

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 713

Introduced by Thompson, 14

Read first time January 19, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to sexual assault; to amend section 28-902,
2 Reissue Revised Statutes of Nebraska, and section 29-110,
3 Revised Statutes Supplement, 2004; to change provisions
4 relating to evidentiary procedure, statutes of
5 limitations, and reporting requirements; to provide
6 duties to medical and law enforcement personnel; to
7 provide a duty for the Revisor of Statutes; and to repeal
8 the original sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) In a criminal case in which the defendant
2 is accused of sexual assault, evidence of the defendant's
3 commission of another offense or offenses of sexual assault is
4 admissible and may be considered for its bearing on any matter to
5 which it is relevant.

6 (2) In a case in which the prosecutor intends to offer
7 evidence under this rule, the prosecutor shall disclose the
8 evidence to the defendant, including statements of witnesses or a
9 summary of the substance of any testimony that is expected to be
10 offered, at least fifteen days before the scheduled date of trial
11 or at such later time as the court may allow for good cause.

12 (3) This rule shall not be construed to limit the
13 admission or consideration of evidence under any other rule.

14 (4) For purposes of this rule, sexual assault includes
15 violations of sections 28-319 and 28-320.

16 Sec. 2. (1) In a criminal case in which the defendant is
17 accused of sexual assault of a child, evidence of the defendant's
18 commission of another offense or offenses of sexual assault of a
19 child is admissible and may be considered for its bearing on any
20 matter to which it is relevant.

21 (2) In a case in which the prosecutor intends to offer
22 evidence under this rule, the prosecutor shall disclose the
23 evidence to the defendant, including statements of witnesses or a
24 summary of the substance of any testimony that is expected to be
25 offered, at least fifteen days before the scheduled date of trial
26 or at such later time as the court may allow for good cause.

27 (3) This rule shall not be construed to limit the
28 admission or consideration of evidence under any other rule.

1 (4) For purposes of this rule, sexual assault of a child
2 includes violations of section 28-320.01.

3 Sec. 3. Every health care professional as defined in
4 section 44-5418, or any person in charge of any emergency room or
5 first-aid station in this state:

6 (1) Shall utilize a standardized sexual assault evidence
7 collection kit approved by the Attorney General;

8 (2) Shall collect forensic evidence with the consent of
9 the sexual assault victim without separate authorization by a law
10 enforcement agency; and

11 (3) Shall report the sexual assault pursuant to
12 subsection (2) of section 28-902.

13 Sec. 4. Section 28-902, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 28-902. (1) ~~Every person engaged in the practice of~~
16 ~~medicine and surgery~~ health care professional as defined in section
17 44-5418, or ~~who is~~ any person in charge of any emergency room or
18 first-aid station in this state, shall report every case, in which
19 he or she is consulted for treatment or treats a wound or injury of
20 violence which appears to have been received in connection with the
21 commission of a criminal offense, immediately to the chief of
22 police of the municipality or to the sheriff of the county wherein
23 the consultation or treatment occurs. Such report shall include
24 the name of such person, the residence, if ascertainable, and a
25 brief description of the injury, except that a person who claims to
26 be the victim of a sexual assault shall not be identified by name
27 without the victim's consent if such person is eighteen years of
28 age or older and is not otherwise a vulnerable or protected

1 individual. Any provision of law or rule of evidence relative to
2 confidential communications is suspended insofar as the provisions
3 of this section are concerned.

4 (2) (a) Every health care professional as defined in
5 section 44-5418, or any person in charge of any emergency room or
6 first-aid station in this state, shall:

7 (i) Report a sexual assault without identifying the
8 victim, when the victim does not consent to identification;

9 (ii) Furnish the forensic sexual assault evidence to the
10 responsible law enforcement agency;

11 (iii) Identify the victim by a numbering system unique to
12 the location at which the victim was treated; and

13 (iv) Maintain the medical report identifying the victim
14 by name and number pursuant to subdivision (iii) of this section
15 for a period of at least three years.

16 (b) The responsible law enforcement agency shall maintain
17 the forensic sexual assault evidence for a period of at least three
18 years.

19 (3) Any person who fails to make the report required by
20 subsection (1) of this section commits a Class III misdemeanor.

21 Sec. 5. Section 29-110, Revised Statutes Supplement,
22 2004, is amended to read:

23 29-110. (1) Except as otherwise provided by law, no
24 person shall be prosecuted for any felony unless the indictment is
25 found by a grand jury within three years next after the offense has
26 been done or committed or unless a complaint for the same is filed
27 before the magistrate within three years next after the offense has
28 been done or committed and a warrant for the arrest of the

1 defendant has been issued. If the identity of such person is
2 ascertained through the use of DNA evidence more than three years
3 after the offense has been done or committed, but such evidence was
4 collected within three years after such offense, such person may be
5 prosecuted within one year next after the DNA has been positively
6 matched to him or her.

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

16 (3) Except as otherwise provided by law, no person shall
17 be prosecuted for sexual assault in the first degree, second
18 degree, or third degree under section 28-319 or 28-320, kidnapping
19 under section 28-313, false imprisonment under section 28-314 or
20 28-315, child abuse under section 28-707, pandering under section
21 28-802, debauching a minor under section 28-805, or an offense
22 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
24 the indictment for ~~the same~~ such offense is found by a grand jury
25 within seven years next after the offense has been committed or
26 within seven years next after the victim's sixteenth birthday,
27 whichever is later, or (b) unless a complaint for ~~the same~~ such
28 offense is filed before the magistrate within seven years next

1 after the offense has been committed or within seven years next
2 after the victim's sixteenth birthday, whichever is later, and a
3 warrant for the arrest of the defendant has been issued.

4 (4) No person shall be prosecuted for a violation of the
5 Securities Act of Nebraska under section 8-1117 unless the
6 indictment for ~~the same~~ such offense is found by a grand jury
7 within five years next after the offense has been done or committed
8 or unless a complaint for ~~the same~~ such offense is filed before the
9 magistrate within five years next after the offense has been done
10 or committed and a warrant for the arrest of the defendant has been
11 issued.

12 (5) There shall not be any time limitations for
13 prosecution or punishment for treason, murder, arson, forgery,
14 sexual assault of a child under section 28-320.01, or any of the
15 following offenses when the victim is under sixteen years of age at
16 the time of the offense: Sexual assault in the first degree,
17 second degree, or third degree under section 28-319 or 28-320.

18 (6) The time limitations prescribed in this section shall
19 include all inchoate offenses pursuant to the Nebraska Criminal
20 Code and compounding a felony pursuant to section 28-301.

21 (7) The time limitations prescribed in this section shall
22 not extend to any person fleeing from justice.

23 (8) When any suit, information, or indictment for any
24 crime or misdemeanor is limited by any statute to be brought or
25 exhibited within any other time than is limited by this section,
26 then the suit, information, or indictment shall be brought or
27 exhibited within the time limited by such statute.

28 (9) If any suit, information, or indictment is quashed or

1 the proceedings set aside or reversed on writ of error, the time
2 during the pendency of such suit, information, or indictment so
3 quashed, set aside, or reversed shall not be reckoned within this
4 statute so as to bar any new suit, information, or indictment for
5 the same offense.

6 (10) The changes made to this section by Laws 2004, LB
7 943, shall apply to offenses committed prior to April 16, 2004, for
8 which the statute of limitations has not expired as of such date
9 and to offenses committed on or after such date.

10 Sec. 6. The Revisor of Statutes shall assign sections 1
11 and 2 of this act to Chapter 27, article 4.

12 Sec. 7. Original section 28-902, Reissue Revised
13 Statutes of Nebraska, and section 29-110, Revised Statutes
14 Supplement, 2004, are repealed.