Chapter 2
Crimes
(Last Updated: April 2013)

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Crimes
General Provisions
(Last Updated: April 2013)

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§ 28-102. Purposes; principles of construction

The general purposes of the provisions governing the definition of offenses are:

(1) To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests;

(2) To subject to public control persons whose conduct indicates that they are disposed to commit crimes;

(3) To safeguard conduct that is without fault and which is essentially victimless in its effect from condemnation as criminal;

(4) To give fair warning of the nature of the conduct declared to constitute an offense; and

(5) To differentiate on reasonable grounds between serious and minor offenses.

§ 28-109. Terms, defined

For purposes of the Nebraska Criminal Code, unless the context otherwise requires:

(1) Act shall mean a bodily movement, and includes words and possession of property;

(2) Aid or assist shall mean knowingly to give or lend money or credit to be used for, or to make possible or available, or to further activity thus aided or assisted;

(3) Benefit shall mean any gain or advantage to the beneficiary including any gain or advantage to another person pursuant to the desire or consent of the beneficiary;

(4) Bodily injury shall mean physical pain, illness, or any impairment of physical condition;

(5) Conduct shall mean an action or omission and its accompanying state of mind, or, where relevant, a series of acts and omissions;

(6) Deadly physical force shall mean force, the intended, natural, and probable consequence of which is to produce death, or which does, in fact, produce death;

(7) Deadly weapon shall mean any firearm, knife, bludgeon, or other device, instrument, material, or substance, whether animate or inanimate, which in the manner it is used or intended to be used is capable of producing death or serious bodily injury;

(8) Deface shall mean to alter the appearance of something by removing, distorting, adding to, or covering all or a part of the thing;
(9) Dwelling shall mean a building or other thing which is used, intended to be used, or usually used by a person for habitation;

(10) Government shall mean the United States, any state, county, municipality, or other political unit, any branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function;

(11) Governmental function shall mean any activity which a public servant is legally authorized to undertake on behalf of government;

(12) Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except self-propelled chairs used by persons who are disabled and electric personal assistive mobility devices as defined in section 60-618.02;

(13) Omission shall mean a failure to perform an act as to which a duty of performance is imposed by law;

(14) Peace officer shall mean any officer or employee of the state or a political subdivision authorized by law to make arrests, and shall include members of the National Guard on active service by direction of the Governor during periods of emergency or civil disorder;

(15) Pecuniary benefit shall mean benefit in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain;

(16) Person shall mean any natural person and where relevant a corporation or an unincorporated association;

(17) Public place shall mean a place to which the public or a substantial number of the public has access, and includes but is not limited to highways, transportation facilities, schools, places of amusement, parks, playgrounds, and the common areas of public and private buildings and facilities;

(18) Public servant shall mean any officer or employee of government, whether elected or appointed, and any person participating as an advisor, consultant, process server, or otherwise in performing a governmental function, but the term does not include witnesses;

(19) Recklessly shall mean acting with respect to a material element of an offense when any person disregards a substantial and unjustifiable risk that the material element exists or will result from his or her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor's conduct and the circumstances known to the actor, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation;
(20) Serious bodily injury shall mean bodily injury which involves a substantial risk of death, or which involves substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body;

(21) Tamper shall mean to interfere with something improperly or to make unwarranted alterations in its condition;

(22) Thing of value shall mean real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights of use or enjoyment connected therewith; and

(23) Voluntary act shall mean an act performed as a result of effort or determination, and includes the possession of property if the actor was aware of his or her physical possession or control thereof for a sufficient period to have been able to terminate it.

§ 28-201. Criminal attempt; conduct; penalties

(1) A person shall be guilty of an attempt to commit a crime if he or she:

   (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as he or she believes them to be; or

   (b) Intentionally engages in conduct which, under the circumstances as he or she believes them to be, constitutes a substantial step in a course of conduct intended to culminate in his or her commission of the crime.

(2) When causing a particular result is an element of the crime, a person shall be guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, he or she intentionally engages in conduct which is a substantial step in a course of conduct intended or known to cause such a result.

(3) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.

(4) Criminal attempt is:

   (a) A Class II felony when the crime attempted is a Class I, IA, IB, IC, or ID felony;

   (b) A Class III felony when the crime attempted is a Class II felony;

   (c) A Class IIIA felony when the crime attempted is sexual assault in the second degree under section 28-320, a violation of subdivision (2)(b) of section 28-416, incest under section 28-703, or assault by a confined person with a deadly or dangerous weapon under section 28-932;
(d) A Class IV felony when the crime attempted is a Class III felony not listed in subdivision (4) (c) of this section;

(e) A Class I misdemeanor when the crime attempted is a Class IIIA or Class IV felony;

(f) A Class II misdemeanor when the crime attempted is a Class I misdemeanor;

and

(g) A Class III misdemeanor when the crime attempted is a Class II misdemeanor.
Chapter 2.B

Crimes
Assault & Strangulation
(Last Updated: April 2013)

28-323 Domestic assault; penalties.
28-308 Assault in the first degree; penalty.
28-309 Assault in the second degree; penalty.
28-310 Assault in the third degree; penalty.
28-310.01 Strangulation; penalty; affirmative defense.
28-323. Domestic assault; penalties

(1) A person commits the offense of domestic assault in the third degree if he or she:

   (a) Intentionally and knowingly causes bodily injury to his or her intimate partner;

   (b) Threatens an intimate partner with imminent bodily injury; or

   (c) Threatens an intimate partner in a menacing manner.

(2) A person commits the offense of domestic assault in the second degree if he or she intentionally and knowingly causes bodily injury to his or her intimate partner with a dangerous instrument.

(3) A person commits the offense of domestic assault in the first degree if he or she intentionally and knowingly causes serious bodily injury to his or her intimate partner.

(4) Violation of subdivision (1)(a) or (b) of this section is a Class I misdemeanor, except that for any subsequent violation of subdivision (1)(a) or (b) of this section, any person so offending is guilty of a Class IV felony.

(5) Violation of subdivision (1)(c) of this section is a Class I misdemeanor.

(6) Violation of subsection (2) of this section is a Class IIIA felony, except that for any second or subsequent violation of such subsection, any person so offending is guilty of a Class III felony.

(7) Violation of subsection (3) of this section is a Class III felony, except that for any second or subsequent violation under such subsection, any person so offending is guilty of a Class II felony.

(8) For purposes of this section, intimate partner means a spouse; a former spouse; persons who have a child in common whether or not they have been married or lived together at any time; and persons who are or were involved in a dating relationship. For purposes of this subsection, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement, but does not include a casual relationship or an ordinary association between persons in a business or social context.

28-308. Assault in the first degree; penalty

(1) A person commits the offense of assault in the first degree if he or she intentionally or knowingly causes serious bodily injury to another person.

(2) Assault in the first degree shall be a Class II felony.
28-309. Assault in the second degree; penalty

(1) A person commits the offense of assault in the second degree if he or she:

(a) Intentionally or knowingly causes bodily injury to another person with a dangerous instrument;

(b) Recklessly causes serious bodily injury to another person with a dangerous instrument; or

(c) Unlawfully strikes or wounds another (i) while legally confined in a jail or an adult correctional or penal institution, (ii) while otherwise in legal custody of the Department of Correctional Services, or (iii) while committed as a dangerous sex offender under the Sex Offender Commitment Act.

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

28-310 Assault in the third degree; penalty.

(1) A person commits the offense of assault in the third degree if he:

(a) Intentionally, knowingly, or recklessly causes bodily injury to another person; or

(b) Threatens another in a menacing manner.

(2) Assault in the third degree shall be a Class I misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it shall be a Class II misdemeanor.

28-310.01 Strangulation; penalty; affirmative defense.

(1) A person commits the offense of strangulation if the person knowingly or intentionally impedes the normal breathing or circulation of the blood of another person by applying pressure on the throat or neck of the other person.

(2) Except as provided in subsection (3) of this section, strangulation is a Class IV felony.

(3) Strangulation is a Class III felony if:

(a) The person used or attempted to use a dangerous instrument while committing the offense;

(b) The person caused serious bodily injury to the other person while committing the offense; or
(c) The person has been previously convicted of strangulation.

(4) It is an affirmative defense that an act constituting strangulation was the result of a legitimate medical procedure.

See Also:

Chapter 2.H  Crimes: Assault and Murder of an Unborn Child
Chapter 2.C
Crimes
Stalking & Harassment
(Last Updated: April 2013)

28-311.02 Stalking and harassment; legislative intent; terms, defined.
28-311.03 Stalking.
28-311.04 Stalking; violations; penalties.
28-311.05 Stalking; not applicable to certain conduct.
28-311.08 Unlawful intrusion; penalty.
28-311.02 Stalking and harassment; legislative intent; terms, defined.

(1) It is the intent of the Legislature to enact laws dealing with stalking offenses which will protect victims from being willfully harassed, intentionally terrified, threatened, or intimidated by individuals who intentionally follow, detain, stalk, or harass them or impose any restraint on their personal liberty and which will not prohibit constitutionally protected activities.

(2) For purposes of sections 28-311.02 to 28-311.05, 28-311.09, and 28-311.10:

   (a) Harass means to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose;

   (b) Course of conduct means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning, contacting, or otherwise communicating with the person;

   (c) Family or household member means a spouse or former spouse of the victim, children of the victim, a person presently residing with the victim or who has resided with the victim in the past, a person who had a child in common with the victim, other persons related to the victim by consanguinity or affinity, or any person presently involved in a dating relationship with the victim or who has been involved in a dating relationship with the victim. For purposes of this subdivision, dating relationship means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement but does not include a casual relationship or an ordinary association between persons in a business or social context; and

   (d) Substantially conforming criminal violation means a guilty plea, a nolo contendere plea, or a conviction for a violation of any federal law or law of another state or any county, city, or village ordinance of this state or another state substantially similar to section 28-311.03. Substantially conforming is a question of law to be determined by the court.

28-311.03 Stalking.

Any person who willfully harasses another person or a family or household member of such person with the intent to injure, terrify, threaten, or intimidate commits the offense of stalking.

28-311.04 Stalking; violations; penalties.

(1) Except as provided in subsection (2) of this section, any person convicted of violating section 28-311.03 is guilty of a Class I misdemeanor.
(2) Any person convicted of violating section 28-311.03 is guilty of a Class IV felony if:

   (a) The person has a prior conviction under such section or a substantially conforming criminal violation within the last seven years;

   (b) The victim is under sixteen years of age;

   (c) The person possessed a deadly weapon at any time during the violation;

   (d) The person was also in violation of section 28-311.09, 42-924, or 42-925 at any time during the violation; or

   (e) The person has been convicted of any felony in this state or has been convicted of a crime in another jurisdiction which, if committed in this state, would constitute a felony and the victim or a family or household member of the victim was also the victim of such previous felony.

28-311.05 Stalking; not applicable to certain conduct.

Sections 28-311.02 to 28-311.04, 28-311.09, and 28-311.10 shall not apply to conduct which occurs during labor picketing.

28-311.08 Unlawful intrusion; penalty.

   (1) It shall be unlawful for any person to knowingly intrude upon any other person without his or her consent or knowledge in a place of solitude or seclusion.

   (2) For purposes of this section:

      (a) Intrude means either the:

         (i) Viewing of another person in a state of undress as it is occurring; or

         (ii) Recording by video, photographic, digital, or other electronic means of another person in a state of undress; and

      (b) Place of solitude or seclusion means a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room.

   (3) (a) Violation of this section involving an intrusion as defined in subdivision (2)(a)(i) of this section is a Class I misdemeanor.
(b) Violation of this section involving an intrusion as defined in subdivision (2)(a)(ii) of this section is a Class IV felony.

(c) Violation of this section is a Class III felony if video or an image from the intrusion is distributed to another person or otherwise made public in any manner which would enable it to be viewed by another person.

(4) As part of sentencing following a conviction for a violation of this section, the court shall make a finding as to the ages of the defendant and the victim at the time the offense occurred. If the defendant is found to have been nineteen years of age or older and the victim is found to have been less than eighteen years of age at such time, then the defendant shall be required to register under the Sex Offender Registration Act.

(5) No person shall be prosecuted for unlawful intrusion pursuant to subdivision (3)(b) or (c) of this section unless the indictment for such offense is found by a grand jury or a complaint filed before a magistrate within three years after the later of:

(a) The commission of the crime;

(b) Law enforcement's or a victim's receipt of actual or constructive notice of either the existence of a video or other electronic recording of the unlawful intrusion or the distribution of images, video, or other electronic recording of the unlawful intrusion; or

(c) The youngest victim of the intrusion reaching the age of twenty-one years.

See Also:
Chapter 1.E Neb. Rev. Stat.§28-311.09
Chapter 1.E Neb. Rev. Stat.§28-311.10
Chapter 2.D

Crimes
More Offender’s Crimes
(Last Updated: April 2013)

28-311.01 Terroristic threats; penalty.
28-312 Terms, defined.
28-313 Kidnapping; penalties.
28-314 False imprisonment in the first degree; penalty.
28-315 False imprisonment in the second degree; penalty.
28-316 Violation of custody; penalty.
28-1311 Interfering with a public service company; penalty.
28-1322 Disturbing the peace; penalty.
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28-501 Building, defined.
28-502 Arson, first degree; penalty.
28-503 Arson, second degree; penalty.
28-504 Arson, third degree; penalty.
28-507 Burglary; penalty.
28-511 Theft by unlawful taking or disposition.
28-513 Theft by extortion.
28-918 Bribery of a witness; penalty; witness receiving bribe; penalty.
28-919 Tampering with witness or informant; jury tampering; penalty.
28-311.01 Terroristic threats; penalty.

(1) A person commits terroristic threats if he or she threatens to commit any crime of violence:

(a) With the intent to terrorize another;

(b) With the intent of causing the evacuation of a building, place of assembly, or facility of public transportation; or

(c) In reckless disregard of the risk of causing such terror or evacuation.

(2) Terroristic threats is a Class IV felony.

28-312 Terms, defined.

As used in sections 28-312 to 28-315, unless the context otherwise requires:

(1) Restrain shall mean to restrict a person's movement in such a manner as to interfere substantially with his liberty:

(a) By means of force, threat, or deception; or

(b) If the person is under the age of eighteen or incompetent, without the consent of the relative, person, or institution having lawful custody of him; and

(2) Abduct shall mean to restrain a person with intent to prevent his liberation by:

(a) Secreting or holding him in a place where he is not likely to be found; or

(b) Endangering or threatening to endanger the safety of any human being.

28-313 Kidnapping; penalties.

(1) A person commits kidnapping if he abducts another or, having abducted another, continues to restrain him with intent to do the following:

(a) Hold him for ransom or reward; or

(b) Use him as a shield or hostage; or

(c) Terrorize him or a third person; or

(d) Commit a felony; or

(e) Interfere with the performance of any government or political function.
(2) Except as provided in subsection (3) of this section, kidnapping is a Class IA felony.

(3) If the person kidnapped was voluntarily released or liberated alive by the abductor and in a safe place without having suffered serious bodily injury, prior to trial, kidnapping is a Class II felony.

28-314 False imprisonment in the first degree; penalty.

(1) A person commits false imprisonment in the first degree if he or she knowingly restrains or abducts another person (a) under terrorizing circumstances or under circumstances which expose the person to the risk of serious bodily injury; or (b) with intent to hold him or her in a condition of involuntary servitude.

(2) False imprisonment in the first degree is a Class IIIA felony.

28-315 False imprisonment in the second degree; penalty.

(1) A person commits false imprisonment in the second degree if he knowingly restrains another person without legal authority.

(2) In any prosecution under this section, it shall be an affirmative defense that the person restrained (a) was on or in the immediate vicinity of the premises of a retail mercantile establishment and he was restrained for the purpose of investigation or questioning as to the ownership of any merchandise; and (b) was restrained in a reasonable manner and for not more than a reasonable time; and (c) was restrained to permit such investigation or questioning by a police officer, or by the owner of the mercantile establishment, his authorized employee or agent; and (d) that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft of merchandise on the premises; Provided, nothing in this section shall prohibit or restrict any person restrained pursuant to this section from maintaining any applicable civil remedy if no theft has occurred.

(3) False imprisonment in the second degree is a Class I misdemeanor.

28-316 Violation of custody; penalty.

(1) Any person, including a natural or foster parent, who, knowing that he has no legal right to do so or, heedless in that regard, takes or entices any child under the age of eighteen years from the custody of its parent having legal custody, guardian, or other lawful custodian commits the offense of violation of custody.

(2) Except as provided in subsection (3) of this section, violation of custody is a Class II misdemeanor.

(3) Violation of custody in contravention of an order of any district or juvenile court of this state granting the custody of a child under the age of eighteen years to any person,
agency, or institution, with the intent to deprive the lawful custodian of the custody of such child, is a Class IV felony.

28-1311 Interfering with a public service company; penalty.

(1) A person commits the offense of interfering with a public service company if he willfully and purposely interrupts or interferes with the transmission of telegraph or telephone messages or the transmission of light, heat and power in this state.

(2) Interference with public service companies is a Class II misdemeanor.

28-1322 Disturbing the peace; penalty.

(1) Any person who shall intentionally disturb the peace and quiet of any person, family, or neighborhood commits the offense of disturbing the peace.

(2) Disturbing the peace is a Class III misdemeanor.

28-519 Criminal mischief; penalty.

(1) A person commits criminal mischief if he or she:

   (a) Damages property of another intentionally or recklessly; or

   (b) Intentionally tampers with property of another so as to endanger person or property; or

   (c) Intentionally or maliciously causes another to suffer pecuniary loss by deception or threat.

(2) Criminal mischief is a Class IV felony if the actor intentionally or maliciously causes pecuniary loss of one thousand five hundred dollars or more, or a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public service.

(3) Criminal mischief is a Class I misdemeanor if the actor intentionally or maliciously causes pecuniary loss of five hundred dollars or more but less than one thousand five hundred dollars.

(4) Criminal mischief is a Class II misdemeanor if the actor intentionally or maliciously causes pecuniary loss of two hundred dollars or more but less than five hundred dollars.

(5) Criminal mischief is a Class III misdemeanor if the actor intentionally, maliciously, or recklessly causes pecuniary loss in an amount of less than two hundred dollars, or if his or her action results in no pecuniary loss.
28-501 Building, defined.

As used in this article, unless the context otherwise requires, building shall mean a structure which has the capacity to contain, and is designed for the shelter of man, animals, or property, and includes ships, trailers, sleeping cars, aircraft, or other vehicles or places adapted for overnight accommodations of persons or animals, or for carrying on of business therein, whether or not a person or animal is actually present. If a building is divided into units for separate occupancy, any unit not occupied by the defendant is a building of another.

28-502 Arson, first degree; penalty

(1) A person commits arson in the first degree if he or she intentionally damages a building or property contained within a building by starting a fire or causing an explosion when another person is present in the building at the time and either (a) the actor knows that fact, or (b) the circumstances are such as to render the presence of a person therein a reasonable probability.

(2) A person commits arson in the first degree if a fire is started or an explosion is caused in the perpetration of any robbery, burglary, or felony criminal mischief when another person is present in the building at the time and either (a) the actor knows that fact, or (b) the circumstances are such as to render the presence of a person therein a reasonable probability.

(3) Arson in the first degree is a Class II felony.

28-503 Arson, second degree; penalty

(1) A person commits arson in the second degree if he or she intentionally damages a building or property contained within a building by starting a fire or causing an explosion or if a fire is started or an explosion is caused in the perpetration of any robbery, burglary, or felony criminal mischief.

(2) The following affirmative defenses may be introduced into evidence upon prosecution for a violation of this section:

    (a) No person other than the accused has a security or proprietary interest in the damaged building, or, if other persons have such interests, all of them consented to his or her conduct; or

    (b) The accused's sole intent was to destroy or damage the building for a lawful and proper purpose.

(3) Arson in the second degree is a Class III felony.

28-504 Arson, third degree; penalty
(1) A person commits arson in the third degree if he or she intentionally sets fire to, burns, causes to be burned, or by the use of any explosive, damages or destroys, or causes to be damaged or destroyed, any property of another person without such other person's consent. Such property shall not be contained within a building and shall not be a building or occupied structure.

(2) Arson in the third degree is a Class IV felony if the damages amount to one hundred dollars or more.

(3) Arson in the third degree is a Class I misdemeanor if the damages are less than one hundred dollars.

28-507 Burglary; penalty.

(1) A person commits burglary if such person willfully, maliciously, and forcibly breaks and enters any real estate or any improvements erected thereon with intent to commit any felony or with intent to steal property of any value.

(2) Burglary is a Class III felony.

28-511 Theft by unlawful taking or disposition.

(1) A person is guilty of theft if he or she takes, or exercises control over, movable property of another with the intent to deprive him or her thereof.

(2) A person is guilty of theft if he or she transfers immovable property of another or any interest therein with the intent to benefit himself or herself or another not entitled thereto.

(3) Except as provided in subsection (4) of this section, it shall be presumed that a lessee's failure to return leased or rented movable property to the lessor after the expiration of a written lease or written rental agreement is done with intent to deprive if such lessee has been mailed notice by certified mail that such lease or rental agreement has expired and he or she has failed within ten days after such notice to return such property.

(4) A person is guilty of theft if he or she (a) rents or leases a motor vehicle under a written lease or rental agreement specifying the time and place for the return of the vehicle and fails to return the vehicle within seventy-two hours of written demand for return of the vehicle made upon him or her by certified mail to the address given by him or her for such purpose or (b) uses a fraudulent or stolen credit card to rent or lease a vehicle. Nothing in this subsection shall apply to any person who (i) through inadvertence, mistake, act of God, or other natural occurrence has unintentionally failed to return a rented motor vehicle or to inform the owner of the location of the vehicle or (ii) has had a rented motor vehicle stolen or otherwise converted from his or her possession and has filed the appropriate report with law enforcement authorities.
28-513 Theft by extortion.

(1) A person commits theft if he obtains property of another by threatening to:

(a) Inflict bodily injury on anyone or commit any other criminal offense; or

(b) Accuse anyone of a criminal offense; or

(c) Expose any secret tending to subject any person to hatred, contempt or ridicule, or to impair his credit or business repute; or

(d) Take or withhold action as an official, or cause an official to take or withhold action; or

(e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.

(2) It is an affirmative defense to prosecution based on subdivision (1)(b), (1)(c), or (1)(d) of this section that the property obtained by threat of accusation, exposure, lawsuit or other invocation of official action was honestly claimed as restitution or indemnification for harm done in the circumstances to which such accusation, exposure, lawsuit or other official action relates, or as compensation for property or lawful services.

28-918 Bribery of a witness; penalty; witness receiving bribe; penalty.

(1) A person commits bribery of a witness if he offers, confers, or agrees to confer any benefit upon a witness or a person he believes is about to be called as a witness in any official proceeding with intent to:

(a) Influence him to testify falsely or unlawfully withhold any testimony; or

(b) Induce him to avoid legal process summoning him to testify; or

(c) Induce him to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribery of a witness is a Class IV felony.

(3) A person who is a witness or has been called as a witness in any official proceeding commits a Class IV felony if he accepts or agrees to accept any benefit from any other person for the purposes set forth in subsection (1) of this section.
28-919 Tampering with witness or informant; jury tampering; penalty.

(1) A person commits the offense of tampering with a witness or informant if, believing that an official proceeding or investigation of a criminal or civil matter is pending or about to be instituted, he or she attempts to induce or otherwise cause a witness or informant to:

   (a) Testify or inform falsely;

   (b) Withhold any testimony, information, document, or thing;

   (c) Elude legal process summoning him or her to testify or supply evidence; or

   (d) Absent himself or herself from any proceeding or investigation to which he or she has been legally summoned.

(2) A person commits the offense of jury tampering if, with intent to influence a juror's vote, opinion, decision, or other action in a case, he or she attempts directly or indirectly to communicate with a juror other than as a part of the proceedings in the trial of the case.

(3) Tampering with witnesses or informants is a Class IV felony. Jury tampering is a Class IV felony.
Chapter 2.E

Crimes

Discrimination-Based Crimes

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28-110 Statement of rights.
28-111 Enhanced penalty; enumerated offenses.
28-112 Allegations set forth in indictment or information; burden of proof.
28-113 Civil action authorized; statute of limitations; proof required.
28-114 Nebraska Commission on Law Enforcement and Criminal Justice; duties.
28-110 Statement of rights.

A person in the State of Nebraska has the right to live free from violence, or intimidation by threat of violence, committed against his or her person or the destruction or vandalism of, or intimidation by threat of destruction or vandalism of, his or her property regardless of his or her race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability.

28-111 Enhanced penalty; enumerated offenses

Any person who commits one or more of the following criminal offenses against a person or a person's property because of the person's race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of the person's association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability shall be punished by the imposition of the next higher penalty classification than the penalty classification prescribed for the criminal offense, unless such criminal offense is already punishable as a Class IB felony or higher classification: Manslaughter, section 28-305; assault in the first degree, section 28-308; assault in the second degree, section 28-309; assault in the third degree, section 28-310; terroristic threats, section 28-311.01; stalking, section 28-311.03; kidnapping, section 28-313; false imprisonment in the first degree, section 28-314; false imprisonment in the second degree, section 28-315; sexual assault in the first degree, section 28-319; sexual assault in the second or third degree, section 28-320; sexual assault of a child, sections 28-319.01 and 28-320.01; arson in the first degree, section 28-502; arson in the second degree, section 28-503; arson in the third degree, section 28-504; criminal mischief, section 28-519; unauthorized application of graffiti, section 28-524; criminal trespass in the first degree, section 28-520; or criminal trespass in the second degree, section 28-521.

28-112 Allegations set forth in indictment or information; burden of proof.

The allegations stating that the underlying offense was committed because of the person's race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of the person's association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability shall be set forth in the indictment or information. It is the burden of the prosecuting attorney to prove such allegations beyond a reasonable doubt to the judge or jury in the state's case in chief.

28-113 Civil action authorized; statute of limitations; proof required.

(1) A person against whom a violation of section 28-111 has been committed may bring a civil action for equitable relief, general and special damages, reasonable attorney's fees, and costs.

(2) A civil action brought pursuant to this section must be brought within four years after the date of the violation of section 28-111.

(3) In a civil action brought pursuant to this section, the plaintiff shall establish by a preponderance of the evidence that the defendant committed the criminal offense against
the plaintiff or the plaintiff's property because of the plaintiff's race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of the plaintiff's association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability.

28-114 Nebraska Commission on Law Enforcement and Criminal Justice; duties.

The Nebraska Commission on Law Enforcement and Criminal Justice shall establish and maintain a central repository for the collection and analysis of information regarding criminal offenses committed against a person because of the person's race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of the person's association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability. Upon establishing such a repository, the commission shall develop a procedure to monitor, record, classify, and analyze information relating to criminal offenses apparently directed against individuals or groups, or their property, because of their race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability or because of their association with a person of a certain race, color, religion, ancestry, national origin, gender, sexual orientation, age, or disability.
Chapter 2.F

Crimes
Animal Cruelty
(Last Updated: April 2013)

28-1008 Terms, defined.

28-1009 Abandonment; cruel neglect; harassment of a police animal; penalty.
§ 28-1008. Terms, defined

For purposes of sections 28-1008 to 28-1017, 28-1019, and 28-1020:

1. Abandon means to leave any animal in one's care, whether as owner or custodian, for any length of time without making effective provision for its food, water, or other care as is reasonably necessary for the animal's health;

2. Animal means any vertebrate member of the animal kingdom. Animal does not include an uncaptured wild creature or a livestock animal as defined in section 54-902;

3. Cruelly mistreat means to knowingly and intentionally kill, maim, disfigure, torture, beat, mutilate, burn, scald, or otherwise inflict harm upon any animal;

4. Cruelly neglect means to fail to provide any animal in one's care, whether as owner or custodian, with food, water, or other care as is reasonably necessary for the animal's health;

5. Humane killing means the destruction of an animal by a method which causes the animal a minimum of pain and suffering;

6. Law enforcement officer means any member of the Nebraska State Patrol, any county or deputy sheriff, any member of the police force of any city or village, or any other public official authorized by a city or village to enforce state or local animal control laws, rules, regulations, or ordinances. Law enforcement officer also includes any inspector under the Commercial Dog and Cat Operator Inspection Act to the extent that such inspector may exercise the authority of a law enforcement officer under section 28-1012 while in the course of performing inspection activities under the Commercial Dog and Cat Operator Inspection Act;

7. Mutilation means intentionally causing permanent injury, disfigurement, degradation of function, incapacitation, or imperfection to an animal. Mutilation does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices;

8. Police animal means a horse or dog owned or controlled by the State of Nebraska or any county, city, or village for the purpose of assisting a law enforcement officer in the performance of his or her official enforcement duties;

9. Repeated beating means intentional successive strikes to an animal by a person resulting in serious bodily injury or death to the animal;

10. Serious injury or illness includes any injury or illness to any animal which creates a substantial risk of death or which causes broken bones, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ; and
(11) Torture means intentionally subjecting an animal to extreme pain, suffering, or agony. Torture does not include conduct performed by a veterinarian licensed to practice veterinary medicine and surgery in this state or conduct that conforms to accepted veterinary practices.

§ 28-1009. Abandonment; cruel neglect; harassment of a police animal; penalty

(1) A person who intentionally, knowingly, or recklessly abandons or cruelly neglects an animal is guilty of a Class I misdemeanor unless the abandonment or cruel neglect results in serious injury or illness or death of the animal, in which case it is a Class IV felony.

(2)(a) Except as provided in subdivision (b) of this subsection, a person who cruelly mistreats an animal is guilty of a Class I misdemeanor for the first offense and a Class IV felony for any subsequent offense.

(b) A person who cruelly mistreats an animal is guilty of a Class IV felony if such cruel mistreatment involves the knowing and intentional torture, repeated beating, or mutilation of the animal.

(3) A person commits harassment of a police animal if he or she knowingly and intentionally teases or harasses a police animal in order to distract, agitate, or harm the police animal for the purpose of preventing such animal from performing its legitimate official duties. Harassment of a police animal is a Class IV misdemeanor unless the harassment is the proximate cause of the death of the police animal, in which case it is a Class IV felony.
Chapter 2.G

Crimes
Victim’s Crimes
(Last Updated: April 2013)

28-907 False reporting; penalty.
28-915 Perjury; subornation of perjury; penalty.
28-915.01 False statement under oath or affirmation; penalty; applicability of section.
28-206 Prosecuting for aiding and abetting.
28-907 False reporting; penalty.

(1) A person commits the offense of false reporting if he or she:

(a) Furnishes material information he or she knows to be false to any peace officer or other official with the intent to instigate an investigation of an alleged criminal matter or to impede the investigation of an actual criminal matter;

(b) Furnishes information he or she knows to be false alleging the existence of the need for the assistance of an emergency medical service or out-of-hospital emergency care provider or an emergency in which human life or property are in jeopardy to any hospital, emergency medical service, or other person or governmental agency;

(c) Furnishes any information, or causes such information to be furnished or conveyed by electric, electronic, telephonic, or mechanical means, knowing the same to be false concerning the need for assistance of a fire department or any personnel or equipment of such department;

(d) Furnishes any information he or she knows to be false concerning the location of any explosive in any building or other property to any person; or

(e) Furnishes material information he or she knows to be false to any governmental department or agency with the intent to instigate an investigation or to impede an ongoing investigation and which actually results in causing or impeding such investigation.

(2) (a) False reporting pursuant to subdivisions (1)(a) through (d) of this section is a Class I misdemeanor; and

(b) False reporting pursuant to subdivision (1)(e) of this section is an infraction.

28-915 Perjury; subornation of perjury; penalty.

(1) A person is guilty of perjury, a Class III felony, if in any official proceeding he or she makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and he or she does not believe it to be true.

(2) A person is guilty of subornation of perjury, a Class III felony, if he or she persuades, procures, or suborns any other person to commit perjury.

(3) A falsification shall be material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It shall not be a defense that the declarant mistakenly believed the falsification to be
immaterial. Whether a falsification is material in a given factual situation shall be a question of law.

(4) It shall not be a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

(5) No person shall be guilty of an offense under this section if he or she retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding.

(6) When the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In such case it shall not be necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true.

(7) No person shall be convicted of an offense under this section when proof of falsity rests solely upon contradiction by testimony of a single person other than the defendant.

28-915.01 False statement under oath or affirmation; penalty; applicability of section.

(1) A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true, is guilty of a Class I misdemeanor if the falsification:

(a) Occurs in an official proceeding; or

(b) Is intended to mislead a public servant in performing his or her official function.

(2) A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he or she does not believe the statement to be true, is guilty of a Class II misdemeanor if the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths.

(3) Subsections (4) through (7) of section 28-915 shall apply to subsections (1) and (2) of this section.
(4) This section shall not apply to reports, statements, affidavits, or other documents made or filed pursuant to the Campaign Finance Limitation Act or the Nebraska Political Accountability and Disclosure Act.

28-206 Prosecuting for aiding and abetting.

A person who aids, abets, procures, or causes another to commit any offense may be prosecuted and punished as if he were the principal offender.
Chapter 2.H

Crimes
Assault and Murder of an Unborn Child
(Last Updated: April 2013)

28-388 Act, how cited.
28-389 Terms, defined.
28-390 Applicability of sections.
28-391 Murder of an unborn child in the first degree; penalty.
28-392 Murder of an unborn child in the second degree; penalty.
28-393 Manslaughter of an unborn child; penalty.
28-394 Motor vehicle homicide of an unborn child; penalty.
28-395 Act, how cited.
28-396 Unborn child, defined.
28-397 Assault of an unborn child in the first degree; penalty.
28-398 Assault of an unborn child in the second degree; penalty.
28-399 Assault of an unborn child in the third degree; penalty.
28-3,100 Applicability of act.
28-3,101 Prosecution of separate acts.
28-388 Act, how cited.

Sections 28-388 to 28-394 shall be known and may be cited as the Homicide of the Unborn Child Act.

28-389 Terms, defined.

For purposes of the Homicide of the Unborn Child Act, unless the context otherwise requires:

(1) Premeditation means a design formed to do something before it is done; and

(2) Unborn child means an individual member of the species Homo sapiens, at any stage of development in utero, who was alive at the time of the homicidal act and died as a result thereof whether before, during, or after birth.

28-390 Applicability of sections.

Sections 28-391 to 28-394 do not apply to an act or conduct causing or contributing to the death of an unborn child when the act or conduct is:

(1) Committed or engaged in by the mother of the unborn child;

(2) Any medical procedure performed with the consent of the mother; or

(3) Dispensing a drug or device in accordance with law or administering a drug or device prescribed in accordance with law.

28-391 Murder of an unborn child in the first degree; penalty.

(1) A person commits murder of an unborn child in the first degree if he or she in committing an act or engaging in conduct that causes the death of an unborn child, intends, with deliberate and premeditated malice, to kill the unborn child or the mother of the unborn child with knowledge of the pregnancy.

(2) Murder of an unborn child in the first degree is a Class IA felony.

28-392 Murder of an unborn child in the second degree; penalty.

(1) A person commits murder of an unborn child in the second degree if he or she, in committing an act or engaging in conduct that causes the death of an unborn child, intends, but without premeditation, to kill the unborn child or another.

(2) Murder of an unborn child in the second degree is a Class IB felony.

28-393 Manslaughter of an unborn child; penalty.
(1) A person commits manslaughter of an unborn child if he or she (a) kills an unborn child without malice upon a sudden quarrel with any person or (b) causes the death of an unborn child unintentionally while in the perpetration of or attempt to perpetrate any criminal assault, any sexual assault, arson, robbery, kidnapping, intentional child abuse, hijacking of any public or private means of transportation, or burglary.

(2) Manslaughter of an unborn child is a Class III felony.

28-394 Motor vehicle homicide of an unborn child; penalty. (effective Jan 1, 2012)

(1) A person who causes the death of an unborn child unintentionally while engaged in the operation of a motor vehicle in violation of the law of the State of Nebraska or in violation of any city or village ordinance commits motor vehicle homicide of an unborn child.

(2) Except as provided in subsection (3) of this section, motor vehicle homicide of an unborn child is a Class I misdemeanor.

(3) (a) If the proximate cause of the death of an unborn child is the operation of a motor vehicle in violation of section 60-6,213 or 60-6,214, motor vehicle homicide of an unborn child is a Class IV felony.

(b) Except as provided in subdivision (3)(c) of this section, if the proximate cause of the death of an unborn child is the operation of a motor vehicle in violation of section 60-6,196 or 60-6,197.06, motor vehicle homicide of an unborn child is a Class IV felony and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least sixty days and not more than fifteen years after the date ordered by the court and shall order that the operator's license of such person be revoked for the same period. The revocation shall not run concurrently with any jail term imposed.

(c) If the proximate cause of the death of an unborn child is the operation of a motor vehicle in violation of section 60-6,196 or 60-6,197.06 and the defendant has a prior conviction for a violation of section 60-6,196 or a city or village ordinance enacted in conformance with section 60-6,196, motor vehicle homicide of an unborn child is a Class III felony and the court shall, as part of the judgment of conviction, order the person not to drive any motor vehicle for any purpose for a period of at least sixty days and not more than fifteen years after the date ordered by the court and shall order that the operator's license of such person be revoked for the same period. The revocation shall not run concurrently with any jail term imposed.

(4) The crime punishable under this section shall be treated as a separate and distinct offense from any other offense arising out of acts alleged to have been committed while the person was in violation of this section.
28-395 Act, how cited.

Sections 28-395 to 28-3,101 shall be known and may be cited as the Assault of an Unborn Child Act.

28-396 Unborn child, defined.

For purposes of the Assault of an Unborn Child Act, unborn child means an individual member of the species Homo sapiens at any stage of development in utero.

28-397 Assault of an unborn child in the first degree; penalty.

(1) A person commits the offense of assault of an unborn child in the first degree if he or she, during the commission of any criminal assault on a pregnant woman, intentionally or knowingly causes serious bodily injury to her unborn child.

(2) Assault of an unborn child in the first degree is a Class III felony.

28-398 Assault of an unborn child in the second degree; penalty.

(1) A person commits the offense of assault of an unborn child in the second degree if he or she, during the commission of any criminal assault on a pregnant woman, recklessly causes serious bodily injury to her unborn child with a dangerous instrument.

(2) Assault of an unborn child in the second degree is a Class IIIA felony.

28-399 Assault of an unborn child in the third degree; penalty.

(1) A person commits the offense of assault of an unborn child in the third degree if he or she, during the commission of any criminal assault on a pregnant woman, recklessly causes serious bodily injury to her unborn child.

(2) Assault of an unborn child in the third degree is a Class I misdemeanor.

28-3,100 Applicability of act.

The Assault of an Unborn Child Act does not apply to:

(1) Any act or conduct that is committed or engaged in by the mother of the unborn child;

(2) Any medical procedure performed with the consent of the mother; or

(3) Dispensing a drug or device in accordance with law or administering a drug or device prescribed in accordance with law.

28-3,101 Prosecution of separate acts.
Assault on a pregnant woman and assault on her unborn child shall be considered as separate acts or conduct for purposes of prosecution.
Chapter 2.1

Crimes
Victim’s Defense to Charges
(First Updated: April 2013)

28-1409 Use of force in self-protection.
28-1410 Use of force for protection of other persons.
28-1413 Use of force by person with special responsibility for care, discipline, or safety of others.
28-1414 Mistake of law; reckless or negligent use of force.
28-1416 Justification an affirmative defense; civil remedies unaffected.
§ 28-1409. Use of force in self-protection

(1) Subject to the provisions of this section and of section 28-1414, the use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.

(2) The use of such force is not justifiable under this section to resist an arrest which the actor knows is being made by a peace officer, although the arrest is unlawful.

(3) The use of such force is not justifiable under this section to resist force used by the occupier or possessor of property or by another person on his behalf, where the actor knows that the person using the force is doing so under a claim of right to protect the property, except that this limitation shall not apply if:

   (a) The actor is a public officer acting in the performance of his duties or a person lawfully assisting him therein or a person making or assisting in a lawful arrest;

   (b) The actor has been unlawfully dispossessed of the property and is making a reentry or recapture justified by section 28-1411; or

   (c) The actor believes that such force is necessary to protect himself against death or serious bodily harm.

(4) The use of deadly force shall not be justifiable under this section unless the actor believes that such force is necessary to protect himself against death, serious bodily harm, kidnapping or sexual intercourse compelled by force or threat, nor is it justifiable if:

   (a) The actor, with the purpose of causing death or serious bodily harm, provoked the use of force against himself in the same encounter; or

   (b) The actor knows that he can avoid the necessity of using such force with complete safety by retreating or by surrendering possession of a thing to a person asserting a claim of right thereto or by complying with a demand that he abstain from any action which he has no duty to take, except that:

       (i) The actor shall not be obliged to retreat from his dwelling or place of work, unless he was the initial aggressor or is assailed in his place of work by another person whose place of work the actor knows it to be; and

       (ii) A public officer justified in using force in the performance of his duties or a person justified in using force in his assistance or a person justified in using force in making an arrest or preventing an escape shall not be obliged to desist from efforts to perform such duty, effect such arrest or prevent such escape because of resistance or threatened resistance by or on behalf of the person against whom such action is directed.
(5) Except as required by subsections (3) and (4) of this section, a person employing protective force may estimate the necessity thereof under the circumstances as he believes them to be when the force is used, without retreating, surrendering possession, doing any other act which he has no legal duty to do, or abstaining from any lawful action.

(6) The justification afforded by this section extends to the use of confinement as protective force only if the actor takes all reasonable measures to terminate the confinement as soon as he knows that he safely can do so, unless the person confined has been arrested on a charge of crime.

§ 28-1410. Use of force for protection of other persons

(1) Subject to the provisions of this section and of section 28-1414, the use of force upon or toward the person of another is justifiable to protect a third person when:

(a) The actor would be justified under section 28-1409 in using such force to protect himself against the injury he believes to be threatened to the person whom he seeks to protect;

(b) Under the circumstances as the actor believes them to be, the person whom he seeks to protect would be justified in using such protective force; and

(c) The actor believes that his intervention is necessary for the protection of such other person.

(2) Notwithstanding subsection (1) of this section:

(a) When the actor would be obliged under section 28-1409 to retreat, to surrender the possession of a thing or to comply with a demand before using force in self-protection, he shall not be obliged to do so before using force for the protection of another person, unless he knows that he can thereby secure the complete safety of such other person;

(b) When the person whom the actor seeks to protect would be obliged under section 28-1409 to retreat, to surrender the possession of a thing or to comply with a demand if he knew that he could obtain complete safety by so doing, the actor is obliged to try to cause him to do so before using force in his protection if the actor knows that he can obtain complete safety in that way; and

(c) Neither the actor nor the person whom he seeks to protect is obliged to retreat when in the other's dwelling or place of work to any greater extent than in his own.

§ 28-1413. Use of force by person with special responsibility for care, discipline, or safety of others
The use of force upon or toward the person of another is justifiable if:

(1) The actor is the parent or guardian or other person similarly responsible for the general care and supervision of a minor or a person acting at the request of such parent, guardian, or other responsible person and:

(a) Such force is used for the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of his or her misconduct; and

(b) Such force used is not designed to cause or known to create a substantial risk of causing death, serious bodily harm, disfigurement, extreme pain or mental distress, or gross degradation;

(2) The actor is the guardian or other person similarly responsible for the general care and supervision of an incompetent person and:

(a) Such force is used for the purpose of safeguarding or promoting the welfare of the incompetent person, including the prevention of his or her misconduct, or, when such incompetent person is in a hospital or other institution for his or her care and custody, for the maintenance of reasonable discipline in such institution; and

(b) Such force used is not designed to cause or known to create a substantial risk of causing death, serious bodily harm, disfigurement, extreme or unnecessary pain, mental distress, or humiliation;

(3) The actor is a doctor or other therapist or a person assisting him or her at his or her direction and:

(a) Such force is used for the purpose of administering a recognized form of treatment which the actor believes to be adapted to promoting the physical or mental health of the patient; and

(b) Such treatment is administered with the consent of the patient or, if the patient is a minor or an incompetent person, with the consent of his or her parent or guardian or other person legally competent to consent in his or her behalf or the treatment is administered in an emergency when the actor believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent;

(4) The actor is a warden or other authorized official of a correctional institution and:

(a) He or she believes that the force used is necessary for the purpose of enforcing the lawful rules or procedures of the institution, unless his or her belief in the lawfulness of the rule or procedure sought to be enforced is erroneous and his or her error is the result of ignorance or mistake as to the provisions of sections 28-
1406 to 28-1416, any other provision of the criminal law, or the law governing the administration of the institution;

(b) The nature or degree of force used is not forbidden by section 28-1408 or 28-1409; and

(c) If deadly force is used, its use is otherwise justifiable under sections 28-1406 to 28-1416;

(5) The actor is a person responsible for the safety of a vessel or an aircraft or a person acting at his or her direction and:

(a) He or she believes that the force used is necessary to prevent interference with the operation of the vessel or aircraft or obstruction of the execution of a lawful order unless such belief in the lawfulness of the order is erroneous and such error is the result of ignorance or mistake as to the law defining such authority; and

(b) If deadly force is used, its use is otherwise justifiable under sections 28-1406 to 28-1416; and

(6) The actor is a person who is authorized or required by law to maintain order or decorum in a vehicle, train, or other carrier or in a place where others are assembled, and:

(a) He or she believes that the force used is necessary for such purpose; and

(b) Such force used is not designed to cause or known to create a substantial risk of causing death, bodily harm, or extreme mental distress.

§ 28-1414. Mistake of law; reckless or negligent use of force

(1) The justification afforded by sections 28-1409 to 28-1412 is unavailable when:

(a) The actor's belief in the unlawfulness of the force or conduct against which he employs protective force or his belief in the lawfulness of an arrest which he endeavors to effect by force is erroneous; and

(b) His error is the result of ignorance or mistake as to the provisions of sections 28-1406 to 28-1416, any other provision of the criminal law, or the law governing the legality of an arrest or search.

(2) When the actor believes that the use of force upon or toward the person of another is necessary for any of the purposes for which such belief would establish a justification under sections 28-1408 to 28-1413 but the actor is reckless or negligent in having such belief or in acquiring or failing to acquire any knowledge or belief which is material to the justifiability of his use of force, the justification afforded by those sections is
unavailable in a prosecution for an offense for which recklessness or negligence, as the case may be, suffices to establish culpability.

(3) When the actor is justified under sections 28-1408 to 28-1413 in using force upon or toward the person of another but he recklessly or negligently injures or creates a risk of injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for such recklessness or negligence towards innocent persons.

§ 28-1416. Justification an affirmative defense; civil remedies unaffected

(1) In any prosecution based on conduct which is justifiable under sections 28-1406 to 28-1416, justification is an affirmative defense.

(2) The justification defenses provided for under sections 28-1406 to 28-1416 shall be available in any civil action for assault and battery or intentional wrongful death and, where applicable, shall be a bar to recovery.
Chapter 2.J

Crimes
Electronic Crimes
(Last Updated: April 2013)

28-1310 Intimidation by telephone call; penalty; prima facie evidence.
28-1342 Legislative findings and declarations.
28-1343 Terms, defined.
28-1343.01 Unauthorized computer access; penalty.
28-1344 Unlawful acts; depriving or obtaining property or services; penalties.
28-1345 Unlawful acts; harming or disrupting operations; penalties.
28-1346 Unlawful acts; obtaining confidential public information; penalties.
28-1347 Unlawful acts; access without authorization; exceeding authorization; penalties.
28-1348 Act, how construed.
28-1310 Intimidation by telephone call; penalty; prima facie evidence.

(1) A person commits the offense of intimidation by telephone call if, with intent to terrify, intimidate, threaten, harass, annoy, or offend, the person:

   (a) Telephones another anonymously, whether or not conversation ensues, and disturbs the peace, quiet, and right of privacy of any person at the place where the calls are received; or

   (b) Telephones another and uses indecent, lewd, lascivious, or obscene language or suggests any indecent, lewd, or lascivious act; or

   (c) Telephones another and threatens to inflict injury to any person or to the property of any person; or

   (d) Intentionally fails to disengage the connection; or

   (e) Telephones another and attempts to extort money or other thing of value from any person.

(2) The use of indecent, lewd, or obscene language or the making of a threat or lewd suggestion shall be prima facie evidence of intent to terrify, intimidate, threaten, harass, annoy, or offend.

(3) The offense shall be deemed to have been committed either at the place where the call was made or where it was received.

(4) Intimidation by telephone call is a Class III misdemeanor.

28-1342 Legislative findings and declarations.

The Legislature finds and declares that our society is increasingly dependent on computers, that important personal, financial, medical, and historical data is stored in computers, and that valuable data stored can be lost due to criminal action.

The Legislature further finds that specific criminal statutes are necessary to cover the actions of persons who intentionally destroy data or commit fraud using computers.

28-1343 Terms, defined.

For purposes of the Computer Crimes Act:

(1) Access shall mean to instruct, communicate with, store data in, retrieve data from, or otherwise use the resources of a computer, computer system, or computer network;
(2) Computer shall mean a high-speed data processing device or system which performs logical, arithmetic, data storage and retrieval, communication, memory, or control functions by the manipulation of signals, including, but not limited to, electronic or magnetic impulses, and shall include any input, output, data storage, processing, or communication facilities directly related to or operating in conjunction with any such device or system;

(3) Computer network shall mean the interconnection of a communications system with a computer through a remote terminal or with two or more interconnected computers or computer systems;

(4) Computer program shall mean an instruction or statement or a series of instructions or statements in a form acceptable to a computer which directs the functioning of a computer system in a manner designed to provide appropriate products from the computer;

(5) Computer security system shall mean a computer program or device that:

   (a) Is intended to protect the confidentiality and secrecy of data and information stored in or accessible through the computer system; and

   (b) Displays a conspicuous warning to a user that the user is entering a secure system or requires a person seeking access to knowingly respond by use of an authorized code to the program or device in order to gain access;

(6) Computer software shall mean a computer program of procedures or associated documentation concerned with the operation of a computer;

(7) Computer system shall mean related computers and peripheral equipment, whether connected or unconnected;

(8) Data shall mean a representation of information, facts, knowledge, concepts, or instructions prepared in a formalized or other manner and intended for use in a computer or computer network;

(9) Destructive computer program shall mean a computer program that performs a destructive function or produces a destructive product;

(10) Destructive function shall mean a function that (a) degrades the performance of a computer, its associated peripheral equipment, or a computer program, (b) disables a computer, its associated peripheral equipment, or a computer program, or (c) alters a computer program or data;

(11) Destructive product shall mean a product that: (a) Produces unauthorized data, including data that make computer memory space unavailable; (b) results in the
unauthorized alteration of data or a computer program; or (c) produces a destructive computer program, including, but not limited to, a self-replicating program;

(12) Loss shall mean the greatest of the following:

(a) The retail market value of the property or services involved;

(b) The reasonable repair or replacement cost whichever is less; or

(c) The reasonable value of the damage created by the unavailability or lack of utility of the property or services involved until repair or replacement can be effected;

(13) Property shall include, but not be limited to, electronically processed or electronically produced data and information in computer software whether in human or computer readable form; and

(14) Services shall include, but not be limited to, computer time, data processing, and storage functions.

28-1343.01 Unauthorized computer access; penalty.

(1) A person commits the offense of unauthorized computer access if the person intentionally and without authority penetrates a computer security system.

(2) A person who violates subsection (1) of this section in a manner that creates a grave risk of causing the death of a person shall be guilty of a Class IV felony.

(3) A person who violates subsection (1) of this section in a manner that creates a risk to public health and safety shall be guilty of a Class I misdemeanor.

(4) A person who violates subsection (1) of this section in a manner that compromises the security of data shall be guilty of a Class II misdemeanor.

28-1344 Unlawful acts; depriving or obtaining property or services; penalties.

Any person who intentionally accesses or causes to be accessed, directly or indirectly, any computer, computer system, computer software, or computer network without authorization or who, having accessed any computer, computer system, computer software, or computer network with authorization, knowingly and intentionally exceeds the limits of such authorization shall be guilty of a Class IV felony if he or she intentionally: (1) Deprives another of property or services; or (2) obtains property or services of another, except that any person who obtains property or services or deprives another of property or services with a value of one thousand dollars or more by such conduct shall be guilty of a Class III felony.

28-1345 Unlawful acts; harming or disrupting operations; penalties.
Any person who accesses or causes to be accessed any computer, computer system, computer software, or computer network without authorization or who, having accessed any computer, computer system, computer software, or computer network with authorization, knowingly and intentionally exceeds the limits of such authorization shall be guilty of a Class IV felony if he or she intentionally: (1) Alters, damages, deletes, or destroys any computer, computer system, computer software, computer network, computer program, data, or other property; (2) disrupts the operation of any computer, computer system, computer software, or computer network; or (3) distributes a destructive computer program with intent to damage or destroy any computer, computer system, computer network, or computer software, except that any person who causes loss with a value of one thousand dollars or more by such conduct shall be guilty of a Class III felony.

28-1346 Unlawful acts; obtaining confidential public information; penalties.

Any person who intentionally accesses or causes to be accessed any computer, computer system, computer software, or computer network without authorization, or who, having accessed a computer, computer system, computer software, or computer network with authorization, knowingly and intentionally exceeds the limits of such authorization, and thereby obtains information filed by the public with the state or any political subdivision which is by statute required to be kept confidential shall be guilty of a Class II misdemeanor. For any second or subsequent offense under this section, such person shall be guilty of a Class I misdemeanor.

28-1347 Unlawful acts; access without authorization; exceeding authorization; penalties.

Any person who intentionally accesses any computer, computer system, computer software, computer network, computer program, or data without authorization and with knowledge that such access was not authorized or who, having accessed any computer, computer system, computer software, computer network, computer program, or data with authorization, knowingly and intentionally exceeds the limits of such authorization shall be guilty of a Class V misdemeanor. For any second or subsequent offense under this section, such person shall be guilty of a Class II misdemeanor.

28-1348 Act, how construed.

The Computer Crimes Act shall not be construed to preclude the applicability of any other provision of the Nebraska Criminal Code which may apply to any transaction described in the Computer Crimes Act.