

SENATE BILL NO. 31—SENATOR CARLTON

PREFILED JANUARY 22, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to assault and battery. (BDR 15-284)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: 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 an enhanced penalty for the assault or battery of an employee of the state or a political subdivision of the state whose official duties require home visits; providing enhanced penalties for the assault or battery of certain persons by a probationer, prisoner or parolee; 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 200.471 is hereby amended to read as follows:  
2     200.471 1. As used in this section:  
3     (a) “Assault” means an unlawful attempt, coupled with a present ability,  
4     to commit a violent injury on the person of another.  
5     (b) “Officer” means:  
6         (1) A person who possesses some or all of the powers of a peace  
7     officer;  
8         (2) A person employed in a full-time salaried occupation of fire  
9     fighting for the benefit or safety of the public;  
10        (3) A member of a volunteer fire department;  
11        (4) A jailer, guard, matron or other correctional officer of a city or  
12     county jail; ~~(or)~~  
13        (5) A justice of the supreme court, district judge, justice of the peace,  
14     municipal judge, magistrate, court commissioner, master or referee,  
15     including a person acting pro tempore in a capacity listed in this  
16     subparagraph ~~H~~; *or*  
17        (6) *An employee of the state or a political subdivision of the state*  
18     *whose official duties require him to make home visits.*  
19     (c) “School employee” means a licensed or unlicensed person employed  
20     by a board of trustees of a school district pursuant to NRS 391.100.

(d) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(e) "Taxicab driver" means a person who operates a taxicab.

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

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) *or (d)* of this subsection does not apply to the circumstances of the crime and the assault is not made with *the* use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with *the* use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If *paragraph (d) of this subsection does not apply to the circumstances of the crime and if* the assault is committed upon an officer, a school employee, a taxicab driver or a transit operator who is performing his duty and the person charged knew or should have known that the victim was an officer, school employee, taxicab driver or transit operator, for a gross misdemeanor, unless the assault is made with *the* use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

*(d) If the assault is committed upon an officer, a school employee, a taxicab driver or a transit operator who is performing his duty by a probationer, a prisoner who is in lawful custody or confinement or a parolee and the probationer, prisoner or parolee charged knew or should have known that the victim was an officer, school employee, taxicab driver or transit operator, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.*

**Sec. 2.** NRS 200.481 is hereby amended to read as follows:

200.481 1. As used in this section:

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

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

(c) "Officer" means:

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

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

(3) A member of a volunteer fire department;

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

(5) A justice of the supreme court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph ~~H~~; *or*

*(6) An employee of the state or a political subdivision of the state whose official duties require him to make home visits.*

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

(e) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(f) "Taxicab driver" means a person who operates a taxicab.

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

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

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

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

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

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

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

(3) The person charged knew or should have known that the victim was an officer, school employee, taxicab driver or transit operator, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

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

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

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

(2) Substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less

1 than 2 years and a maximum term of not more than 15 years, and may be  
2 further punished by a fine of not more than \$10,000.

3 (f) If the battery is committed by *a probationer*, a prisoner who is in  
4 lawful custody or confinement ~~or~~ *or a parolee*, without the use of a deadly  
5 weapon, whether or not substantial bodily harm results, for a category B  
6 felony by imprisonment in the state prison for a minimum term of not less  
7 than 1 year and a maximum term of not more than 6 years.

8 (g) If the battery is committed by *a probationer*, a prisoner who is in  
9 lawful custody or confinement *or a parolee*, with the use of a deadly  
10 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.

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

17 **Sec. 3.** The amendatory provisions of this act do not apply to offenses  
18 committed before October 1, 2001.

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