

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 227

Introduced by Morfeld, 46.

Read first time January 11, 2021

Committee:

- 1 A BILL FOR AN ACT relating to public safety; to amend section 28-111,
- 2 Reissue Revised Statutes of Nebraska, and sections 28-101 and
- 3 28-907, Revised Statutes Cumulative Supplement, 2020; to adopt the
- 4 Doxing Prevention Act; to change provisions relating to penalty
- 5 enhancements and false reporting; to define terms; to provide and
- 6 change penalties; to provide for civil causes of action; to
- 7 harmonize provisions; to provide severability; and to repeal the
- 8 original sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Doxing Prevention Act.

3 Sec. 2. For purposes of the Doxing Prevention Act, the definitions
4 in section 28-109 and the following definitions apply:

5 (1) Actor means the person alleged to have violated the Doxing
6 Prevention Act;

7 (2) Close relation means a current or former spouse or domestic
8 partner, parent, child, sibling, stepchild, stepparent, grandparent, any
9 person who regularly resides in the same household or who within the
10 prior six months regularly resided in the same household, or any person
11 with a significant personal or professional relationship;

12 (3) Electronic communication means any transfer of signs, signals,
13 writing, images, sounds, data, or intelligence of any nature transmitted
14 in whole or in part by a wire, radio, digital, electromagnetic,
15 photoelectronic, or photooptical system;

16 (4) Mental anguish means emotional distress or emotional suffering
17 as evidenced by anxiety, fear, torment, or apprehension that may or may
18 not result in a physical manifestation of mental anguish or a mental
19 health diagnosis. The mental anguish must be protracted and not merely
20 trivial or transitory;

21 (5) Personally identifiable information means:

22 (a) Any information that can be used to distinguish or trace an
23 individual's identity, such as name, prior legal name, alias, mother's
24 maiden name, social security number, date or place of birth, address,
25 phone number, or biometric data;

26 (b) Any information that is linked or linkable to an individual,
27 such as medical, financial, education, consumer, or employment
28 information, data, or records;

29 (c) Any other sensitive private information that is linked or
30 linkable to a specific identifiable individual, such as gender identity,
31 sexual orientation, or any sexually intimate visual depiction; or

1 (d) Any information that provides access to a person's
2 teleconferencing, video-teleconferencing, or other digital meeting room;

3 (6) Post means to circulate, deliver, distribute, disseminate,
4 transmit, publish, or otherwise make available to two or more persons
5 through electronic communication;

6 (7) Stalk and stalking means to knowingly or intentionally engage in
7 a course of conduct, without a legitimate purpose, directed at or
8 concerning a specific person that would cause a reasonable person to fear
9 for such person's safety or the safety of a close relation or to suffer
10 mental anguish; and

11 (8) Substantial life disruption means that a person significantly
12 modifies that person's actions or routines in an attempt to avoid the
13 actor or because of the actor's course of conduct. This includes, but is
14 not limited to, changing a phone number, changing an email address,
15 deleting personal electronic accounts, significantly decreasing use of
16 the Internet, moving from an established residence, changing daily
17 routines, changing routes to and from work, changing employment, changing
18 a work schedule, or losing time from work or a job.

19 Sec. 3. (1) An actor commits the offense of doxing if:

20 (a) The actor intentionally posts another person's personally
21 identifiable information without such person's consent;

22 (b) Such personally identifiable information is posted either:

23 (i) With the intent to promote or assist in the commission of an
24 offense that would cause the person whose information is posted to suffer
25 death, bodily injury, or stalking; or

26 (ii) With reckless disregard that the posting may incite or produce
27 death, bodily injury, or stalking; and

28 (c) The posting of the personally identifiable information either:

29 (i) Is conducted with knowledge that the information will be used in
30 the commission of an offense that would cause harm to the person whose
31 information is posted or to a close relation to that person;

1 (ii) Would cause a reasonable person to suffer significant economic
2 injury or mental anguish, to fear serious bodily injury or death, or to
3 fear that serious bodily injury or death will be inflicted on a close
4 relation; or

5 (iii) Causes the person whose information is posted to suffer a
6 substantial life disruption.

7 (2) A violation of this section described in subdivision (1)(c)(i)
8 or (ii) of this section is a Class I misdemeanor, except that the
9 violation is a Class III felony if an individual suffers death, bodily
10 injury, mental anguish, or significant economic injury as a proximate
11 result of conduct arising out of the posting.

12 (3) A violation described in subdivision (1)(c)(iii) of this section
13 is a Class II misdemeanor.

14 (4) It is not an offense under this section for a person to:

15 (a) Provide another person's personally identifiable information or
16 in connection with:

17 (i) The reporting of criminal activity to a law enforcement agency;
18 or

19 (ii) Any lawfully authorized investigative, protective, or
20 intelligence activity of any state or federal law enforcement agency or
21 of an intelligence agency of the United States;

22 (b) Disseminate personally identifiable information for the purpose
23 of, or in connection with, the reporting of conduct reasonably believed
24 to be unlawful; or

25 (c) Provide a person's personally identifiable information in
26 connection with lawful and constitutionally protected activity as it
27 pertains to speech, assembly, and petition.

28 (6) Nothing in this section shall be construed in any manner to:

29 (a) Conflict with 47 U.S.C. 230, as such section existed on January
30 1, 2021;

31 (b) Conflict with 42 U.S.C. 1983, as such section existed on January

1 1, 2021; or

2 (c) Prohibit any activity protected under the Constitution of the
3 United States or the Constitution of Nebraska.

4 Sec. 4. (1) An individual who is a victim of an offense under
5 section 3 of this act may bring a civil action against the person who
6 committed such offense or any person who knowingly benefited, financially
7 or by receiving anything of value, from participation in a venture that
8 the person knew or should have known has engaged in an act in violation
9 of section 3 of this act.

10 (2) A defendant found liable under this section shall be jointly and
11 severally liable with any other person, if any, who is found liable under
12 this section for damages arising from the same violation.

13 (3) A plaintiff who prevails in an action under the Doxing
14 Prevention Act shall be entitled to:

15 (a) The greater of:

16 (i) Actual damages; or

17 (ii) Liquidated damages of one thousand dollars;

18 (b) Such preliminary and other equitable or declaratory relief as
19 may be appropriate; and

20 (c) Reasonable attorney's fees and other litigation costs reasonably
21 incurred.

22 (4) A person may bring a civil action under this section regardless
23 of whether there has been a conviction or prosecution for a violation of
24 section 3 of this act.

25 (5) Nothing in this section shall be construed to prohibit a person
26 from pursuing any other remedy provided by law.

27 Sec. 5. A violation of section 3 of this act may be prosecuted, and
28 a civil action under section 4 of this act may be brought, in any county
29 in which an element of the offense occurred or in which the victim
30 resides.

31 Sec. 6. (1) Except as provided in subsection (2) of this section,

1 the Doxing Prevention Act shall be liberally construed and applied to
2 promote its underlying purpose to protect persons from doxing and provide
3 adequate remedies to victims of doxing.

4 (2) The Legislature does not intend the Doxing Prevention Act to
5 allow prosecution for constitutionally protected activity.

6 Sec. 7. Section 28-101, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 28-101 Sections 28-101 to 28-1357 and 28-1601 to 28-1603 and section
9 10 of this act shall be known and may be cited as the Nebraska Criminal
10 Code.

11 Sec. 8. Section 28-111, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 28-111 Any person who commits one or more of the following criminal
14 offenses against a person or a person's property because of the person's
15 race, color, religion, ancestry, national origin, gender, sexual
16 orientation, age, or disability or because of the person's association
17 with a person of a certain race, color, religion, ancestry, national
18 origin, gender, sexual orientation, age, or disability shall be punished
19 by the imposition of the next higher penalty classification than the
20 penalty classification prescribed for the criminal offense, unless such
21 criminal offense is already punishable as a Class IB felony or higher
22 classification: Manslaughter, section 28-305; assault in the first
23 degree, section 28-308; assault in the second degree, section 28-309;
24 assault in the third degree, section 28-310; terroristic threats, section
25 28-311.01; stalking, section 28-311.03; kidnapping, section 28-313; false
26 imprisonment in the first degree, section 28-314; false imprisonment in
27 the second degree, section 28-315; sexual assault in the first degree,
28 section 28-319; sexual assault in the second or third degree, section
29 28-320; sexual assault of a child, sections 28-319.01 and 28-320.01;
30 arson in the first degree, section 28-502; arson in the second degree,
31 section 28-503; arson in the third degree, section 28-504; criminal

1 mischief, section 28-519; unauthorized application of graffiti, section
2 28-524; criminal trespass in the first degree, section 28-520; ~~or~~
3 criminal trespass in the second degree, section 28-521; making a false
4 report, section 28-907; or doxing, section 3 of this act.

5 Sec. 9. Section 28-907, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 28-907 (1) A person commits the offense of false reporting if such
8 person ~~he or she~~:

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

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

18 (c) Furnishes any information, or causes such information to be
19 furnished or conveyed by electric, electronic, telephonic, digital, or
20 mechanical means, knowing the same to be false, concerning the need for
21 emergency response assistance due to criminal activity or an emergency
22 incident of a fire department or any personnel or equipment of such
23 department;

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

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

31 (2)(a) Except as provided in subsections (3) and (4) of this

1 section, false False reporting pursuant to subdivisions (1)(a) through
2 (d) of this section is a Class I misdemeanor for a first offense and a
3 Class IV felony for a second or subsequent offense.

4 (b) Except as provided in subsection (3) of this section, false
5 False reporting pursuant to subdivision (1)(e) of this section is an
6 infraction.

7 (3) A violation of this section is a Class III felony if the false
8 report proximately results in an emergency response and a person is
9 killed or suffers serious bodily injury as a proximate result of lawful
10 conduct arising out of that response.

11 (4) Except for a violation under subsection (3) of this section, a
12 violation of this section committed by a person under nineteen years of
13 age is an infraction for a first offense.

14 (5) Upon conviction for a violation of this section, the court may,
15 in addition to any other punishment imposed, order the defendant to make
16 restitution, in accordance with sections 29-2280 to 29-2289, to a public
17 agency for the reasonable costs of the emergency response by that public
18 agency resulting from the false report.

19 (6) Nothing in this section or section 10 of this act shall be
20 construed in any manner to:

21 (a) Conflict with 47 U.S.C. 230, as such section existed on January
22 1, 2021; or

23 (b) Conflict with 42 U.S.C. 1983, as such section existed on January
24 1, 2021.

25 (7) A violation of this section may be prosecuted in the county in
26 which the defendant made the false report, in the county in which the
27 recipient of the false report is located, or in the county where the
28 recipient responded to the false report.

29 (8) For purposes of this section, emergency incident means any
30 incident or condition that:

31 (a) Results in, or is likely to result in, the response of a public

1 official in an authorized emergency vehicle, aircraft, or vessel; or

2 (b) Jeopardizes or is likely to jeopardize public safety and results
3 in, or is likely to result in, the evacuation of any area, building,
4 structure, vehicle, or of any other place that any individual may enter.

5 Sec. 10. (1) An individual who suffers mental anguish, bodily harm,
6 or death as a proximate result of a violation of section 28-907 may bring
7 a civil action against the person who committed such offense or any
8 person who knowingly benefited, financially or by receiving anything of
9 value, from participation in a venture that the person knew or should
10 have known has engaged in an act in violation of section 28-907.

11 (2) A defendant found liable under this section shall be jointly and
12 severally liable with any other person, if any, who is found liable under
13 this section for damages arising from the same violation.

14 (3) A plaintiff who prevails in an action under this section shall
15 be entitled to:

16 (a) The greater of:

17 (i) Actual damages; or

18 (ii) Liquidated damages of one thousand dollars;

19 (b) Such preliminary and other equitable or declaratory relief as
20 may be appropriate; and

21 (c) Reasonable attorney's fees and other litigation costs reasonably
22 incurred.

23 (4) A person may bring a civil action under this section regardless
24 of whether there has been a conviction or prosecution for a violation of
25 section 28-907.

26 (5) Nothing in this section shall be construed to prohibit a person
27 from pursuing any other remedy provided by law.

28 (6) A civil action under this section may be brought in the county
29 in which the victim resides or in any county described in subsection (7)
30 of section 28-907.

31 (7) For purposes of this section, mental anguish has the same

1 meaning as in section 2 of this act.

2 Sec. 11. If any section in this act or any part of any section is
3 declared invalid or unconstitutional, the declaration shall not affect
4 the validity or constitutionality of the remaining portions.

5 Sec. 12. Original section 28-111, Reissue Revised Statutes of
6 Nebraska, and sections 28-101 and 28-907, Revised Statutes Cumulative
7 Supplement, 2020, are repealed.