
ASSEMBLY BILL NO. 42—ASSEMBLYMAN CARPENTER

PREFILED JANUARY 12, 1999

Referred to Committee on Judiciary

SUMMARY—Provides in skeleton form various changes concerning misdemeanors.
(BDR 15-173)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to crimes; providing in skeleton form categories of misdemeanors; revising the sentences imposed for misdemeanors; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 193 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 ***1. Except as otherwise provided by specific statute, for each***
4 ***misdemeanor committed on or after October 1, 1999:***

5 ***(a) A category A misdemeanor is a misdemeanor for which a person***
6 ***shall be punished by imprisonment in the county jail for not more than 1***
7 ***year, or by a fine of not more than \$2,000, or by both fine and***
8 ***imprisonment.***

9 ***(b) A category B misdemeanor is a misdemeanor for which a person***
10 ***shall be punished by imprisonment in the county jail for not more than 6***
11 ***months, or by a fine of not more than \$1,000, or by both fine and***
12 ***imprisonment.***

13 ***(c) A category C misdemeanor is a misdemeanor for which a person***
14 ***shall be punished by imprisonment in the county jail for not more than 3***
15 ***months, or by a fine of not more than \$500, or by both fine and***
16 ***imprisonment.***

17 ***2. In lieu of all or part of the punishment that may be imposed***
18 ***pursuant to paragraph (b) or (c) of subsection 1, the convicted person***

1 *may be sentenced to perform a fixed period of work for the benefit of the*
2 *community pursuant to the conditions prescribed in NRS 176.087.*

3 **3. A misdemeanor for which a category has not been assigned shall**
4 **be deemed a category C misdemeanor.**

5 **Sec. 2.** NRS 193.120 is hereby amended to read as follows:

6 193.120 1. A crime is an act or omission forbidden by law and
7 punishable upon conviction by death, imprisonment, fine or other penal
8 discipline.

9 2. Every crime which may be punished by death or by imprisonment in
10 the state prison is a felony.

11 3. Every crime punishable by a fine of not more than ~~[\$1,000,]~~ **\$2,000,**
12 or by imprisonment in a county jail for not more than ~~[6 months,]~~ **1 year** is
13 a misdemeanor.

14 ~~[4.—Every other crime is a gross misdemeanor.]~~

15 **Sec. 3.** NRS 193.155 is hereby amended to read as follows:

16 193.155 Every person who is guilty of a public offense proportionate
17 to the value of the property affected or the loss resulting from the offense
18 shall be punished as follows:

19 1. Where the value of the loss is \$5,000 or more or where the damage
20 results in impairment of public communication, transportation or police and
21 fire protection, for a category C felony as provided in NRS 193.130.

22 2. Where the value of the loss is ~~[\$250]~~ **\$1,000** or more , but less than
23 \$5,000, for a ~~[gross]~~ **category A** misdemeanor.

24 3. **Where the value of the loss is \$250 or more, but less than \$1,000,**
25 **for a category B misdemeanor.**

26 4. Where the value of the loss is \$25 or more , but less than \$250, for a
27 **category C** misdemeanor.

28 ~~[4.]~~ 5. Where the value of the loss is less than \$25, by a fine of not
29 more than \$500.

30 **Sec. 4.** NRS 193.1605 is hereby amended to read as follows:

31 193.1605 1. Any person who commits a ~~[gross]~~ **category A**
32 misdemeanor on the property of a public or private school, at an activity
33 sponsored by a public or private school, or on a school bus or at a bus stop
34 used to load and unload a school bus while the bus is engaged in its official
35 duties:

36 (a) Shall be punished by imprisonment in the county jail for not fewer
37 than ~~[15 days]~~ **6 months**, but not more than 1 year; and

38 (b) In addition to imprisonment, may be punished by a fine of not more
39 than \$2,000.

40 2. For the purposes of this section, “school bus” has the meaning
41 ascribed to it in NRS 483.160.

42 **Sec. 5.** NRS 193.170 is hereby amended to read as follows:

1 193.170 Whenever the performance of any act is prohibited by any
2 statute, and no penalty for the violation of ~~such~~ the statute is imposed, the
3 committing of ~~such~~ the act shall be deemed a category C misdemeanor.

4 **Sec. 6.** NRS 200.481 is hereby amended to read as follows:

5 200.481 1. As used in this section:

6 (a) "Battery" means any willful and unlawful use of force or violence
7 upon the person of another.

8 (b) "Child" means a person less than 18 years of age.

9 (c) "Officer" means:

10 (1) A person who possesses some or all of the powers of a peace
11 officer;

12 (2) A person employed in a full-time salaried occupation of fire
13 fighting for the benefit or safety of the public;

14 (3) A member of a volunteer fire department;

15 (4) A jailer, guard, matron or other correctional officer of a city or
16 county jail or detention facility; or

17 (5) A justice of the supreme court, district judge, justice of the peace,
18 municipal judge, magistrate, court commissioner, master or referee,
19 including, without limitation, a person acting pro tempore in a capacity
20 listed in this subparagraph.

21 (d) "School employee" means a licensed or unlicensed person employed
22 by a board of trustees of a school district pursuant to NRS 391.100.

23 (e) "Transit operator" means a person who operates a bus or other
24 vehicle as part of a public mass transportation system.

25 2. Except as otherwise provided in NRS 200.485, a person convicted of
26 a battery, other than a battery committed by an adult upon a child which
27 constitutes child abuse, shall be punished:

28 (a) If the battery is not committed with a deadly weapon, and no
29 substantial bodily harm to the victim results, except under circumstances
30 where a greater penalty is provided in paragraph (d) or in NRS 197.090, for
31 a category C misdemeanor.

32 (b) If the battery is not committed with a deadly weapon, and substantial
33 bodily harm to the victim results, for a category C felony as provided in
34 NRS 193.130.

35 (c) If the battery is committed upon an officer, school employee or
36 transit operator and:

37 (1) The officer, school employee or transit operator was performing
38 his duty;

39 (2) The officer, school employee or transit operator suffers substantial
40 bodily harm; and

41 (3) The person charged knew or should have known that the victim
42 was an officer, school employee or transit operator,

1 for a category B felony by imprisonment in the state prison for a minimum
2 term of not less than 2 years and a maximum term of not more than 10
3 years, or by a fine of not more than \$10,000, or by both fine and
4 imprisonment.

5 (d) If the battery is committed upon an officer, school employee or
6 transit operator who is performing his duty and the person charged knew or
7 should have known that the victim was an officer, school employee or
8 transit operator, for a ~~gross~~ **category A** misdemeanor, except under
9 circumstances where a greater penalty is provided in this section.

10 (e) If the battery is committed with the use of a deadly weapon, and:

11 (1) No substantial bodily harm to the victim results, for a category B
12 felony by imprisonment in the state prison for a minimum term of not less
13 than 2 years and a maximum term of not more than 10 years, and may be
14 further punished by a fine of not more than \$10,000.

15 (2) Substantial bodily harm to the victim results, for a category B
16 felony by imprisonment in the state prison for a minimum term of not less
17 than 2 years and a maximum term of not more than 15 years, and may be
18 further punished by a fine of not more than \$10,000.

19 (f) If the battery is committed by a prisoner who is in lawful custody or
20 confinement, without the use of a deadly weapon, whether or not
21 substantial bodily harm results, for a category B felony by imprisonment in
22 the state prison for a minimum term of not less than 1 year and a maximum
23 term of not more than 6 years.

24 (g) If the battery is committed by a prisoner who is in lawful custody or
25 confinement with the use of a deadly weapon, and:

26 (1) No substantial bodily harm to the victim results, for a category B
27 felony by imprisonment in the state prison for a minimum term of not less
28 than 2 years and a maximum term of not more than 10 years.

29 (2) Substantial bodily harm to the victim results, for a category B
30 felony by imprisonment in the state prison for a minimum term of not less
31 than 2 years and a maximum term of not more than 15 years.

32 **Sec. 7.** NRS 200.485 is hereby amended to read as follows:

33 200.485 1. Unless a greater penalty is provided pursuant to NRS
34 200.481, a person convicted of a battery that constitutes domestic violence
35 pursuant to NRS 33.018:

36 (a) For the first offense within the immediately preceding 7 years, is
37 guilty of a **category C** misdemeanor and shall be sentenced to:

38 (1) Imprisonment in the city or county jail or detention facility for not
39 less than 2 days, but not more than ~~6~~ **3** months; and

40 (2) Perform not less than 48 hours, but not more than 120 hours, of
41 community service.

42 The person shall be further punished by a fine of not less than \$200, but not
43 more than ~~[\$1,000.]~~ **\$500**. A term of imprisonment imposed pursuant to

1 this paragraph may be served intermittently at the discretion of the judge or
2 justice of the peace, except that each period of confinement must be not less
3 than 4 consecutive hours and must occur either at a time when the person is
4 not required to be at his place of employment or on a weekend.

5 (b) For the second offense within the immediately preceding 7 years, is
6 guilty of a *category B* misdemeanor and shall be sentenced to:

7 (1) Imprisonment in the city or county jail or detention facility for not
8 less than 10 days, but not more than 6 months; and

9 (2) Perform not less than 100 hours, but not more than 200 hours, of
10 community service.

11 The person shall be further punished by a fine of not less than \$500, but not
12 more than \$1,000.

13 (c) For the third and any subsequent offense within the immediately
14 preceding 7 years, is guilty of a category C felony and shall be punished as
15 provided in NRS 193.130.

16 2. In addition to any other penalty, if a person is convicted of a battery
17 which constitutes domestic violence pursuant to NRS 33.018, the court
18 shall:

19 (a) For the first offense within the immediately preceding 7 years,
20 require him to participate in weekly counseling sessions of not less than 1
21 1/2 hours per week for not less than 6 months, but not more than 12
22 months, at his own expense, in a program for the treatment of persons who
23 commit domestic violence that has been certified pursuant to NRS 228.470.

24 (b) For the second offense within the immediately preceding 7 years,
25 require him to participate in weekly counseling sessions of not less than 1
26 1/2 hours per week for 12 months, at his own expense, in a program for the
27 treatment of persons who commit domestic violence that has been certified
28 pursuant to NRS 228.470.

29 3. In addition to any other fine or penalty, the court shall order such a
30 person to pay an administrative assessment of \$35. Any money so collected
31 must be paid by the clerk of the court to the state treasurer on or before the
32 fifth day of each month for the preceding month for credit to the account
33 for programs related to domestic violence established pursuant to NRS
34 228.460.

35 4. In addition to any other penalty, the court may require such a person
36 to participate, at his own expense, in a program of treatment for the abuse
37 of alcohol or drugs that has been certified by the bureau of alcohol and drug
38 abuse of the rehabilitation division of the department of employment,
39 training and rehabilitation.

40 5. If a person is charged with committing a battery which constitutes
41 domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not
42 dismiss such a charge in exchange for a plea of guilty, guilty but mentally
43 ill or nolo contendere to a lesser charge or for any other reason unless he

1 knows, or it is obvious, that the charge is not supported by probable cause
2 or cannot be proved at the time of trial. A court shall not grant probation to
3 and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not
4 suspend the sentence of such a person.

5 6. For the purposes of this section:

6 (a) "Battery" has the meaning ascribed to it in paragraph (a) of
7 subsection 1 of NRS 200.481; and

8 (b) "Offense" includes a battery which constitutes domestic violence
9 pursuant to NRS 33.018 or a violation of the law of any other jurisdiction
10 that prohibits the same or similar conduct.

11 **Sec. 8.** NRS 176.059 is hereby amended to read as follows:

12 176.059 1. Except as otherwise provided in subsection 2, when a
13 defendant pleads guilty or guilty but mentally ill or is found guilty of a
14 **category B or category C** misdemeanor, including the violation of any
15 municipal ordinance, the justice or judge shall include in the sentence the
16 sum prescribed by the following schedule as an administrative assessment
17 and render a judgment against the defendant for the assessment:

Fine	Assessment
\$5 to \$49	\$15
50 to 59	30
60 to 69	35
70 to 79	40
80 to 89	45
90 to 99	50
100 to 199	60
200 to 299	70
300 to 399	80
400 to 499	90
500 to 1,000	105

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33 2. The provisions of subsection 1 do not apply to:

34 (a) An ordinance regulating metered parking; or

35 (b) An ordinance which is specifically designated as imposing a civil
36 penalty or liability pursuant to NRS 244.3575 or 268.019.

37 3. The money collected for an administrative assessment must not be
38 deducted from the fine imposed by the justice or judge but must be taxed
39 against the defendant in addition to the fine. The money collected for an
40 administrative assessment must be stated separately on the court's docket
41 and must be included in the amount posted for bail. If the defendant is
42 found not guilty or the charges are dismissed, the money deposited with the
43 court must be returned to the defendant. If the justice or judge cancels a

1 fine because the fine has been determined to be uncollectible, any balance
2 of the fine and the administrative assessment remaining unpaid shall be
3 deemed to be uncollectible and the defendant is not required to pay it. If a
4 fine is determined to be uncollectible, the defendant is not entitled to a
5 refund of the fine or administrative assessment he has paid and the justice
6 or judge shall not recalculate the administrative assessment.

7 4. If the justice or judge permits the fine and administrative assessment
8 to be paid in installments, the payments must be first applied to the unpaid
9 balance of the administrative assessment. The city treasurer shall distribute
10 partially collected administrative assessments in accordance with the
11 requirements of subsection 5. The county treasurer shall distribute partially
12 collected administrative assessments in accordance with the requirements of
13 subsection 6.

14 5. The money collected for administrative assessments in municipal
15 court must be paid by the clerk of the court to the city treasurer on or before
16 the fifth day of each month for the preceding month. The city treasurer
17 shall distribute, on or before the 15th day of that month, the money
18 received in the following amounts for each assessment received:

19 (a) Two dollars to the county treasurer for credit to a special account in
20 the county general fund for the use of the county's juvenile court or for
21 services to juvenile offenders. Any money remaining in the special account
22 after 2 fiscal years must be deposited in the county general fund if it has not
23 been committed for expenditure. The county treasurer shall provide, upon
24 request by a juvenile court, monthly reports of the revenue credited to and
25 expenditures made from the special account.

26 (b) Seven dollars for credit to a special revenue fund for the use of the
27 municipal courts. Any money remaining in the special revenue fund after 2
28 fiscal years must be deposited in the municipal general fund if it has not
29 been committed for expenditure. The city treasurer shall provide, upon
30 request by a municipal court, monthly reports of the revenue credited to and
31 expenditures made from the special revenue fund.

32 (c) The remainder of each assessment to the state treasurer for credit to a
33 special account in the state general fund.

34 6. The money collected for administrative assessments in justices'
35 courts must be paid by the clerk of the court to the county treasurer on or
36 before the fifth day of each month for the preceding month. The county
37 treasurer shall distribute, on or before the 15th day of that month, the
38 money received in the following amounts for each assessment received:

39 (a) Two dollars for credit to a special account in the county general fund
40 for the use of the county's juvenile court or for services to juvenile
41 offenders. Any money remaining in the special account after 2 fiscal years
42 must be deposited in the county general fund if it has not been committed
43 for expenditure. The county treasurer shall provide, upon request by a

1 juvenile court, monthly reports of the revenue credited to and expenditures
2 made from the special account.

3 (b) Seven dollars for credit to a special revenue fund for the use of the
4 justices' courts. Any money remaining in the special revenue fund after 2
5 fiscal years must be deposited in the county general fund if it has not been
6 committed for expenditure. The county treasurer shall provide, upon
7 request by a justice's court, monthly reports of the revenue credited to and
8 expenditures made from the special revenue fund.

9 (c) The remainder of each assessment to the state treasurer for credit to a
10 special account in the state general fund.

11 7. The money apportioned to a juvenile court, a justice's court or a
12 municipal court pursuant to this section must be used, in addition to
13 providing services to juvenile offenders in the juvenile court, to improve
14 the operations of the court, or to acquire appropriate advanced technology
15 or the use of such technology, or both. Money used to improve the
16 operations of the court may include expenditures for:

17 (a) Training and education of personnel;

18 (b) Acquisition of capital goods;

19 (c) Management and operational studies; or

20 (d) Audits.

21 8. Of the total amount deposited in the state general fund pursuant to
22 subsections 5 and 6, the state controller shall distribute the money received,
23 to the extent of legislative authorization, to the following public agencies in
24 the following manner:

25 (a) Not less than 51 percent must be distributed to the office of the court
26 administrator for allocation as follows:

27 (1) Eighteen and one-half percent of the amount distributed to the
28 office of the court administrator for the administration of the courts.

29 (2) Nine percent of the amount distributed to the office of the court
30 administrator for the development of a uniform system for judicial records.

31 (3) Nine percent of the amount distributed to the office of the court
32 administrator for continuing judicial education.

33 (4) Sixty percent of the amount distributed to the office of the court
34 administrator for the supreme court.

35 (5) Three and one-half percent of the amount distributed to the office
36 of the court administrator for the payment for the services of retired justices
37 and retired district judges.

38 (b) Not more than 49 percent must be used to the extent of legislative
39 authorization for the support of:

40 (1) The central repository for Nevada records of criminal history;

41 (2) The peace officers' standards and training committee of the
42 department of motor vehicles and public safety for the continuing education
43 of persons whose primary duties are law enforcement;

1 (3) The operation by the Nevada highway patrol of a computerized
2 switching system for information related to law enforcement; and

3 (4) The fund for the compensation of victims of crime.

4 9. As used in this section, "juvenile court" means:

5 (a) In any judicial district that includes a county whose population is
6 100,000 or more, the family division of the district court; or

7 (b) In any other judicial district, the juvenile division of the district
8 court.

9 **Sec. 9.** NRS 176.062 is hereby amended to read as follows:

10 176.062 1. When a defendant pleads guilty or guilty but mentally ill
11 or is found guilty of a felony or ~~gross~~ *a category A* misdemeanor, the
12 judge shall include in the sentence the sum of \$25 as an administrative
13 assessment and render a judgment against the defendant for the assessment.

14 2. The money collected for an administrative assessment:

15 (a) Must not be deducted from any fine imposed by the judge;

16 (b) Must be taxed against the defendant in addition to the fine; and

17 (c) Must be stated separately on the court's docket.

18 3. The money collected for administrative assessments in district courts
19 must be paid by the clerk of the court to the county treasurer on or before
20 the fifth day of each month for the preceding month. The county treasurer
21 shall distribute, on or before the 15th day of that month, the money
22 received in the following amounts for each assessment received:

23 (a) Five dollars for credit to a special account in the county general fund
24 for the use of the district court.

25 (b) The remainder of each assessment to the state treasurer.

26 4. The state treasurer shall credit the money received pursuant to
27 subsection 3 to a special account for the assistance of criminal justice in the
28 state general fund, and distribute the money from the account to the
29 attorney general as authorized by the legislature. Any amount received in
30 excess of the amount authorized by the legislature for distribution must
31 remain in the account.

32 **Sec. 10.** NRS 193.140 and 193.150 are hereby repealed.

33 **Sec. 11.** The amendatory provisions of this act do not apply to
34 offenses which are committed before October 1, 1999.

TEXT OF REPEALED SECTIONS

193.140 Punishment of gross misdemeanors. Every person convicted of a gross misdemeanor shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such gross misdemeanor prescribed a different penalty.

193.150 Punishment of misdemeanors.

1. Every person convicted of a misdemeanor shall be punished by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment, unless the statute in force at the time of commission of such misdemeanor prescribed a different penalty.

2. In lieu of all or a part of the punishment which may be imposed pursuant to subsection 1, the convicted person may be sentenced to perform a fixed period of work for the benefit of the community pursuant to the conditions prescribed in NRS 176.087.