

AMENDMENTS TO LB11

Introduced by Judiciary.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 42-903, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 42-903 For purposes of the Protection from Domestic Abuse Act,
6 unless the context otherwise requires:

7 (1) Abuse means the occurrence of one or more of the following acts
8 between family or household members:

9 (a) Attempting to cause or intentionally and knowingly causing
10 bodily injury with or without a dangerous instrument;

11 (b) Placing, by means of credible threat, another person in fear of
12 bodily injury. For purposes of this subdivision, credible threat means a
13 verbal or written threat, including a threat performed through the use of
14 an electronic communication device, or a threat implied by a pattern of
15 conduct or a combination of verbal, written, or electronically
16 communicated statements and conduct that is made by a person with the
17 apparent ability to carry out the threat so as to cause the person who is
18 the target of the threat to reasonably fear for his or her safety or the
19 safety of his or her family. It is not necessary to prove that the person
20 making the threat had the intent to actually carry out the threat. The
21 present incarceration of the person making the threat shall not prevent
22 the threat from being deemed a credible threat under this section; or

23 (c) Engaging in sexual contact or sexual penetration without consent
24 as defined in section 28-318;

25 (2) Department means the Department of Health and Human Services;

26 (3) Family or household members includes spouses or former spouses,
27 children, persons who are presently residing together or who have resided

1 together in the past, persons who have a child in common whether or not
2 they have been married or have lived together at any time, other persons
3 related by consanguinity or affinity, and persons who are presently
4 involved in a dating relationship with each other or who have been
5 involved in a dating relationship with each other. For purposes of this
6 subdivision, dating relationship means frequent, intimate associations
7 primarily characterized by the expectation of affectional or sexual
8 involvement, but does not include a casual relationship or an ordinary
9 association between persons in a business or social context;~~and~~

10 (4) Household pet means any animal maintained for companionship or
11 pleasure but does not include any animal kept primarily for commercial
12 purposes or for consumption or any livestock animal as defined in section
13 54-902; and

14 (5) (4) Law enforcement agency means the police department or town
15 marshal in incorporated municipalities, the office of the sheriff in
16 unincorporated areas, and the Nebraska State Patrol.

17 Sec. 2. Section 42-924, Revised Statutes Cumulative Supplement,
18 2022, is amended to read:

19 42-924 (1)(a) Any victim of domestic abuse may file a petition and
20 affidavit for a protection order as provided in this section. Upon the
21 filing of such a petition and affidavit in support thereof, the court may
22 issue a protection order without bond granting the following relief:

23 (i) Enjoining the respondent from imposing any restraint upon the
24 petitioner or upon the liberty of the petitioner;

25 (ii) Enjoining the respondent from threatening, assaulting,
26 molesting, attacking, or otherwise disturbing the peace of the
27 petitioner;

28 (iii) Enjoining the respondent from telephoning, contacting, or
29 otherwise communicating with the petitioner;

30 (iv) Removing and excluding the respondent from the residence of the
31 petitioner, regardless of the ownership of the residence;

1 (v) Ordering the respondent to stay away from any place specified by
2 the court;

3 (vi) Awarding the petitioner temporary custody of any minor children
4 not to exceed ninety days;

5 (vii) Enjoining the respondent from possessing or purchasing a
6 firearm as defined in section 28-1201; ~~or~~

7 (viii) Directing that the petitioner have sole possession of any
8 household pet owned, possessed, leased, kept, or held by the petitioner,
9 the respondent, or any family or household member residing in the
10 household of the petitioner or respondent;

11 (ix) Enjoining the respondent from coming into contact with,
12 harming, or killing any household pet owned, possessed, leased, kept, or
13 held by the petitioner, the respondent, or any family or household member
14 of the petitioner or respondent; or

15 (x) ~~(viii)~~ Ordering such other relief deemed necessary to provide
16 for the safety and welfare of the petitioner and any designated family or
17 household member.

18 (b) If sole possession of a household pet is ordered by a court
19 pursuant to subdivision (1)(a)(viii) of this section, such possession
20 shall be for the duration of the protection order or until further order
21 of the court. The grant of sole possession of a household pet under such
22 subdivision is not intended to permanently determine ownership of such
23 household pet. The petitioner shall not permanently transfer, sell, or
24 dispose of a household pet placed in the petitioner's possession without
25 prior court approval, except that court approval shall not be required in
26 cases where humane euthanasia of a seriously ill or injured household pet
27 is recommended by a licensed veterinarian.

28 (c) ~~(b)~~ The petition for a protection order shall state the events
29 and dates or approximate dates of acts constituting the alleged domestic
30 abuse, including the most recent and most severe incident or incidents.

31 (d) ~~(e)~~ The protection order shall specify to whom relief under this

1 section was granted.

2 (2) Petitions for protection orders shall be filed with the clerk of
3 the district court, and the proceeding may be heard by the county court
4 or the district court as provided in section 25-2740. A petition for a
5 protection order may not be withdrawn except upon order of the court.

6 (3)(a) A protection order shall specify that it is effective for a
7 period of one year and, if the order grants temporary custody, the number
8 of days of custody granted to the petitioner unless otherwise modified by
9 the court.

10 (b)(i) Any victim of domestic abuse may file a petition and
11 affidavit to renew a protection order. Such petition and affidavit for
12 renewal shall be filed any time within forty-five days before the
13 expiration of the previous protection order, including the date the order
14 expires.

15 (ii) A protection order may be renewed on the basis of the
16 petitioner's affidavit stating that there has been no material change in
17 relevant circumstances since entry of the order and stating the reason
18 for the requested renewal if:

19 (A) The petitioner seeks no modification of the order; and

20 (B)(I) The respondent has been properly served with notice of the
21 petition for renewal and notice of hearing and fails to appear at the
22 hearing; or

23 (II) The respondent indicates that he or she does not contest the
24 renewal.

25 (iii) Such renewed order shall specify that it is effective for a
26 period of one year to commence on the first calendar day following the
27 expiration of the previous order or on the calendar day the court grants
28 the renewal if such day is subsequent to the first calendar day after
29 expiration of the previous order and, if the court grants temporary
30 custody, the number of days of custody granted to the petitioner unless
31 otherwise modified by the court.

1 (4) Any person, except the petitioner, who knowingly violates a
2 protection order issued pursuant to this section or section 42-931 after
3 service or notice as described in subsection (2) of section 42-926 shall
4 be guilty of a Class I misdemeanor, except that any person convicted of
5 violating such order who has a prior conviction for violating a
6 protection order shall be guilty of a Class IV felony.

7 (5) If there is any conflict between sections 42-924 to 42-926 and
8 any other provision of law, sections 42-924 to 42-926 shall govern.

9 Sec. 3. Original sections 42-903 and 42-924, Revised Statutes
10 Cumulative Supplement, 2022, are repealed.