

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 749

Introduced by Cavanaugh, M., 6.

Read first time January 18, 2023

Committee: Judiciary

1 A BILL FOR AN ACT relating to offenses; to amend sections 28-101,
2 28-1201, and 28-1351, Revised Statutes Cumulative Supplement, 2022;
3 to prohibit the possession of deadly weapons in the State Capitol or
4 on State Capitol grounds; to provide a penalty; to define a term; to
5 harmonize provisions; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-101, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
4 and 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 2022, 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) Firearm means any weapon which is designed to or may readily be
11 converted to expel any projectile by the action of an explosive or frame
12 or receiver of any such weapon;

13 (2) Fugitive from justice means any person who has fled or is
14 fleeing from any peace officer to avoid prosecution or incarceration for
15 a felony;

16 (3) Handgun means any firearm with a barrel less than sixteen inches
17 in length or any firearm designed to be held and fired by the use of a
18 single hand;

19 (4) Juvenile means any person under the age of eighteen years;

20 (5) Knife means:

21 (a) Any dagger, dirk, knife, or stiletto with a blade over three and
22 one-half inches in length and which, in the manner it is used or intended
23 to be used, is capable of producing death or serious bodily injury; or

24 (b) Any other dangerous instrument which is capable of inflicting
25 cutting, stabbing, or tearing wounds and which, in the manner it is used
26 or intended to be used, is capable of producing death or serious bodily
27 injury;

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

1 knuckles;

2 (7) Machine gun means any firearm, whatever its size and usual
3 designation, that shoots automatically more than one shot, without manual
4 reloading, by a single function of the trigger;

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

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

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

14 Sec. 3. (1) Except as provided in subsection (2) of this section,
15 it shall be unlawful for any person to possess a deadly weapon in the
16 State Capitol building or on State Capitol grounds. A violation of this
17 section is a Class IV felony.

18 (2) This section shall not apply to:

19 (a) A peace officer or other duly authorized law enforcement officer
20 when on duty or training;

21 (b) Members of the armed forces of the United States, active or
22 reserve, National Guard of this state, or Reserve Officers' Training
23 Corps when on duty or training;

24 (c) Persons participating in historical reenactments, honor guards,
25 or ceremonial proceedings with the approval of the Nebraska Capitol
26 Commission;

27 (d) A deadly weapon contained within a private vehicle which, in the
28 case of a firearm, is not loaded and is either encased or in a locked
29 firearm rack that is on a motor vehicle; or

30 (e) A handgun carried by a holder of a valid permit issued under the
31 Concealed Handgun Permit Act in a vehicle or on his or her person while

1 riding in or on a vehicle into or onto any parking area if, prior to
2 exiting the vehicle, the handgun is locked inside the glove box, trunk,
3 or other compartment of the vehicle, a storage box securely attached to
4 the vehicle, or, if the vehicle is a motorcycle, other than an autocycle,
5 a hardened compartment securely attached to the motorcycle while the
6 vehicle is in or on such parking area.

7 (3) For purposes of this section, encased means enclosed in a case
8 that is expressly made for the purpose of containing a firearm and that
9 is completely zipped, snapped, buckled, tied, or otherwise fastened with
10 no part of the firearm exposed.

11 Sec. 4. Section 28-1351, Revised Statutes Cumulative Supplement,
12 2022, is amended to read:

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

22 (a) Robbery under section 28-324;

23 (b) Arson in the first, second, or third degree under section
24 28-502, 28-503, or 28-504, respectively;

25 (c) Burglary under section 28-507;

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

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

31 (f) Unlawful use, possession, or discharge of a firearm or other

1 deadly weapon under sections 28-1201 to 28-1212.04 and section 3 of this
2 act;

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

5 (h) Assault on an officer, an emergency responder, a state
6 correctional employee, a Department of Health and Human Services
7 employee, or a health care professional in the first, second, or third
8 degree under section 28-929, 28-930, or 28-931, respectively, or assault
9 on an officer, an emergency responder, a state correctional employee, a
10 Department of Health and Human Services employee, or a health care
11 professional using a motor vehicle under section 28-931.01;

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

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

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

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

16 (m) Kidnapping under section 28-313;

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

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

19 (p) Tampering with a publicly exhibited contest under section
20 28-614;

21 (q) Unauthorized use of a financial transaction device or criminal
22 possession of a financial transaction device under section 28-620 or
23 28-621, respectively;

24 (r) Pandering under section 28-802;

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

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

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

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

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

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

4 Sec. 5. Original sections 28-101, 28-1201, and 28-1351, Revised
5 Statutes Cumulative Supplement, 2022, are repealed.