

AMENDMENTS TO LB394

Introduced by Geist, 25.

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

3           Section 1. Section 28-1206, Revised Statutes Supplement, 2017, is  
4 amended to read:

5           28-1206 (1) A person commits the offense of possession of a deadly  
6 weapon by a prohibited person if he or she:

7           (a) Possesses a firearm, a knife, or brass or iron knuckles and he  
8 or she:

9           (i) Has previously been convicted of a felony;

10           (ii) Is a fugitive from justice;

11           (iii) Is the subject of a current and validly issued domestic  
12 violence protection order; or ~~τ~~

13           (iv) Is the subject of a current and validly issued harassment  
14 protection order~~τ~~, or sexual assault protection order and is knowingly  
15 violating such order; or

16           (b) Possesses a firearm or brass or iron knuckles and he or she has  
17 been convicted within the past seven years of a misdemeanor crime of  
18 domestic violence.

19           (2) The felony conviction may have been had in any court in the  
20 United States, the several states, territories, or possessions, or the  
21 District of Columbia.

22           (3)(a) Possession of a deadly weapon which is not a firearm by a  
23 prohibited person is a Class III felony.

24           (b) Possession of a deadly weapon which is a firearm by a prohibited  
25 person is a Class ID felony for a first offense and a Class IB felony for  
26 a second or subsequent offense.

27           (4) Subdivision (1)(a)(i) of this section shall not prohibit:

1 (a) Possession of archery equipment for lawful purposes; or

2 (b) If in possession of a recreational license, possession of a  
3 knife for purposes of butchering, dressing, or otherwise processing or  
4 harvesting game, fish, or furs.

5 (5)(a) For purposes of this section, misdemeanor crime of domestic  
6 violence means a crime that:

7 (i) Is classified as a misdemeanor under the laws of the United  
8 States or the District of Columbia or the laws of any state, territory,  
9 possession, or tribe;

10 (ii) Has, as an element, the use or attempted use of physical force  
11 or the threatened use of a deadly weapon; and

12 (iii) Is committed by another against his or her spouse, his or her  
13 former spouse, a person with whom he or she has a child in common whether  
14 or not they have been married or lived together at any time, or a person  
15 with whom he or she is or was involved in a dating relationship as  
16 defined in section 28-323.

17 (b) For purposes of this section, misdemeanor crime of domestic  
18 violence also includes the following offenses, if committed by a person  
19 against his or her spouse, his or her former spouse, a person with whom  
20 he or she is or was involved in a dating relationship as defined in  
21 section 28-323, or a person with whom he or she has a child in common  
22 whether or not they have been married or lived together at any time:

23 (i) Assault in the third degree under section 28-310;

24 (ii) Stalking under subsection (1) of section 28-311.04;

25 (iii) False imprisonment in the second degree under section 28-315;

26 (iv) First offense domestic assault in the third degree under  
27 subsection (1) of section 28-323; or

28 (v) Any attempt or conspiracy to commit any of such offenses.

29 (c) A person shall not be considered to have been convicted of a  
30 misdemeanor crime of domestic violence unless:

31 (i) The person was represented by counsel in the case or knowingly

1 and intelligently waived the right to counsel in the case; and

2 (ii) In the case of a prosecution for a misdemeanor crime of  
3 domestic violence for which a person was entitled to a jury trial in the  
4 jurisdiction in which the case was tried, either:

5 (A) The case was tried to a jury; or

6 (B) The person knowingly and intelligently waived the right to have  
7 the case tried to a jury.

8 (6) In addition, for purposes of this section:

9 (a) Archery equipment means:

10 (i) A longbow, recurve bow, compound bow, or nonelectric crossbow  
11 that is drawn or cocked with human power and released by human power; and

12 (ii) Target or hunting arrows, including arrows with broad, fixed,  
13 or removable heads or that contain multiple sharp cutting edges;

14 (b) Domestic violence protection order means a protection order  
15 issued pursuant to section 42-924 and after a hearing of which the person  
16 subject to the order received actual notice and at which he or she had an  
17 opportunity to participate;

18 (c) Harassment protection order means: (i) A a protection order  
19 issued pursuant to section 28-311.09 and after a hearing of which the  
20 person subject to the order received actual notice and at which he or she  
21 had an opportunity to participate; or (ii) a protection order that meets  
22 or exceeds the criteria set forth in section 28-311.10 regarding  
23 protection orders issued by a court in any other state or a territory,  
24 possession, or tribe;

25 (d) Recreational license means a state-issued license, certificate,  
26 registration, permit, tag, sticker, or other similar document or  
27 identifier evidencing permission to hunt, fish, or trap for furs in the  
28 State of Nebraska; and

29 (e) Sexual assault protection order means: (i) A a protection order  
30 issued pursuant to section 28-311.11 and after a hearing of which the  
31 person subject to the order received actual notice and at which he or she

1 had an opportunity to participate; or (ii) a protection order that meets  
2 or exceeds the criteria set forth in section 28-311.12 regarding  
3 protection orders issued by a court in any other state or a territory,  
4 possession, or tribe.

5 Sec. 2. Section 42-924, Revised Statutes Supplement, 2017, is  
6 amended to read:

7 42-924 (1)(a) ~~(1)~~ Any victim of domestic abuse may file a petition  
8 and affidavit for a protection order as provided in subsections (2) and  
9 (3) of this section. Upon the filing of such a petition and affidavit in  
10 support thereof, the court may issue a protection order without bond  
11 granting the following relief:

12 (i) ~~(a)~~ Enjoining the respondent from imposing any restraint upon  
13 the petitioner or upon the liberty of the petitioner;

14 (ii) ~~(b)~~ Enjoining the respondent from threatening, assaulting,  
15 molesting, attacking, or otherwise disturbing the peace of the  
16 petitioner;

17 (iii) ~~(c)~~ Enjoining the respondent from telephoning, contacting, or  
18 otherwise communicating with the petitioner;

19 (iv) ~~(d)~~ Removing and excluding the respondent from the residence of  
20 the petitioner, regardless of the ownership of the residence;

21 (v) ~~(e)~~ Ordering the respondent to stay away from any place  
22 specified by the court;

23 (vi) ~~(f)~~ Awarding the petitioner temporary custody of any minor  
24 children not to exceed ninety days; or

25 ~~(g) Enjoining the respondent from possessing or purchasing a firearm~~  
26 ~~as defined in section 28-1201; or~~

27 (vii) ~~(h)~~ Ordering such other relief deemed necessary to provide for  
28 the safety and welfare of the petitioner and any designated family or  
29 household member.

30 (b) If a protection order is issued pursuant to this section after a  
31 hearing of which the respondent received actual notice and at which the

1 respondent had an opportunity to participate, the court shall enjoin the  
2 respondent from purchasing or possessing a firearm, as defined in section  
3 28-1201, and shall inform the respondent that such possession is a felony  
4 under section 28-1206.

5 (2) Petitions for protection orders shall be filed with the clerk of  
6 the district court, and the proceeding may be heard by the county court  
7 or the district court as provided in section 25-2740. A petition for a  
8 protection order may not be withdrawn except upon order of the court.

9 (3)(a) A protection order shall specify that it is effective for a  
10 period of one year and, if the order grants temporary custody, the number  
11 of days of custody granted to the petitioner unless otherwise modified by  
12 the court.

13 (b) Any victim of domestic abuse may file a petition and affidavit  
14 to renew a protection order. Such petition and affidavit for renewal  
15 shall be filed on or after thirty days before the expiration of the  
16 previous protection order. Such renewed order shall specify that it is  
17 effective for a period of one year to commence on the first day following  
18 the expiration of the previous order and, if the court grants temporary  
19 custody, the number of days of custody granted to the petitioner unless  
20 otherwise modified by the court.

21 (4) Any person who knowingly violates a protection order issued  
22 pursuant to this section or section 42-931 after service or notice as  
23 described in subsection (2) of section 42-926 shall be guilty of a Class  
24 I misdemeanor, except that any person convicted of violating such order  
25 who has a prior conviction for violating a protection order shall be  
26 guilty of a Class IV felony.

27 (5) If there is any conflict between sections 42-924 to 42-926 and  
28 any other provision of law, sections 42-924 to 42-926 shall govern.

29 Sec. 3. Original sections 28-1206 and 42-924, Revised Statutes  
30 Supplement, 2017, are repealed.