

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 818

Introduced by Storer, 43; Bosn, 25; Lonowski, 33; Sanders, 45.

Read first time January 07, 2026

Committee: Judiciary

1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 28-323, Reissue Revised Statutes of Nebraska, and section 28-310.01,
3 Revised Statutes Cumulative Supplement, 2024; to change certain
4 elements of the offense of domestic assault; to change penalties for
5 such offense and the offense of assault by strangulation or
6 suffocation; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-310.01, Revised Statutes Cumulative
2 Supplement, 2024, is amended to read:

3 28-310.01 (1) A person commits the offense of assault by
4 strangulation or suffocation if the person knowingly and intentionally:

5 (a) Impedes the normal breathing or circulation of the blood of
6 another person by applying pressure on the throat or neck of the other
7 person; or

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

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

12 (3) Except as provided in subsection (4) of this section, a
13 violation of this section is a Class IIIA felony.

14 (4) A violation of this section is a Class IIA felony if:

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

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

19 (c) The person has been previously convicted:

20 (i) Of a violation of this section; or

21 (ii) In any other state or federal court of a criminal offense with
22 essentially the same elements as a violation of this section.

23 (5) It is an affirmative defense that an act constituting
24 strangulation or suffocation was the result of a legitimate medical
25 procedure.

26 **Sec. 2.** Section 28-323, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 28-323 (1) A person commits the offense of domestic assault in the
29 third degree if he or she:

30 (a) Intentionally, ~~and~~ knowingly, or recklessly causes bodily injury
31 to his or her intimate partner; or

1 (b) Threatens an intimate partner with imminent bodily injury. ~~; or~~

2 ~~(c) Threatens an intimate partner in a menacing manner.~~

3 (2) A person commits the offense of domestic assault in the second
4 degree if he or she:

5 (a) ~~Intentionally~~ ~~intentionally~~ and knowingly causes bodily injury
6 to his or her intimate partner with a dangerous instrument; ~~or~~ -

7 (b) Recklessly causes serious bodily injury to his or her intimate
8 partner with a dangerous instrument.

9 (3) A person commits the offense of domestic assault in the first
10 degree if he or she intentionally and knowingly causes serious bodily
11 injury to his or her intimate partner.

12 (4) A violation of subsection (1) of this section is a Class I
13 misdeemeanor, except that such violation shall be punished as a:

14 (a) Class IIIA felony if the person has one previous conviction for
15 a violation of subsection (1), (2), or (3) of this section or a
16 substantially equivalent offense; or

17 (b) Class IIA felony if the person has previously been convicted two
18 or more times for any violation of subsection (1), (2), or (3) of this
19 section or any substantially equivalent offense.

20 (5) A violation of subsection (2) of this section is a Class IIA
21 felony, except that such violation shall be punished as a Class II felony
22 if such person has one or more previous convictions for a violation of
23 subsection (2) or (3) of this section or a substantially equivalent
24 offense.

25 (6) A violation of subsection (3) of this section is a Class ID
26 felony, except that such violation shall be punished as a Class IB felony
27 with a mandatory minimum sentence of fifteen years' imprisonment if such
28 person has one or more previous convictions for a violation of subsection
29 (3) of this section or a substantially equivalent offense.

30 ~~(4) Violation of subdivision (1)(a) or (b) of this section is a~~
31 ~~Class I misdemeanor, except that for any subsequent violation of~~

1 ~~subdivision (1)(a) or (b) of this section, any person so offending is~~
2 ~~guilty of a Class IIIA felony.~~

3 ~~(5) Violation of subdivision (1)(c) of this section is a Class I~~
4 ~~misdemeanor.~~

5 ~~(6) Violation of subsection (2) of this section is a Class IIIA~~
6 ~~felony, except that for any second or subsequent violation of such~~
7 ~~subsection, any person so offending is guilty of a Class IIA felony.~~

8 ~~(7) Violation of subsection (3) of this section is a Class IIA~~
9 ~~felony, except that for any second or subsequent violation under such~~
10 ~~subsection, any person so offending is guilty of a Class II felony.~~

11 ~~(7) (8) For purposes of this section: τ~~

12 ~~(a) Dating relationship means frequent, intimate associations~~
13 ~~primarily characterized by the expectation of affectional or sexual~~
14 ~~involvement, but does not include a casual relationship or an ordinary~~
15 ~~association between persons in a business or social context;~~

16 ~~(b) Intimate intimate partner means a spouse; a former spouse;~~
17 ~~persons who have a child in common whether or not they have been married~~
18 ~~or lived together at any time; and persons who are or were involved in a~~
19 ~~dating relationship; and τ. ~~For purposes of this subsection, dating~~~~
20 ~~relationship means frequent, intimate associations primarily~~
21 ~~characterized by the expectation of affectional or sexual involvement,~~
22 ~~but does not include a casual relationship or an ordinary association~~
23 ~~between persons in a business or social context.~~

24 ~~(c) Substantially equivalent offense means a violation of law that:~~

25 ~~(i) Is a criminal offense under federal law or the law of another~~
26 ~~state; and~~

27 ~~(ii) Has essentially the same elements as the violation of this~~
28 ~~section to which it is being compared.~~

29 **Sec. 3.** Original section 28-323, Reissue Revised Statutes of
30 Nebraska, and section 28-310.01, Revised Statutes Cumulative Supplement,
31 2024, are repealed.