

AMENDMENTS TO LB 61

Introduced by Heidemann

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

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

20 (a) The commission of the crime;

21 (b) Law enforcement's or a victim's receipt of actual or
22 constructive notice of either the existence of a video or other
23 electronic recording of the unlawful intrusion or the distribution
24 of images, video, or other electronic recording of the unlawful
25 intrusion; or

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

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

3 29-4003 (1) (a) The Sex Offender Registration Act applies
4 to any person who on or after January 1, 1997:

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

7 (A) Kidnapping of a minor pursuant to section 28-313,
8 except when the person is the parent of the minor and was not
9 convicted of any other offense in this section;

10 (B) False imprisonment of a minor pursuant to section
11 28-314 or 28-315;

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

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

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

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

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

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

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

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

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

27 (L) Child enticement by means of an electronic

1 communication device pursuant to section 28-320.02;

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

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

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

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

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

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

27 (i) (A) Except as provided in subdivision (1) (b) (i) (B) of

1 this section, has ever pled guilty to, pled nolo contendere to, or
2 been found guilty of any of the following:

3 (I) Murder in the first degree pursuant to section
4 28-303;

5 (II) Murder in the second degree pursuant to section
6 28-304;

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

8 (IV) Assault in the first degree pursuant to section
9 28-308;

10 (V) Assault in the second degree pursuant to section
11 28-309;

12 (VI) Assault in the third degree pursuant to section
13 28-310;

14 (VII) Stalking pursuant to section 28-311.03;

15 (VIII) Unlawful intrusion ~~on a minor~~ pursuant to
16 subsection (4) of section 28-311.08;

17 (IX) Kidnapping pursuant to section 28-313;

18 (X) False imprisonment pursuant to section 28-314 or
19 28-315;

20 (XI) Sexual abuse of an inmate or parolee in the first
21 degree pursuant to section 28-322.02;

22 (XII) Sexual abuse of an inmate or parolee in the second
23 degree pursuant to section 28-322.03;

24 (XIII) Sexual abuse of a protected individual pursuant to
25 section 28-322.04;

26 (XIV) Incest pursuant to section 28-703;

27 (XV) Child abuse pursuant to subdivision (1)(d) or (e) of

1 section 28-707;

2 (XVI) Enticement by electronic communication device
3 pursuant to section 28-833; or

4 (XVII) Attempt, solicitation, aiding or abetting, being
5 an accessory, or conspiracy to commit an offense listed in
6 subdivisions (1)(b)(i)(A)(I) through (1)(b)(i)(A)(XVI) of this
7 section.

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

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

25 (iii) Enters the state and is required to register as
26 a sex offender under the laws of another village, town, city,
27 state, territory, commonwealth, or other jurisdiction of the United

1 States.

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

5 Sec. 3. Original section 28-311.08, Reissue Revised
6 Statutes of Nebraska, and section 29-4003, Revised Statutes
7 Cumulative Supplement, 2010, are repealed.