

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 478**

Introduced by Groene, 42; Lowe, 37.

Read first time January 17, 2017

Committee:

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-1206, Reissue Revised Statutes of Nebraska; to provide for
- 3 possession of archery equipment and knives for recreational purposes
- 4 as prescribed; to define terms; to harmonize provisions; and to
- 5 repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1206, Reissue Revised Statutes of Nebraska, 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 ~~Any person who possesses~~ a firearm, a knife, or brass  
6 or iron knuckles and he or she:

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

8 (ii) Is ~~, who is~~ a fugitive from justice;

9 (iii) Is ~~, or who is~~ the subject of a current and validly issued  
10 domestic violence protection order or

11 harassment protection order and is knowingly violating such order; or

12 (b) Possesses ~~, or (b) any person who possesses~~ a firearm or brass  
13 or iron knuckles and he or she ~~who~~ has been convicted within the past  
14 seven years of a misdemeanor crime of domestic violence, ~~commits the~~  
15 ~~offense of possession of a deadly weapon by a prohibited person.~~

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

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

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

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

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

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

29 (5)(a) ~~(4)(a)(i)~~ For purposes of this section, misdemeanor crime of  
30 domestic violence means a crime that:

31 (i) Is ~~(A)(I) A crime that is~~ classified as a misdemeanor under the

1 laws of the United States or the District of Columbia or the laws of any  
2 state, territory, possession, or tribe;

3 (ii) Has ~~(II) A crime that has,~~ as an element, the use or attempted  
4 use of physical force or the threatened use of a deadly weapon; and

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

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

16 (i) ~~(B)~~(I) Assault in the third degree under section 28-310; ~~;~~ ~~τ~~

17 (ii) Stalking ~~stalking~~ under subsection (1) of section 28-311.04; ~~;~~ ~~τ~~

18 (iii) False ~~false~~ imprisonment in the second degree under section  
19 28-315; ~~;~~ ~~τ~~

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

22 (v) Any ~~any~~ attempt or conspiracy to commit any ~~one~~ of such ~~these~~  
23 offenses. ~~;~~ ~~and~~

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

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

31 (i) (A) The person was represented by counsel in the case or

1 knowingly and intelligently waived the right to counsel in the case; and

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

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

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

8 (6) In addition, for ~~(b)~~ ~~For~~ purposes of this section:

9 (a) Archery equipment means:

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

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

14 (b) Domestic ~~, subject of a current and validly issued domestic~~  
15 violence protection order means a protection order ~~pertains to a current~~  
16 court order that was validly issued pursuant to section 28-311.09 or  
17 42-924;

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

22 (d) Recreational license means a license, certificate, registration,  
23 permit, tag, sticker, or other similar document or identifier evidencing  
24 permission to hunt, fish, or trap for furs in the State of Nebraska.

25 Sec. 2. Original section 28-1206, Reissue Revised Statutes of  
26 Nebraska, is repealed.