
13 dangerous sex offender under the Sex Offender Commitment Act; and

14 (ii) The offense is committed while such officer or
15 employee is engaged in the performance of his or her official
16 duties; or

17 (b) Recklessly causes bodily injury with a dangerous
18 instrument; ~~te~~

19 (i) (A) To a peace officer, a probation officer, or an
20 employee of the Department of Correctional Services; or

21 (B) To an employee of the Department of Health and Human
22 Services, if the person committing the offense is committed as a
23 dangerous sex offender under the Sex Offender Commitment Act; and

24 (ii) The offense is committed while such officer or
25 employee is engaged in the performance of his or her official
26 duties.

27 (2) Assault on an officer in the second degree shall be a

1 Class II felony.

2 Sec. 6. Section 28-931, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-931 (1) A person commits the offense of assault on an
5 officer in the third degree if he or she intentionally, knowingly,
6 or recklessly causes bodily injury: ~~to~~

7 (a) (i) To a peace officer, a probation officer, or an
8 employee of the Department of Correctional Services; or

9 (ii) To an employee of the Department of Health and Human
10 Services, if the person committing the offense is committed as a
11 dangerous sex offender under the Sex Offender Commitment Act; and

12 (b) The offense is committed while such officer or
13 employee is engaged in the performance of his or her official
14 duties.

15 (2) Assault on an officer in the third degree shall be a
16 Class IIIA felony.

17 Sec. 7. Section 28-931.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-931.01 (1) A person commits the offense of assault on
20 an officer using a motor vehicle if he or she intentionally and
21 knowingly causes bodily injury: ~~to~~

22 (a) (i) To a peace officer, a probation officer, or an
23 employee of the Department of Correctional Services; or

24 (ii) To an employee of the Department of Health and Human
25 Services ~~(a)~~ (A) by using a motor vehicle to run over or to strike
26 such officer or employee or ~~(b)~~ (B) by using a motor vehicle to
27 collide with such officer's or employee's motor vehicle, if the

1 person committing the offense is committed as a dangerous sex
2 offender under the Sex Offender Commitment Act; and

3 (b) The offense is committed while such officer or
4 employee is engaged in the performance of his or her duties.

5 (2) Assault on an officer using a motor vehicle shall be
6 a Class IIIA felony.

7 Sec. 8. Section 28-932, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-932 (1) Any person (a) who is legally confined in
10 a jail or an adult correctional or penal institution, (b) who
11 is otherwise in legal custody of the Department of Correctional
12 Services, or (c) who is committed as a dangerous sex offender under
13 the Sex Offender Commitment Act, and intentionally, knowingly, or
14 recklessly causes bodily injury to another person shall be guilty
15 of a Class IIIA felony, except that if a deadly or dangerous weapon
16 is used to commit such assault he or she shall be guilty of a Class
17 III felony.

18 (2) Sentences imposed under subsection (1) of this
19 section shall be consecutive to any sentence or sentences imposed
20 for violations committed prior to the violation of subsection (1)
21 of this section and shall not include any credit for time spent in
22 custody prior to sentencing unless the time in custody is solely
23 related to the offense for which the sentence is being imposed
24 under this section.

25 Sec. 9. Section 28-933, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 28-933 ~~(1)~~ (1)(a) Any person (i) who is legally confined

1 in a jail or an adult correctional or penal institution, (ii) who
2 is otherwise in legal custody of the Department of Correctional
3 Services, or (iii) who is committed as a dangerous sex offender
4 under the Sex Offender Commitment Act and (b) who commits (a)
5 (i) assault in the first, second, or third degree as defined in
6 sections 28-308 to 28-310, (b) (ii) terroristic threats as defined
7 in section 28-311.01, (c) (iii) kidnapping as defined in section
8 28-313, or (d) (iv) false imprisonment in the first or second
9 degree as defined in sections 28-314 and 28-315, against any person
10 for the purpose of compelling or inducing the performance of any
11 act by such person or any other person shall be guilty of a Class
12 II felony.

13 (2) Sentences imposed under subsection (1) of this
14 section shall be served consecutive to any sentence or sentences
15 imposed for violations committed prior to the violation of
16 subsection (1) of this section and shall not include any credit
17 for time spent in custody prior to sentencing unless the time in
18 custody is solely related to the offense for which the sentence is
19 being imposed under this section.