

Senate Bill No. 87—Senators Wiener, James, Care, Porter,
Washington, Titus and McGinness

CHAPTER.....

AN ACT relating to domestic violence; providing that the court may refer a child to an agency which provides protective services if the child may need counseling as a result of the commission of a battery which constitutes domestic violence; providing that an agency which provides protective services may conduct an assessment of the child to determine whether a psychological evaluation or counseling is needed by the child; providing that certain minors who need an assessment, a psychological evaluation or psychological counseling as a result of a battery which constitutes domestic violence against a member of his household or immediate family are eligible for compensation from the fund for the compensation of victims of crime; and providing other matters properly relating thereto.

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

Section 1. NRS 200.485 is hereby amended to read as follows:

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

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

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

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

The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

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

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

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

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

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

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

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

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

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

5. In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the health division of the department of human resources.

6. *If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides protective services. If the court refers a child to an agency which provides protective services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.*

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

~~7-1~~ 8. As used in this section:

(a) *“Agency which provides protective services” has the meaning ascribed to it in NRS 432B.030.*

(b) “Battery” has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481. ~~1- and~~

~~(b)~~ (c) “Offense” includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

Sec. 2. NRS 217.160 is hereby amended to read as follows:

217.160 **1.** The compensation officer may order the payment of compensation:

- ~~1.1~~ (a) To or for the benefit of the victim. ~~1~~
~~2.1~~ (b) If the victim has suffered personal injury, to any person responsible for the maintenance of the victim who has suffered pecuniary loss or incurred expenses as a result of the injury. ~~1~~
~~3.1~~ (c) If the victim dies, to or for the benefit of any one or more of the dependents of the victim. ~~1~~
~~4.1~~ (d) *To a minor who is a member of the household or immediate family of a victim of a battery which constitutes domestic violence pursuant to NRS 33.018 who needs an assessment, a psychological evaluation or psychological counseling for emotional trauma suffered by the minor as a result of the battery.*

(e) To a member of the victim's household or immediate family for psychological counseling for emotional trauma suffered by the member as a result of the crime of murder as defined in NRS 200.010.

2. As used in this ~~subsection~~ section:

(a) *"Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.*

(b) "Household" means an association of persons who live in the same home or dwelling and who:

- (1) Have significant personal ties to the victim; or
- (2) Are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

~~1(b)~~ (c) "Immediate family" means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.

Sec. 3. Chapter 432B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Upon receiving a referral from a court pursuant to subsection 6 of NRS 200.485, an agency which provides protective services may, as appropriate, conduct an assessment to determine whether a psychological evaluation or counseling is needed by a child.*

2. *If an agency which provides protective services conducts an assessment pursuant to subsection 1 and determines that a psychological evaluation or counseling would benefit the child, the agency may, with the approval of the parent or legal guardian of the child:*

- (a) *Conduct the evaluation or counseling; or*
- (b) *Refer the child to a person that has entered into an agreement with the agency to provide those services.*

Sec. 4. The amendatory provisions of sections 1 and 3 of this act do not apply to offenses committed before October 1, 2001.