

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 478

FINAL READING

Introduced by Groene, 42; Lowe, 37.

Read first time January 17, 2017

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-1206, Reissue Revised Statutes of Nebraska; to provide for
- 3 possession of archery equipment and knives for recreational purposes
- 4 as prescribed; to define terms; to harmonize provisions; to repeal
- 5 the original section; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

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

3 28-1206 (1) A person commits the offense of possession of a deadly
4 weapon by a prohibited person if he or she:

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

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

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

9 (iii) Is ~~, or who is~~ the subject of a current and validly issued
10 domestic violence protection order or

11 harassment protection order and is knowingly violating such order; or

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

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

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

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

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

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

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

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

31 (i) Is ~~(A)(I) A crime that is~~ classified as a misdemeanor under the

1 laws of the United States or the District of Columbia or the laws of any
2 state, territory, possession, or tribe;

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

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

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

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

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

18 (iii) False ~~false~~ imprisonment in the second degree under section
19 28-315; ~~;~~ ~~τ~~

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

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

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

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

31 (i) (A) The person was represented by counsel in the case or

1 knowingly and intelligently waived the right to counsel in the case; and

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

5 (A) (I) The case was tried to a jury; or

6 (B) (II) The person knowingly and intelligently waived the right to
7 have the case tried to a jury.

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

9 (a) Archery equipment means:

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

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

14 (b) Domestic , subject of a current and validly issued domestic
15 violence protection order means a protection order pertains to a current
16 court order that was validly issued pursuant to section 28-311.09 or
17 42-924;

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

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

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

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