

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 951**

Introduced by Harr, 8.

Read first time January 11, 2012

Committee:

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section 28-934,  
2 Revised Statutes Supplement, 2011; to provide for assault  
3 with a bodily fluid against a first responder and to  
4 define a term; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 28-934, Revised Statutes Supplement,  
2   2011, is amended to read:

3                   28-934 (1) Any person who knowingly and intentionally  
4   strikes any public safety officer or first responder with any bodily  
5   fluid is guilty of assault with a bodily fluid against a public  
6   safety officer or first responder.

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

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

16                  (4) Upon a showing of probable cause by affidavit to a  
17   judge of this state that an offense as defined in subsection (1) of  
18   this section has been committed and that identifies the probable  
19   source of the bodily fluid or bodily fluids used to commit the  
20   offense, the judge shall grant an order or issue a search warrant  
21   authorizing the collection of any evidence, including any bodily  
22   fluid or medical records or the performance of any medical or  
23   scientific testing or analysis, that may assist with the  
24   determination of whether or not the person committing the offense or  
25   the person from whom the person committing the offense obtained the

1   bodily fluid or bodily fluids is infected with the human  
2   immunodeficiency virus, hepatitis B, or hepatitis C.

3                   (5) As used in this section:

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

8                   (b) First responder means a volunteer or paid firefighter  
9   or a volunteer or paid individual licensed under a licensure  
10 classification as set forth in subdivision (1) of section 38-1217 who  
11 provides immediate medical care in order to prevent loss of life or  
12 aggravation of physiological or psychological illness or injury; and

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

25                   Sec. 2. Original section 28-934, Revised Statutes

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1 Supplement, 2011, is repealed.