

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 280**

Introduced by Pirsch, 4.

Read first time January 16, 2013

Committee:

A BILL

- 1 FOR AN ACT relating to crimes and offenses; to amend section 28-323,
- 2 Revised Statutes Cumulative Supplement, 2012; to change
- 3 domestic assault provisions; to define a term; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-323, Revised Statutes Cumulative  
2 Supplement, 2012, is amended to read:

3           28-323 (1) A person commits the offense of domestic  
4 assault in the third degree if he or she:

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

7           (b) Threatens ~~an~~ his or her intimate partner with  
8 imminent bodily injury; or

9           (c) Threatens ~~an~~ his or her intimate partner in a  
10 menacing manner.

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

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

18           (4) Violation of subdivision (1)(a), ~~or~~ (b), or (c) of  
19 this section is a Class I misdemeanor. ~~\_\_, except that for any~~  
20 ~~subsequent violation of subdivision (1)(a) or (b) of this section,~~  
21 ~~any person so offending is guilty of a Class IV felony.~~

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

24           ~~(6)-(5)~~ Violation of subsection (2) of this section is a  
25 Class ~~IIIA-III~~ III felony. ~~\_\_, except that for any second or subsequent~~

1 ~~violation of such subsection, any person so offending is guilty of a~~  
2 ~~Class III felony.~~

3 ~~(7)-(6) Violation of subsection (3) of this section is a~~  
4 ~~Class III-II felony., except that for any second or subsequent~~  
5 ~~violation under such subsection, any person so offending is guilty of~~  
6 ~~a Class II felony.~~

7 (7) If a person has a prior conviction under this section  
8 or a substantially conforming criminal conviction, then the penalty  
9 for a subsequent violation of this section shall be the next higher  
10 penalty classification than the penalty prescribed for the current  
11 violation of this section.

12 (8) For purposes of this section:

13 (a) Intimate, ~~intimate-partner~~ means a spouse; a former  
14 spouse; persons who have a child in common whether or not they have  
15 been married or lived together at any time; and persons who are or  
16 were involved in a dating relationship;

17 (b) Dating. ~~For purposes of this subsection, dating~~  
18 relationship means frequent, intimate associations primarily  
19 characterized by the expectation of affectional or sexual  
20 involvement, but does not include a casual relationship or an  
21 ordinary association between persons in a business or social context;  
22 and -

23 (c) Substantially conforming criminal conviction means a  
24 conviction for a violation of any federal law or law of another state  
25 or any county, city, or village ordinance of this state or another

1 state substantially similar to an offense which would be a violation  
2 of this section. Substantially similar is a question of law to be  
3 determined by the court.

4           Sec. 2. Original section 28-323, Revised Statutes  
5 Cumulative Supplement, 2012, is repealed.