

**ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012**  
**COMMITTEE STATEMENT (CORRECTED)**  
**LB799**

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**Hearing Date:** Thursday January 19, 2012  
**Committee On:** Judiciary  
**Introducer:** Cornett  
**One Liner:** Change penalties for child abuse

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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, Coash, Council, Harr, Larson, Lathrop, Lautenbaugh, McGill  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**

SEN. ABBIE CORNETT  
JOHN FREUDENBERG  
MARK YOUNG

**Representing:**

INTRODUCER  
ATTORNEY GENERAL'S OFFICE  
HALL COUNTY ATTORNY, NE COUNTY ATTORNEY ASSOCIATION

**Opponents:**

**Representing:**

**Neutral:**

COLEEN NIELSEN

**Representing:**

NE CRIMINAL DEFENSE ATTORNEYS

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

LB 799 would make the following changes to 28-201 and 28-707 of the Neb. Revised Statutes:

Amends 28-201(4) (c) to remove the Class IIIA felony penalty for criminal attempt for child abuse as it is defined under subsection (5) of 28-707;

Amends 28-707(3) to provide that Class I misdemeanor child abuse occurs if committed negligently and does not result in serious bodily injury as serious bodily injury or death. Serious bodily injury is defined in section 28-109;

Adds a new 28-707(5) to provide that "child abuse" is a Class III felony if the offense is committed negligently and results in "serious bodily injury" as the term is defined under 28-109;

Adds a new 28-705(6) to provide that child abuse is a Class II felony if the offense is committed negligently and results in the death of a child.

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**Explanation of amendments:**

M2208 makes the following changes to LB 799:

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On page 4, line 17, strike "III" (1-20yrs) and insert "IIIA" (0-5yrs and/or \$10,000)

On page 4, line 20, strike II (1-50yrs) and insert III (1-20yrs and/or \$25,000)

On page 5, after line 2, create a new subsection (9) "For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child."

28-109 defines recklessly as follows:

(19) Recklessly shall mean acting with respect to a material element of an offense when any person disregards a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to the actor, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation.

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Brad Ashford, Chairperson