

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; authorizing a court to order
a person convicted of domestic violence to participate in
counseling sessions on a biweekly basis in certain
circumstances; requiring the Court Administrator to
submit reports to the Legislature concerning the
effectiveness of court-ordered participation in programs
for the treatment of persons who commit domestic
violence; requiring the Administrator of the Division of
Mental Health and Developmental Services of the
Department of Human Resources to report to the
Legislature concerning certification of such programs in
rural mental health clinics; 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, in a program for the treatment of persons
4 who commit domestic violence. (NRS 200.485)

5 This bill authorizes a court, until June 30, 2009, to allow a person to participate
6 in such counseling sessions on a biweekly basis, for a total of at least 6 hours of
7 counseling per month, if the person lives more than 70 miles from the nearest
8 location at which counseling services are available.



9 This bill requires the Court Administrator to submit a written report concerning
10 the effectiveness of court-ordered counseling for persons who commit a battery that
11 constitutes domestic violence to the Director of the Legislative Counsel Bureau for
12 transmittal to each regular session of the Legislature. The report must also address
13 the effectiveness of biweekly counseling sessions.

14 This bill further requires the Administrator of the Division of Mental Health
15 and Developmental Services of the Department of Human Resources to submit a
16 report to the Legislature concerning the efforts and progress made by the Division
17 in certifying programs for the treatment of persons who commit domestic violence
18 provided by rural mental health clinics.

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:



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

7 (b) ~~For~~ *Except as otherwise provided in this subsection, for*
8 the second offense within 7 years, require him to participate in
9 weekly counseling sessions of not less than 1 1/2 hours per week for
10 12 months, at his expense, in a program for the treatment of persons
11 who commit domestic violence that has been certified pursuant to
12 NRS 228.470.

13 *↪ If the person resides more than 70 miles from the nearest*
14 *location at which counseling services are available, the court may*
15 *allow the person to participate in counseling sessions in a program*
16 *for the treatment of persons who commit domestic violence that*
17 *has been certified pursuant to NRS 228.470 every other week for*
18 *the number of months required pursuant to paragraph (a) or (b)*
19 *so long as the number of hours of counseling is not less than 6*
20 *hours per month.*

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

31 4. In addition to any other fine or penalty, the court shall order
32 such a person to pay an administrative assessment of \$35. Any
33 money so collected must be paid by the clerk of the court to the
34 State Controller on or before the fifth day of each month for the
35 preceding month for credit to the Account for Programs Related to
36 Domestic Violence established pursuant to NRS 228.460.

37 5. In addition to any other penalty, the court may require such a
38 person to participate, at his expense, in a program of treatment for
39 the abuse of alcohol or drugs that has been certified by the Health
40 Division of the Department of Human Resources.

41 6. If it appears from information presented to the court that a
42 child under the age of 18 years may need counseling as a result of
43 the commission of a battery which constitutes domestic violence
44 pursuant to NRS 33.018, the court may refer the child to an agency
45 which provides child welfare services. If the court refers a child to



1 an agency which provides child welfare services, the court shall
2 require the person convicted of a battery which constitutes domestic
3 violence pursuant to NRS 33.018 to reimburse the agency for the
4 costs of any services provided, to the extent of his ability to pay.

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

14 8. As used in this section:

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

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

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

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

23 1.360 Under the direction of the Supreme Court, the Court
24 Administrator shall:

25 1. Examine the administrative procedures employed in the
26 offices of the judges, clerks, court reporters and employees of all
27 courts of this State and make recommendations, through the Chief
28 Justice, for the improvement of those procedures;

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

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

34 4. Develop a uniform system for collecting and compiling
35 statistics and other data regarding the operation of the State Court
36 System and transmit that information to the Supreme Court so that
37 proper action may be taken in respect thereto;

38 5. Prepare and submit a budget of state appropriations
39 necessary for the maintenance and operation of the State Court
40 System and make recommendations in respect thereto;

41 6. Develop procedures for accounting, internal auditing,
42 procurement and disbursement for the State Court System;

43 7. Collect statistical and other data and make reports relating to
44 the expenditure of all public money for the maintenance and



1 operation of the State Court System and the offices connected
2 therewith;

3 8. Compile statistics from the information required to be
4 maintained by the clerks of the district courts pursuant to NRS 3.275
5 and make reports as to the cases filed in the district courts;

6 9. Formulate and submit to the Supreme Court
7 recommendations of policies or proposed legislation for the
8 improvement of the State Court System;

9 10. On or before January 1 of each year, submit to the Director
10 of the Legislative Counsel Bureau a written report compiling the
11 information submitted to the Court Administrator pursuant to NRS
12 3.243, 4.175 and 5.045 during the immediately preceding fiscal
13 year;

14 11. On or before January 1 of each odd-numbered year, submit
15 to the Director of the Legislative Counsel Bureau a written report
16 concerning:

17 (a) The distribution of money deposited in the special account
18 created pursuant to NRS 176.0613 to assist with funding and
19 establishing specialty court programs;

20 (b) The current status of any specialty court programs to which
21 money from the account was allocated since the last report; and

22 (c) Such other related information as the Court Administrator
23 deems appropriate;

24 12. On or before February 15 of each odd-numbered year,
25 submit to the Governor and to the Director of the Legislative
26 Counsel Bureau for transmittal to the next regular session of the
27 Legislature a written report compiling the information submitted by
28 clerks of courts to the Court Administrator pursuant to NRS 630.307
29 and 633.533 which includes only aggregate information for
30 statistical purposes and excludes any identifying information related
31 to a particular person; ~~and~~

32 13. *On or before February 15 of each odd-numbered year,*
33 *submit to the Director of the Legislative Counsel Bureau for*
34 *transmittal to the next regular session of the Legislature a written*
35 *report concerning the effectiveness of participation in counseling*
36 *sessions in a program for the treatment of persons who commit*
37 *domestic violence ordered by a court pursuant to NRS 200.485*
38 *and the effect of such counseling sessions on recidivism of the*
39 *offenders who commit battery which constitutes domestic violence*
40 *pursuant to NRS 33.018; and*

41 14. Attend to such other matters as may be assigned by the
42 Supreme Court or prescribed by law.

43 **Sec. 3.** The report submitted to the Legislature by the Court
44 Administrator in 2007 and 2009 pursuant to subsection 13 of NRS



1 1.360, as amended by this act, must include information concerning
2 the effectiveness of biweekly counseling sessions and the effect, if
3 any, of participating in biweekly counseling sessions on recidivism
4 of offenders.

5 **Sec. 4.** On or before February 15, 2009, the Administrator of
6 the Division of Mental Health and Developmental Services of the
7 Department of Human Resources shall submit to the Director of
8 the Legislative Counsel Bureau for transmittal to the 75th Session of
9 the Nevada Legislature a written report concerning the efforts and
10 progress made by the Division in certifying programs for the
11 treatment of persons who commit domestic violence provided by
12 rural mental health clinics.

13 **Sec. 5.** 1. This act becomes effective on July 1, 2005.

14 2. The amendatory provisions of section 1 of this act expire by
15 limitation on June 30, 2009.



