

AMENDMENTS TO LB 61

Introduced by Judiciary

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

3 Section 1. Section 28-311.08, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-311.08 (1) It shall be unlawful for any person to
6 knowingly intrude upon any other person without his or her consent
7 or knowledge in a place of solitude or seclusion.

8 (2) For purposes of this section:

9 (a) Intrude means either the:

10 (i) Viewing of another person in a state of undress; or

11 (ii) Recording viewing or recording, either by video,
12 audio, or other electronic means, of a another person in a state of
13 undress; and

14 (b) Place of solitude or seclusion means a place where
15 a person would intend to be in a state of undress and have a
16 reasonable expectation of privacy, including, but not limited to,
17 any facility, public or private, used as a restroom, tanning booth,
18 locker room, shower room, fitting room, or dressing room.

19 ~~(3) Violation~~ (3) (a) Violation of this section involving
20 an intrusion as defined in subdivision (2) (a) (i) of this section
21 is a Class III I misdemeanor, unless the victim is under the age
22 of eighteen in which case a violation is a Class II misdemeanor.
23 Lack of knowledge as to the victim's age is not a defense to the

1 ~~enhanced penalty under this section.~~

2 (b) Violation of this section involving an intrusion as
3 defined in subdivision (2)(a)(ii) of this section is a Class IV
4 felony.

5 (c) Violation of this section is a Class III felony if
6 video or an image from the intrusion is distributed to another
7 person or otherwise made public in any manner which would enable it
8 to be viewed by another person.

9 (4) No person shall be prosecuted for unlawful intrusion
10 pursuant to subdivision (3)(b) or (c) of this section unless the
11 indictment for such offense is found by a grand jury or a complaint
12 filed before a magistrate within three years after the later of:

13 (a) The commission of the crime;

14 (b) Law enforcement's or a victim's receipt of actual or
15 constructive notice of either the existence of a video or other
16 electronic recording of the unlawful intrusion or the distribution
17 of images, video, or other electronic recording of the unlawful
18 intrusion; or

19 (c) The youngest victim of the intrusion reaching the age
20 of twenty-one years.

21 Sec. 2. Section 29-4003, Revised Statutes Cumulative
22 Supplement, 2010, is amended to read:

23 29-4003 (1)(a) The Sex Offender Registration Act applies
24 to any person who on or after January 1, 1997:

25 (i) Has ever pled guilty to, pled nolo contendere to, or
26 been found guilty of any of the following:

27 (A) Kidnapping of a minor pursuant to section 28-313,

1 except when the person is the parent of the minor and was not
2 convicted of any other offense in this section;

3 (B) False imprisonment of a minor pursuant to section
4 28-314 or 28-315;

5 (C) Sexual assault pursuant to section 28-319 or 28-320;

6 (D) Sexual assault of a child in the second or third
7 degree pursuant to section 28-320.01;

8 (E) Sexual assault of a child in the first degree
9 pursuant to section 28-319.01;

10 (F) Sexual abuse of a vulnerable adult pursuant to
11 subdivision (1)(c) of section 28-386;

12 (G) Incest of a minor pursuant to section 28-703;

13 (H) Pandering of a minor pursuant to section 28-802;

14 (I) Visual depiction of sexually explicit conduct of a
15 child pursuant to section 28-1463.03 or 28-1463.05;

16 (J) Knowingly possessing any visual depiction of sexually
17 explicit conduct which has a child as one of its participants or
18 portrayed observers pursuant to section 28-813.01;

19 (K) Criminal child enticement pursuant to section 28-311;

20 (L) Child enticement by means of an electronic
21 communication device pursuant to section 28-320.02;

22 (M) Debauching a minor pursuant to section 28-805; or

23 (N) Attempt, solicitation, aiding or abetting, being
24 an accessory, or conspiracy to commit an offense listed in
25 subdivisions (1)(a)(i)(A) through (1)(a)(i)(M) of this section;

26 (ii) Has ever pled guilty to, pled nolo contendere to, or
27 been found guilty of any offense that is substantially equivalent

1 to a registrable offense under subdivision (1)(a)(i) of this
2 section by any village, town, city, state, territory, commonwealth,
3 or other jurisdiction of the United States, by the United States
4 Government, by court-martial or other military tribunal, or by
5 a foreign jurisdiction, notwithstanding a procedure comparable
6 in effect to that described under section 29-2264 or any other
7 procedure to nullify a conviction other than by pardon;

8 (iii) Is incarcerated in a jail, a penal or correctional
9 facility, or any other public or private institution or is under
10 probation or parole as a result of pleading guilty to or being
11 found guilty of a registrable offense under subdivision (1)(a)(i)
12 or (ii) of this section prior to January 1, 1997; or

13 (iv) Enters the state and is required to register as
14 a sex offender under the laws of another village, town, city,
15 state, territory, commonwealth, or other jurisdiction of the United
16 States.

17 (b) In addition to the registrable offenses under
18 subdivision (1)(a) of this section, the Sex Offender Registration
19 Act applies to any person who on or after January 1, 2010:

20 (i)(A) Except as provided in subdivision (1)(b)(i)(B) of
21 this section, has ever pled guilty to, pled nolo contendere to, or
22 been found guilty of any of the following:

23 (I) Murder in the first degree pursuant to section
24 28-303;

25 (II) Murder in the second degree pursuant to section
26 28-304;

27 (III) Manslaughter pursuant to section 28-305;

1 (IV) Assault in the first degree pursuant to section
2 28-308;
3 (V) Assault in the second degree pursuant to section
4 28-309;
5 (VI) Assault in the third degree pursuant to section
6 28-310;
7 (VII) Stalking pursuant to section 28-311.03;
8 ~~(VIII) Unlawful intrusion on a minor pursuant to section~~
9 ~~28-311.08;~~
10 ~~(IX) (VIII) Kidnapping~~ pursuant to section 28-313;
11 ~~(X) (IX) False imprisonment~~ pursuant to section 28-314 or
12 28-315;
13 ~~(XI) (X) Sexual abuse of an inmate or parolee in the~~
14 first degree pursuant to section 28-322.02;
15 ~~(XII) (XI) Sexual abuse of an inmate or parolee in the~~
16 second degree pursuant to section 28-322.03;
17 ~~(XIII) (XII) Sexual abuse of a protected individual~~
18 pursuant to section 28-322.04;
19 ~~(XIV) (XIII) Incest~~ pursuant to section 28-703;
20 ~~(XV) (XIV) Child abuse~~ pursuant to subdivision (1)(d) or
21 (e) of section 28-707;
22 ~~(XVI) (XV) Enticement by electronic communication device~~
23 pursuant to section 28-833; or
24 ~~(XVII) (XVI) Attempt, solicitation, aiding or abetting,~~
25 being an accessory, or conspiracy to commit an offense
26 listed in subdivisions (1)(b)(i)(A)(I) through ~~(1)(b)(i)(A)(XVI)~~
27 (1)(b)(i)(A)(XV) of this section.

1 (B) In order for the Sex Offender Registration Act to
2 apply to the offenses listed in subdivisions (1)(b)(i)(A)(I), (II),
3 (III), (IV), (V), (VI), (VII), ~~(IX)~~, (VIII), and ~~(X)~~ (IX) of
4 this section, a court shall have found that evidence of sexual
5 penetration or sexual contact, as those terms are defined in
6 section 28-318, was present in the record, which shall include
7 consideration of the factual basis for a plea-based conviction and
8 information contained in the presentence report;

9 (ii) Has ever pled guilty to, pled nolo contendere to, or
10 been found guilty of any offense that is substantially equivalent
11 to a registrable offense under subdivision (1)(b)(i) of this
12 section by any village, town, city, state, territory, commonwealth,
13 or other jurisdiction of the United States, by the United States
14 Government, by court-martial or other military tribunal, or by
15 a foreign jurisdiction, notwithstanding a procedure comparable
16 in effect to that described under section 29-2264 or any other
17 procedure to nullify a conviction other than by pardon; or

18 (iii) Enters the state and is required to register as
19 a sex offender under the laws of another village, town, city,
20 state, territory, commonwealth, or other jurisdiction of the United
21 States.

22 (2) A person appealing a conviction of a registrable
23 offense under this section shall be required to comply with the act
24 during the appeals process.

25 Sec. 3. Original section 28-311.08, Reissue Revised
26 Statutes of Nebraska, and section 29-4003, Revised Statutes
27 Cumulative Supplement, 2010, are repealed.