

28-709.

Contributing to the delinquency of a child; penalty; definitions.

(1) Any person who, by any act, encourages, causes, or contributes to the delinquency or need for special supervision of a child under eighteen years of age, so that such child becomes, or will tend to become, a delinquent child, or a child in need of special supervision, commits contributing to the delinquency of a child.

(2) The following definitions shall be applicable to this section:

(a) Delinquent child shall mean any child under the age of eighteen years who has violated any law of the state or any city or village ordinance; and

(b) A child in need of special supervision shall mean any child under the age of eighteen years (i) who, by reason of being wayward or habitually disobedient, is uncontrolled by his parent, guardian, or custodian; (ii) who is habitually truant from school or home; or (iii) who departs himself so as to injure or endanger seriously the morals or health of himself or others.

(3) Contributing to the delinquency of a child is a Class I misdemeanor.

Source

- Laws 1977, LB 38, § 148.

Annotations

- This section prohibits any person from engaging in conduct that encourages, causes, or contributes to a child's becoming or tending to become either a delinquent child under subsection (2)(a) or a child in need of special supervision under subsection (2)(b). A defendant's requests that a child under 18 years of age meet him during the evening or in the early hours of the morning for sexual encounters encourages, causes, and contributes to the child's violations of Nebraska state law and a city ordinance. A defendant who engages in conduct clearly prohibited by subsection (1) of this section lacks standing to challenge the constitutionality of this section on vagueness grounds. *State v. VanAckeren*, 263 Neb. 222, 639 N.W.2d 112 (2002).
- The act of affording shelter to a runaway rather than immediately contacting the authorities does not necessarily constitute contributing to the delinquency of a child, especially when the person affording shelter did not induce or encourage the youth to leave home in the first place. Evidence that defendant harbored an underage runaway and withheld information regarding the youth's whereabouts from her parents and the police for several hours was insufficient as a matter of law to sustain a conviction for contributing to the delinquency of a child where the youth was not exposed to any unlawful or immoral activity and defendant's actions resulted in a reunion with the parents. *State v. Hird*, 239 Neb. 331, 476 N.W.2d 229 (1991).

- Subsection (1) of this section is addressed to the conduct of the person accused of contributing to the delinquency of a child, not the conduct of the child. The statute does not require that the child actually become delinquent or in need of special supervision, but only that the defendant encourage the child to become delinquent or to need special supervision so that the child will "tend to become a delinquent child or a child in need of special supervision." *State v. Brister*, 231 Neb. 263, 435 N.W.2d 679 (1989).
- Constitutionality of this section will not be considered when raised for the first time on appeal. *State v. Hiross*, 211 Neb. 319, 318 N.W.2d 291 (1982).