

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 242

Introduced by Hadley, 37.

Read first time January 11, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections 28-309,
2 28-929, 28-930, 28-931, 28-931.01, 28-932, and 28-933,
3 Revised Statutes Cumulative Supplement, 2010; 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, Revised Statutes Cumulative
2 Supplement, 2010, 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) Unlawfully strikes or wounds another (i) while
10 legally confined in a jail, ~~or~~ an adult correctional or penal
11 institution, or a youth rehabilitation and treatment center, (ii)
12 while otherwise in legal custody of the Department of Correctional
13 Services, or (iii) while committed as a dangerous sex offender under
14 the Sex Offender Commitment Act.

15 (2) Assault in the second degree shall be a Class III
16 felony.

17 Sec. 2. Section 28-929, Revised Statutes Cumulative
18 Supplement, 2010, is amended to read:

19 28-929 (1) A person commits the offense of assault on an
20 officer in the first degree if:

21 (a) He or she intentionally or knowingly causes serious
22 bodily injury:

23 (i) To a peace officer, a probation officer, ~~or~~ an
24 employee of the Department of Correctional Services, or an employee
25 of the Department of Health and Human Services who works in a youth

1 rehabilitation and treatment center; or

2 (ii) To an employee of the Department of Health and Human
3 Services if the person committing the offense is committed as a
4 dangerous sex offender under the Sex Offender Commitment Act; and

5 (b) The offense is committed while such officer or
6 employee is engaged in the performance of his or her official duties.

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

9 Sec. 3. Section 28-930, Revised Statutes Cumulative
10 Supplement, 2010, is amended to read:

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

13 (a) He or she:

14 (i) Intentionally or knowingly causes bodily injury with
15 a dangerous instrument:

16 (A) To a peace officer, a probation officer, ~~or~~ an
17 employee of the Department of Correctional Services, or an employee
18 of the Department of Health and Human Services who works in a youth
19 rehabilitation and treatment center; or

20 (B) To an employee of the Department of Health and Human
21 Services if the person committing the offense is committed as a
22 dangerous sex offender under the Sex Offender Commitment Act; or

23 (ii) Recklessly causes bodily injury with a dangerous
24 instrument:

25 (A) To a peace officer, a probation officer, ~~or~~ an

1 employee of the Department of Correctional Services, or an employee
2 of the Department of Health and Human Services who works in a youth
3 rehabilitation and treatment center; or

4 (B) To an employee of the Department of Health and Human
5 Services if the person committing the offense is committed as a
6 dangerous sex offender under the Sex Offender Commitment Act; and

7 (b) The offense is committed while such officer or
8 employee is engaged in the performance of his or her official duties.

9 (2) Assault on an officer in the second degree shall be a
10 Class II felony.

11 Sec. 4. Section 28-931, Revised Statutes Cumulative
12 Supplement, 2010, is amended to read:

13 28-931 (1) A person commits the offense of assault on an
14 officer in the third degree if:

15 (a) He or she intentionally, knowingly, or recklessly
16 causes bodily injury:

17 (i) To a peace officer, a probation officer, ~~or~~ an
18 employee of the Department of Correctional Services, or an employee
19 of the Department of Health and Human Services who works in a youth
20 rehabilitation and treatment center; or

21 (ii) To an employee of the Department of Health and Human
22 Services if the person committing the offense is committed as a
23 dangerous sex offender under the Sex Offender Commitment Act; and

24 (b) The offense is committed while such officer or
25 employee is engaged in the performance of his or her official duties.

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

3 Sec. 5. Section 28-931.01, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 28-931.01 (1) A person commits the offense of assault on
6 an officer using a motor vehicle if:

7 (a) By using a motor vehicle to run over or to strike an
8 officer or employee or by using a motor vehicle to collide with an
9 officer's or employee's motor vehicle, he or she intentionally and
10 knowingly causes bodily injury:

11 (i) To a peace officer, a probation officer, ~~or~~ an
12 employee of the Department of Correctional Services, or an employee
13 of the Department of Health and Human Services who works in a youth
14 rehabilitation and treatment center; or

15 (ii) To an employee of the Department of Health and Human
16 Services if the person committing the offense is committed as a
17 dangerous sex offender under the Sex Offender Commitment Act; and

18 (b) The offense is committed while such officer or
19 employee is engaged in the performance of his or her duties.

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

22 Sec. 6. Section 28-932, Revised Statutes Cumulative
23 Supplement, 2010, is amended to read:

24 28-932 (1) Any person (a)(i) who is legally confined in a
25 jail, ~~or~~ an adult correctional or penal institution, or a youth

1 rehabilitation and treatment center, (ii) who is otherwise in legal
2 custody of the Department of Correctional Services, or (iii) who is
3 committed as a dangerous sex offender under the Sex Offender
4 Commitment Act and (b) who intentionally, knowingly, or recklessly
5 causes bodily injury to another person shall be guilty of a Class
6 IIIA felony, except that if a deadly or dangerous weapon is used to
7 commit such assault he or she shall be guilty of a Class III felony.

8 (2) Sentences imposed under subsection (1) of this
9 section shall be consecutive to any sentence or sentences imposed for
10 violations committed prior to the violation of subsection (1) of this
11 section and shall not include any credit for time spent in custody
12 prior to sentencing unless the time in custody is solely related to
13 the offense for which the sentence is being imposed under this
14 section.

15 Sec. 7. Section 28-933, Revised Statutes Cumulative
16 Supplement, 2010, is amended to read:

17 28-933 (1) Any person (a)(i) who is legally confined in a
18 jail, ~~or~~ an adult correctional or penal institution, or a youth
19 rehabilitation and treatment center, (ii) who is otherwise in legal
20 custody of the Department of Correctional Services, or (iii) who is
21 committed as a dangerous sex offender under the Sex Offender
22 Commitment Act and (b) who commits (i) assault in the first, second,
23 or third degree as defined in sections 28-308 to 28-310, (ii)
24 terroristic threats as defined in section 28-311.01, (iii) kidnapping
25 as defined in section 28-313, or (iv) false imprisonment in the first

1 or second degree as defined in sections 28-314 and 28-315, against
2 any person for the purpose of compelling or inducing the performance
3 of any act by such person or any other person shall be guilty of a
4 Class II felony.

5 (2) Sentences imposed under subsection (1) of this
6 section shall be served consecutive to any sentence or sentences
7 imposed for violations committed prior to the violation of subsection
8 (1) of this section and shall not include any credit for time spent
9 in custody prior to sentencing unless the time in custody is solely
10 related to the offense for which the sentence is being imposed under
11 this section.

12 Sec. 8. Original sections 28-309, 28-929, 28-930, 28-931,
13 28-931.01, 28-932, and 28-933, Revised Statutes Cumulative
14 Supplement, 2010, are repealed.