

ASSEMBLY BILL NO. 21—ASSEMBLYWOMAN GERHARDT

PREFILED FEBRUARY 1, 2005

Referred to Committee on Judiciary

SUMMARY—Prohibits civil compromise of certain misdemeanor offenses. (BDR 14-846)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: No.

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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 criminal procedure; prohibiting the civil compromise of misdemeanor offenses involving domestic violence; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law allows a court to compromise a misdemeanor when the person
2 injured by the act constituting the misdemeanor has a civil remedy, unless the
3 offense was: (1) committed by or upon a judicial officer while executing his duties;
4 (2) committed during a riot; or (3) committed with the intent to commit a felony.
5 (NRS 178.564) If a compromise is granted, the judge may then stay the offense and
6 discharge the defendant. (NRS 178.566) Thus, the compromise essentially serves as
7 a settlement of the criminal charge. The Nevada Supreme Court has ruled that a
8 court may not establish a policy of prohibiting compromises for certain types of
9 offenses which are not prohibited by statute. Rather, if a compromise is not
10 prohibited, the court is required to consider the proposed compromise and make a
11 decision based upon the merits. (*Willmes v. Reno Mun. Ct.*, 118 Nev. 831 (2002))

12 This bill specifically adds to the list of circumstances which prohibit a court
13 from compromising a misdemeanor: (1) a battery that constitutes domestic
14 violence; and (2) an offense that violates an order for protection against domestic
15 violence.



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

- 1 **Section 1.** NRS 178.564 is hereby amended to read as follows:
2 178.564 ~~{When}~~ *If* a defendant is held to answer on a charge of
3 a misdemeanor ~~{}~~ for which the person injured by the act
4 constituting the offense has a remedy by a civil action, the offense
5 may be compromised as provided in NRS 178.566 ~~{, except when it~~
6 ~~was committed;~~
7 ~~— 1. — By}~~ *unless the offense:*
8 1. *Was committed by* or upon an officer of justice ~~{}~~ while in
9 the execution of the duties of his office ~~{~~
10 ~~— 2. — Riotously.~~
11 ~~— 3. — With}~~ ;
12 2. *Was committed riotously;*
13 3. *Was committed with the* intent to commit a felony ~~{}~~ ;
14 4. *Is a battery that constitutes domestic violence pursuant to*
15 *NRS 33.018; or*
16 5. *Violates a temporary or extended order for protection*
17 *against domestic violence.*
18 **Sec. 2.** This act becomes effective upon passage and approval.

