

ASSEMBLY BILL NO. 100—ASSEMBLYMAN SPRINKLE

PREFILED JANUARY 28, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing enhancement of penalties for committing assault and battery under certain circumstances. (BDR 15-159)

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.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising the definition of “officer” to include security guards for the purpose of enhancing the penalties for assault and battery against such a person; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that a person is guilty of: (1) a category D felony if the person commits an assault upon an officer; and (2) a category B felony if the person commits an assault upon an officer with the use of a deadly weapon or the present ability to use a deadly weapon. (NRS 200.471) Existing law also provides that a person is guilty of: (1) a category B felony if the person commits a battery upon an officer which causes substantial bodily harm or is committed by strangulation; and (2) a gross misdemeanor if the person commits a battery upon an officer and the person knew or should have known that the victim was an officer. (NRS 200.481) Existing law defines “security guard” as a person employed as a watchman, guard, security consultant, patrol officer or in any other similar position. (NRS 648.016) **Sections 1 and 2** of this bill revise the definition of “officer” to include a “security guard” for the purpose of enhancing the penalties for the crimes of assault and battery against such a person.

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

Section 1. NRS 200.471 is hereby amended to read as follows:
200.471 1. As used in this section:



(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person; or

(2) Intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

(c) "Officer" means:

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

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

(3) A member of a volunteer fire department;

(4) A jailer, guard or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph;

(6) An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;

(7) A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

(8) A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; ~~for~~

(9) A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State ~~for~~; or



(10) A security guard, as that term is defined in NRS 648.016.

(d) "Provider of health care" means a physician, a medical student, a perfusionist or a physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, a licensed dietitian, an emergency medical technician, an advanced emergency medical technician and a paramedic.

(e) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

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

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

(j) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator



1 who is performing his or her duty or upon a sports official based on
2 the performance of his or her duties at a sporting event and the
3 person charged knew or should have known that the victim was an
4 officer, a provider of health care, a school employee, a taxicab
5 driver, a transit operator or a sports official, for a gross
6 misdemeanor, unless the assault is made with the use of a deadly
7 weapon or the present ability to use a deadly weapon, then for a
8 category B felony by imprisonment in the state prison for a
9 minimum term of not less than 1 year and a maximum term of not
10 more than 6 years, or by a fine of not more than \$5,000, or by both
11 fine and imprisonment.

12 (d) If the assault is committed upon an officer, a provider of
13 health care, a school employee, a taxicab driver or a transit operator
14 who is performing his or her duty or upon a sports official based on
15 the performance of his or her duties at a sporting event by a
16 probationer, a prisoner who is in lawful custody or confinement or a
17 parolee, and the probationer, prisoner or parolee charged knew or
18 should have known that the victim was an officer, a provider of
19 health care, a school employee, a taxicab driver, a transit operator or
20 a sports official, for a category D felony as provided in NRS
21 193.130, unless the assault is made with the use of a deadly weapon
22 or the present ability to use a deadly weapon, then for a category B
23 felony by imprisonment in the state prison for a minimum term of
24 not less than 1 year and a maximum term of not more than 6 years,
25 or by a fine of not more than \$5,000, or by both fine and
26 imprisonment.

27 **Sec. 2.** NRS 200.481 is hereby amended to read as follows:

28 200.481 1. As used in this section:

29 (a) "Battery" means any willful and unlawful use of force or
30 violence upon the person of another.

31 (b) "Child" means a person less than 18 years of age.

32 (c) "Fire-fighting agency" has the meaning ascribed to it in
33 NRS 239B.020.

34 (d) "Officer" means:

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

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

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

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

42 (5) A justice of the Supreme Court, judge of the Court of
43 Appeals, district judge, justice of the peace, municipal judge,
44 magistrate, court commissioner, master or referee, including,



1 without limitation, a person acting pro tempore in a capacity listed
2 in this subparagraph;

3 (6) An employee of this State or a political subdivision of
4 this State whose official duties require the employee to make home
5 visits;

6 (7) A civilian employee or a volunteer of a law enforcement
7 agency whose official duties require the employee or volunteer to:

8 (I) Interact with the public;

9 (II) Perform tasks related to law enforcement; and

10 (III) Wear identification, clothing or a uniform that
11 identifies the employee or volunteer as working or volunteering for
12 the law enforcement agency;

13 (8) A civilian employee or a volunteer of a fire-fighting
14 agency whose official duties require the employee or volunteer to:

15 (I) Interact with the public;

16 (II) Perform tasks related to fire fighting or fire
17 prevention; and

18 (III) Wear identification, clothing or a uniform that
19 identifies the employee or volunteer as working or volunteering for
20 the fire-fighting agency; ~~for~~

21 (9) A civilian employee or volunteer of this State or a
22 political subdivision of this State whose official duties require the
23 employee or volunteer to:

24 (I) Interact with the public;

25 (II) Perform tasks related to code enforcement; and

26 (III) Wear identification, clothing or a uniform that
27 identifies the employee or volunteer as working or volunteering for
28 this State or a political subdivision of this State ~~H~~; or

29 *(10) A security guard, as that term is defined in*
30 *NRS 648.016.*

31 (e) "Provider of health care" has the meaning ascribed to it in
32 NRS 200.471.

33 (f) "School employee" means a licensed or unlicensed person
34 employed by a board of trustees of a school district pursuant to NRS
35 391.100 or 391.281.

36 (g) "Sporting event" has the meaning ascribed to it in
37 NRS 41.630.

38 (h) "Sports official" has the meaning ascribed to it in
39 NRS 41.630.

40 (i) "Strangulation" means intentionally impeding the normal
41 breathing or circulation of the blood by applying pressure on the
42 throat or neck or by blocking the nose or mouth of another person in
43 a manner that creates a risk of death or substantial bodily harm.

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

45 (k) "Taxicab driver" means a person who operates a taxicab.



(l) "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 this section or 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:

(1) The battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his or her duty or upon a sports official based on the performance of his or her 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 or her duty or upon a sports official based on the performance of his or her 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



* A B 1 0 0 *

1 imprisonment in the state prison for a minimum term of not less
2 than 2 years and a maximum term of not more than 15 years, and
3 may be further punished by a fine of not more than \$10,000.

4 (f) If the battery is committed by a probationer, a prisoner who
5 is in lawful custody or confinement or a parolee, without the use of
6 a deadly weapon, whether or not substantial bodily harm results and
7 whether or not the battery is committed by strangulation, for a
8 category B felony by imprisonment in the state prison for a
9 minimum term of not less than 1 year and a maximum term of not
10 more than 6 years.

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

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

18 (2) Substantial bodily harm to the victim results or the
19 battery is committed by strangulation, for a category B felony by
20 imprisonment in the state prison for a minimum term of not less
21 than 2 years and a maximum term of not more than 15 years.

