

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 206

Introduced by von Gillern, 4.

Read first time January 14, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-101, Revised Statutes Cumulative Supplement, 2024; to provide for
- 3 enhanced penalties for certain offenses committed in a disaster area
- 4 during an emergency period; to define terms; to harmonize
- 5 provisions; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
4 and section 2 of this act shall be known and may be cited as the Nebraska
5 Criminal Code.

6 **Sec. 2.** (1) For purposes of this section:

7 (a) Covered offense means:

8 (i) Assault in the first degree, assault in the second degree, or
9 assault by strangulation or suffocation under section 28-308, 28-309, or
10 28-310.01;

11 (ii) Assault in the third degree under section 28-310 if punishable
12 as a Class I misdemeanor;

13 (iii) Robbery under section 28-324;

14 (iv) Arson in the first, second, or third degree under section
15 28-502, 28-503, or 28-504;

16 (v) Burning to defraud an insurer under section 28-505;

17 (vi) Burglary under section 28-507;

18 (vii) Theft under sections 28-509 to 28-518;

19 (viii) Criminal mischief under section 28-519;

20 (ix) Criminal trespass in the first or second degree under section
21 28-520 or 28-521; and

22 (x) Attempt, conspiracy, solicitation, being an accessory to, aiding
23 and abetting, aiding the consummation of, or compounding a felony with
24 any of the other offenses listed in subdivision (1)(a) of this section as
25 the underlying offense;

26 (b) Disaster area means an area that is subject to any of the
27 following:

28 (i) An emergency proclamation by the Governor pursuant to section
29 81-829.40;

30 (ii) A local emergency declaration under section 81-829.50;

31 (iii) A major disaster or emergency area declaration by the

1 President of the United States pursuant to 42 U.S.C. 5121 et seq,; or
2 (iv) A mandatory evacuation order declared by the proper local,
3 state, or federal official; and

4 (c) Emergency period means the period of time that a proclamation, a
5 declaration, or an order described in subdivision (1)(b) of this section
6 is in effect. If no end date for the proclamation, declaration, or order
7 is provided by its terms or otherwise provided for by law, the emergency
8 period shall be deemed to end thirty days after the date the
9 proclamation, declaration, or order was issued.

10 (2) Any person who commits a covered offense in a disaster area
11 during an emergency period shall be punished by the imposition of the
12 next higher penalty classification than the penalty classification
13 prescribed for the covered offense.

14 (3) If an offense is punishable as a Class I misdemeanor, the
15 enhanced penalty under this section is a Class IV felony.

16 (4) The allegations supporting an enhancement under this section
17 shall be set forth in the indictment or information, and it shall be the
18 burden of the prosecuting attorney to prove such allegations beyond a
19 reasonable doubt to the judge or jury in the state's case in chief.

20 **Sec. 3.** Original section 28-101, Revised Statutes Cumulative
21 Supplement, 2024, is repealed.