

AMENDMENTS TO LB289

Introduced by Cook, 13.

1           1. Insert the following new section:

2           Sec. 6. Section 28-1206, Revised Statutes Cumulative Supplement,  
3 2014, is amended to read:

4           28-1206 (1)(a) Any person who possesses a firearm, a knife, or brass  
5 or iron knuckles and who has previously been convicted of a felony, who  
6 is a fugitive from justice, or who is the subject of a current and  
7 validly issued domestic violence protection order and is knowingly  
8 violating such order, or (b) any person who possesses a firearm or brass  
9 or iron knuckles and who has been convicted ~~within the past seven years~~  
10 of a misdemeanor crime of domestic violence, commits the offense of  
11 possession of a deadly weapon by a prohibited person.

12           (2) The felony conviction may have been had in any court in the  
13 United States, the several states, territories, or possessions, or the  
14 District of Columbia.

15           (3)(a) Possession of a deadly weapon which is not a firearm by a  
16 prohibited person is a Class III felony.

17           (b) Possession of a deadly weapon which is a firearm by a prohibited  
18 person is a Class ID felony for a first offense and a Class IB felony for  
19 a second or subsequent offense.

20           (4)(a)(i) For purposes of this section, misdemeanor crime of  
21 domestic violence means:

22           (A)(I) A crime that is classified as a misdemeanor under the laws of  
23 the United States or the District of Columbia or the laws of any state,  
24 territory, possession, or tribe;

25           (II) A crime that has, as an element, the use or attempted use of  
26 physical force or the threatened use of a deadly weapon; and

27           (III) A crime that is committed by another against his or her

1 spouse, his or her former spouse, a person with whom he or she has a  
2 child in common whether or not they have been married or lived together  
3 at any time, or a person with whom he or she is or was involved in a  
4 dating relationship as defined in section 28-323; or

5 (B)(I) Assault in the third degree under section 28-310, stalking  
6 under subsection (1) of section 28-311.04, false imprisonment in the  
7 second degree under section 28-315, or first offense domestic assault in  
8 the third degree under subsection (1) of section 28-323 or any attempt or  
9 conspiracy to commit one of these offenses; and

10 (II) The crime is committed by another against his or her spouse,  
11 his or her former spouse, a person with whom he or she has a child in  
12 common whether or not they have been married or lived together at any  
13 time, or a person with whom he or she is or was involved in a dating  
14 relationship as defined in section 28-323.

15 (ii) A person shall not be considered to have been convicted of a  
16 misdemeanor crime of domestic violence unless:

17 (A) The person was represented by counsel in the case or knowingly  
18 and intelligently waived the right to counsel in the case; and

19 (B) In the case of a prosecution for a misdemeanor crime of domestic  
20 violence for which a person was entitled to a jury trial in the  
21 jurisdiction in which the case was tried, either:

22 (I) The case was tried to a jury; or

23 (II) The person knowingly and intelligently waived the right to have  
24 the case tried to a jury.

25 (b) For purposes of this section, subject of a current and validly  
26 issued domestic violence protection order pertains to a current court  
27 order that was validly issued pursuant to section 28-311.09 or 42-924 or  
28 that meets or exceeds the criteria set forth in section 28-311.10  
29 regarding protection orders issued by a court in any other state or a  
30 territory, possession, or tribe.

31 2. Renumber the remaining section and correct the repealer

1 accordingly.