

ASSEMBLY BILL NO. 42—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE CITY OF HENDERSON)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal law and criminal procedure. (BDR 14-371)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 crimes; requiring certain batteries which constitute domestic violence to be charged with certain felonies and gross misdemeanors; expanding the courts that are required to conduct a jury trial under certain circumstances; revising various provisions relating to jury trials; authorizing the use of sound recording equipment under certain circumstances; making various changes regarding the jurisdiction of municipal courts; revising provisions governing the selection of jurors; establishing a right to a jury trial under certain circumstances; prohibiting a person convicted of a battery which constitutes domestic violence or the same or similar conduct in another jurisdiction from owning or having in his or her possession or under his or her custody or control any firearm; revising the circumstances under which a prosecuting attorney is authorized to dismiss a charge of battery which constitutes domestic violence; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 In 1983, the Nevada Supreme Court held that NRS 175.011 does not establish a
2 statutory right to a trial by jury upon demand in every case because: (1) the statute
3 does not expressly state the Legislature's intent to grant a substantive right to trial
4 by jury, but rather it is only intended to establish procedural requirements; and (2)
5 there is no constitutional right to a jury trial for "petty" offenses. (*State v. Smith*, 99



Nev. 806, 808-810 (1983)) The United States Supreme Court later ruled that an offense with a maximum period of incarceration of 6 months or less is presumptively petty and to overcome that presumption a defendant must prove that any additional statutory penalties, together with the maximum period of incarceration, are so severe that they clearly reflect that the offense is serious and thus triggers a right to a jury trial pursuant to the Sixth Amendment to the United States Constitution and Section 3 of Article 1 of the Nevada Constitution. (*Blanton v. City of N. Las Vegas*, 489 U.S. 538, 543 (1989)) In 2019, the Nevada Supreme Court held that a battery which constitutes domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 is a serious offense, if it imposes a limitation on the possession of a firearm, thereby triggering a constitutional right to a jury trial. The Court reasoned that Legislature elevated the seriousness of the offense when it amended NRS 202.360 in 2015, thereby limiting a person's constitutional right to bear arms by prohibiting the possession or control of any firearm by a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). (*Andersen v. Eighth Jud. Dist. Ct.*, 135 Nev. 321, 323-324 (2019))

Under existing law, a person convicted of a battery which constitutes domestic violence for the first offense within 7 years is guilty of a misdemeanor and shall be punished by: (1) imprisonment in a city or county jail or detention center for not less than 2 days, but not more than 6 months; (2) community service; and (3) a fine of not less than \$200 but not more than \$1,000. (NRS 200.485) **Section 12** of this bill establishes a statutory right to a jury trial for a person charged with a battery which constitutes domestic violence that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm. **Section 12** also requires the provision of a jury trial regardless of whether the person has previously been prohibited from owning, possessing or having under his or her control or custody any firearm.

Existing law requires certain misdemeanors which would otherwise be under the jurisdiction of a municipal court to be charged in the same criminal complaint with related felonies and gross misdemeanors in the district court. (NRS 173.115) **Section 1** of this bill additionally requires a battery which constitutes domestic violence that is punishable as a misdemeanor to be charged in the same indictment or information in district court if the battery arises out of the same act as a felony or gross misdemeanor.

Existing law requires that certain cases in a district court must be tried by a jury unless the defendant waives such a trial in writing with the approval of the court and the consent of the State. (NRS 175.011) **Section 2** of this bill: (1) expands the courts in which such cases must be tried by a jury, which would necessarily include a justice court and municipal court for certain cases required to be so tried by the United States Constitution, the Nevada Constitution or statute; and (2) accordingly revises the person to whom consent must be given.

Existing law requires the trial of a criminal action conducted in: (1) district court to be tried by a jury of 12 jurors unless before verdict the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6; and (2) justice court to be tried by a jury of 6 jurors. (NRS 175.021) **Section 3** of this bill requires that all criminal actions, whether in district court, justice court or municipal court, must be tried by a jury of 12 jurors unless before jury selection the parties stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than 6.

Existing law directs, in relation to the procedures for conducting jury trials, the State, as prosecutor, to perform certain duties. (NRS 175.051, 175.141) **Sections 4 and 5** of this bill revise the persons required to perform such duties to include any prosecuting attorney, which may include the city attorney for jury trials conducted in a municipal court. Existing law also directs, in relation to the procedures for



conducting jury trials, the sheriff of each county to perform certain duties. (NRS 6.090, 175.421) **Sections 6 and 10** of this bill revise the persons required to perform such duties to include the chief of police or chief marshal, as applicable.

Existing law requires proceedings in justice court to be recorded by the use of sound recording equipment under certain circumstances. (NRS 4.390) Existing law also specifies that certain courts are courts of record, including the municipal courts in any case in which a jury trial is required or if designated as courts of record. (NRS 1.020) **Section 7** of this bill authorizes a municipal court to record any proceeding before a jury by the use of sound recording equipment, if the municipal court has been designated as a court of record.

Existing law sets forth the powers and jurisdiction of municipal courts and limits such municipal courts in cities incorporated by general law to proceedings and trials that are summary and without a jury. (NRS 5.050, 266.550) **Section 8** of this bill allows municipal courts to conduct jury trials: (1) for a matter within the jurisdiction of the court; and (2) where such a trial is required pursuant to the United States Constitution, the Nevada Constitution or statute. **Section 14** of this bill allows for jury trials under such circumstances in municipal courts within cities incorporated by general law. **Section 15** of this bill similarly allows for jury trials under such circumstances in municipal courts within all incorporated cities, including those cities created pursuant to the enactment of a city charter.

Existing law authorizes a district court to assign a jury commissioner to select trial jurors. Existing law also requires a jury commissioner so assigned to select trial jurors from qualified electors of the county not exempt from jury duty, whether registered as voters or not. (NRS 6.045) **Section 9** of this bill: (1) extends the courts authorized to assign a jury commissioner to include justice courts and municipal courts, which are located in a city whose population is 220,000 or more; and (2) allows a court to contract with another court for the services provided by a jury commissioner. **Section 16** of this bill makes a conforming change related to the selection of jurors in a city.

Existing law sets forth certain fees for attendance and travel allowances for jurors summoned or serving on a jury in a district court or justice court. (NRS 6.150) **Section 11** of this bill extends such fees and allowances for jurors summoned to or serving on a jury in a municipal court.

Existing law provides that in a county whose population is 700,000 or more (currently Clark County), a justice of the peace must summon a sufficient number of jurors to form a jury from the qualified electors of the county. In all other counties, a justice of the peace may summon jurors from the city, precinct or township. (NRS 67.010) **Section 11.7** of this bill provides that in all counties, jurors must be summoned from the qualified electors of the county. **Section 11.3** of this bill makes a conforming change to reflect the change made in **section 11.7**.

If a person is charged with committing a battery which constitutes domestic violence, existing law prohibits a prosecuting attorney from dismissing the 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 the charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.485) **Section 12** removes the prohibition, thereby authorizing a prosecuting attorney to dismiss a charge of battery which constitutes domestic violence under such circumstances.

Existing law prohibits certain persons from owning or having in their possession or under their custody or control any firearm, including a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). A person who violates such a provision is guilty of a category B felony. (NRS 202.360) **Section 13** of this bill revises the list of persons so prohibited to include a person who has been convicted of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or the same or substantially similar conduct in another jurisdiction,



116 committed against or upon certain persons, instead of a person who has been
117 convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §
118 921(a)(33).

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

1 **Section 1.** NRS 173.115 is hereby amended to read as follows:

2 173.115 1. Two or more offenses may be charged in the same
3 indictment or information in a separate count for each offense if the
4 offenses charged, whether felonies or gross misdemeanors or both,
5 are:

6 (a) Based on the same act or transaction; or

7 (b) Based on two or more acts or transactions connected
8 together or constituting parts of a common scheme or plan.

9 2. Except as otherwise provided in subsection 3 ~~(a)~~:

10 (a) A misdemeanor which was committed within the boundaries
11 of a city and which would otherwise be within the jurisdiction of the
12 municipal court must be charged in the same criminal complaint as a
13 felony or gross misdemeanor or both if the misdemeanor is based on
14 the same act or transaction as the felony or gross misdemeanor. A
15 charge of a misdemeanor which meets the requirements of this
16 subsection and which is erroneously included in a criminal
17 complaint that is filed in the municipal court shall be deemed to be
18 void ab initio and must be stricken.

19 (b) *A battery which constitutes domestic violence that is*
20 *punishable as a misdemeanor pursuant to NRS 200.485 must be*
21 *charged in the same indictment or information in district court as*
22 *a felony or gross misdemeanor or both if the battery is based on*
23 *the same act or transaction as the felony or gross misdemeanor.*

24 3. The provisions of subsection 2 do not apply:

25 (a) To a misdemeanor based solely upon an alleged violation of
26 a municipal ordinance.

27 (b) If an indictment is brought or an information is filed in the
28 district court for a felony or gross misdemeanor or both after the
29 convening of a grand jury.

30 **Sec. 2.** NRS 175.011 is hereby amended to read as follows:

31 175.011 1. ~~In a district court, cases~~ **Cases** required to be
32 tried by jury must be so tried unless the defendant waives a jury trial
33 in writing with the approval of the court and the consent of the
34 ~~State~~ **prosecuting attorney**. A defendant who pleads not guilty to
35 the charge of a capital offense must be tried by jury.

36 2. ~~In~~ **Except as otherwise provided in subsection 1,** in a
37 justice court, a case must be tried by jury only if the defendant so
38 demands in writing not less than 30 days before trial. Except as



otherwise provided in NRS 4.390 and 4.400, if a case is tried by jury, a reporter must be present who is a certified court reporter and shall report the trial.

Sec. 3. NRS 175.021 is hereby amended to read as follows:

175.021 1. Trial juries for criminal actions are formed in the same manner as trial juries in civil actions.

2. ~~{Except as provided in subsection 3, juries}~~ **Juries** must consist of 12 jurors, but at any time before ~~{verdict,}~~ **jury selection**, the parties may stipulate in writing with the approval of the court that the jury consist of any number less than 12 but not less than six.

~~{3. Juries must consist of six jurors for the trial of a criminal action in a Justice Court.}~~

Sec. 4. NRS 175.051 is hereby amended to read as follows:

175.051 1. If the offense charged is punishable by death or by imprisonment for life, each side is entitled to eight peremptory challenges.

2. If the offense charged is punishable by imprisonment for any other term or by fine or by both fine and imprisonment, each side is entitled to four peremptory challenges.

3. The ~~{State}~~ **prosecuting attorney** and the defendant shall exercise their challenges alternately, in that order. Any challenge not exercised in its proper order is waived.

Sec. 5. NRS 175.141 is hereby amended to read as follows:

175.141 The jury having been impaneled and sworn, the trial shall proceed in the following order:

1. If the indictment or information be for a felony, the clerk must read it and state the plea of the defendant to the jury. In all other cases this formality may be dispensed with.

2. The ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open the cause. The defendant or the defendant's counsel may then either make the defendant's opening statement or reserve it to be made immediately prior to the presentation of evidence in the defendant's behalf.

3. The ~~{State}~~ **prosecuting attorney** must then offer its evidence in support of the charge, and the defendant may then offer evidence in his or her defense.

4. The parties may then respectively offer rebutting testimony only, unless the court, for good reasons, in furtherance of justice, permits them to offer evidence upon their original cause.

5. When the evidence is concluded, unless the case is submitted to the jury on either side, or on both sides, without argument, the ~~{district attorney, or other counsel for the State,}~~ **prosecuting attorney** must open and must conclude the argument.



Sec. 6. NRS 175.421 is hereby amended to read as follows:

175.421 A room ~~shall~~ **must** be provided by the sheriff of each county, **chief of police of each city or chief marshal, as applicable,** for the use of the jury upon their retirement for deliberation, with suitable furniture, fuel, lights and stationery, unless such necessities have been already furnished by the county ~~H~~ **or city**. The court may order the sheriff, **chief of police or chief marshal** to do so, and the expenses incurred by the sheriff, **chief of police or chief marshal** in carrying the order into effect, when certified by the court, ~~shall be~~ **are** a county **or city** charge.

Sec. 7. Chapter 5 of NRS is hereby amended by adding thereto a new section to read as follows:

If a municipal court has been designated as a court of record pursuant to NRS 5.010, any proceeding before a jury in the municipal court may be recorded by using sound recording equipment.

Sec. 8. NRS 5.050 is hereby amended to read as follows:

5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. Except as otherwise provided in subsection 2 of NRS 173.115, the municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or, if the municipal court has not established a program pursuant to NRS 176A.280, to a program established pursuant to that section.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed \$2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed \$2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed \$2,500.



(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed \$2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed \$2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

5. The municipal courts may hold a jury trial for any matter:

(a) Within the jurisdiction of the municipal court; and

(b) Required by the United States Constitution, the Nevada Constitution or statute.

Sec. 9. NRS 6.045 is hereby amended to read as follows:

6.045 1. ~~{The district}~~ A court may by rule of court designate the clerk of the court, one of the clerk's deputies or another person as a jury commissioner and may assign to the jury commissioner such administrative duties in connection with trial juries and jurors as the court finds desirable for efficient administration.

2. If a jury commissioner is so selected, the jury commissioner shall from time to time estimate the number of trial jurors which will be required for attendance on the ~~{district}~~ **designated** court and shall select that number from the qualified electors of ~~{the}~~ :

(a) The county ; or

(b) The city whose population is 220,000 or more, for a municipal court,

↪ not exempt by law from jury duty, whether registered as voters or not. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists are established by the jury commissioner.

3. The jury commissioner shall, for the purpose of selecting trial jurors, compile and maintain a list of qualified electors from information provided by:

(a) A list of persons who are registered to vote in the county;

(b) The Department of Motor Vehicles pursuant to NRS 482.171 and 483.225;

(c) The Employment Security Division of the Department of Employment, Training and Rehabilitation pursuant to NRS 612.265; and

(d) A public utility pursuant to NRS 704.206.



4. In compiling and maintaining the list of qualified electors, the jury commissioner shall avoid duplication of names.

5. The jury commissioner shall:

(a) Keep a record of the name, occupation, address and race of each trial juror selected pursuant to subsection 2;

(b) Keep a record of the name, occupation, address and race of each trial juror who appears for jury service; and

(c) Prepare and submit a report to the Court Administrator which must:

(1) Include statistics from the records required to be maintained by the jury commissioner pursuant to this subsection, including, without limitation, the name, occupation, address and race of each trial juror who is selected and of each trial juror who appears for jury service;

(2) Be submitted at least once a year; and

(3) Be submitted in the time and manner prescribed by the Court Administrator.

6. The jury commissioner shall not select the name of any person whose name was selected the previous year, and who actually served on the jury by attending in court in response to the venire from day to day until excused from further attendance by order of the court, unless there are not enough other suitable jurors in the county *or city* to do the required jury duty.

7. A court may contract with another court for the purpose of procuring any administrative duties performed by a jury commissioner pursuant to this chapter.

Sec. 10. NRS 6.090 is hereby amended to read as follows:

6.090 1. Whenever trial jurors are selected by a jury commissioner, the ~~district~~ judge may direct the jury commissioner to summon and assign to that court the number of qualified jurors the jury commissioner determines to be necessary for the formation of the petit jury. The jurors may be selected by computer whenever procedures to assure random selection from computerized lists have been established by the jury commissioner.

2. Every person named in the venire must be served by the sheriff, *chief of police or chief marshal, as applicable*, personally or by the sheriff ~~for the~~, *chief of police, chief marshal or* jury commissioner by mailing a summons to the person, commanding the person to attend as a juror at a time and place designated therein. Mileage is allowed only for personal service. The postage must be paid by the sheriff ~~for the~~, *chief of police, chief marshal or* jury commissioner, as the case may be, and allowed him or her as other claims against the county ~~H~~ *or city*. The sheriff, *chief of police or chief marshal* shall make return of the venire at least the day before



1 the day named for their appearance, after which the venire is subject
2 to inspection by any officer or attorney of the court.

3 **Sec. 11.** NRS 6.150 is hereby amended to read as follows:

4 6.150 1. Each person summoned to attend as a grand juror or
5 a trial juror in the district court or justice court , *or a trial juror in*
6 *the municipal court*, is entitled to a fee of \$40 for each day after the
7 second day of jury selection that the person is in attendance in
8 response to the venire or summons, including Sundays and holidays.

9 2. Each grand juror and trial juror in the district court or justice
10 court , *or trial juror in the municipal court*, actually sworn and
11 serving is entitled to a fee of \$40 a day as compensation for each
12 day of service.

13 3. In addition to the fees specified in subsections 1 and 2, a
14 board of county commissioners *or governing body of a city* may
15 provide that, for each day of such attendance or service, each person
16 is entitled to be paid the per diem allowance and travel expenses
17 provided for state officers and employees generally.

18 4. Each person summoned to attend as a grand juror or a trial
19 juror in the district court or justice court , *or a trial juror in the*
20 *municipal court*, and each grand juror and trial juror in the district
21 court or justice court , *or trial juror in the municipal court*, is
22 entitled to receive 36.5 cents a mile for each mile necessarily and
23 actually traveled if the home of the person summoned or serving as
24 a juror is 30 miles or more from the place of trial.

25 5. If the home of a person summoned or serving as such a juror
26 is 65 miles or more from the place of trial and the selection, inquiry
27 or trial lasts more than 1 day, the person is entitled to receive an
28 allowance for lodging at the rate established for state employees, in
29 addition to his or her daily compensation for attendance or service,
30 for each day on which the person does not return to his or her home.

31 6. In civil cases, any fee, per diem allowance, travel expense or
32 other compensation due each juror engaged in the trial of the cause
33 must be paid each day in advance to the clerk of the court, or the
34 justice of the peace, by the party who has demanded the jury. If the
35 party paying this money is the prevailing party, the money is
36 recoverable as costs from the losing party. If the jury from any cause
37 is discharged in a civil action without finding a verdict and the party
38 who demands the jury subsequently obtains judgment, the money so
39 paid is recoverable as costs from the losing party.

40 7. The money paid by the clerk of the court to jurors for their
41 services in a civil action or proceeding, which the clerk of the court
42 has received from the party demanding the jury, must be deducted
43 from the total amount due them for attendance as such jurors, and
44 any balance is a charge against the county.



Sec. 11.3. NRS 66.020 is hereby amended to read as follows:

66.020 1. The court may, at any time before the trial, on motion, change the place of trial in the following cases:

(a) When it appears to the satisfaction of the justice before whom the action is pending, by affidavit of either party, that the justice is a material witness for either party.

(b) When either party makes and files an affidavit that the party believes that he or she cannot have a fair and impartial trial before the justice by reason of the interest, prejudice or bias of the justice.

(c) When a jury has been demanded, and either party makes and files an affidavit that he or she cannot have a fair and impartial trial on account of the bias or prejudice against him or her of the citizens of ~~the~~

~~—— (1) The city, precinct or township, if the jurors are to be summoned pursuant to subsection 1 of NRS 67.010; or~~

~~—— (2) The ~~the~~ county . ~~the~~, if the jurors are to be summoned pursuant to subsection 2 of NRS 67.010.]~~

(d) When from any cause the justice is disqualified from acting.

(e) When the justice is sick or unable to act.

2. In lieu of changing the place of trial, the justice before whom the action is pending may for any of the cases mentioned in subsection 1 call another justice of the county to conduct the trial.

Sec. 11.7. NRS 67.010 is hereby amended to read as follows:

67.010 1. The jury must be summoned upon an order of the justice from ~~the, except as otherwise provided in subsection 2,~~ the qualified electors ~~of the city, precinct or township,~~ ~~of the county,~~ whether or not registered as voters, ~~and not from the bystanders.~~

2. ~~[In a county whose population is 700,000 or more, the] The~~ justice may summon to the court ~~[, from the qualified electors of the county, whether or not registered as voters, and not from the bystanders,]~~ the number of qualified jurors which the justice determines is necessary for the formation of a jury.

Sec. 12. NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

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

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

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



1 ➡ The person shall be further punished by a fine of not less than
2 \$200, but not more than \$1,000. A term of imprisonment imposed
3 pursuant to this paragraph may be served intermittently at the
4 discretion of the judge or justice of the peace, except that each
5 period of confinement must be not less than 12 consecutive hours
6 and must occur at a time when the person is not required to be at his
7 or her place of employment or on a weekend.

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

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

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

14 ➡ The person shall be further punished by a fine of not less than
15 \$500, but not more than \$1,000. A term of imprisonment imposed
16 pursuant to this paragraph may be served intermittently at the
17 discretion of the judge or justice of the peace, except that each
18 period of confinement must not be less than 12 consecutive hours
19 and must occur at a time when the person is not required to be at his
20 or her place of employment or on a weekend.

21 (c) For the third offense within 7 years, is guilty of a category B
22 felony and shall be punished by imprisonment in the state prison for
23 a minimum term of not less than 1 year and a maximum term of not
24 more than 6 years, and may be further punished by a fine of not less
25 than \$1,000, but not more than \$5,000.

26 2. Unless a greater penalty is provided pursuant to subsection 3
27 or NRS 200.481, a person convicted of a battery which constitutes
28 domestic violence pursuant to NRS 33.018, if the battery is
29 committed by strangulation as described in NRS 200.481, is guilty
30 of a category C felony and shall be punished as provided in
31 NRS 193.130.

32 3. Unless a greater penalty is provided pursuant to NRS
33 200.481, a person who has been previously convicted of:

34 (a) A felony that constitutes domestic violence pursuant to
35 NRS 33.018;

36 (b) A battery which constitutes domestic violence pursuant to
37 NRS 33.018, if the battery is committed with the use of a deadly
38 weapon as described in NRS 200.481; or

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

41 ➡ and who commits a battery which constitutes domestic violence
42 pursuant to NRS 33.018 is guilty of a category B felony and shall be
43 punished by imprisonment in the state prison for a minimum term of
44 not less than 2 years and a maximum term of not more than



1 15 years, and shall be further punished by a fine of not less than
2 \$2,000, but not more than \$5,000.

3 4. Unless a greater penalty is provided pursuant to NRS
4 200.481, a person convicted of a battery which constitutes domestic
5 violence pursuant to NRS 33.018, if the battery is committed against
6 a victim who was pregnant at the time of the battery and the person
7 knew or should have known that the victim was pregnant:

8 (a) For the first offense, is guilty of a gross misdemeanor.

9 (b) For the second or any subsequent offense, is guilty of a
10 category B felony and shall be punished by imprisonment in the
11 state prison of a minimum term of not less than 1 year and a
12 maximum term of not more than 6 years, and may be further
13 punished by a fine of not less than \$1,000, but not more than
14 \$5,000.

15 5. Unless a greater penalty is provided pursuant to NRS
16 200.481, a person convicted of a battery which constitutes domestic
17 violence pursuant to NRS 33.018, if the battery causes substantial
18 bodily harm, is guilty of a category B felony and shall be punished
19 by imprisonment in the state prison of a minimum term of not less
20 than 1 year and a maximum term of not more than 6 years, and may
21 be further punished by a fine of not less than \$1,000, but not more
22 than \$5,000.

23 6. In addition to any other penalty, if a person is convicted of a
24 battery which constitutes domestic violence pursuant to NRS
25 33.018, the court shall:

26 (a) For the first offense within 7 years, require the person to
27 participate in weekly counseling sessions of not less than 1 1/2
28 hours per week for not less than 6 months, at his or her expense, in a
29 program for the treatment of persons who commit domestic violence
30 that has been certified pursuant to NRS 439.258.

31 (b) For the second offense within 7 years, require the person to
32 participate in weekly counseling sessions of not less than 1 1/2
33 hours per week for not less than 12 months, at his or her expense, in
34 a program for the treatment of persons who commit domestic
35 violence that has been certified pursuant to NRS 439.258.

36 ➤ If the person resides in this State but the nearest location at which
37 counseling services are available is in another state, the court may
38 allow the person to participate in counseling in the other state in a
39 program for the treatment of persons who commit domestic violence
40 that has been certified pursuant to NRS 439.258.

41 7. Except as otherwise provided in this subsection, an offense
42 that occurred within 7 years immediately preceding the date of the
43 principal offense or after the principal offense constitutes a prior
44 offense for the purposes of this section:

45 (a) When evidenced by a conviction; or



(b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

↳ without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a), (b) or (c) of subsection 3 that occurred on any date 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.

8. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for an alcohol or other substance use disorder that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

9. 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 the convicted person's ability to pay.

10. 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 the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a~~ *that is punishable as a misdemeanor and may prohibit the person from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360, the person is entitled to a trial by jury pursuant to subsection 1 of NRS 175.011, regardless of whether the person was previously prohibited from owning, possessing or having under his or her control or custody any firearm pursuant to NRS 202.360.*

11. A court :



(a) Except as otherwise provided in paragraph (b), shall not grant probation to or suspend the sentence of ~~such~~ a person ~~—A court may~~ described in subsection 10.

(b) May grant probation to or suspend the sentence of ~~such~~ a person ~~—~~

~~(a)~~ described in subsection 10:

(1) As set forth in NRS 4.373 and 5.055; or

~~(b)~~ (2) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

~~(11)~~ 12. In every judgment of conviction or admonishment of rights issued pursuant to this section, the court shall:

(a) Inform the person convicted that he or she is prohibited from owning, possessing or having under his or her custody or control any firearm pursuant to NRS 202.360; and

(b) Order the person convicted to permanently surrender, sell or transfer any firearm that he or she owns or that is in his or her possession or under his or her custody or control in the manner set forth in NRS 202.361.

~~(12)~~ 13. A person who violates any provision included in a judgment of conviction or admonishment of rights issued pursuant to this section concerning the surrender, sale, transfer, ownership, possession, custody or control of a firearm is guilty of a category B felony and 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 6 years, and may be further punished by a fine of not more than \$5,000. The court must include in the judgment of conviction or admonishment of rights a statement that a violation of such a provision in the judgment or admonishment is a category B felony and 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 6 years, and may be further punished by a fine of not more than \$5,000.

~~(13)~~ 14. 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. 13. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:



(a) Has been convicted ~~in this State or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33);~~ *of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or a law of any other jurisdiction that prohibits the same or substantially similar conduct, committed against or upon:*

- (1) The spouse or former spouse of the person;*
- (2) Any other person with whom the person has had or is having a dating relationship, as defined in NRS 33.018;*
- (3) Any other person with whom the person has a child in common;*
- (4) The parent of the person; or*
- (5) The child of the person or a child for whom the person is the legal guardian.*

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection 7 of NRS 200.575;

(d) Except as otherwise provided in NRS 33.031, is currently subject to:

(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or

(2) An equivalent order in any other state;

(e) Is a fugitive from justice;

(f) Is an unlawful user of, or addicted to, any controlled substance; or

(g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➤ A person who violates the provisions of this subsection is guilty of a category B felony and 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 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:



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(a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;

(b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;

(c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;

(d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or

(e) Is illegally or unlawfully in the United States.

➤ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 14. NRS 266.550 is hereby amended to read as follows:

266.550 1. The municipal court shall have such powers and jurisdiction in the city as are now provided by law for justice courts, wherein any person or persons are charged with the breach or violation of the provisions of any ordinance of such city or of this chapter, of a police or municipal nature. ~~[The]~~ *Except as otherwise provided in subsection 5 of NRS 5.050, the* trial and proceedings in such cases must be summary and without a jury.

2. The powers of the municipal court include the power to charge and collect those fees authorized pursuant to NRS 5.073.

Sec. 15. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

The municipal court of an incorporated city may conduct a jury trial pursuant to subsection 5 of NRS 5.050.

Sec. 16. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, 607.217 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an



1 employing unit is not entitled to information from the records of the
2 Division for any other purpose.

3 3. The Administrator may, in accordance with a cooperative
4 agreement among all participants in the statewide longitudinal data
5 system developed pursuant to NRS 400.037 and administered
6 pursuant to NRS 223.820, make the information obtained by the
7 Division available to:

8 (a) The Board of Regents of the University of Nevada for the
9 purpose of complying with the provisions of subsection 4 of NRS
10 396.531; and

11 (b) The Director of the Department of Employment, Training
12 and Rehabilitation for the purpose of complying with the provisions
13 of paragraph (d) of subsection 1 of NRS 232.920.

14 4. Subject to such restrictions as the Administrator may by
15 regulation prescribe, the information obtained by the Division may
16 be made available to:

17 (a) Any agency of this or any other state or any federal agency
18 charged with the administration or enforcement of laws relating to
19 unemployment compensation, public assistance, workers'
20 compensation or labor and industrial relations, or the maintenance
21 of a system of public employment offices;

22 (b) Any state or local agency for the enforcement of child
23 support;

24 (c) The Internal Revenue Service of the Department of the
25 Treasury;

26 (d) The Department of Taxation;

27 (e) The State Contractors' Board in the performance of its duties
28 to enforce the provisions of chapter 624 of NRS; and

29 (f) The Secretary of State to operate the state business portal
30 established pursuant to chapter 75A of NRS for the purposes of
31 verifying that data submitted via the portal has satisfied the
32 necessary requirements established by the Division, and as
33 necessary to maintain the technical integrity and functionality of the
34 state business portal established pursuant to chapter 75A of NRS.

35 ➤ Information obtained in connection with the administration of the
36 Division may be made available to persons or agencies for purposes
37 appropriate to the operation of a public employment service or a
38 public assistance program.

39 5. Upon written request made by the State Controller or a
40 public officer of a local government, the Administrator shall furnish
41 from the records of the Division the name, address and place of
42 employment of any person listed in the records of employment of
43 the Division. The request may be made electronically and must set
44 forth the social security number of the person about whom the
45 request is made and contain a statement signed by the proper



1 authority of the State Controller or local government certifying that
2 the request is made to allow the proper authority to enforce a law to
3 recover a debt or obligation assigned to the State Controller for
4 collection or owed to the local government, as applicable. Except as
5 otherwise provided in NRS 239.0115, the information obtained by
6 the State Controller or local government is confidential and may not
7 be used or disclosed for any purpose other than the collection of a
8 debt or obligation assigned to the State Controller for collection or
9 owed to that local government. The Administrator may charge a
10 reasonable fee for the cost of providing the requested information.

11 6. The Administrator may publish or otherwise provide
12 information on the names of employers, their addresses, their type
13 or class of business or industry, and the approximate number of
14 employees employed by each such employer, if the information
15 released will assist unemployed persons to obtain employment or
16 will be generally useful in developing and diversifying the economic
17 interests of this State. Upon request by a state agency which is able
18 to demonstrate that its intended use of the information will benefit
19 the residents of this State, the Administrator may, in addition to the
20 information listed in this subsection, disclose the number of
21 employees employed by each employer and the total wages paid by
22 each employer. The Administrator may charge a fee to cover the
23 actual costs of any administrative expenses relating to the disclosure
24 of this information to a state agency. The Administrator may require
25 the state agency to certify in writing that the agency will take all
26 actions necessary to maintain the confidentiality of the information
27 and prevent its unauthorized disclosure.

28 7. Upon request therefor, the Administrator shall furnish to any
29 agency of the United States charged with the administration of
30 public works or assistance through public employment, and may
31 furnish to any state agency similarly charged, the name, address,
32 ordinary occupation and employment status of each recipient of
33 benefits and the recipient's rights to further benefits pursuant to this
34 chapter.

35 8. To further a current criminal investigation, the chief
36 executive officer of any law enforcement agency of this State may
37 submit a written request to the Administrator that the Administrator
38 furnish, from the records of the Division, the name, address and
39 place of employment of any person listed in the records of
40 employment of the Division. The request must set forth the social
41 security number of the person about whom the request is made and
42 contain a statement signed by the chief executive officer certifying
43 that the request is made to further a criminal investigation currently
44 being conducted by the agency. Upon receipt of such a request, the
45 Administrator shall furnish the information requested. The



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1 Administrator may charge a fee to cover the actual costs of any
2 related administrative expenses.

3 9. In addition to the provisions of subsection 6, the
4 Administrator shall provide lists containing the names and addresses
5 of employers, and information regarding the wages paid by each
6 employer to the Department of Taxation, upon request, for use in
7 verifying returns for the taxes imposed pursuant to chapters 363A,
8 363B and 363C of NRS. The Administrator may charge a fee to
9 cover the actual costs of any related administrative expenses.

10 10. Upon the request of any ~~{district}~~ judge or jury
11 commissioner , ~~{of the judicial district in which the county is~~
12 ~~located,}~~ the Administrator shall, in accordance with other
13 agreements entered into with other ~~{district}~~ courts and in
14 compliance with 20 C.F.R. Part 603, and any other applicable
15 federal laws and regulations governing the Division, furnish the
16 name, address and date of birth of persons who receive benefits in
17 any county ~~{}~~ or city for use in the selection of trial jurors pursuant
18 to NRS 6.045. The court or jury commissioner who requests the list
19 of such persons shall reimburse the Division for the reasonable cost
20 of providing the requested information.

21 11. The Division of Industrial Relations of the Department of
22 Business and Industry shall periodically submit to the
23 Administrator, from information in the index of claims established
24 pursuant to NRS 616B.018, a list containing the name of each
25 person who received benefits pursuant to chapters 616A to 616D,
26 inclusive, or chapter 617 of NRS. Upon receipt of that information,
27 the Administrator shall compare the information so provided with
28 the records of the Employment Security Division regarding persons
29 claiming benefits pursuant to this chapter for the same period. The
30 information submitted by the Division of Industrial Relations must
31 be in a form determined by the Administrator and must contain the
32 social security number of each such person. If it appears from the
33 information submitted that a person is simultaneously claiming
34 benefits under this chapter and under chapters 616A to 616D,
35 inclusive, or chapter 617 of NRS, the Administrator shall notify the
36 Attorney General or any other appropriate law enforcement agency.

37 12. The Administrator may request the Comptroller of the
38 Currency of the United States to cause an examination of the
39 correctness of any return or report of any national banking
40 association rendered pursuant to the provisions of this chapter, and
41 may in connection with the request transmit any such report or
42 return to the Comptroller of the Currency of the United States as
43 provided in section 3305(c) of the Internal Revenue Code of 1954.

44 13. The Administrator, any employee or other person acting on
45 behalf of the Administrator, or any employee or other person acting



on behalf of an agency or entity allowed to access information obtained from any employing unit or person in the administration of this chapter, or any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter, is guilty of a gross misdemeanor if he or she:

(a) Uses or permits the use of the list for any political purpose;

(b) Uses or permits the use of the list for any purpose other than one authorized by the Administrator or by law; or

(c) Fails to protect and prevent the unauthorized use or dissemination of information derived from the list.

14. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 17. The amendatory provisions of this act apply to any offense:

1. Committed on or after January 1, 2022; or

2. Committed before January 1, 2022, if the underlying judicial proceedings are pending or otherwise unresolved on January 1, 2022.

Sec. 18. This act becomes effective on January 1, 2022.

