

**ONE HUNDRED FIRST LEGISLATURE - SECOND SESSION - 2010**  
**COMMITTEE STATEMENT**  
**LB507**

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**Hearing Date:** Friday March 20, 2009  
**Committee On:** Judiciary  
**Introducer:** Pirsch  
**One Liner:** Change provisions and penalties regarding domestic assault in the third degree

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**

Sen. Pete Pirsch  
Martin Conboy  
  
Stephanie Hansen  
Robert Sanford

**Representing:**

Introducer  
Douglas Co. Domestic Violence Coordinating Council;  
Douglas Co. Atty; NE County Attorney  
Sarpy County Attorney  
NE Domestic Violence Sexual Assault Coalition

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

This bill would amend 28-323 (1)(a) of the Nebraska Statutes, which defines the penalty for domestic assault in the third degree, by adding the term "recklessly" to the current standard of proof specified in this statute. The new section would provide that a person commits the offense of domestic assault in the third degree if he or she, "Intentionally, knowingly, "or recklessly" causes bodily injury to his or her intimate partner."

LB 507 would also amend 28-323 (1) (b) which defines how a person commits third degree assault, by striking the language "places by physical menace his or her intimate partner in fear of imminent bodily injury" and replacing it with, "Threatens an intimate partner in a menacing manner."

Finally, LB 507 would also strike the current 12 year limitation that is provided for enhancement of sentences under this act for prior convictions and allow all prior convictions to count regardless of the length of time that has passed since the initial or prior conviction.

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**Explanation of amendments:**

AM 2107 makes the following changes to LB 507, which proposes to change the crime of domestic assault in the third degree in the following manner:

Section 1 Amends 28-323(1)(a) by striking the proposed inclusion of the word "recklessly". Thus providing that a violation of subsection (1)(a) occurs when a person "intentionally" and "knowingly" causes bodily injury to his or her intimate partner;

- AM 2107 also amends 28-323(1)(b) by striking the requirement that 3rd degree domestic assault occurs when a person "places by physical menace, his or her intimate partner in fear of imminent bodily injury" and replaces it with, "Threatens an intimate partner with imminent bodily injury";

- AM 2107 would also create a new offense under (1)( c ) of this section by providing that a person commits the offense of domestic assault in the 3rd degree, when a person: "Threatens an intimate partner in a menacing manner." A violation under this section shall be a Class I misdemeanor;

- A violation under (1)(a) or (1)(b) of this act is a Class I misdemeanor, except that second and subsequent violations of these subsections shall be a Class IV felony .

- Finally, the twelve year look back on prior convictions for sentence enhancement purposes is removed and all prior convictions can be utilized for enhancement purposes.

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Brad Ashford, Chairperson