

## LEGISLATIVE BILL 913

Approved by the Governor April 04, 2018

Introduced by McDonnell, 5; Lowe, 37.

A BILL FOR AN ACT relating to crimes and offenses; to amend sections 28-929.02 and 28-934, Reissue Revised Statutes of Nebraska; to change provisions relating to assault with a bodily fluid against a public safety officer; to include a health care professional and harmonize a signage requirement; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

(4) Upon a showing of probable cause by affidavit to a judge of this state that an offense as defined in subsection (1) of this section has been committed and that identifies the probable source of the bodily fluid or bodily fluids used to commit the offense, the judge shall grant an order or issue a search warrant authorizing the collection of any evidence, including any bodily fluid or medical records or the performance of any medical or scientific testing or analysis, that may assist with the determination of whether or not the person committing the offense or the person from whom the person committing the offense obtained the bodily fluid or bodily fluids is infected with the human immunodeficiency virus, hepatitis B, or hepatitis C.

(5) As used in this section:

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

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

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