

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 848

Introduced by Ebke, 32.

Read first time January 05, 2018

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-1206, Revised Statutes Supplement, 2017; to correct a provision
- 3 relating to possession of a deadly weapon by a prohibited person;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1206, Revised Statutes Supplement, 2017, is
2 amended to read:

3 28-1206 (1) A person commits the offense of possession of a deadly
4 weapon by a prohibited person if he or she:

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

7 (i) Has previously been convicted of a felony;

8 (ii) Is a fugitive from justice; or

9 (iii) Is the subject of a current and validly issued domestic
10 violence protection order, harassment protection order, or sexual assault
11 protection order and is knowingly violating such order; or

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

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

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

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

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

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

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

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

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

1 possession, or tribe;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (a) Archery equipment means:

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

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

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

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

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

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

20 Sec. 2. Original section 28-1206, Revised Statutes Supplement,
21 2017, is repealed.