

ASSEMBLY BILL NO. 107—COMMITTEE ON JUDICIARY

(ON BEHALF OF ATTORNEY GENERAL)

FEBRUARY 12, 2001

Referred to Committee on Judiciary

SUMMARY—Clarifies that person convicted of battery constituting domestic violence within 7 years before or after principal offense has committed prior offense for purposes of determining penalty. (BDR 15-481)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to crimes; clarifying that a person convicted of a battery that constitutes domestic violence within 7 years before or after the principal offense has committed a prior offense for the purposes of determining a penalty; 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.** NRS 200.485 is hereby amended to read as follows:
2 200.485 1. Unless a greater penalty is provided pursuant to NRS
3 200.481, a person convicted of a battery that constitutes domestic violence
4 pursuant to NRS 33.018:
5 (a) For the first offense within ~~the immediately preceding~~ 7 years, is
6 guilty of a misdemeanor and shall be sentenced to:
7 (1) Imprisonment in the city or county jail or detention facility for not
8 less than 2 days, but not more than 6 months; and
9 (2) Perform not less than 48 hours, but not more than 120 hours, of
10 community service.
11 The person shall be further punished by a fine of not less than \$200, but not
12 more than \$1,000. A term of imprisonment imposed pursuant to this
13 paragraph may be served intermittently at the discretion of the judge or
14 justice of the peace, except that each period of confinement must be not
15 less than 4 consecutive hours and must occur either at a time when the
16 person is not required to be at his place of employment or on a weekend.
17 (b) For the second offense within ~~the immediately preceding~~ 7 years,
18 is guilty of a misdemeanor and shall be sentenced to:



* A B 1 0 7 *

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

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

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

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

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

13 (a) For the first offense within ~~the immediately preceding~~ 7 years,
14 require him to participate in weekly counseling sessions of not less than 1
15 1/2 hours per week for not less than 6 months, but not more than 12
16 months, at his own expense, in a program for the treatment of persons who
17 commit domestic violence that has been certified pursuant to NRS 228.470.

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

23 3. *An offense that occurred within 7 years immediately preceding the*
24 *date of the principal offense or after the principal offense constitutes a*
25 *prior offense for the purposes of this section when evidenced by a*
26 *conviction, without regard to the sequence of the offenses and*
27 *convictions. The facts concerning a prior offense must be alleged in the*
28 *complaint, indictment or information, must not be read to the jury or*
29 *proved at trial but must be proved at the time of sentencing and, if the*
30 *principal offense is alleged to be a felony, must also be shown at the*
31 *preliminary examination or presented to the grand jury.*

32 4. In addition to any other fine or penalty, the court shall order such a
33 person to pay an administrative assessment of \$35. Any money so collected
34 must be paid by the clerk of the court to the state treasurer on or before the
35 fifth day of each month for the preceding month for credit to the account
36 for programs related to domestic violence established pursuant to NRS
37 228.460.

38 ~~4.1~~ 5. In addition to any other penalty, the court may require such a
39 person to participate, at his own expense, in a program of treatment for the
40 abuse of alcohol or drugs that has been certified by the bureau of alcohol
41 and drug abuse in the department of human resources.

42 ~~5.1~~ 6. If a person is charged with committing a battery which
43 constitutes domestic violence pursuant to NRS 33.018, a prosecuting
44 attorney shall not dismiss such a charge in exchange for a plea of guilty,
45 guilty but mentally ill or nolo contendere to a lesser charge or for any other
46 reason unless he knows, or it is obvious, that the charge is not supported by
47 probable cause or cannot be proved at the time of trial. A court shall not
48 grant probation to and, except as otherwise provided in NRS 4.373 and
49 5.055, a court shall not suspend the sentence of such a person.



* A B 1 0 7 *

- 1 ~~16.1~~ 7. For the purposes of this section:
2 (a) “Battery” has the meaning ascribed to it in paragraph (a) of
3 subsection 1 of NRS 200.481; and
4 (b) “Offense” includes a battery which constitutes domestic violence
5 pursuant to NRS 33.018 or a violation of the law of any other jurisdiction
6 that prohibits the same or similar conduct.
7 **Sec. 2.** This act becomes effective upon passage and approval.

