

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIRST LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 38

Introduced by Flood, 19.

Read first time January 8, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections
2 28-309, 28-929, 28-930, 28-931, 28-931.01, 28-932, and
3 28-933, Reissue Revised Statutes of Nebraska; to change
4 provisions relating to assault, assault on an officer,
5 and offenses by a confined person; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-309, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-309 (1) A person commits the offense of assault in the
4 second degree if he or she:

5 (a) Intentionally or knowingly causes bodily injury to
6 another person with a dangerous instrument;

7 (b) Recklessly causes serious bodily injury to another
8 person with a dangerous instrument; or

9 ~~(c) (i) While during confinement or legally confined~~
10 in a jail, an adult correctional or penal institution, a youth
11 rehabilitation and treatment center, or a treatment facility as
12 defined in section 71-914, (ii) while otherwise in legal custody
13 of the Department of Correctional Services, or in any county
14 jail, (iii) while committed as a mentally ill dangerous person or
15 dangerous sex offender under the Nebraska Mental Health Commitment
16 Act or the Sex Offender Commitment Act, unlawfully strikes or
17 wounds another.

18 (2) Assault in the second degree shall be a Class IIIA
19 felony.

20 Sec. 2. Section 28-929, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 28-929 (1) A person commits the offense of assault on
23 an officer in the first degree if he or she intentionally or
24 knowingly causes serious bodily injury to a peace officer, a
25 probation officer, ~~or~~ an employee of the Department of Correctional

1 Services, or an employee of the Department of Health and Human
2 Services who works in a youth rehabilitation and treatment center
3 or treatment facility as defined in section 71-914, while such
4 officer or employee is engaged in the performance of his or her
5 official duties.

6 (2) Assault on an officer in the first degree shall be a
7 Class II felony.

8 Sec. 3. Section 28-930, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 28-930 (1) A person commits the offense of assault on an
11 officer in the second degree if he or she:

12 (a) Intentionally or knowingly causes bodily injury with
13 a dangerous instrument to a peace officer, a probation officer,
14 ~~or~~ an employee of the Department of Correctional Services, or
15 an employee of the Department of Health and Human Services who
16 works in a youth rehabilitation and treatment center or treatment
17 facility as defined in section 71-914, while such officer or
18 employee is engaged in the performance of his or her official
19 duties; or

20 (b) Recklessly causes bodily injury with a dangerous
21 instrument to a peace officer, a probation officer, ~~or~~ an employee
22 of the Department of Correctional Services, or an employee of
23 the Department of Health and Human Services who works in a
24 youth rehabilitation and treatment center or treatment facility
25 as defined in section 71-914, while such officer or employee is

1 engaged in the performance of his or her official duties.

2 (2) Assault on an officer in the second degree shall be
3 a Class III felony.

4 Sec. 4. Section 28-931, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 28-931 (1) A person commits the offense of assault on an
7 officer in the third degree if he or she intentionally, knowingly,
8 or recklessly causes bodily injury to a peace officer, a probation
9 officer, ~~or~~ an employee of the Department of Correctional Services,
10 or an employee of the Department of Health and Human Services who
11 works in a youth rehabilitation and treatment center or treatment
12 facility as defined in section 71-914, while such officer or
13 employee is engaged in the performance of his or her official
14 duties.

15 (2) Assault on an officer in the third degree shall be a
16 Class IIIA felony.

17 Sec. 5. Section 28-931.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 28-931.01 (1) A person commits the offense of assault
20 on an officer using a motor vehicle if he or she intentionally
21 and knowingly causes bodily injury to a peace officer, a probation
22 officer, ~~or~~ an employee of the Department of Correctional Services,
23 or an employee of the Department of Health and Human Services who
24 works in a youth rehabilitation and treatment center or treatment
25 facility as defined in section 71-914, (a) by using a motor vehicle

1 to run over or to strike such officer or employee or (b) by
2 using a motor vehicle to collide with such officer's or employee's
3 motor vehicle, while such officer or employee is engaged in the
4 performance of his or her duties.

5 (2) Assault on an officer using a motor vehicle shall be
6 a Class IIIA felony.

7 Sec. 6. Section 28-932, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 28-932 (1) Any person who is legally confined in (a)
10 a jail, an adult ~~or~~ correctional or penal institution, a youth
11 rehabilitation and treatment center, or a treatment facility as
12 defined in section 71-914, (b) who is otherwise in legal custody
13 of the Department of Correctional Services, or (c) who is committed
14 as a mentally ill dangerous person or dangerous sex offender under
15 the Nebraska Mental Health Commitment Act or the Sex Offender
16 Commitment Act, and intentionally, knowingly, or recklessly causes
17 bodily injury to another person shall be guilty of a Class IIIA
18 felony, except that if a deadly or dangerous weapon is used to
19 commit such assault he or she shall be guilty of a Class III
20 felony.

21 (2) Sentences imposed under subsection (1) of this
22 section shall be consecutive to any sentence or sentences imposed
23 for violations committed prior to the violation of subsection (1)
24 of this section and shall not include any credit for time spent in
25 custody prior to sentencing unless the time in custody is solely

1 related to the offense for which the sentence is being imposed
2 under this section.

3 Sec. 7. Section 28-933, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 28-933 (1) Any person who is legally confined in (a)
6 a jail, an adult ~~or~~ correctional or penal institution, a youth
7 rehabilitation and treatment center, or a treatment facility as
8 defined in section 71-914, (b) who is otherwise in legal custody
9 of the Department of Correctional Services, or (c) who is committed
10 as a mentally ill dangerous person or dangerous sex offender under
11 the Nebraska Mental Health Commitment Act or the Sex Offender
12 Commitment Act, and who commits ~~(a)~~ (i) assault in the first,
13 second, or third degree as defined in sections 28-308 to 28-310,
14 ~~(b)~~ (ii) terroristic threats as defined in section 28-311.01, ~~(e)~~
15 (iii) kidnapping as defined in section 28-313, or ~~(d)~~ (iv) false
16 imprisonment in the first or second degree as defined in sections
17 28-314 and 28-315, against any person for the purpose of compelling
18 or inducing the performance of any act by such person or any other
19 person shall be guilty of a Class II felony.

20 (2) Sentences imposed under subsection (1) of this
21 section shall be served consecutive to any sentence or sentences
22 imposed for violations committed prior to the violation of
23 subsection (1) of this section and shall not include any credit
24 for time spent in custody prior to sentencing unless the time in
25 custody is solely related to the offense for which the sentence is

1 being imposed under this section.

2 Sec. 8. Original sections 28-309, 28-929, 28-930,
3 28-931, 28-931.01, 28-932, and 28-933, Reissue Revised Statutes of
4 Nebraska, are repealed.