

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 840

Introduced by Lautenbaugh, 18.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section
2 28-201, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to criminal attempt; and to repeal
4 the original section.

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

1 Section 1. Section 28-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-201 (1) A person shall be guilty of an attempt to
4 commit a crime if he or she:

5 (a) Intentionally engages in conduct which would
6 constitute the crime if the attendant circumstances were as he or
7 she believes them to be; or

8 (b) Intentionally engages in conduct which, under the
9 circumstances as he or she believes them to be, constitutes a
10 substantial step in a course of conduct intended to culminate in
11 his or her commission of the crime.

12 (2) When causing a particular result is an element of
13 the crime, a person shall be guilty of an attempt to commit the
14 crime if, acting with the state of mind required to establish
15 liability with respect to the attendant circumstances specified in
16 the definition of the crime, he or she intentionally engages in
17 conduct which is a substantial step in a course of conduct intended
18 or known to cause such a result.

19 (3) Conduct shall not be considered a substantial step
20 under this section unless it is strongly corroborative of the
21 defendant's criminal intent.

22 (4) Criminal attempt is:

23 (a) A Class II felony when the crime attempted is a Class
24 I, ~~Class IA, or Class IB~~ IA, IB, IC, or ID felony;

25 (b) A Class III felony when the crime attempted is a

1 Class II felony;

2 (c) A Class IIIA felony when the crime attempted
3 is assault in the first degree under section 28-308, sexual
4 assault in the second degree under section 28-320, ~~manufacturing,~~
5 ~~distributing,~~ ~~delivering,~~ ~~dispensing,~~ or possessing with intent to
6 manufacture, distribute, deliver, or dispense controlled substances
7 listed in Schedule I, II, or III of section 28-405 under section
8 28-416 except for an exceptionally hazardous drug, a violation of
9 subdivision (2)(b) of section 28-416, incest under section 28-703,
10 child abuse under subsection (5) of section 28-707, ~~assault on an~~
11 ~~officer in the second degree under section 28-930,~~ or assault by
12 a confined person with a deadly or dangerous weapon under section
13 28-932;

14 (d) A Class IV felony when the crime attempted is a Class
15 III felony not listed in subdivision (4)(c) of this section;

16 (e) A Class I misdemeanor when the crime attempted is a
17 Class IIIA or Class IV felony;

18 (f) A Class II misdemeanor when the crime attempted is a
19 Class I misdemeanor; and

20 (g) A Class III misdemeanor when the crime attempted is
21 a Class II misdemeanor.

22 Sec. 2. Original section 28-201, Reissue Revised Statutes
23 of Nebraska, is repealed.