

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 903

Introduced by Bostar, 29.

Read first time January 07, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-101 and 28-311.08, Revised Statutes Cumulative Supplement, 2020;
- 3 to change provisions relating to criminal privacy violations; to
- 4 prohibit spying by unmanned aircraft; to define terms; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
4 3 of this act shall be known and may be cited as the Nebraska Criminal
5 Code.

6 Sec. 2. Section 28-311.08, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 28-311.08 (1) It shall be unlawful for any person to knowingly
9 intrude upon any other person without his or her consent in a place of
10 solitude or seclusion. Violation of this subsection is a Class I
11 misdemeanor. A second or subsequent violation of this subsection is a
12 Class IV felony.

13 (2) It shall be unlawful for any person to knowingly and
14 intentionally photograph, film, or otherwise record an image or video of
15 the intimate area of any other person without his or her knowledge and
16 consent when his or her intimate area would not be generally visible to
17 the public regardless of whether such other person is located in a public
18 or private place. Violation of this subsection is a Class IV felony.

19 (3) It shall be unlawful for any person to knowingly and
20 intentionally distribute or otherwise make public an image or video of
21 another person recorded in violation of subsection (2) of this section
22 without that person's consent. A first or second violation of this
23 subsection is a Class IIA felony. A third or subsequent violation of this
24 subsection is a Class II felony.

25 (4) It shall be unlawful for any person to knowingly and
26 intentionally distribute or otherwise make public an image or video of
27 another person's intimate area or of another person engaged in sexually
28 explicit conduct (a) if the other person had a reasonable expectation
29 that the image would remain private, (b) knowing the other person did not
30 consent to distributing or making public the image or video, and (c) if
31 distributing or making public the image or video serves no legitimate

1 purpose. Violation of this subsection is a Class I misdemeanor. A second
2 or subsequent violation of this subsection is a Class IV felony.

3 (5) It shall be unlawful for any person to threaten to distribute or
4 otherwise make public an image or video of another person's intimate area
5 or of another person engaged in sexually explicit conduct with the intent
6 to intimidate, threaten, or harass any person. Violation of this
7 subsection is a Class I misdemeanor.

8 (6) As part of sentencing following a conviction for a violation of
9 subsection (1), (2), or (3) of this section, the court shall make a
10 finding as to the ages of the defendant and the victim at the time the
11 offense occurred. If the defendant is found to have been nineteen years
12 of age or older and the victim is found to have been less than eighteen
13 years of age at such time, then the defendant shall be required to
14 register under the Sex Offender Registration Act.

15 (7) No person shall be prosecuted under this section unless the
16 indictment for such offense is found by a grand jury or a complaint filed
17 before a magistrate within three years after the later of:

18 (a) The commission of the crime;

19 (b) Law enforcement's or a victim's receipt of actual or
20 constructive notice of either the existence of a video or other
21 electronic recording made in violation of this section or the
22 distribution of images, video, or other electronic recording made in
23 violation of this section; or

24 (c) The youngest victim of a violation of this section reaching the
25 age of twenty-one years.

26 (8) For purposes of this section:

27 (a) Intimate area means the naked or undergarment-clad genitalia,
28 pubic area, buttocks, or female breast of an individual;

29 (b) Intrude means either:

30 (i) Viewing another person in a state of undress as it is occurring,
31 whether directly or through electronic or other remote means, including,

1 but not limited to, by unmanned aircraft; or

2 (ii) Recording another person in a state of undress by video,
3 photographic, digital, or other electronic means, including, but not
4 limited to, by unmanned aircraft; and

5 (c) Place of solitude or seclusion means a place where a person
6 would intend to be in a state of undress and have a reasonable
7 expectation of privacy, including, but not limited to, any facility,
8 public or private, used as a restroom, tanning booth, locker room, shower
9 room, fitting room, or dressing room; and -

10 (d) Unmanned aircraft means an aircraft, including an aircraft
11 commonly known as a drone, that is operated without the possibility of
12 direct human intervention from within or on the aircraft.

13 Sec. 3. (1) It shall be unlawful for any person to intentionally
14 cause an electronic device, including an unmanned aircraft, to enter
15 into, upon, or above the property of another in order to secretly or
16 furtively peer or spy into or through a window, door, or other aperture
17 of any dwelling of any other person.

18 (2) It shall be unlawful for any person to intentionally use an
19 electronic device, including an unmanned aircraft, to secretly or
20 furtively peer or spy into or through a window, door, or other aperture
21 of any dwelling on property owned by such person and leased or rented to
22 another.

23 (3) The provisions of this section shall not apply to a lawful
24 criminal investigation.

25 (4) A violation of this section is a Class I misdemeanor.

26 (5) For purposes of this section, unmanned aircraft means an
27 aircraft, including an aircraft commonly known as a drone, that is
28 operated without the possibility of direct human intervention from within
29 or on the aircraft.

30 Sec. 4. Original sections 28-101 and 28-311.08, Revised Statutes
31 Cumulative Supplement, 2020, are repealed.