

CORRECTED COPY

LEGISLATIVE BILL 49

Approved by the Governor March 30, 1999

Introduced by Brashear, 4; Bruning, 3; Preister, 5

AN ACT relating to crimes and offenses; to amend section 28-101, Revised Statutes Supplement, 1998; to create the offense of criminal child enticement; to provide penalties; to harmonize provisions; and to repeal the original section.

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

Section 1. Section 28-101, Revised Statutes Supplement, 1998, is amended to read:

28-101. Sections 28-101 to 28-1348 and section 2 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. (1) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice, or lure any child under the age of fourteen years to enter into any vehicle, whether or not the person knows the age of the child, if:

(a) The person does not have the express or implied permission of the parent, guardian, or other legal custodian of the child in undertaking the activity; and

(b)(i) The person is not a law enforcement officer, emergency services provider as defined in section 71-507, firefighter, or other person who regularly provides emergency services, is not the operator of a bookmobile or other such vehicle operated by the state or a political subdivision and used for informing, educating, organizing, or transporting children, is not a paid employee of, or a volunteer for, a nonprofit or religious organization which provides activities for children, and is not an employee or agent of or a volunteer acting under the direction of any board of education or (ii) the person is a person listed in subdivision (1)(b)(i) of this section but, at the time the person undertakes the activity, he or she is not acting within the scope of his or her lawful duties in that capacity.

(2) It is an affirmative defense to a charge under this section that the person undertook the activity in response to a bona fide emergency situation or that the person undertook the activity in response to a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.

(3) Any person who violates this section commits criminal child enticement and is guilty of a Class I misdemeanor. If such person has previously been convicted of (a) criminal child enticement under this section, (b) sexual assault of a child under section 28-320.01, or (c) assault under section 28-308, 28-309, or 28-310, kidnapping under section 28-313, or false imprisonment under section 28-314 or 28-315 when the victim was under eighteen years of age when such person violates this section, such person is guilty of a Class IV felony.

Sec. 3. Original section 28-101, Revised Statutes Supplement, 1998, is repealed.