

Amendment No. 51

Assembly Amendment to Assembly Bill No. 164

(BDR 15-251)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

AMI/RRY



Date: 3/26/2009

A.B. No. 164—Revises certain provisions concerning the crime of battery.

(BDR 15-251)



ASSEMBLY BILL NO. 164—ASSEMBLYMEN HORNE, GANSERT, ANDERSON, MANENDO, KIHUEN; AIZLEY, ATKINSON, BOBZIEN, BUCKLEY, CARPENTER, CHRISTENSEN, CLABORN, CONKLIN, DENIS, DONDERO LOOP, HAMBRICK, HARDY, KIRKPATRICK, KOIVISTO, LESLIE, MASTROLUCA, MCARTHUR, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SMITH, SPIEGEL AND STEWART

FEBRUARY 12, 2009

JOINT SPONSORS: SENATORS BREEDEN, WIENER, CARE, PARKS, COPENING; HORSFORD, LEE, MATHEWS, MCGINNESS AND WASHINGTON

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions concerning the crime of battery. (BDR 15-251)

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: 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 certain penalties for a battery that is committed by strangulation; increasing the penalty for a battery which constitutes domestic violence if the battery is committed by strangulation; increasing the penalty for a battery under other circumstances if the battery is committed by strangulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3 of this bill revises provisions governing the crime of battery to provide the same penalties for a battery which is committed by strangulation as are imposed for a battery which results in substantial bodily harm. (NRS 200.481) **Section 3** also defines the term "strangulation" similarly to the manner in which the term is defined in a similar Minnesota law. (Minn. Stat. § 609.2247(1)(c))

Sections 4 and 5 of this bill revise provisions governing the crime of battery which constitutes domestic violence to impose a category C felony with a maximum fine of \$15,000 upon any person who is convicted of a battery which constitutes domestic violence if the battery is committed by strangulation. (NRS 200.485)

Sections 1, 2, 6 and 7 of this bill amend certain provisions regarding additional penalties, battery with the intent to commit sexual assault, the reporting of certain crimes committed against a child and bail so that those provisions will apply in the same manner to a battery which resulted in substantial bodily harm and a battery which was committed by strangulation. (NRS 193.166, 200.400, 202.876, 178.484)

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

Section 1. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 6 of NRS 33.400 or subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

(e) A temporary or extended order issued pursuant to NRS 200.591,
➤ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years.

2. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

(a) The facts and circumstances of the crime;

(b) The criminal history of the person;

(c) The impact of the crime on any victim;

(d) Any mitigating factors presented by the person; and

(e) Any other relevant information.

➤ The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

3. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

4. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, ~~battery~~ battery which results in substantial bodily harm *or battery which is committed by strangulation as described in NRS 200.481 or 200.485* if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

5. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 2. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section ~~["battery"]~~ :

1 (a) **“Battery”** means any willful and unlawful use of force or violence upon the
2 person of another.

3 (b) **“Strangulation” has the meaning ascribed to it in NRS 200.481.**

4 2. A person who is convicted of battery with the intent to commit mayhem,
5 robbery or grand larceny is guilty of a category B felony and shall be punished by
6 imprisonment in the state prison for a minimum term of not less than 2 years and a
7 maximum term of not more than 10 years, and may be further punished by a fine of
8 not more than \$10,000.

9 3. A person who is convicted of battery with the intent to kill is guilty of a
10 category B felony and shall be punished by imprisonment in the state prison for a
11 minimum term of not less than 2 years and a maximum term of not more than 20
12 years.

13 4. A person who is convicted of battery with the intent to commit sexual
14 assault shall be punished:

15 (a) If the crime results in substantial bodily harm to the victim ~~or~~ **or is**
16 **committed by strangulation**, for a category A felony by imprisonment in the state
17 prison:

18 (1) For life without the possibility of parole; or

19 (2) For life with the possibility of parole, with eligibility for parole
20 beginning when a minimum of 10 years has been served,
21 as determined by the verdict of the jury, or the judgment of the court if there is
22 no jury.

23 (b) If the crime does not result in substantial bodily harm to the victim and the
24 victim is 16 years of age or older, for a category A felony by imprisonment in the
25 state prison for a minimum term of not less than 2 years and a maximum term of
26 life with the possibility of parole.

27 (c) If the crime does not result in substantial bodily harm to the victim and the
28 victim is a child under the age of 16, for a category A felony by imprisonment in
29 the state prison for a minimum term of not less than 5 years and a maximum term
30 of life with the possibility of parole.

31 as in addition to any other penalty, a person convicted pursuant to this subsection
32 may be punished by a fine of not more than \$10,000.

33 **Sec. 3.** NRS 200.481 is hereby amended to read as follows:

34 200.481 1. As used in this section:

35 (a) **“Battery”** means any willful and unlawful use of force or violence upon the
36 person of another.

37 (b) **“Child”** means a person less than 18 years of age.

38 (c) **“Officer”** means:

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

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

42 (3) A member of a volunteer fire department;

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

45 (5) A justice of the Supreme Court, district judge, justice of the peace,
46 municipal judge, magistrate, court commissioner, master or referee, including,
47 without limitation, a person acting pro tempore in a capacity listed in this
48 subparagraph; or

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

51 (d) **“Provider of health care”** has the meaning ascribed to it in NRS 200.471.

52 (e) **“School employee”** means a licensed or unlicensed person employed by a
53 board of trustees of a school district pursuant to NRS 391.100.

(f) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(g) "Sports official" has the meaning ascribed to it in NRS 41.630.

(h) *"Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person ~~with~~ with the intent to cause bodily harm.*

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

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

~~(k)~~ (k) "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)~~ *this section* or ~~in~~ NRS 197.090, for a misdemeanor.

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

(c) If ~~the~~:

(1) *The* battery is committed ~~by~~:

~~(1) Upon~~ *upon* an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his duty or upon a sports official based on the performance of his duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm ~~or the battery is committed by strangulation~~; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

— 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, provider of health care, school employee, taxicab driver or transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, 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 ~~or the battery is committed by strangulation~~, 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 15 years, and may be further punished by a fine of not more than \$10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results ~~and whether or not the battery is~~

1 *committed by strangulation*, for a category B felony by imprisonment in the state
2 prison for a minimum term of not less than 1 year and a maximum term of not more
3 than 6 years.

4 (g) If the battery is committed by a probationer, a prisoner who is in lawful
5 custody or confinement or a parolee, with the use of a deadly weapon, and:

6 (1) No substantial bodily harm to the victim results, for a category B felony
7 by imprisonment in the state prison for a minimum term of not less than 2 years and
8 a maximum term of not more than 10 years.

9 (2) Substantial bodily harm to the victim results ~~or~~ *or the battery is*
10 *committed by strangulation*, for a category B felony by imprisonment in the state
11 prison for a minimum term of not less than 2 years and a maximum term of not
12 more than 15 years.

13 **Sec. 4.** NRS 200.485 is hereby amended to read as follows:

14 200.485 1. Unless a greater penalty is provided pursuant to *subsection 2 or*
15 NRS 200.481, a person convicted of a battery which constitutes domestic violence
16 pursuant to NRS 33.018:

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

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

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

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

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

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

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

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

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

39 2. *Unless a greater penalty is provided pursuant to NRS 200.481, a person*
40 *convicted of a battery which constitutes domestic violence pursuant to NRS*
41 *33.018, if the battery is committed by strangulation as described in NRS 200.481,*
42 *is guilty of a category C felony and shall be punished as provided in NRS 193.130*
43 *and by a fine of not more than \$15,000.*

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

46 (a) Except as otherwise provided in this subsection, for the first offense within
47 7 years, require him to participate in weekly counseling sessions of not less than
48 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his
49 expense, in a program for the treatment of persons who commit domestic violence
50 that has been certified pursuant to NRS 228.470.

51 (b) Except as otherwise provided in this subsection, for the second offense
52 within 7 years, require him to participate in weekly counseling sessions of not less
53 than 1 1/2 hours per week for 12 months, at his expense, in a program for the

1 treatment of persons who commit domestic violence that has been certified
2 pursuant to NRS 228.470.

3 ~~4~~ If the person resides more than 70 miles from the nearest location at which
4 counseling services are available, the court may allow the person to participate in
5 counseling sessions in a program for the treatment of persons who commit domestic
6 violence that has been certified pursuant to NRS 228.470 every other week for the
7 number of months required pursuant to paragraph (a) or (b) so long as the number
8 of hours of counseling is not less than 6 hours per month. If the person resides in
9 this State but the nearest location at which counseling services are available is in
10 another state, the court may allow the person to participate in counseling in the
11 other state in a program for the treatment of persons who commit domestic violence
12 that has been certified pursuant to NRS 228.470.

13 ~~4.3~~ 4. An offense that occurred within 7 years immediately preceding the
14 date of the principal offense or after the principal offense constitutes a prior offense
15 for the purposes of this section when evidenced by a conviction, without regard to
16 the sequence of the offenses and convictions. The facts concerning a prior offense
17 must be alleged in the complaint, indictment or information, must not be read to the
18 jury or proved at trial but must be proved at the time of sentencing and, if the
19 principal offense is alleged to be a felony, must also be shown at the preliminary
20 examination or presented to the grand jury.

21 ~~4.4~~ 5. In addition to any other fine or penalty, the court shall order such a
22 person to pay an administrative assessment of \$35. Any money so collected must be
23 paid by the clerk of the court to the State Controller on or before the fifth day of
24 each month for the preceding month for credit to the Account for Programs Related
25 to Domestic Violence established pursuant to NRS 228.460.

26 ~~5.5~~ 6. In addition to any other penalty, the court may require such a person to
27 participate, at his expense, in a program of treatment for the abuse of alcohol or
28 drugs that has been certified by the Health Division of the Department of Health
29 and Human Services.

30 ~~6.6~~ 7. If it appears from information presented to the court that a child under
31 the age of 18 years may need counseling as a result of the commission of a battery
32 which constitutes domestic violence pursuant to NRS 33.018, the court may refer
33 the child to an agency which provides child welfare services. If the court refers a
34 child to an agency which provides child welfare services, the court shall require the
35 person convicted of a battery which constitutes domestic violence pursuant to NRS
36 33.018 to reimburse the agency for the costs of any services provided, to the extent
37 of his ability to pay.

38 ~~7.7~~ 8. If a person is charged with committing a battery which constitutes
39 domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss
40 such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo
41 contendere to a lesser charge or for any other reason unless he knows, or it is
42 obvious, that the charge is not supported by probable cause or cannot be proved at
43 the time of trial. A court shall not grant probation to and, except as otherwise
44 provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a
45 person.

46 ~~8.8~~ 9. As used in this section:

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

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

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

1 **Sec. 5.** NRS 200.485 is hereby amended to read as follows:

2 200.485 1. Unless a greater penalty is provided pursuant to *subsection 2 or*
3 NRS 200.481, a person convicted of a battery which constitutes domestic violence
4 pursuant to NRS 33.018:

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

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

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

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

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

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

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

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

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

27 2. *Unless a greater penalty is provided pursuant to NRS 200.481, a person*
28 *convicted of a battery which constitutes domestic violence pursuant to NRS*
29 *33.018, if the battery is committed by strangulation as described in NRS 200.481,*
30 *is guilty of a category C felony and shall be punished as provided in NRS 193.130*
31 *and by a fine of not more than \$15,000.*

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

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

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

43 ➤ If the person resides in this State but the nearest location at which counseling
44 services are available is in another state, the court may allow the person to
45 participate in counseling in the other state in a program for the treatment of persons
46 who commit domestic violence that has been certified pursuant to NRS 228.470.

47 ~~[3.]~~ 4. An offense that occurred within 7 years immediately preceding the
48 date of the principal offense or after the principal offense constitutes a prior offense
49 for the purposes of this section when evidenced by a conviction, without regard to
50 the sequence of the offenses and convictions. The facts concerning a prior offense
51 must be alleged in the complaint, indictment or information, must not be read to the
52 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.

~~4-4~~ 5. 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.

~~5-5~~ 6. 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 Health and Human Services.

~~6-6~~ 7. 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.

~~7-7~~ 8. 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.

~~8-8~~ 9. As used in this section:

(a) "Agency which provides child welfare 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.

(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. 6. NRS 202.876 is hereby amended to read as follows:

202.876 "Violent or sexual offense" means any act that, if prosecuted in this State, would constitute any of the following offenses:

1. Murder or voluntary manslaughter pursuant to NRS 200.010 to 200.260, inclusive.

2. Mayhem pursuant to NRS 200.280.

3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.

4. Sexual assault pursuant to NRS 200.366.

5. Robbery pursuant to NRS 200.380.

6. Administering poison or another noxious or destructive substance or liquid with intent to cause death pursuant to NRS 200.390.

7. Battery with intent to commit a crime pursuant to NRS 200.400.

8. Administering a drug or controlled substance to another person with the intent to enable or assist the commission of a felony or crime of violence pursuant to NRS 200.405 or 200.408.

9. False imprisonment pursuant to NRS 200.460 ~~if~~ if the false imprisonment involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

10. Assault with a deadly weapon pursuant to NRS 200.471.

11. Battery which is committed with the use of a deadly weapon or which results in substantial bodily harm ~~pursuant to~~ *as described in NRS 200.481 or battery which is committed by strangulation as described in NRS 200.481 or 200.485.*

12. An offense involving pornography and a minor pursuant to NRS 200.710 or 200.720.

13. Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.

14. Intentional transmission of the human immunodeficiency virus pursuant to NRS 201.205.

15. Open or gross lewdness pursuant to NRS 201.210.

16. Lewdness with a child pursuant to NRS 201.230.

17. An offense involving pandering or prostitution in violation of NRS 201.300, 201.320 or 201.340.

18. Coercion pursuant to NRS 207.190, if the coercion involves the use or threatened use of force or violence against the victim or the use or threatened use of a firearm or a deadly weapon.

19. An attempt, conspiracy or solicitation to commit an offense listed in subsections 1 to 18, inclusive.

Sec. 7. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of intoxicating liquor must not be admitted to bail or released on his own recognizance unless he has a concentration of alcohol of less than 0.04 in his breath. A test of the person's breath pursuant to this subsection to determine the concentration of alcohol in his breath as a condition of admission to bail or release is not admissible as evidence against the person.

6. A person arrested for a violation of NRS 484.379, 484.3795, 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under the influence of a controlled substance, is under the combined influence of intoxicating liquor and a controlled substance, or inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a

1 degree which renders him incapable of safely driving or exercising actual physical
2 control of a vehicle or vessel under power or sail must not be admitted to bail or
3 released on his own recognizance sooner than 12 hours after his arrest.

4 7. A person arrested for a battery that constitutes domestic violence pursuant
5 to NRS 33.018 must not be admitted to bail sooner than 12 hours after his arrest. If
6 the person is admitted to bail more than 12 hours after his arrest, without appearing
7 personally before a magistrate ~~or~~ or without the amount of bail having been
8 otherwise set by a magistrate or a court, the amount of bail must be:

9 (a) Three thousand dollars, if the person has no previous convictions of battery
10 that constitute domestic violence pursuant to NRS 33.018 and there is no reason to
11 believe that the battery for which he has been arrested resulted in substantial bodily
12 harm ~~or~~ *or was committed by strangulation;*

13 (b) Five thousand dollars, if the person has:

14 (1) No previous convictions of battery that constitute domestic violence
15 pursuant to NRS 33.018, but there is reason to believe that the battery for which he
16 has been arrested resulted in substantial bodily harm ~~or~~ *or was committed by*
17 *strangulation;* or

18 (2) One previous conviction of battery that constitutes domestic violence
19 pursuant to NRS 33.018, but there is no reason to believe that the battery for which
20 he has been arrested resulted in substantial bodily harm ~~or~~ *or was committed by*
21 *strangulation;* or

22 (c) Fifteen thousand dollars, if the person has:

23 (1) One previous conviction of battery that constitutes domestic violence
24 pursuant to NRS 33.018 and there is reason to believe that the battery for which he
25 has been arrested resulted in substantial bodily harm ~~or~~ *or was committed by*
26 *strangulation;* or

27 (2) Two or more previous convictions of battery that constitute domestic
28 violence pursuant to NRS 33.018.

29 ➤ The provisions of this subsection do not affect the authority of a magistrate or a
30 court to set the amount of bail when the person personally appears before the
31 magistrate or the court, or when a magistrate or a court has otherwise been
32 contacted to set the amount of bail. For the purposes of this subsection, a person
33 shall be deemed to have a previous conviction of battery that constitutes domestic
34 violence pursuant to NRS 33.018 if the person has been convicted of such an
35 offense in this State or has been convicted of violating a law of any other
36 jurisdiction that prohibits the same or similar conduct.

37 8. A person arrested for violating a temporary or extended order for
38 protection against domestic violence issued pursuant to NRS 33.017 to 33.100,
39 inclusive, or for violating a restraining order or injunction that is in the nature of a
40 temporary or extended order for protection against domestic violence issued in an
41 action or proceeding brought pursuant to title 11 of NRS, or for violating a
42 temporary or extended order for protection against stalking, aggravated stalking or
43 harassment issued pursuant to NRS 200.591 must not be admitted to bail sooner
44 than 12 hours after his arrest if:

45 (a) The arresting officer determines that such a violation is accompanied by a
46 direct or indirect threat of harm;

47 (b) The person has previously violated a temporary or extended order for
48 protection of the type for which he has been arrested; or

49 (c) At the time of the violation or within 2 hours after the violation, the person
50 has:

51 (1) A concentration of alcohol of 0.08 or more in his blood or breath; or

52 (2) An amount of a prohibited substance in his blood or urine that is equal
53 to or greater than the amount set forth in subsection 3 of NRS 484.379.

9. If a person is admitted to bail more than 12 hours after his arrest, pursuant to subsection 8, without appearing personally before a magistrate ~~or~~ or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.

➤ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court ~~or~~ or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS, or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

10. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

11. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or
(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

➤ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

12. If a person fails to comply with a condition imposed pursuant to subsection 11, the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or

(b) Increase the amount of bail pursuant to NRS 178.499.

13. An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

14. Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

➤ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

15. If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

16. For the purposes of subsections 8 and 9, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

17. As used in this section, "strangulation" has the meaning ascribed to it in NRS 200.481.

Sec. 8. NRS 432B.640 is hereby amended to read as follows:

432B.640 1. Upon receiving a referral from a court pursuant to subsection ~~6~~ 7 of NRS 200.485, an agency which provides child welfare 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 child welfare 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. 9. 1. This section and sections 1 to 4, inclusive, 6, 7 and 8 of this act become effective upon passage and approval.

2. Section 4 of this act expires by limitation on June 30, 2009.

3. Section 5 of this act becomes effective on July 1, 2009.