

LEGISLATIVE BILL 701

Approved by the Governor April 10, 1978

Introduced by Judiciary Committee, Barnett, 26, Chmn.;  
Chambers, 11; Carsten, 2; E. Dvorak, 8;  
Stoney, 4

AN ACT to amend sections 28-318 and 28-320, Revised Statutes Supplement, 1977, relating to offenses against the person; to redefine a term; to provide for an additional degree of sexual assault; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 28-318, Revised Statutes Supplement, 1977, be amended to read as follows:

28-318. As used in sections 28-317 to 28-323, unless the context otherwise requires:

(1) Actor shall mean a person accused of sexual assault;

(2) Intimate parts shall mean the genital area, groin, inner thighs, buttocks, or breasts;

(3) Serious personal injury shall mean great bodily injury or disfigurement, extreme mental anguish or mental trauma, pregnancy, disease, or loss or impairment of a sexual or reproductive organ;

(4) Sexual contact shall mean the intentional touching of the victim's sexual or intimate parts or the intentional touching of the victim's clothing covering the immediate area of the victim's sexual or intimate parts. Sexual contact shall include only such conduct which can be reasonably construed as being for the purpose of sexual arousal or gratification;

(5) Sexual penetration shall mean sexual intercourse in its ordinary meaning, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of the actor's body or any object manipulated by the actor into the genital or anal openings of the victim's body which can be reasonably construed as being for nonmedical or nonhealth purposes. Sexual penetration shall not require emission of semen; and

(6) Victim shall mean the person alleging to have been sexually assaulted.

Sec. 2. That section 28-320, Revised Statutes Supplement, 1977, be amended to read as follows:

28-320. (1) Any person who subjects another person to sexual contact and (a) overcomes the victim by force, threat of force, express or implied, coercion, or deception, or (b) knew or should have known that the victim was physically or mentally incapable of resisting or appraising the nature of his or her conduct is guilty of sexual assault in either the second degree or third degree.

(2) Sexual assault shall be in the second degree and is a Class I misdemeanor unless Class III felony if the actor shall have caused serious personal injury to the victim, in which case it is a Class III felony.

(3) Sexual assault shall be in the third degree and is a Class I misdemeanor if the actor shall not have caused serious personal injury to the victim.

Sec. 3. That original sections 28-318 and 28-320, Revised Statutes Supplement, 1977, are repealed.