

AMENDMENTS TO LB1007

Introduced by Judiciary.

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

3           Section 1. Section 28-101, Revised Statutes Supplement, 2015, is  
4 amended to read:

5           28-101 Sections 28-101 to ~~28-468, 28-470 to~~ 28-1357, 28-1418.01, and  
6 28-1429.03 and sections 5 and 6 of this act shall be known and may be  
7 cited as the Nebraska Criminal Code.

8           Sec. 2. Section 28-348, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10           28-348 Sections 28-348 to 28-387 and sections 5 and 6 of this act  
11 shall be known and may be cited as the Adult Protective Services Act.

12           Sec. 3. Section 28-350, Revised Statutes Cumulative Supplement,  
13 2014, is amended to read:

14           28-350 For purposes of the Adult Protective Services Act, unless the  
15 context otherwise requires, the definitions found in sections 28-351 to  
16 28-371 and sections 5 and 6 of this act shall be used.

17           Sec. 4. Section 28-358, Revised Statutes Cumulative Supplement,  
18 2014, is amended to read:

19           28-358 Exploitation means the wrongful or unauthorized taking,  
20 withholding, appropriation, conversion, control, or use of money, funds,  
21 securities, assets, or any other of property of a vulnerable adult or  
22 senior adult by any person by means of undue influence, breach of a  
23 fiduciary relationship, deception, ~~or~~ extortion, intimidation, force or  
24 threat of force, isolation, or by any unlawful means or by the breach of  
25 a fiduciary duty by the guardian, conservator, agent under a power of  
26 attorney, trustee, or any other fiduciary of a vulnerable adult or senior  
27 adult.

1           Sec. 5. Isolation means intentional acts (1) committed for the  
2 purpose of preventing, and which do prevent, a vulnerable adult or senior  
3 adult from having contact with family, friends, or concerned persons; (2)  
4 committed to prevent a vulnerable adult or senior adult from receiving  
5 his or her mail or telephone calls; (3) of physical or chemical restraint  
6 of a vulnerable adult or senior adult committed for the purpose of  
7 preventing contact with visitors, family, friends, or other concerned  
8 persons; or (4) which restrict, place, or confine a vulnerable adult or  
9 senior adult in a restricted area for the purposes of social deprivation  
10 or preventing contact with family, friends, visitors, or other concerned  
11 persons, but not including medical isolation prescribed by a licensed  
12 physician caring for the vulnerable adult or senior adult. Isolation does  
13 not include (1) medical isolation prescribed by a licensed physician  
14 caring for the vulnerable adult or senior adult; (2) action taken in  
15 compliance with a harassment protection order issued pursuant to section  
16 28-311.09, a valid foreign harassment protection order recognized under  
17 section 28-311.10, an order issued pursuant to section 42-924, an ex  
18 parte order issued pursuant to section 42-925, an order excluding a  
19 person from certain premises issued pursuant to section 42-357, a valid  
20 foreign protection order recognized pursuant to section 42-931; or (3)  
21 action authorized by an administrator of a nursing home pursuant to  
22 section 71-6021.

23           Sec. 6. Senior adult means any person sixty-five years of age or  
24 older.

25           Sec. 7. Section 28-371, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27           28-371 Vulnerable adult means ~~shall mean~~ any person eighteen years  
28 of age or older who has a substantial mental or functional impairment or  
29 for whom a guardian or conservator has been appointed under the Nebraska  
30 Probate Code.

31           Sec. 8. Section 28-374, Revised Statutes Cumulative Supplement,

1 2014, is amended to read:

2 28-374 (1) The department shall investigate each case of alleged  
3 abuse, neglect, or exploitation of a vulnerable adult and shall provide  
4 such adult protective services as are necessary and appropriate under the  
5 circumstances.

6 (2) In each case of alleged abuse, neglect, or exploitation, the  
7 department may make a request for further assistance from the appropriate  
8 law enforcement agency or initiate such action as may be appropriate  
9 under the circumstances.

10 (3) The department shall make a written report or case summary to  
11 the appropriate law enforcement agency and to the registry of all  
12 reported cases of abuse, neglect, or exploitation and action taken.

13 (4) The department shall deliver a written report or case summary to  
14 the appropriate county attorney if the investigation indicates a  
15 reasonable cause to believe that a violation of section 28-386 has  
16 occurred.

17 Sec. 9. Section 28-386, Revised Statutes Cumulative Supplement,  
18 2014, is amended to read:

19 28-386 (1) A person commits knowing and intentional abuse, neglect,  
20 or exploitation of a vulnerable adult or senior adult if he or she  
21 through a knowing and intentional act causes or permits a vulnerable  
22 adult or senior adult to be:

- 23 (a) Physically injured;
- 24 (b) Unreasonably confined;
- 25 (c) Sexually abused;
- 26 (d) Exploited;
- 27 (e) Cruelly punished;
- 28 (f) Neglected; or
- 29 (g) Sexually exploited.

30 (2) Knowing and intentional abuse, neglect, or exploitation of a  
31 vulnerable adult or senior adult is a Class IIIA felony.

1           Sec. 10. Section 29-110, Revised Statutes Cumulative Supplement,  
2   2014, is amended to read:

3           29-110 (1) Except as otherwise provided by law, no person shall be  
4   prosecuted for any felony unless the indictment is found by a grand jury  
5   within three years next after the offense has been done or committed or  
6   unless a complaint for the same is filed before the magistrate within  
7   three years next after the offense has been done or committed and a  
8   warrant for the arrest of the defendant has been issued.

9           (2) Except as otherwise provided by law, no person shall be  
10   prosecuted, tried, or punished for any misdemeanor or other indictable  
11   offense below the grade of felony or for any fine or forfeiture under any  
12   penal statute unless the suit, information, or indictment for such  
13   offense is instituted or found within one year and six months from the  
14   time of committing the offense or incurring the fine or forfeiture or  
15   within one year for any offense the punishment of which is restricted by  
16   a fine not exceeding one hundred dollars and to imprisonment not  
17   exceeding three months.

18          (3) Except as otherwise provided by law, no person shall be  
19   prosecuted for kidnapping under section 28-313, false imprisonment under  
20   section 28-314 or 28-315, child abuse under section 28-707, pandering  
21   under section 28-802, debauching a minor under section 28-805, or an  
22   offense under section 28-813, 28-813.01, or 28-1463.03 when the victim is  
23   under sixteen years of age at the time of the offense (a) unless the  
24   indictment for such offense is found by a grand jury within seven years  
25   next after the offense has been committed or within seven years next  
26   after the victim's sixteenth birthday, whichever is later, or (b) unless  
27   a complaint for such offense is filed before the magistrate within seven  
28   years next after the offense has been committed or within seven years  
29   next after the victim's sixteenth birthday, whichever is later, and a  
30   warrant for the arrest of the defendant has been issued.

31          (4) No person shall be prosecuted for a violation of the Securities

1 Act of Nebraska under section 8-1117 unless the indictment for such  
2 offense is found by a grand jury within five years next after the offense  
3 has been done or committed or unless a complaint for such offense is  
4 filed before the magistrate within five years next after the offense has  
5 been done or committed and a warrant for the arrest of the defendant has  
6 been issued.

7 (5) No person shall be prosecuted for criminal impersonation under  
8 section 28-638, identity theft under section 28-639, or identity fraud  
9 under section 28-640 unless the indictment for such offense is found by a  
10 grand jury within five years next after the offense has been done or  
11 committed or unless a complaint for such offense is filed before the  
12 magistrate within five years next after the offense has been done or  
13 committed and a warrant for the arrest of the defendant has been issued.

14 (6) No person shall be prosecuted for a violation of section 68-1017  
15 if the aggregate value of all funds and other benefits obtained or  
16 attempted to be obtained is five hundred dollars or more unless the  
17 indictment for such offense is found by a grand jury within five years  
18 next after the offense has been done or committed or unless a complaint  
19 for such offense is filed before the magistrate within five years next  
20 after the offense has been done or committed and a warrant for the arrest  
21 of the defendant has been issued.

22 (7) No person shall be prosecuted for knowing and intentional abuse,  
23 neglect, or exploitation of a vulnerable adult or senior adult under  
24 section 28-386 unless the indictment for such offense is found by a grand  
25 jury within six years next after the offense has been done or committed  
26 or unless a complaint for such offense is filed before the magistrate  
27 within six years next after the offense has been done or committed and a  
28 warrant for the arrest of the defendant has been issued.

29 (8 7) There shall not be any time limitations for prosecution or  
30 punishment for treason, murder, arson, forgery, sexual assault in the  
31 first or second degree under section 28-319 or 28-320, sexual assault of

1 a child in the second or third degree under section 28-320.01, incest  
2 under section 28-703, or sexual assault of a child in the first degree  
3 under section 28-319.01; nor shall there be any time limitations for  
4 prosecution or punishment for sexual assault in the third degree under  
5 section 28-320 when the victim is under sixteen years of age at the time  
6 of the offense.

7 (~~9~~ 8) The time limitations prescribed in this section shall include  
8 all inchoate offenses pursuant to the Nebraska Criminal Code and  
9 compounding a felony pursuant to section 28-301.

10 (~~10~~ 9) The time limitations prescribed in this section shall not  
11 extend to any person fleeing from justice.

12 (~~11~~ ~~10~~) When any suit, information, or indictment for any crime or  
13 misdemeanor is limited by any statute to be brought or exhibited within  
14 any other time than is limited by this section, then the suit,  
15 information, or indictment shall be brought or exhibited within the time  
16 limited by such statute.

17 (~~12~~ ~~11~~) If any suit, information, or indictment is quashed or the  
18 proceedings set aside or reversed on writ of error, the time during the  
19 pendency of such suit, information, or indictment so quashed, set aside,  
20 or reversed shall not be reckoned within this statute so as to bar any  
21 new suit, information, or indictment for the same offense.

22 (~~13~~ ~~12~~) The changes made to this section by Laws 2004, LB 943, shall  
23 apply to offenses committed prior to April 16, 2004, for which the  
24 statute of limitations has not expired as of such date and to offenses  
25 committed on or after such date.

26 (~~14~~ ~~13~~) The changes made to this section by Laws 2005, LB 713, shall  
27 apply to offenses committed prior to September 4, 2005, for which the  
28 statute of limitations has not expired as of such date and to offenses  
29 committed on or after such date.

30 (~~15~~ ~~14~~) The changes made to this section by Laws 2009, LB 97, and  
31 Laws 2006, LB 1199, shall apply to offenses committed prior to May 21,

1 2009, for which the statute of limitations has not expired as of such  
2 date and to offenses committed on or after such date.

3 (~~16~~ 15) The changes made to this section by Laws 2010, LB809, shall  
4 apply to offenses committed prior to July 15, 2010, for which the statute  
5 of limitations has not expired as of such date and to offenses committed  
6 on or after such date.

7 (17) The changes made to this section by this legislative bill shall  
8 apply to offenses committed prior to the effective date of this act for  
9 which the statute of limitations has not expired as of such date and to  
10 offenses committed on or after such date.

11 Sec. 11. Original section 28-371, Reissue Revised Statutes of  
12 Nebraska, sections 28-348, 28-350, 28-358, 28-374, 28-386, and 29-110,  
13 Revised Statutes Cumulative Supplement, 2014, and section 28-101, Revised  
14 Statutes Supplement, 2015, are repealed.