

AMENDMENTS TO LB811

(Amendments to Standing Committee amendments, AM2400)

Introduced by Lathrop

1 1. Insert the following new sections:

2 Section 1. Section 28-115, Revised Statutes Cumulative
3 Supplement, 2012, is amended to read:

4 28-115 (1) Any person who commits any of the following
5 criminal offenses against a pregnant woman shall be punished by
6 the imposition of the next higher penalty classification than the
7 penalty classification prescribed for the criminal offense, unless
8 such criminal offense is already punishable as a Class IB felony
9 or higher classification: Assault in the first degree, section
10 28-308; assault in the second degree, section 28-309; assault in
11 the third degree, section 28-310; sexual assault in the first
12 degree, section 28-319; sexual assault in the second or third
13 degree, section 28-320; sexual assault of a child in the second
14 or third degree, section 28-320.01; sexual abuse of an inmate or
15 parolee in the first degree, section 28-322.02; sexual abuse of an
16 inmate or parolee in the second degree, section 28-322.03; sexual
17 abuse of a protected individual in the first or second degree,
18 section 28-322.04; domestic assault in the first, second, or
19 third degree, section 28-323; assault on an officer, an emergency
20 responder, a state correctional employee, a Department of Health
21 and Human Services employee, or a health care professional in the
22 first degree, section 28-929; assault on an officer, an emergency

1 responder, a state correctional employee, a Department of Health
2 and Human Services employee, or a health care professional in the
3 second degree, section 28-930; assault on an officer, an emergency
4 responder, a state correctional employee, a Department of Health
5 and Human Services employee, or a health care professional in the
6 third degree, section 28-931; assault on an officer, an emergency
7 responder, a state correctional employee, a Department of Health
8 and Human Services employee, or a health care professional using
9 a motor vehicle, section 28-931.01; assault by a confined person,
10 section 28-932; confined person committing offenses against another
11 person, section 28-933; proximately causing serious bodily injury
12 while operating a motor vehicle, section 60-6,198; and sexual
13 assault of a child in the first degree, section 28-319.01.

14 (2) The prosecution shall allege and prove beyond a
15 reasonable doubt that the victim was pregnant at the time of the
16 offense.

17 Sec. 5. Section 28-929, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 28-929 (1) A person commits the offense of assault on an
20 officer, an emergency responder, a state correctional employee, a
21 Department of Health and Human Services employee, or a health care
22 professional in the first degree if:

23 (a) He or she intentionally or knowingly causes serious
24 bodily injury:

25 (i) To a peace officer, a probation officer, a
26 firefighter, an out-of-hospital emergency care provider, or an
27 employee of the Department of Correctional Services;

1 (ii) To an employee of the Department of Health and Human
2 Services if the person committing the offense is committed as a
3 dangerous sex offender under the Sex Offender Commitment Act; or

4 (iii) To a health care professional; and

5 (b) The offense is committed while such officer,
6 firefighter, out-of-hospital emergency care provider, or employee
7 is engaged in the performance of his or her official duties or
8 while the health care professional is on duty at a hospital or a
9 health clinic.

10 (2) Assault on an officer, an emergency responder, a
11 state correctional employee, a Department of Health and Human
12 Services employee, or a health care professional in the first
13 degree shall be a Class ID felony.

14 Sec. 6. Section 28-929.01, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 28-929.01 For purposes of sections 28-929, 28-929.02,
17 28-930, ~~and 28-931,~~ and 28-931.01:

18 (1) Health care professional means a physician or other
19 health care practitioner who is licensed, certified, or registered
20 to perform specified health services consistent with state law who
21 practices at a hospital or a health clinic;

22 (2) Health clinic has the definition found in section
23 71-416; ~~and~~

24 (3) Hospital has the definition found in section 71-419;
25 and-

26 (4) Out-of-hospital emergency care provider means (a) an
27 emergency medical responder; (b) an emergency medical technician;

1 (c) an advanced emergency medical technician; or (d) a paramedic,
2 as those persons are licensed and classified under the Emergency
3 Medical Services Practice Act.

4 Sec. 7. Section 28-930, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 28-930 (1) A person commits the offense of assault on an
7 officer, an emergency responder, a state correctional employee, a
8 Department of Health and Human Services employee, or a health care
9 professional in the second degree if:

10 (a) He or she:

11 (i) Intentionally or knowingly causes bodily injury with
12 a dangerous instrument:

13 (A) To a peace officer, a probation officer, a
14 firefighter, an out-of-hospital emergency care provider, or an
15 employee of the Department of Correctional Services;

16 (B) To an employee of the Department of Health and Human
17 Services if the person committing the offense is committed as a
18 dangerous sex offender under the Sex Offender Commitment Act; or

19 (C) To a health care professional; or

20 (ii) Recklessly causes bodily injury with a dangerous
21 instrument:

22 (A) To a peace officer, a probation officer, a
23 firefighter, an out-of-hospital emergency care provider, or an
24 employee of the Department of Correctional Services;

25 (B) To an employee of the Department of Health and Human
26 Services if the person committing the offense is committed as a
27 dangerous sex offender under the Sex Offender Commitment Act; or

1 (C) To a health care professional; and

2 (b) The offense is committed while such officer,
3 firefighter, out-of-hospital emergency care provider, or employee
4 is engaged in the performance of his or her official duties or
5 while the health care professional is on duty at a hospital or a
6 health clinic.

7 (2) Assault on an officer, an emergency responder, a
8 state correctional employee, a Department of Health and Human
9 Services employee, or a health care professional in the second
10 degree shall be a Class II felony.

11 Sec. 8. Section 28-931, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 28-931 (1) A person commits the offense of assault on an
14 officer, an emergency responder, a state correctional employee, a
15 Department of Health and Human Services employee, or a health care
16 professional in the third degree if:

17 (a) He or she intentionally, knowingly, or recklessly
18 causes bodily injury:

19 (i) To a peace officer, a probation officer, a
20 firefighter, an out-of-hospital emergency care provider, or an
21 employee of the Department of Correctional Services;

22 (ii) To an employee of the Department of Health and Human
23 Services if the person committing the offense is committed as a
24 dangerous sex offender under the Sex Offender Commitment Act; or

25 (iii) To a health care professional; and

26 (b) The offense is committed while such officer,
27 firefighter, out-of-hospital emergency care provider, or employee

1 is engaged in the performance of his or her official duties or
2 while the health care professional is on duty at a hospital or a
3 health clinic.

4 (2) Assault on an officer, an emergency responder, a
5 state correctional employee, a Department of Health and Human
6 Services employee, or a health care professional in the third
7 degree shall be a Class IIIA felony.

8 Sec. 9. Section 28-931.01, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 28-931.01 (1) A person commits the offense of assault on
11 an officer, an emergency responder, a state correctional employee,
12 a Department of Health and Human Services employee, or a health
13 care professional using a motor vehicle if:

14 (a) By using a motor vehicle to run over or to strike an
15 officer, an emergency responder, a state correctional employee, a
16 Department of Health and Human Services employee, or a health care
17 professional ~~or employee~~ or by using a motor vehicle to collide
18 with an officer's, an emergency responder's, a state correctional
19 employee's, a Department of Health and Human Services employee's,
20 or a health care professional's ~~or employee's~~ motor vehicle, he or
21 she intentionally and knowingly causes bodily injury:

22 (i) To a peace officer, a probation officer, a
23 firefighter, an out-of-hospital emergency care provider, or an
24 employee of the Department of Correctional Services; ~~or~~

25 (ii) To an employee of the Department of Health and Human
26 Services if the person committing the offense is committed as a
27 dangerous sex offender under the Sex Offender Commitment Act; ~~and~~

1 or

2 (iii) To a health care professional; and

3 (b) The offense is committed while such officer,
4 firefighter, out-of-hospital emergency care provider, or employee
5 is engaged in the performance of his or her official duties or
6 while the health care professional is on duty at a hospital or a
7 health clinic.

8 (2) Assault on an officer, an emergency responder, a
9 state correctional employee, a Department of Health and Human
10 Services employee, or a health care professional using a motor
11 vehicle shall be a Class IIIA felony.

12 Sec. 10. Section 28-934, Revised Statutes Cumulative
13 Supplement, 2012, is amended to read:

14 28-934 (1) Any person who knowingly and intentionally
15 strikes any public safety officer with any bodily fluid is guilty
16 of assault with a bodily fluid against a public safety officer.

17 (2) Except as provided in subsection (3) of this section,
18 assault with a bodily fluid against a public safety officer is a
19 Class I misdemeanor.

20 (3) Assault with a bodily fluid against a public safety
21 officer is a Class IIIA felony if the person committing the offense
22 strikes with a bodily fluid the eyes, mouth, or skin of a public
23 safety officer and knew the source of the bodily fluid was infected
24 with the human immunodeficiency virus, hepatitis B, or hepatitis C
25 at the time the offense was committed.

26 (4) Upon a showing of probable cause by affidavit to
27 a judge of this state that an offense as defined in subsection

1 (1) of this section has been committed and that identifies the
2 probable source of the bodily fluid or bodily fluids used to commit
3 the offense, the judge shall grant an order or issue a search
4 warrant authorizing the collection of any evidence, including any
5 bodily fluid or medical records or the performance of any medical
6 or scientific testing or analysis, that may assist with the
7 determination of whether or not the person committing the offense
8 or the person from whom the person committing the offense obtained
9 the bodily fluid or bodily fluids is infected with the human
10 immunodeficiency virus, hepatitis B, or hepatitis C.

11 (5) As used in this section:

12 (a) Bodily fluid means any naturally produced secretion
13 or waste product generated by the human body and shall include,
14 but not be limited to, any quantity of human blood, urine, saliva,
15 mucus, vomitus, seminal fluid, or feces; and

16 (b) Public safety officer includes any of the following
17 persons who are engaged in the performance of their official
18 duties at the time of the offense: A peace officer; a probation
19 officer; a firefighter; an out-of-hospital emergency care provider
20 as defined in section 28-929.01; an employee of a county, city,
21 or village jail; an employee of the Department of Correctional
22 Services; an employee of the secure youth confinement facility
23 operated by the Department of Correctional Services, if the person
24 committing the offense is committed to such facility; an employee
25 of the Youth Rehabilitation and Treatment Center-Geneva or the
26 Youth Rehabilitation and Treatment Center-Kearney; or an employee
27 of the Department of Health and Human Services if the person

1 committing the offense is committed as a dangerous sex offender
2 under the Sex Offender Commitment Act.

3 Sec. 11. Section 28-1351, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 28-1351 (1) A person commits the offense of unlawful
6 membership recruitment into an organization or association when he
7 or she knowingly and intentionally coerces, intimidates, threatens,
8 or inflicts bodily harm upon another person in order to entice
9 that other person to join or prevent that other person from
10 leaving any organization, group, enterprise, or association whose
11 members, individually or collectively, engage in or have engaged
12 in any of the following criminal acts for the benefit of, at the
13 direction of, or on behalf of the organization, group, enterprise,
14 or association or any of its members:

15 (a) Robbery under section 28-324;

16 (b) Arson in the first, second, or third degree under
17 section 28-502, 28-503, or 28-504, respectively;

18 (c) Burglary under section 28-507;

19 (d) Murder in the first degree, murder in the second
20 degree, or manslaughter under section 28-303, 28-304, or 28-305,
21 respectively;

22 (e) Violations of the Uniform Controlled Substances Act
23 that involve possession with intent to deliver, distribution,
24 delivery, or manufacture of a controlled substance;

25 (f) Unlawful use, possession, or discharge of a firearm
26 or other deadly weapon under sections 28-1201 to 28-1212.04;

27 (g) Assault in the first degree or assault in the second

1 degree under section 28-308 or 28-309, respectively;

2 (h) Assault on an officer, an emergency responder, a
3 state correctional employee, a Department of Health and Human
4 Services employee, or a health care professional in the first,
5 second, or third degree under section 28-929, 28-930, or 28-931,
6 respectively, or assault on an officer, an emergency responder,
7 a state correctional employee, a Department of Health and Human
8 Services employee, or a health care professional using a motor
9 vehicle under section 28-931.01;

10 (i) Theft by unlawful taking or disposition under section
11 28-511;

12 (j) Theft by receiving stolen property under section
13 28-517;

14 (k) Theft by deception under section 28-512;

15 (l) Theft by extortion under section 28-513;

16 (m) Kidnapping under section 28-313;

17 (n) Any forgery offense under sections 28-602 to 28-605;

18 (o) Criminal impersonation under section 28-638;

19 (p) Tampering with a publicly exhibited contest under
20 section 28-614;

21 (q) Unauthorized use of a financial transaction device or
22 criminal possession of a financial transaction device under section
23 28-620 or 28-621, respectively;

24 (r) Pandering under section 28-802;

25 (s) Bribery, bribery of a witness, or bribery of a juror
26 under section 28-917, 28-918, or 28-920, respectively;

27 (t) Tampering with a witness or an informant or jury

1 tampering under section 28-919;

2 (u) Unauthorized application of graffiti under section
3 28-524;

4 (v) Dogfighting, cockfighting, bearbaiting, or pitting an
5 animal against another under section 28-1005; or

6 (w) Promoting gambling in the first degree under section
7 28-1102.

8 (2) Unlawful membership recruitment into an organization
9 or association is a Class IV felony.

10 Sec. 12. Section 28-1354, Revised Statutes Supplement,
11 2013, is amended to read:

12 28-1354 For purposes of the Public Protection Act:

13 (1) Enterprise means any individual, sole proprietorship,
14 partnership, corporation, trust, association, or any legal entity,
15 union, or group of individuals associated in fact although not
16 a legal entity, and shall include illicit as well as licit
17 enterprises as well as other entities;

18 (2) Pattern of racketeering activity means a cumulative
19 loss for one or more victims or gains for the enterprise of not
20 less than one thousand five hundred dollars resulting from at least
21 two acts of racketeering activity, one of which occurred after
22 August 30, 2009, and the last of which occurred within ten years,
23 excluding any period of imprisonment, after the commission of a
24 prior act of racketeering activity;

25 (3) Person means any individual or entity, as defined in
26 section 21-2014, holding or capable of holding a legal, equitable,
27 or beneficial interest in property;

1 (4) Prosecutor includes the Attorney General of the
2 State of Nebraska, the deputy attorney general, assistant attorneys
3 general, a county attorney, a deputy county attorney, or any person
4 so designated by the Attorney General, a county attorney, or a
5 court of the state to carry out the powers conferred by the act;

6 (5) Racketeering activity includes the commission of,
7 criminal attempt to commit, conspiracy to commit, aiding and
8 abetting in the commission of, aiding in the consummation of,
9 acting as an accessory to the commission of, or the solicitation,
10 coercion, or intimidation of another to commit or aid in the
11 commission of any of the following:

12 (a) Offenses against the person which include: Murder in
13 the first degree under section 28-303; murder in the second degree
14 under section 28-304; manslaughter under section 28-305; assault in
15 the first degree under section 28-308; assault in the second degree
16 under section 28-309; assault in the third degree under section
17 28-310; terroristic threats under section 28-311.01; kidnapping
18 under section 28-313; false imprisonment in the first degree under
19 section 28-314; false imprisonment in the second degree under
20 section 28-315; sexual assault in the first degree under section
21 28-319; and robbery under section 28-324;

22 (b) Offenses relating to controlled substances which
23 include: To unlawfully manufacture, distribute, deliver, dispense,
24 or possess with intent to manufacture, distribute, deliver, or
25 dispense a controlled substance under subsection (1) of section
26 28-416; possession of marijuana weighing more than one pound
27 under subsection (12) of section 28-416; possession of money

1 used or intended to be used to facilitate a violation of
2 subsection (1) of section 28-416 prohibited under subsection
3 (17) of section 28-416; any violation of section 28-418; to
4 unlawfully manufacture, distribute, deliver, or possess with intent
5 to distribute or deliver an imitation controlled substance under
6 section 28-445; possession of anhydrous ammonia with the intent to
7 manufacture methamphetamine under section 28-451; and possession of
8 ephedrine, pseudoephedrine, or phenylpropanolamine with the intent
9 to manufacture methamphetamine under section 28-452;

10 (c) Offenses against property which include: Arson in
11 the first degree under section 28-502; arson in the second degree
12 under section 28-503; arson in the third degree under section
13 28-504; burglary under section 28-507; theft by unlawful taking
14 or disposition under section 28-511; theft by shoplifting under
15 section 28-511.01; theft by deception under section 28-512; theft
16 by extortion under section 28-513; theft of services under section
17 28-515; theft by receiving stolen property under section 28-517;
18 criminal mischief under section 28-519; and unlawfully depriving
19 or obtaining property or services using a computer under section
20 28-1344;

21 (d) Offenses involving fraud which include: Burning
22 to defraud an insurer under section 28-505; forgery in the
23 first degree under section 28-602; forgery in the second degree
24 under section 28-603; criminal possession of a forged instrument
25 under section 28-604; criminal possession of forgery devices
26 under section 28-605; criminal impersonation under section 28-638;
27 identity theft under section 28-639; identity fraud under section

1 28-640; false statement or book entry under section 28-612;
2 tampering with a publicly exhibited contest under section 28-614;
3 issuing a false financial statement for purposes of obtaining a
4 financial transaction device under section 28-619; unauthorized use
5 of a financial transaction device under section 28-620; criminal
6 possession of a financial transaction device under section 28-621;
7 unlawful circulation of a financial transaction device in the first
8 degree under section 28-622; unlawful circulation of a financial
9 transaction device in the second degree under section 28-623;
10 criminal possession of a blank financial transaction device under
11 section 28-624; criminal sale of a blank financial transaction
12 device under section 28-625; criminal possession of a forgery
13 device under section 28-626; unlawful manufacture of a financial
14 transaction device under section 28-627; laundering of sales forms
15 under section 28-628; unlawful acquisition of sales form processing
16 services under section 28-629; unlawful factoring of a financial
17 transaction device under section 28-630; and fraudulent insurance
18 acts under section 28-631;

19 (e) Offenses involving governmental operations which
20 include: Abuse of public records under section 28-911; perjury or
21 subornation of perjury under section 28-915; bribery under section
22 28-917; bribery of a witness under section 28-918; tampering
23 with a witness or informant or jury tampering under section
24 28-919; bribery of a juror under section 28-920; assault on an
25 officer, an emergency responder, a state correctional employee, a
26 Department of Health and Human Services employee, or a health care
27 professional in the first degree under section 28-929; assault on

1 an officer, an emergency responder, a state correctional employee,
2 a Department of Health and Human Services employee, or a health
3 care professional in the second degree under section 28-930;
4 assault on an officer, an emergency responder, a state correctional
5 employee, a Department of Health and Human Services employee,
6 or a health care professional in the third degree under section
7 28-931; and assault on an officer, an emergency responder, a state
8 correctional employee, a Department of Health and Human Services
9 employee, or a health care professional using a motor vehicle under
10 section 28-931.01;

11 (f) Offenses involving gambling which include: Promoting
12 gambling in the first degree under section 28-1102; possession of
13 gambling records under section 28-1105; gambling debt collection
14 under section 28-1105.01; and possession of a gambling device under
15 section 28-1107;

16 (g) Offenses relating to firearms, weapons, and
17 explosives which include: Carrying a concealed weapon under
18 section 28-1202; transportation or possession of machine guns,
19 short rifles, or short shotguns under section 28-1203; unlawful
20 possession of a handgun under section 28-1204; unlawful transfer of
21 a firearm to a juvenile under section 28-1204.01; using a deadly
22 weapon to commit a felony or possession of a deadly weapon during
23 the commission of a felony under section 28-1205; possession of
24 a deadly weapon by a prohibited person under section 28-1206;
25 possession of a defaced firearm under section 28-1207; defacing
26 a firearm under section 28-1208; unlawful discharge of a firearm
27 under section 28-1212.02; possession, receipt, retention, or

1 disposition of a stolen firearm under section 28-1212.03; unlawful
2 possession of explosive materials in the first degree under
3 section 28-1215; unlawful possession of explosive materials in the
4 second degree under section 28-1216; unlawful sale of explosives
5 under section 28-1217; use of explosives without a permit under
6 section 28-1218; obtaining an explosives permit through false
7 representations under section 28-1219; possession of a destructive
8 device under section 28-1220; threatening the use of explosives or
9 placing a false bomb under section 28-1221; using explosives to
10 commit a felony under section 28-1222; using explosives to damage
11 or destroy property under section 28-1223; and using explosives to
12 kill or injure any person under section 28-1224;

13 (h) Any violation of the Securities Act of Nebraska
14 pursuant to section 8-1117;

15 (i) Any violation of the Nebraska Revenue Act of 1967
16 pursuant to section 77-2713;

17 (j) Offenses relating to public health and morals which
18 include: Prostitution under section 28-801; pandering under section
19 28-802; keeping a place of prostitution under section 28-804; labor
20 trafficking, sex trafficking, labor trafficking of a minor, or sex
21 trafficking of a minor under section 28-831; a violation of section
22 28-1005; and any act relating to the visual depiction of sexually
23 explicit conduct prohibited in the Child Pornography Prevention
24 Act; and

25 (k) A violation of the Computer Crimes Act;

26 (6) State means the State of Nebraska or any political
27 subdivision or any department, agency, or instrumentality thereof;

1 and

2 (7) Unlawful debt means a debt of at least one thousand
3 five hundred dollars:

4 (a) Incurred or contracted in gambling activity which was
5 in violation of federal law or the law of the state or which is
6 unenforceable under state or federal law in whole or in part as to
7 principal or interest because of the laws relating to usury; or

8 (b) Which was incurred in connection with the business
9 of gambling in violation of federal law or the law of the state
10 or the business of lending money or a thing of value at a rate
11 usurious under state law if the usurious rate is at least twice the
12 enforceable rate.

13 2. Renumber the remaining section and correct the
14 repealer accordingly.