

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 913**

FINAL READING

Introduced by McDonnell, 5; Lowe, 37.

Read first time January 08, 2018

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-929.02 and 28-934, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to assault with a bodily fluid against a
- 4 public safety officer; to include a health care professional and
- 5 harmonize a signage requirement; and to repeal the original
- 6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-929.02, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 28-929.02 Every hospital and health clinic shall display at all  
4 times in a prominent place a printed sign with a minimum height of twenty  
5 inches and a minimum width of fourteen inches, with each letter to be a  
6 minimum of one-fourth inch in height, which shall read as follows:

7 WARNING: ASSAULTING A HEALTH CARE PROFESSIONAL WHO IS ENGAGED IN THE  
8 PERFORMANCE OF HIS OR HER OFFICIAL DUTIES, INCLUDING STRIKING A HEALTH  
9 CARE PROFESSIONAL WITH ANY BODILY FLUID, IS A SERIOUS CRIME WHICH MAY BE  
10 PUNISHABLE AS A FELONY.

11 Sec. 2. Section 28-934, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 28-934 (1) Any person who knowingly and intentionally strikes any  
14 public safety officer with any bodily fluid is guilty of assault with a  
15 bodily fluid against a public safety officer.

16 (2) Except as provided in subsection (3) of this section, assault  
17 with a bodily fluid against a public safety officer is a Class I  
18 misdemeanor.

19 (3) Assault with a bodily fluid against a public safety officer is a  
20 Class IIIA felony if the person committing the offense strikes with a  
21 bodily fluid the eyes, mouth, or skin of a public safety officer and knew  
22 the source of the bodily fluid was infected with the human  
23 immunodeficiency virus, hepatitis B, or hepatitis C at the time the  
24 offense was committed.

25 (4) Upon a showing of probable cause by affidavit to a judge of this  
26 state that an offense as defined in subsection (1) of this section has  
27 been committed and that identifies the probable source of the bodily  
28 fluid or bodily fluids used to commit the offense, the judge shall grant  
29 an order or issue a search warrant authorizing the collection of any  
30 evidence, including any bodily fluid or medical records or the  
31 performance of any medical or scientific testing or analysis, that may

1 assist with the determination of whether or not the person committing the  
2 offense or the person from whom the person committing the offense  
3 obtained the bodily fluid or bodily fluids is infected with the human  
4 immunodeficiency virus, hepatitis B, or hepatitis C.

5 (5) As used in this section:

6 (a) Bodily fluid means any naturally produced secretion or waste  
7 product generated by the human body and shall include, but not be limited  
8 to, any quantity of human blood, urine, saliva, mucus, vomitus, seminal  
9 fluid, or feces; and

10 (b) Public safety officer includes any of the following persons who  
11 are engaged in the performance of their official duties at the time of  
12 the offense: A peace officer; a probation officer; a firefighter; an out-  
13 of-hospital emergency care provider as defined in section 28-929.01; a  
14 health care professional as defined in section 28-929.01; an employee of  
15 a county, city, or village jail; an employee of the Department of  
16 Correctional Services; an employee of the secure youth confinement  
17 facility operated by the Department of Correctional Services, if the  
18 person committing the offense is committed to such facility; an employee  
19 of the Youth Rehabilitation and Treatment Center-Geneva or the Youth  
20 Rehabilitation and Treatment Center-Kearney; or an employee of the  
21 Department of Health and Human Services if the person committing the  
22 offense is committed as a dangerous sex offender under the Sex Offender  
23 Commitment Act.

24 Sec. 3. Original sections 28-929.02 and 28-934, Reissue Revised  
25 Statutes of Nebraska, are repealed.