

## LEGISLATIVE BILL 478

Approved by the Governor May 09, 2017

Introduced by Groene, 42; Lowe, 37.

A BILL FOR AN ACT relating to crimes and offenses; to amend section 28-1206, Reissue Revised Statutes of Nebraska; to provide for possession of archery equipment and knives for recreational purposes as prescribed; to define terms; to harmonize provisions; to repeal the original section; and to declare an emergency.

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

Section 1. Section 28-1206, Reissue Revised Statutes of Nebraska, is amended to read:

28-1206 (1) A person commits the offense of possession of a deadly weapon by a prohibited person if he or she:

(a) Possesses Any person who possesses a firearm, a knife, or brass or iron knuckles and he or she:

(i) Has who has previously been convicted of a felony;

(ii) Is , who is a fugitive from justice;

(iii) Is , or who is the subject of a current and validly issued domestic violence protection order or harassment protection order and is knowingly violating such order; or

(b) Possesses , or (b) any person who possesses a firearm or brass or iron knuckles and he or she who has been convicted within the past seven years of a misdemeanor crime of domestic violence, commits the offense of possession of a deadly weapon by a prohibited person.

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

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

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

(4) Subdivision (1)(a)(i) of this section shall not prohibit:

(a) Possession of archery equipment for lawful purposes; or

(b) If in possession of a recreational license, possession of a knife for purposes of butchering, dressing, or otherwise processing or harvesting game, fish, or furs.

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

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

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

(iii) Is (III) A crime that is committed by another against his or her spouse, his or her former spouse, a person with whom he or she has a child in common whether or not they have been married or lived together at any time, or a person with whom he or she is or was involved in a dating relationship as defined in section 28-323. ; or

(b) For purposes of this section, misdemeanor crime of domestic violence also includes the following offenses, if committed by a person against his or her spouse, his or her former spouse, a person with whom he or she is or was involved in a dating relationship as defined in section 28-323, or a person with whom he or she has a child in common whether or not they have been married or lived together at any time:

(i) (B)(I) Assault in the third degree under section 28-310; ;

(ii) Stalking stalking under subsection (1) of section 28-311.04; ;

(iii) False false imprisonment in the second degree under section 28-315; ;

(iv) First or first offense domestic assault in the third degree under subsection (1) of section 28-323; or

(v) Any any attempt or conspiracy to commit any one of such these offenses. ; and

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

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

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

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

(A) ~~(I)~~ The case was tried to a jury; or  
(B) ~~(II)~~ The person knowingly and intelligently waived the right to have the case tried to a jury.

(6) In addition, for (b) For purposes of this section:

(a) Archery equipment means:

(i) A longbow, recurve bow, compound bow, or nonelectric crossbow that is drawn or cocked with human power and released by human power; and

(ii) Target or hunting arrows, including arrows with broad, fixed, or removable heads or that contain multiple sharp cutting edges;

(b) Domestic , subject of a current and validly issued domestic violence protection order means a protection order pertains to a current court order that was validly issued pursuant to section 28-311.09 or 42-924;

(c) Harassment protection order means a protection order issued pursuant to section 28-311.09 or that meets or exceeds the criteria set forth in section 28-311.10 regarding protection orders issued by a court in any other state or a territory, possession, or tribe; and -

(d) Recreational license means a state-issued license, certificate, registration, permit, tag, sticker, or other similar document or identifier evidencing permission to hunt, fish, or trap for furs in the State of Nebraska.

Sec. 2. Original section 28-1206, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.