

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 14**

Introduced by Krist, 10.

Read first time January 08, 2015

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections  
2 28-101, 28-1201, and 28-1351, Revised Statutes Cumulative  
3 Supplement, 2014; to create the offense of use of a facsimile  
4 firearm or nonfunctioning firearm to commit a felony; to provide a  
5 penalty; to define a term; to harmonize provisions; and to repeal  
6 the original sections.

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

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1418.01, and 28-1429.03 and  
4 section 3 of this act shall be known and may be cited as the Nebraska  
5 Criminal Code.

6 Sec. 2. Section 28-1201, Revised Statutes Cumulative Supplement,  
7 2014, is amended to read:

8 28-1201 For purposes of sections 28-1201 to 28-1212.04 and section 3  
9 of this act, unless the context otherwise requires:

10 (1) Facsimile firearm means any replica, toy, starter pistol, or  
11 other object that bears a reasonable resemblance to or that reasonably  
12 can be perceived to be an actual firearm;

13 (2) Firearm means any weapon which is designed to or may readily  
14 be converted to expel any projectile by the action of an explosive or  
15 frame or receiver of any such weapon;

16 (3) Fugitive from justice means any person who has fled or is  
17 fleeing from any peace officer to avoid prosecution or incarceration for  
18 a felony;

19 (4) Handgun means any firearm with a barrel less than sixteen  
20 inches in length or any firearm designed to be held and fired by the use  
21 of a single hand;

22 (5) Juvenile means any person under the age of eighteen years;

23 (6) Knife means any dagger, dirk, knife, or stiletto with a blade  
24 over three and one-half inches in length or any other dangerous  
25 instrument capable of inflicting cutting, stabbing, or tearing wounds;

26 (7) Knuckles and brass or iron knuckles means any instrument that  
27 consists of finger rings or guards made of a hard substance and that is  
28 designed, made, or adapted for the purpose of inflicting serious bodily  
29 injury or death by striking a person with a fist enclosed in the  
30 knuckles;

31 (8) Machine gun means any firearm, whatever its size and usual

1 designation, that shoots automatically more than one shot, without manual  
2 reloading, by a single function of the trigger;

3 (~~9~~ 8) School means a public, private, denominational, or parochial  
4 elementary, vocational, or secondary school, a private postsecondary  
5 career school as defined in section 85-1603, a community college, a  
6 public or private college, a junior college, or a university;

7 (~~10~~ 9) Short rifle means a rifle having a barrel less than sixteen  
8 inches long or an overall length of less than twenty-six inches; and

9 (~~11~~ 10) Short shotgun means a shotgun having a barrel or barrels  
10 less than eighteen inches long or an overall length of less than twenty-  
11 six inches.

12 Sec. 3. (1) Any person who uses a facsimile firearm or  
13 nonfunctioning firearm to commit a felony commits the offense of use of a  
14 facsimile firearm or nonfunctioning firearm to commit a felony.

15 (2) Use of a facsimile firearm or nonfunctioning firearm to commit a  
16 felony is a Class III felony.

17 (3) Use of a facsimile firearm or nonfunctioning firearm to commit a  
18 felony shall be treated as a separate and distinct offense from the  
19 felony being committed, and a sentence imposed under this section shall  
20 be consecutive to any other sentence imposed.

21 Sec. 4. Section 28-1351, Revised Statutes Cumulative Supplement,  
22 2014, is amended to read:

23 28-1351 (1) A person commits the offense of unlawful membership  
24 recruitment into an organization or association when he or she knowingly  
25 and intentionally coerces, intimidates, threatens, or inflicts bodily  
26 harm upon another person in order to entice that other person to join or  
27 prevent that other person from leaving any organization, group,  
28 enterprise, or association whose members, individually or collectively,  
29 engage in or have engaged in any of the following criminal acts for the  
30 benefit of, at the direction of, or on behalf of the organization, group,  
31 enterprise, or association or any of its members:

- 1 (a) Robbery under section 28-324;
- 2 (b) Arson in the first, second, or third degree under section  
3 28-502, 28-503, or 28-504, respectively;
- 4 (c) Burglary under section 28-507;
- 5 (d) Murder in the first degree, murder in the second degree, or  
6 manslaughter under section 28-303, 28-304, or 28-305, respectively;
- 7 (e) Violations of the Uniform Controlled Substances Act that involve  
8 possession with intent to deliver, distribution, delivery, or manufacture  
9 of a controlled substance;
- 10 (f) Unlawful use, possession, or discharge of a firearm or other  
11 deadly weapon under sections 28-1201 to 28-1212.04;
- 12 (g) Use of a facsimile firearm or nonfunctioning firearm to commit a  
13 felony under section 3 of this act;
- 14 (h ~~g~~) Assault in the first degree or assault in the second degree  
15 under section 28-308 or 28-309, respectively;
- 16 (i ~~h~~) Assault on an officer, an emergency responder, a state  
17 correctional employee, a Department of Health and Human Services  
18 employee, or a health care professional in the first, second, or third  
19 degree under section 28-929, 28-930, or 28-931, respectively, or assault  
20 on an officer, an emergency responder, a state correctional employee, a  
21 Department of Health and Human Services employee, or a health care  
22 professional using a motor vehicle under section 28-931.01;
- 23 (j ~~i~~) Theft by unlawful taking or disposition under section 28-511;
- 24 (k ~~j~~) Theft by receiving stolen property under section 28-517;
- 25 (l ~~k~~) Theft by deception under section 28-512;
- 26 (m ~~l~~) Theft by extortion under section 28-513;
- 27 (n ~~m~~) Kidnapping under section 28-313;
- 28 (o ~~n~~) Any forgery offense under sections 28-602 to 28-605;
- 29 (p ~~o~~) Criminal impersonation under section 28-638;
- 30 (q ~~p~~) Tampering with a publicly exhibited contest under section  
31 28-614;

1           (r ¶) Unauthorized use of a financial transaction device or criminal  
2 possession of a financial transaction device under section 28-620 or  
3 28-621, respectively;

4           (s ¶) Pandering under section 28-802;

5           (t §) Bribery, bribery of a witness, or bribery of a juror under  
6 section 28-917, 28-918, or 28-920, respectively;

7           (u ¶) Tampering with a witness or an informant or jury tampering  
8 under section 28-919;

9           (v ¶) Unauthorized application of graffiti under section 28-524;

10           (w ¶) Dogfighting, cockfighting, bearbaiting, or pitting an animal  
11 against another under section 28-1005; or

12           (x ¶) Promoting gambling in the first degree under section 28-1102.

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

15           Sec. 5. Original sections 28-101, 28-1201, and 28-1351, Revised  
16 Statutes Cumulative Supplement, 2014, are repealed.