

AMENDMENTS TO LB 712

(Amendments to E & R amendments, ER8225)

Introduced by Lautenbaugh, 18.

1 1. Insert the following new sections:

2 Sec. 7. Section 28-201, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 28-201 (1) A person shall be guilty of an attempt to
5 commit a crime if he or she:

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

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

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

20 (3) Conduct shall not be considered a substantial step
21 under this section unless it is strongly corroborative of the
22 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. 8. Section 28-502, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 28-502 (1) A person commits arson in the first degree if
2 he or she intentionally damages a building or property contained
3 within a building by starting a fire or causing an explosion
4 when another person is present in the building at the time and
5 either (a) the actor knows that fact, or (b) the circumstances are
6 such as to render the presence of a person therein a reasonable
7 probability.

8 (2) A person commits arson in the first degree if a fire
9 is started or an explosion is caused in the perpetration of any
10 robbery, burglary, or felony criminal mischief when another person
11 is present in the building at the time and either (a) the actor
12 knows that fact, or (b) the circumstances are such as to render the
13 presence of a person therein a reasonable probability.

14 (3) Arson in the first degree is a Class II felony.

15 Sec. 9. Section 28-503, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 28-503 (1) A person commits arson in the second degree if
18 he or she intentionally damages a building or property contained
19 within a building by starting a fire or causing an explosion or if
20 a fire is started or an explosion is caused in the perpetration of
21 any robbery, burglary, or felony criminal mischief.

22 (2) The following affirmative defenses may be introduced
23 into evidence upon prosecution for a violation of this section:

24 (a) No person other than the accused has a security or
25 proprietary interest in the damaged building, or, if other persons
26 have such interests, all of them consented to his or her conduct;
27 or

1 (b) The accused's sole intent was to destroy or damage
2 the building for a lawful and proper purpose.

3 (3) Arson in the second degree is a Class III felony.

4 Sec. 10. Section 28-504, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-504 (1) A person commits arson in the third degree if
7 he or she intentionally sets fire to, burns, causes to be burned,
8 or by the use of any explosive, damages or destroys, or causes to
9 be damaged or destroyed, any property of another person without ~~his~~
10 such other person's consent. Such property shall not be contained
11 within a building and shall not be ~~7~~ other than a building or
12 occupied structure.

13 (2) Arson in the third degree is a Class IV felony if the
14 damages amount to one hundred dollars or more.

15 (3) Arson in the third degree is a Class I misdemeanor if
16 the damages are less than one hundred dollars.

17 2. Renumber the remaining sections and correct internal
18 references, the operative date section, and repealer so that the
19 sections added by this amendment become operative three calendar
20 months after the adjournment of this legislative session.