

NEB. REV. STAT. § 28-319 (2010). SEXUAL ASSAULT; FIRST DEGREE; PENALTY

(1) Any person who subjects another person to sexual penetration

(a) without the consent of the victim,

(b) who knew or should have known that the victim was mentally or physically incapable of resisting or appraising the nature of his or her conduct, or

(c) when the actor is nineteen years of age or older and the victim is at least twelve but less than sixteen years of age is guilty of sexual assault in the first degree.

(2) Sexual assault in the first degree is a Class II felony. The sentencing judge shall consider whether the actor caused serious personal injury to the victim in reaching a decision on the sentence.

(3) Any person who is found guilty of sexual assault in the first degree for a second time when the first conviction was pursuant to this section or any other state or federal law with essentially the same elements as this section shall be sentenced to a mandatory minimum term of twenty-five years in prison.

Nebraska is a mandatory Public Law 280 state that has retroceded criminal jurisdiction back to the Winnebago and Omaha Reservations.