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AMENDMENTS TO LB532

Introduced by Cavanaugh, 6.

1. Insert the following new section:

Sec. 3. Section 28-1206, Revised Statutes Cumulative Supplement, 2018, is amended to read:

28-1206 (1) A person commits the offense of possession of a deadly weapon by a prohibited person if he or she:

(a) Possesses a firearm, a knife, or brass or iron knuckles and he or she:

(i) Has previously been convicted of a felony;

(ii) Is a fugitive from justice; or

(iii) Is the subject of a current and validly issued domestic violence protection order, harassment protection order, or sexual assault protection order of which the person has actual notice and, in the case of possession of a firearm, such order enjoins the person from possessing or purchasing a firearm ~~and is knowingly violating such order~~; or

(b) Possesses a firearm or brass or iron knuckles and he or she has been convicted ~~within the past seven years~~ of a misdemeanor crime of domestic violence.

(2) The felony conviction may have been had in any court in the United States, the several states, territories, or possessions, or the District of Columbia.

(3)(a) Possession of a deadly weapon which is not a firearm by a prohibited person is a Class III felony.

(b) Possession of a deadly weapon which is a firearm by a prohibited person is a Class ID felony for a first offense and a Class IB felony for a second or subsequent offense.

(4) Subdivision (1)(a)(i) of this section shall not prohibit:

(a) Possession of archery equipment for lawful purposes; or

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(b) If in possession of a recreational license, possession of a knife for purposes of butchering, dressing, or otherwise processing or harvesting game, fish, or furs.

(5)(a) For purposes of this section, misdemeanor crime of domestic violence means a crime that:

(i) Is classified as a misdemeanor under the laws of the United States or the District of Columbia or the laws of any state, territory, possession, or tribe;

(ii) Has, as an element, the use or attempted use of physical force or the threatened use of a deadly weapon; and

(iii) Is committed by another against his or her spouse, his or her former spouse, a person with whom he or she has a child in common whether or not they have been married or lived together at any time, or a person with whom he or she is or was involved in a dating relationship as defined in section 28-323.

(b) For purposes of this section, misdemeanor crime of domestic violence also includes the following offenses, if committed by a person against his or her spouse, his or her former spouse, a person with whom he or she is or was involved in a dating relationship as defined in section 28-323, or a person with whom he or she has a child in common whether or not they have been married or lived together at any time:

(i) Assault in the third degree under section 28-310;

(ii) Stalking under subsection (1) of section 28-311.04;

(iii) False imprisonment in the second degree under section 28-315;

(iv) First offense domestic assault in the third degree under subsection (1) of section 28-323; or

(v) Any attempt or conspiracy to commit any of such offenses.

(c) A person shall not be considered to have been convicted of a misdemeanor crime of domestic violence unless:

(i) The person was represented by counsel in the case or knowingly and intelligently waived the right to counsel in the case; and

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(ii) In the case of a prosecution for a misdemeanor crime of domestic violence for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either:

(A) The case was tried to a jury; or

(B) The person knowingly and intelligently waived the right to have the case tried to a jury.

(6) In addition, for purposes of this section:

(a) Archery equipment means:

(i) A longbow, recurve bow, compound bow, or nonelectric crossbow that is drawn or cocked with human power and released by human power; and

(ii) Target or hunting arrows, including arrows with broad, fixed, or removable heads or that contain multiple sharp cutting edges;

(b) Domestic violence protection order means a protection order issued pursuant to section 42-924;

(c) Harassment protection order means a protection order issued pursuant to section 28-311.09 or that meets or exceeds the criteria set forth in section 28-311.10 regarding protection orders issued by a court in any other state or a territory, possession, or tribe;

(d) Recreational license means a state-issued license, certificate, registration, permit, tag, sticker, or other similar document or identifier evidencing permission to hunt, fish, or trap for furs in the State of Nebraska; and

(e) Sexual assault protection order means a protection order issued pursuant to section 28-311.11 or that meets or exceeds the criteria set forth in section 28-311.12 regarding protection orders issued by a court in any other state or a territory, possession, or tribe.

2. On page 5, line 30, strike "<u>, the</u>" and insert "<u>or</u>" and strike the last comma; and in line 31 after "<u>and</u>" insert "<u>the respondent</u>".

3. On page 6, line 20, strike beginning with "<u>The</u>" through "<u>petitioner</u>" and insert "<u>When provided by the petitioner, the court shall make</u>"; in line 22 after the comma insert "<u>available</u>"; and in line 24

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strike the comma.

4. On page 11, line 6, strike ", the" and insert "or" and strike the last comma; and in line 7 after "and" insert "the respondent".

5. On page 13, lines 4 and 5, strike "(2) and (3)", show as stricken, and insert "(4) and (5)"; and in line 31 after "(2)" insert "Upon the issuance of a final protection order or an order deemed a final protection order under subsection (2) of section 42-925, the court shall enjoin the respondent from possessing or purchasing a firearm as defined in section 28-1201 for the duration of the order.

(3)".

6. On page 14, line 4, strike "(3)(a)", show as stricken, and insert "(4)(a)"; and in line 30 strike "(4)", show as stricken, and insert "(5)".

7. On page 15, line 5, strike "(5)", show as stricken, and insert "(6)".

8. On page 17, line 15, strike "(3)", show as stricken, and insert "(4)".

9. On page 18, line 27, strike "(4)", show as stricken, and insert "(5)".

10. On page 19, line 5, after the second comma insert "28-1206,".

11. Renumber the remaining sections accordingly.