

AMENDMENTS TO LB141

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 28-115, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-115 (1) Except as provided in subsection (2) of this section, any
6 person who commits any of the following criminal offenses against a
7 pregnant woman shall be punished by the imposition of the next higher
8 penalty classification than the penalty classification prescribed for the
9 criminal offense:

10 (a) Assault in the first degree, section 28-308;

11 (b) Assault in the second degree, section 28-309;

12 (c) Assault in the third degree, section 28-310;

13 (d) Assault by strangulation or suffocation, section 28-310.01;

14 (e) ~~(d)~~ Sexual assault in the first degree, section 28-319;

15 (f) ~~(e)~~ Sexual assault in the second or third degree, section
16 28-320;

17 (g) ~~(f)~~ Sexual assault of a child in the first degree, section
18 28-319.01;

19 (h) ~~(g)~~ Sexual assault of a child in the second or third degree,
20 section 28-320.01;

21 (i) ~~(h)~~ Sexual abuse of an inmate or parolee in the first degree,
22 section 28-322.02;

23 (j) ~~(i)~~ Sexual abuse of an inmate or parolee in the second degree,
24 section 28-322.03;

25 (k) ~~(j)~~ Sexual abuse of a protected individual in the first or
26 second degree, section 28-322.04;

27 (l) ~~(k)~~ Domestic assault in the first, second, or third degree,

1 section 28-323;

2 (m) ~~(l)~~ Assault on an officer, an emergency responder, a state
3 correctional employee, a Department of Health and Human Services
4 employee, or a health care professional in the first degree, section
5 28-929;

6 (n) ~~(m)~~ Assault on an officer, an emergency responder, a state
7 correctional employee, a Department of Health and Human Services
8 employee, or a health care professional in the second degree, section
9 28-930;

10 (o) ~~(n)~~ Assault on an officer, an emergency responder, a state
11 correctional employee, a Department of Health and Human Services
12 employee, or a health care professional in the third degree, section
13 28-931;

14 (p) ~~(o)~~ Assault on an officer, an emergency responder, a state
15 correctional employee, a Department of Health and Human Services
16 employee, or a health care professional using a motor vehicle, section
17 28-931.01;

18 (q) ~~(p)~~ Assault by a confined person, section 28-932;

19 (r) ~~(q)~~ Confined person committing offenses against another person,
20 section 28-933; and

21 (s) ~~(r)~~ Proximately causing serious bodily injury while operating a
22 motor vehicle, section 60-6,198.

23 (2) The enhancement in subsection (1) of this section does not apply
24 to any criminal offense listed in subsection (1) of this section that is
25 already punishable as a Class I, IA, or IB felony. If any criminal
26 offense listed in subsection (1) of this section is punishable as a Class
27 I misdemeanor, the penalty under this section is a Class IIIA felony.

28 (3) The prosecution shall allege and prove beyond a reasonable doubt
29 that the victim was pregnant at the time of the offense.

30 Sec. 2. Section 28-310.01, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 28-310.01 (1) A person commits the offense of assault by
2 strangulation or suffocation if the person knowingly or intentionally:

3 ~~(a) Impedes intentionally~~ impedes the normal breathing or
4 circulation of the blood of another person by applying pressure on the
5 throat or neck of the other person; or -

6 (b) Impedes the normal breathing of another person by covering the
7 mouth and nose of the person.

8 (2) An offense is committed under this section regardless of whether
9 a visible injury resulted.

10 ~~(3) (2)~~ Except as provided in subsection ~~(4) (3)~~ of this section, a
11 violation of this section ~~strangulation~~ is a Class IIIA felony.

12 (4) A violation of this section ~~(3) Strangulation~~ is a Class IIA
13 felony if:

14 (a) The person used or attempted to use a dangerous instrument while
15 committing the offense;

16 (b) The person caused serious bodily injury to the other person
17 while committing the offense; or

18 (c) The person has been previously convicted of a violation of this
19 section ~~strangulation~~.

20 ~~(5) (4)~~ It is an affirmative defense that an act constituting
21 strangulation or suffocation was the result of a legitimate medical
22 procedure.

23 Sec. 3. Original sections 28-115 and 28-310.01, Reissue Revised
24 Statutes of Nebraska, are repealed.