

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 577

Introduced by Hilgers, 21.

Read first time January 18, 2017

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
2 28-101, 28-929.01, 28-1351, and 28-1354, Reissue Revised Statutes of
3 Nebraska; to create the offense of assault on a peace officer,
4 firefighter, or out-of-hospital emergency care provider by ambush;
5 to create a penalty; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 28-101, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-101 Sections 28-101 to 28-1357, ~~28-1418.01, 28-1429.03,~~ and
4 28-1601 to 28-1603 and section 3 of this act shall be known and may be
5 cited as the Nebraska Criminal Code.

6 Sec. 2. Section 28-929.01, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 28-929.01 For purposes of sections 28-929, 28-929.02, 28-930,
9 28-931, and 28-931.01 and section 3 of this act:

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

14 (2) Health clinic has the definition found in section 71-416;

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

16 (4) Out-of-hospital emergency care provider means (a) an emergency
17 medical responder; (b) an emergency medical technician; (c) an advanced
18 emergency medical technician; or (d) a paramedic, as those persons are
19 licensed and classified under the Emergency Medical Services Practice
20 Act.

21 Sec. 3. (1) A person commits the offense of assault on a peace
22 officer, firefighter, or out-of-hospital emergency care provider by
23 ambush if he or she knowingly and intentionally attacks a peace officer,
24 firefighter, or out-of-hospital emergency care provider while such
25 officer, firefighter, or provider is engaged in the performance of his or
26 her official duties and such person:

27 (a) Either:

28 (i) Attacks without warning from a concealed position; or

29 (ii) Approaches an unsuspecting peace officer, firefighter, or out-
30 of-hospital emergency care provider and attacks unexpectedly; and

31 (b) Intentionally or knowingly causes serious bodily injury to such

1 peace officer, firefighter, or out-of-hospital emergency care provider.

2 (2) Assault on a peace officer, firefighter, or out-of-hospital
3 emergency care provider by ambush is a Class IB felony. Upon conviction
4 of such offense, a person shall be sentenced to a minimum term of forty
5 years' imprisonment and may be fined up to one hundred thousand dollars.

6 Sec. 4. Section 28-1351, Reissue Revised Statutes of Nebraska, is
7 amended to read:

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

17 (a) Robbery under section 28-324;

18 (b) Arson in the first, second, or third degree under section
19 28-502, 28-503, or 28-504, respectively;

20 (c) Burglary under section 28-507;

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

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

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

28 (g) Assault in the first degree or assault in the second degree
29 under section 28-308 or 28-309, respectively;

30 (h) Assault on an officer, an emergency responder, a state
31 correctional employee, a Department of Health and Human Services

1 employee, or a health care professional in the first, second, or third
2 degree under section 28-929, 28-930, or 28-931, respectively, ~~or~~ assault
3 on an officer, an emergency responder, a state correctional employee, a
4 Department of Health and Human Services employee, or a health care
5 professional using a motor vehicle under section 28-931.01, or assault on
6 a peace officer, firefighter, or out-of-hospital emergency care provider
7 by ambush under section 3 of this act;

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

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

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

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

12 (m) Kidnapping under section 28-313;

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

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

15 (p) Tampering with a publicly exhibited contest under section
16 28-614;

17 (q) Unauthorized use of a financial transaction device or criminal
18 possession of a financial transaction device under section 28-620 or
19 28-621, respectively;

20 (r) Pandering under section 28-802;

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

23 (t) Tampering with a witness or an informant or jury tampering under
24 section 28-919;

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

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

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

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

31 Sec. 5. Section 28-1354, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 28-1354 For purposes of the Public Protection Act:

3 (1) Enterprise means any individual, sole proprietorship,
4 partnership, corporation, trust, association, or any legal entity, union,
5 or group of individuals associated in fact although not a legal entity,
6 and shall include illicit as well as licit enterprises as well as other
7 entities;

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

14 (3) Until January 1, 2017, person means any individual or entity, as
15 defined in section 21-2014, holding or capable of holding a legal,
16 equitable, or beneficial interest in property. Beginning January 1, 2017,
17 person means any individual or entity, as defined in section 21-214,
18 holding or capable of holding a legal, equitable, or beneficial interest
19 in property;

20 (4) Prosecutor includes the Attorney General of the State of
21 Nebraska, the deputy attorney general, assistant attorneys general, a
22 county attorney, a deputy county attorney, or any person so designated by
23 the Attorney General, a county attorney, or a court of the state to carry
24 out the powers conferred by the act;

25 (5) Racketeering activity includes the commission of, criminal
26 attempt to commit, conspiracy to commit, aiding and abetting in the
27 commission of, aiding in the consummation of, acting as an accessory to
28 the commission of, or the solicitation, coercion, or intimidation of
29 another to commit or aid in the commission of any of the following:

30 (a) Offenses against the person which include: Murder in the first
31 degree under section 28-303; murder in the second degree under section

1 28-304; manslaughter under section 28-305; assault in the first degree
2 under section 28-308; assault in the second degree under section 28-309;
3 assault in the third degree under section 28-310; terroristic threats
4 under section 28-311.01; kidnapping under section 28-313; false
5 imprisonment in the first degree under section 28-314; false imprisonment
6 in the second degree under section 28-315; sexual assault in the first
7 degree under section 28-319; and robbery under section 28-324;

8 (b) Offenses relating to controlled substances which include: To
9 unlawfully manufacture, distribute, deliver, dispense, or possess with
10 intent to manufacture, distribute, deliver, or dispense a controlled
11 substance under subsection (1) of section 28-416; possession of marijuana
12 weighing more than one pound under subsection (12) of section 28-416;
13 possession of money used or intended to be used to facilitate a violation
14 of subsection (1) of section 28-416 prohibited under subsection (17) of
15 section 28-416; any violation of section 28-418; to unlawfully
16 manufacture, distribute, deliver, or possess with intent to distribute or
17 deliver an imitation controlled substance under section 28-445;
18 possession of anhydrous ammonia with the intent to manufacture
19 methamphetamine under section 28-451; and possession of ephedrine,
20 pseudoephedrine, or phenylpropanolamine with the intent to manufacture
21 methamphetamine under section 28-452;

22 (c) Offenses against property which include: Arson in the first
23 degree under section 28-502; arson in the second degree under section
24 28-503; arson in the third degree under section 28-504; burglary under
25 section 28-507; theft by unlawful taking or disposition under section
26 28-511; theft by shoplifting under section 28-511.01; theft by deception
27 under section 28-512; theft by extortion under section 28-513; theft of
28 services under section 28-515; theft by receiving stolen property under
29 section 28-517; criminal mischief under section 28-519; and unlawfully
30 depriving or obtaining property or services using a computer under
31 section 28-1344;

1 (d) Offenses involving fraud which include: Burning to defraud an
2 insurer under section 28-505; forgery in the first degree under section
3 28-602; forgery in the second degree under section 28-603; criminal
4 possession of a forged instrument under section 28-604; criminal
5 possession of written instrument forgery devices under section 28-605;
6 criminal impersonation under section 28-638; identity theft under section
7 28-639; identity fraud under section 28-640; false statement or book
8 entry under section 28-612; tampering with a publicly exhibited contest
9 under section 28-614; issuing a false financial statement for purposes of
10 obtaining a financial transaction device under section 28-619;
11 unauthorized use of a financial transaction device under section 28-620;
12 criminal possession of a financial transaction device under section
13 28-621; unlawful circulation of a financial transaction device in the
14 first degree under section 28-622; unlawful circulation of a financial
15 transaction device in the second degree under section 28-623; criminal
16 possession of a blank financial transaction device under section 28-624;
17 criminal sale of a blank financial transaction device under section
18 28-625; criminal possession of a financial transaction forgery device
19 under section 28-626; unlawful manufacture of a financial transaction
20 device under section 28-627; laundering of sales forms under section
21 28-628; unlawful acquisition of sales form processing services under
22 section 28-629; unlawful factoring of a financial transaction device
23 under section 28-630; and fraudulent insurance acts under section 28-631;

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

1 officer, an emergency responder, a state correctional employee, a
2 Department of Health and Human Services employee, or a health care
3 professional in the second degree under section 28-930; assault on an
4 officer, an emergency responder, a state correctional employee, a
5 Department of Health and Human Services employee, or a health care
6 professional in the third degree under section 28-931; ~~and~~ 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 using a motor vehicle under section 28-931.01, and assault
10 on a peace officer, firefighter, or out-of-hospital emergency care
11 provider by ambush under section 3 of this act;

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

16 (g) Offenses relating to firearms, weapons, and explosives which
17 include: Carrying a concealed weapon under section 28-1202;
18 transportation or possession of machine guns, short rifles, or short
19 shotguns under section 28-1203; unlawful possession of a handgun under
20 section 28-1204; unlawful transfer of a firearm to a juvenile under
21 section 28-1204.01; using a deadly weapon to commit a felony or
22 possession of a deadly weapon during the commission of a felony under
23 section 28-1205; possession of a deadly weapon by a prohibited person
24 under section 28-1206; possession of a defaced firearm under section
25 28-1207; defacing a firearm under section 28-1208; unlawful discharge of
26 a firearm under section 28-1212.02; possession, receipt, retention, or
27 disposition of a stolen firearm under section 28-1212.03; unlawful
28 possession of explosive materials in the first degree under section
29 28-1215; unlawful possession of explosive materials in the second degree
30 under section 28-1216; unlawful sale of explosives under section 28-1217;
31 use of explosives without a permit under section 28-1218; obtaining an

1 explosives permit through false representations under section 28-1219;
2 possession of a destructive device under section 28-1220; threatening the
3 use of explosives or placing a false bomb under section 28-1221; using
4 explosives to commit a felony under section 28-1222; using explosives to
5 damage or destroy property under section 28-1223; and using explosives to
6 kill or injure any person under section 28-1224;

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

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

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

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

19 (6) State means the State of Nebraska or any political subdivision
20 or any department, agency, or instrumentality thereof; and

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

23 (a) Incurred or contracted in gambling activity which was in
24 violation of federal law or the law of the state or which is
25 unenforceable under state or federal law in whole or in part as to
26 principal or interest because of the laws relating to usury; or

27 (b) Which was incurred in connection with the business of gambling
28 in violation of federal law or the law of the state or the business of
29 lending money or a thing of value at a rate usurious under state law if
30 the usurious rate is at least twice the enforceable rate.

31 Sec. 6. Original sections 28-101, 28-929.01, 28-1351, and 28-1354,

1 Reissue Revised Statutes of Nebraska, are repealed.