

SENATE BILL NO. 77—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE INTERIM STUDY COMMITTEE ON CRIMINAL
JUSTICE SYSTEM IN RURAL NEVADA AND TRANSITIONAL
HOUSING FOR RELEASED OFFENDERS)

FEBRUARY 16, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions pertaining to counseling required
for person convicted of battery which constitutes
domestic violence. (BDR 15-185)

FISCAL NOTE: Effect on Local Government: No.
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 domestic violence; revising the provisions
pertaining to the counseling required for a person
convicted of a battery which constitutes domestic
violence; requiring a court to submit to the Court
Administrator certain statistical information relating to
such counseling prescribed on a nonweekly basis;
requiring the Court Administrator to compile such
information and submit a report concerning the
information to the Director of the Legislative Counsel
Bureau; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

1 Existing law requires a person convicted of domestic violence battery to
2 participate in weekly counseling sessions of at least 1 1/2 hours, for a total of at
3 least 6 hours of counseling per month. (NRS 200.485)

4 This bill authorizes a court to allow a person to participate in such counseling
5 sessions on a nonweekly basis, for a total of at least 6 hours of counseling per
6 month, if the person lives more than 50 miles from the nearest location at which
7 counseling services are available. This bill also requires courts to submit to the
8 Court Administrator certain information relating to such counseling sessions. The



9 Court Administrator is required to compile the information and submit a report to
10 the Director of the Legislative Counsel Bureau.

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
3 NRS 200.481, a person convicted of a battery which constitutes
4 domestic violence pursuant to NRS 33.018:

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

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

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

11 ➤ The person shall be further punished by a fine of not less than
12 \$200, but not more than \$1,000. A term of imprisonment imposed
13 pursuant to this paragraph may be served intermittently at the
14 discretion of the judge or justice of the peace, except that each
15 period of confinement must be not less than 4 consecutive hours and
16 must occur at a time when the person is not required to be at his
17 place of employment or on a weekend.

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

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

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

24 ➤ The person shall be further punished by a fine of not less than
25 \$500, but not more than \$1,000.

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

29 2. In addition to any other penalty, if a person is convicted of a
30 battery which constitutes domestic violence pursuant to NRS
31 33.018, the court shall:

32 (a) ~~For~~ *Except as otherwise provided in this subsection, for*
33 the first offense within 7 years, require him to participate in weekly
34 counseling sessions of not less than 1 1/2 hours per week for not
35 less than 6 months, but not more than 12 months, at his expense, in
36 a program for the treatment of persons who commit domestic
37 violence that has been certified pursuant to NRS 228.470.



(b) ~~For~~ *Except as otherwise provided in this subsection, 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.*

↪ If the person resides more than 50 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions of not less than 6 hours per month for the number of months required pursuant to paragraph (a) or (b).

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 Controller 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 child welfare services. If the court refers a child to an agency which provides child welfare 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 or nolo contendere to a lesser charge or for any other



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

6 **8. *On or before January 15 of each year, the clerk of each***
7 ***court shall submit to the Office of Court Administrator created***
8 ***pursuant to NRS 1.320 a written report concerning the persons***
9 ***who were allowed by the court to attend the required counseling***
10 ***sessions on a nonweekly basis pursuant to subsection 2. The***
11 ***report must include, without limitation:***

12 ***(a) The number of persons who were allowed by the court***
13 ***during the preceding year to attend the required counseling***
14 ***sessions on a nonweekly basis; and***

15 ***(b) For the persons who have been allowed by the court to***
16 ***attend the required counseling sessions on a nonweekly basis:***

17 ***(1) The number of such persons who actually attended the***
18 ***counseling sessions as required by the court; and***

19 ***(2) The number of persons who were subsequently***
20 ***convicted of a battery which constitutes domestic violence***
21 ***pursuant to NRS 33.018.***

22 **9.** As used in this section:

23 (a) "Agency which provides child welfare services" has the
24 meaning ascribed to it in NRS 432B.030.

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

27 (c) "Offense" includes a battery which constitutes domestic
28 violence pursuant to NRS 33.018 or a violation of the law of any
29 other jurisdiction that prohibits the same or similar conduct.

30 **Sec. 2.** NRS 1.360 is hereby amended to read as follows:

31 **1.360** Under the direction of the Supreme Court, the Court
32 Administrator shall:

33 1. Examine the administrative procedures employed in the
34 offices of the judges, clerks, court reporters and employees of all
35 courts of this State and make recommendations, through the Chief
36 Justice, for the improvement of those procedures;

37 2. Examine the condition of the dockets of the courts and
38 determine the need for assistance by any court;

39 3. Make recommendations to and carry out the directions of the
40 Chief Justice relating to the assignment of district judges where
41 district courts are in need of assistance;

42 4. Develop a uniform system for collecting and compiling
43 statistics and other data regarding the operation of the State Court



- 1 System and transmit that information to the Supreme Court so that
2 proper action may be taken in respect thereto;
- 3 5. Prepare and submit a budget of state appropriations
4 necessary for the maintenance and operation of the State Court
5 System and make recommendations in respect thereto;
- 6 6. Develop procedures for accounting, internal auditing,
7 procurement and disbursement for the State Court System;
- 8 7. Collect statistical and other data and make reports relating to
9 the expenditure of all public money for the maintenance and
10 operation of the State Court System and the offices connected
11 therewith;
- 12 8. Compile statistics from the information required to be
13 maintained by the clerks of the district courts pursuant to NRS 3.275
14 and make reports as to the cases filed in the district courts;
- 15 9. Formulate and submit to the Supreme Court
16 recommendations of policies or proposed legislation for the
17 improvement of the State Court System;
- 18 10. On or before January 1 of each year, submit to the Director
19 of the Legislative Counsel Bureau a written report compiling the
20 information submitted to the Court Administrator pursuant to NRS
21 3.243, 4.175 and 5.045 during the immediately preceding fiscal
22 year;
- 23 11. On or before January 1 of each odd-numbered year, submit
24 to the Director of the Legislative Counsel Bureau a written report
25 concerning:
 - 26 (a) The distribution of money deposited in the special account
27 created pursuant to NRS 176.0613 to assist with funding and
28 establishing specialty court programs;
 - 29 (b) The current status of any specialty court programs to which
30 money from the account was allocated since the last report; and
 - 31 (c) Such other related information as the Court Administrator
32 deems appropriate;
- 33 12. On or before February 15 of each odd-numbered year,
34 submit to the Governor and to the Director of the Legislative
35 Counsel Bureau for transmittal to the next regular session of the
36 Legislature a written report compiling the information submitted by
37 clerks of courts to the Court Administrator pursuant to NRS 630.307
38 and 633.533 which includes only aggregate information for
39 statistical purposes and excludes any identifying information related
40 to a particular person; ~~and~~
- 41 13. *On or before February 15 of each odd-numbered year,*
42 *submit to the Director of the Legislative Counsel Bureau a written*
43 *report compiling the information submitted by the clerks of the*
44 *courts to the Court Administrator pursuant to NRS 200.485 which*



1 *includes only aggregate information for statistical purposes and*
2 *excludes any identifying information related to a particular*
3 *person; and*

4 **14.** Attend to such other matters as may be assigned by the
5 Supreme Court or prescribed by law.

6 **Sec. 3.** This act becomes effective on July 1, 2005.



