

SENATE BILL NO. 62—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the penalty for battery which constitutes domestic violence. (BDR 15-406)

FISCAL NOTE: Effect on Local Government: No.
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; increasing the penalty for a battery which constitutes domestic violence in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the acts which constitute domestic violence including committing a battery against a person with whom the aggressor has a certain relationship. (NRS 33.018) Under existing law, a person who is convicted of a third or subsequent offense of battery which constitutes domestic violence within 7 years is guilty of a category C felony. Additionally, if a person is convicted of a battery which constitutes domestic violence that is committed by strangulation, the person is guilty of a category C felony. (NRS 200.485) This bill makes it a category B felony punishable by a minimum term of imprisonment of 2 years and a maximum term of 15 years, and a fine of not less than \$2,000 but not more than \$5,000 to commit a battery which constitutes domestic violence if the person has previously been convicted of: (1) a felony in this State for committing battery which constitutes domestic violence; or (2) a violation of the law of any other jurisdiction that prohibits conduct that is the same or similar to a felony in this State for committing a battery which constitutes domestic violence.



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 subsection 2 or **3 or** NRS 200.481, a person convicted of a battery
4 which constitutes 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 or
17 her 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. Unless a greater penalty is provided pursuant to **subsection 3**
30 **or** NRS 200.481, a person convicted of a battery which constitutes
31 domestic violence pursuant to NRS 33.018, if the battery is
32 committed by strangulation as described in NRS 200.481, is guilty
33 of a category C felony and shall be punished as provided in NRS
34 193.130 and by a fine of not more than \$15,000.

35 3. *Unless a greater penalty is provided pursuant to NRS*
36 *200.481, a person who has been previously convicted of:*

37 (a) *A battery which constitutes domestic violence pursuant to*
38 *NRS 33.018 that is punishable as a felony pursuant to paragraph*
39 *(c) of subsection 1 or subsection 2; or*

40 (b) *A violation of the law of any other jurisdiction that*
41 *prohibits the same or similar conduct as set forth in paragraph (a),*



1 *↪ and who commits a battery which constitutes domestic violence*
2 *pursuant to NRS 33.018 is guilty of a category B felony and shall*
3 *be punished by imprisonment in the state prison for a minimum*
4 *term of not less than 2 years and a maximum term of not more*
5 *than 15 years, and shall be further punished by a fine of not less*
6 *than \$2,000 but not more than \$5,000.*

7 4. In addition to any other penalty, if a person is convicted of a
8 battery which constitutes domestic violence pursuant to NRS
9 33.018, the court shall:

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

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

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

26 ~~4. An~~

27 5. *Except as otherwise provided in this subsection, an* offense
28 that occurred within 7 years immediately preceding the date of the
29 principal offense or after the principal offense constitutes a prior
30 offense for the purposes of this section when evidenced by a
31 conviction, without regard to the sequence of the offenses and
32 convictions. *An offense which is listed in paragraph (a) or (b) of*
33 *subsection 3 that occurred on any date preceding the date of the*
34 *principal offense or after the principal offense constitutes a prior*
35 *offense for the purposes of this section when evidenced by a*
36 *conviction, without regard to the sequence of the offenses and*
37 *convictions.* The facts concerning a prior offense must be alleged in
38 the complaint, indictment or information, must not be read to the
39 jury or proved at trial but must be proved at the time of sentencing
40 and, if the principal offense is alleged to be a felony, must also be
41 shown at the preliminary examination or presented to the grand jury.

42 ~~5. 6.~~ In addition to any other fine or penalty, the court shall
43 order such a person to pay an administrative assessment of \$35. Any
44 money so collected must be paid by the clerk of the court to the
45 State Controller on or before the fifth day of each month for the



1 preceding month for credit to the Account for Programs Related to
2 Domestic Violence established pursuant to NRS 228.460.

3 ~~16-1~~ 7. In addition to any other penalty, the court may require
4 such a person to participate, at his or her expense, in a program of
5 treatment for the abuse of alcohol or drugs that has been certified by
6 the Division of Public and Behavioral Health of the Department of
7 Health and Human Services.

8 ~~17-1~~ 8. If it appears from information presented to the court that
9 a child under the age of 18 years may need counseling as a result of
10 the commission of a battery which constitutes domestic violence
11 pursuant to NRS 33.018, the court may refer the child to an agency
12 which provides child welfare services. If the court refers a child to
13 an agency which provides child welfare services, the court shall
14 require the person convicted of a battery which constitutes domestic
15 violence pursuant to NRS 33.018 to reimburse the agency for the
16 costs of any services provided, to the extent of the convicted
17 person's ability to pay.

18 ~~18-1~~ 9. If a person is charged with committing a battery which
19 constitutes domestic violence pursuant to NRS 33.018, a
20 prosecuting attorney shall not dismiss such a charge in exchange for
21 a plea of guilty, guilty but mentally ill or nolo contendere to a lesser
22 charge or for any other reason unless the prosecuting attorney
23 knows, or it is obvious, that the charge is not supported by probable
24 cause or cannot be proved at the time of trial. A court shall not grant
25 probation to and, except as otherwise provided in NRS 4.373 and
26 5.055, a court shall not suspend the sentence of such a person.

27 ~~19-1~~ 10. As used in this section:

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

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

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

35 **Sec. 2.** NRS 432B.640 is hereby amended to read as follows:

36 432B.640 1. Upon receiving a referral from a court pursuant
37 to subsection ~~17-1~~ 8 of NRS 200.485, an agency which provides child
38 welfare services may, as appropriate, conduct an assessment to
39 determine whether a psychological evaluation or counseling is
40 needed by a child.

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



- 1 (a) Conduct the evaluation or counseling; or
- 2 (b) Refer the child to a person that has entered into an agreement
- 3 with the agency to provide those services.
- 4 **Sec. 3.** This act becomes effective on July 1, 2017.

