

One Hundred Eighth Legislature - First Session - 2023

Introducer's Statement of Intent

LB649

Chairperson: Senator Justin Wayne

Committee: Judiciary

Date of Hearing: March 23, 2023

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

Legislative Bill 649 seeks to modernize Nebraska's arson statutes found in N.R.S. §§ 28-501 thru 28-505.

The legislation includes updated definitional terms used in Nebraska's existing arson statutes as well as additional provisions that will make Nebraska's arson statutes applicable in a greater number of intentionally set incendiary fire scenarios. The legislation also includes a penalty adjustment that was overlooked in previous sentencing reforms and allows for a sentencing enhancement under certain circumstances. The legislation:

1. Eliminates the term and definition for "building" and replaces it with the term "structure" along with an updated definition that will make Nebraska's arson statutes applicable in almost all circumstances where Nebraska public safety officials encounter intentionally set incendiary fires that endanger human life.
2. Adds "burns" and "causes to be burned" to the list of acts prohibited in sections 28-502 (Arson 1st Degree), 28,503 (Arson 2nd Degree) and 28-505 (Arson to Defraud Insurers) in order to harmonize each with the prohibited acts listed in section 28-504 (Arson 3rd Degree).
3. Adds "maintains a fire" to the list of acts prohibited by all of Nebraska's existing arson statutes in order to allow investigators and prosecutors to hold persons criminally accountable for escalating, enhancing or expanding a fire even though they did not set it.
4. Adds a term and definition for "human skeletal remains" and makes burning, setting fire to or maintaining a fire to any structure punishable as arson in the first degree if the perpetrator did so knowing that a person might be inside and regardless of whether they believed that that person was alive or dead at the time.
5. Makes arson in the second degree a Class IIA felony as opposed to a Class III felony.

6. Adds a term and definition for “public safety official” and allows for the applicable sentence on all arson offenses to be enhanced one penalty classification higher if the offense committed caused a “public safety official” to sustain serious bodily injury.

7. Replaces the term “building” with the term “structure” in both N.R.S. § 28-520 (First Degree Criminal Trespass) and §28-524 (Graffiti) since both statutes are just as reliant on these terms as the arson statutes.

Principal Introducer: _____

Senator Mike McDonnell