

ASSEMBLY BILL NO. 51—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to public safety.
(BDR 14-426)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public safety; revising the period for the mandatory arrest of a person suspected of committing certain crimes against certain persons; revising the list of acts that constitute domestic violence when committed against certain persons; authorizing a court to include in certain orders for protection a provision authorizing the recording of certain communications; revising the penalties for the commission of certain crimes in violation of certain orders for protection; prohibiting a court from granting probation to or suspending the sentence of a person charged with committing a battery which constitutes domestic violence under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 With certain exceptions, existing law requires a peace officer to arrest a person
2 when the peace officer has probable cause to believe that the person to be arrested
3 has, within the preceding 24 hours, committed a battery which constitutes domestic
4 violence. (NRS 171.137) Existing law also requires a peace officer investigating an
5 act of domestic violence to provide a person suspected of being the victim of an act
6 of domestic violence with a written statement setting forth the circumstances under
7 which the peace officer is required to arrest the person suspected of committing the
8 act of domestic violence. (NRS 171.1225) **Section 2** of this bill extends the period
9 during which a peace officer is required to arrest a person suspected of committing
10 a battery which constitutes domestic violence from within 24 hours after the alleged
11 battery to within 14 days after the alleged battery. **Section 1** of this bill makes a



conforming change to the written statement a peace officer must provide to a suspected victim of domestic violence.

Existing law authorizes a peace officer, whether or not a warrant has been issued, to arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding 24 hours, committed a battery upon a person with whom he or she is actually residing or upon a sibling or cousin, if the person is not the custodian or guardian of the sibling or cousin. (NRS 171.1375) **Section 3** of this bill extends that period for such a discretionary arrest from within 24 hours after the alleged battery to within 14 days after the alleged battery.

Existing law sets forth a list of certain unlawful acts that constitute domestic violence when committed against or upon certain persons. (NRS 33.018) **Section 5** of this bill expands the list of acts that constitute domestic violence to include an attempt to commit any of those acts. **Sections 4, 9-13, 19 and 20** of this bill make a conforming change to include in the definition of domestic violence an attempt to commit any of those acts.

Existing law authorizes a court to issue a temporary or extended order for protection against domestic violence if it appears to the satisfaction of the court that an act of domestic violence has occurred or there exists a threat of domestic violence. (NRS 33.020, 33.030) Existing law also makes it unlawful, with certain exceptions, for a person to record his or her own telephone call without the consent of the other person on the call. (NRS 200.620; *Lane v. Allstate Ins. Co.*, 114 Nev. 1176 (1998), cited, *McLellan v. State*, 124 Nev. 263 (2008)) **Section 6** of this bill provides that a court issuing a temporary or extended order for protection against domestic violence may, after considering certain factors, include a provision in the order authorizing the person who applied for the order to record any communication with the adverse party for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. **Sections 7, 8, 15 and 17** of this bill provide that a court may make a similar authorization regarding the recording of communications for a person who applies for a temporary or extended order: (1) for protection against harassment in the workplace; (2) for the protection of a child; (3) to restrict the conduct of a person who may have committed sexual assault; or (4) to restrict the conduct of a person who may have committed the crime of stalking, aggravated stalking or harassment. **Section 18** of this bill makes a conforming change to provide an exception to the general prohibition on intercepting or attempting to intercept a wire communication if such an interception has been authorized by a court in its order pursuant to **section 6-8, 15 or 17**.

Existing law provides that a person who commits a crime that is punishable as a felony in violation of certain orders for protection must, in addition to the term of imprisonment for the underlying crime, be punished by imprisonment for a minimum term of not less than 1 year and a maximum term of not more than 20 years. However, if the underlying crime is punishable as a category A or B felony, the person must be additionally punished by imprisonment for a minimum term of not less than 1 year and a maximum term of not more than 5 years. (NRS 193.166) **Section 14** of this bill provides instead that if the underlying crime is punishable as a category A or B felony, the additional period of imprisonment must be for a maximum term of not more than 20 years, but if the underlying crime is not punishable as a category A or B felony, the additional period of imprisonment must be for a maximum term of not more than 5 years.

Existing law provides that a court may not grant probation to or suspend the sentence of a person who is charged with committing a battery which constitutes domestic violence that is punishable as a misdemeanor, except that: (1) a justice court or municipal court may suspend the sentence of such a person under certain circumstances; and (2) a court may suspend the sentence of such a person to assign the person to a program for the treatment of veterans and members of the military.



Existing law does not expressly prohibit a court from granting probation to or suspending the sentence of a person who is charged with committing a battery which constitutes domestic violence that is punishable as a gross misdemeanor or felony. (NRS 200.485) **Section 16** of this bill maintains such existing law with respect to a person who is charged with committing a battery which constitutes domestic violence that is punishable as a misdemeanor, but prohibits the granting of probation to or suspension of sentence of a person who is charged with committing a battery which constitutes domestic violence that is punishable as a gross misdemeanor or felony.

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

Section 1. NRS 171.1225 is hereby amended to read as follows:

171.1225 1. When investigating an act of domestic violence, a peace officer shall:

(a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.

(b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:

(1) My name is Officer (naming the investigating officer). Nevada law requires me to inform you of the following information.

(2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last ~~24 hours~~ **14 days** by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the battery.

(3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.

(4) The law provides that you may seek a court order for the protection of you, your minor children or any animal that is owned or kept by you, by the person who committed or threatened the act of domestic violence or by the minor child of either such person



1 against further threats or acts of domestic violence. You do not need
2 to hire a lawyer to obtain such an order for protection.

3 (5) An order for protection may require the person who
4 committed or threatened the act of domestic violence against you to:

5 (I) Stop threatening, harassing or injuring you or your
6 children;

7 (II) Move out of your residence;

8 (III) Stay away from your place of employment;

9 (IV) Stay away from the school attended by your
10 children;

11 (V) Stay away from any place you or your children
12 regularly go;

13 (VI) Avoid or limit all communication with you or your
14 children;

15 (VII) Stop physically injuring, threatening to injure or
16 taking possession of any animal that is owned or kept by you or
17 your children, either directly or through an agent; and

18 (VIII) Stop physically injuring or threatening to injure
19 any animal that is owned or kept by the person who committed or
20 threatened the act or his or her children, either directly or through an
21 agent.

22 (6) A court may make future orders for protection which
23 award you custody of your children and require the person who
24 committed or threatened the act of domestic violence against you to:

25 (I) Pay the rent or mortgage due on the place in which
26 you live;

27 (II) Pay the amount of money necessary for the support of
28 your children;

29 (III) Pay part or all of the costs incurred by you in
30 obtaining the order for protection; and

31 (IV) Comply with the arrangements specified for the
32 possession and care of any animal owned or kept by you or your
33 children or by the person who committed or threatened the act or his
34 or her children.

35 (7) To get an order for protection, go to room number
36 (state the room number of the office at the court) at the court, which
37 is located at (state the address of the court). Ask the
38 clerk of the court to provide you with the forms for an order of
39 protection.

40 (8) If the person who committed or threatened the act of
41 domestic violence against you violates the terms of an order for
42 protection, the person may be arrested and, if:

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



(II) The person has previously violated a temporary or extended order for protection; or

(III) At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in the person's blood or breath or an amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110,

➔ the person will not be admitted to bail sooner than 12 hours after arrest.

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at (state toll-free telephone number of Statewide Program).

2. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or the officer's employer.

3. As used in this section:

(a) "Act of domestic violence" means any of the following acts committed by a person against his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons or his or her minor child:

(1) A battery.

(2) An assault.

(3) Compelling the other by force or threat of force to perform an act from which he or she has the right to refrain or to refrain from an act which he or she has the right to perform.

(4) A sexual assault.

(5) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(I) Stalking.

(II) Arson.

(III) Trespassing.

(IV) Larceny.

(V) Destruction of private property.

(VI) Carrying a concealed weapon without a permit.

(VII) Injuring or killing an animal.

(6) False imprisonment.



(7) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 2. NRS 171.137 is hereby amended to read as follows:

171.137 1. Except as otherwise provided in subsection 2, whether or not a warrant has been issued, a peace officer shall, unless mitigating circumstances exist, arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding ~~[24 hours,]~~ 14 days, committed a battery upon his or her spouse, former spouse, any other person to whom he or she is related by blood or marriage, a person with whom he or she has had or is having a dating relationship, a person with whom he or she has a child in common, the minor child of any of those persons, his or her minor child or a person who is the custodian or guardian of his or her minor child.

2. If the peace officer has probable cause to believe that a battery described in subsection 1 was a mutual battery, the peace officer shall attempt to determine which person was the primary physical aggressor. If the peace officer determines that one of the persons who allegedly committed a battery was the primary physical aggressor involved in the incident, the peace officer is not required to arrest any other person believed to have committed a battery during the incident. In determining whether a person is a primary physical aggressor for the purposes of this subsection, the peace officer shall consider:

(a) Prior domestic violence involving either person;

(b) The relative severity of the injuries inflicted upon the persons involved;

(c) The potential for future injury;

(d) Whether one of the alleged batteries was committed in self-defense; and

(e) Any other factor that may help the peace officer decide which person was the primary physical aggressor.

3. A peace officer shall not base a decision regarding whether to arrest a person pursuant to this section on the peace officer's perception of the willingness of a victim or a witness to the incident to testify or otherwise participate in related judicial proceedings.

4. Nothing in this section shall be construed to impose liability upon a peace officer or his or her employer for a determination made in good faith by the peace officer not to arrest a person pursuant to this section.



5. The provisions of this section do not apply to:

(a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or

(b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

6. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 3. NRS 171.1375 is hereby amended to read as follows:

171.1375 1. Whether or not a warrant has been issued, a peace officer may arrest a person when the peace officer has probable cause to believe that the person to be arrested has, within the preceding ~~{24 hours,}~~ **14 days**, committed a battery upon:

(a) A person with whom he or she is actually residing;

(b) A sibling, if the person is not the custodian or guardian of the sibling; or

(c) A cousin, if the person is not the custodian or guardian of the cousin.

2. Nothing in this section shall be construed to impose liability upon a peace officer or his or her employer for a determination made in good faith by the peace officer not to arrest a person pursuant to this section.

Sec. 4. NRS 178.494 is hereby amended to read as follows:

178.494 1. If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the person's presence by subpoena, the magistrate may require bail for the person's appearance as a witness, in an amount fixed by the magistrate. If the person fails to give bail the magistrate may:

(a) Commit the person to the custody of a peace officer pending final disposition of the proceeding in which the testimony is needed;

(b) Order the person's release if the person has been detained for an unreasonable length of time; and

(c) Modify at any time the requirement as to bail.

2. Except as otherwise provided in subsection 3, every person detained as a material witness must be brought before a judge or magistrate as soon as practicable, but not later than 72 hours after the beginning of the detention. The judge or magistrate shall consider the least restrictive means to secure the person's presence and make a determination whether:

(a) The amount of bail required to be given by the material witness should be modified; and



(b) The detention of the material witness should continue. If the court determines that detention of the material witness should continue, the court must make written findings stating why detention should continue.

3. A person detained as a material witness pursuant to this section who is a victim of domestic violence or sexual assault:

(a) Must be brought before a judge or magistrate, as soon as practicable, but not later than 24 hours after the beginning of the detention;

(b) May be detained or continue detention pursuant to a determination by telephone; and

(c) Must have an attorney appointed by the judge or magistrate, who, to the extent practicable, shall participate in any determination regarding detention pursuant to this section.

4. The judge or magistrate shall:

(a) Set a schedule for the periodic review of whether the amount of bail required should be modified and whether detention should continue; and

(b) Schedule the case in which the material witness will testify to take place as soon as possible if substantial rights of the defendant are not prejudiced.

5. As used in this section:

(a) "Domestic violence" means the commission of **or the attempt to commit** any act described in NRS 33.018.

(b) "Sexual assault" has the meaning ascribed to it in NRS 49.2543.

Sec. 5. NRS 33.018 is hereby amended to read as follows:

33.018 1. Domestic violence occurs when a person commits **or attempts to commit** one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

(a) A battery.

(b) An assault.

(c) Coercion pursuant to NRS 207.190.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.



- 1 (3) Trespassing.
- 2 (4) Larceny.
- 3 (5) Destruction of private property.
- 4 (6) Carrying a concealed weapon without a permit.
- 5 (7) Injuring or killing an animal.
- 6 (8) Burglary.
- 7 (9) An invasion of the home.

8 (f) A false imprisonment.

9 (g) Pandering.

10 2. The provisions of this section do not apply to:

11 (a) Siblings, except those siblings who are in a custodial or
12 guardianship relationship with each other; or

13 (b) Cousins, except those cousins who are in a custodial or
14 guardianship relationship with each other.

15 3. As used in this section, "dating relationship" means
16 frequent, intimate associations primarily characterized by the
17 expectation of affectional or sexual involvement. The term does not
18 include a casual relationship or an ordinary association between
19 persons in a business or social context.

20 **Sec. 6.** NRS 33.030 is hereby amended to read as follows:

21 33.030 1. The court by a temporary order may:

22 (a) Enjoin the adverse party from threatening, physically
23 injuring or harassing the applicant or minor child, either directly or
24 through an agent;

25 (b) Exclude the adverse party from the applicant's place of
26 residence;

27 (c) Prohibit the adverse party from entering the residence,
28 school or place of employment of the applicant or minor child and
29 order the adverse party to stay away from any specified place
30 frequented regularly by them;

31 (d) If it has jurisdiction under chapter 125A of NRS, grant
32 temporary custody of the minor child to the applicant;

33 (e) Enjoin the adverse party from physically injuring,
34 threatening to injure or taking possession of any animal that is
35 owned or kept by the applicant or minor child, either directly or
36 through an agent;

37 (f) Enjoin the adverse party from physically injuring or
38 threatening to injure any animal that is owned or kept by the adverse
39 party, either directly or through an agent; and

40 (g) Order such other relief as it deems necessary in an
41 emergency situation.

42 2. The court by an extended order may grant any relief
43 enumerated in subsection 1 and:



(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary;

(b) Specify arrangements for the possession and care of any animal owned or kept by the adverse party, applicant or minor child; and

(c) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence;

(3) Pay for the support of the applicant or minor child, including, without limitation, support of a minor child for whom a guardian has been appointed pursuant to chapter 159A of NRS or a minor child who has been placed in protective custody pursuant to chapter 432B of NRS, if the adverse party is found to have a duty to support the applicant or minor child;

(4) Pay all costs and fees incurred by the applicant in bringing the action; and

(5) Pay monetary compensation to the applicant for lost earnings and expenses incurred as a result of the applicant attending any hearing concerning an application for an extended order.

3. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that:

(a) Responding to a communication initiated by the applicant may constitute a violation of the protective order; and

(b) A person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:

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

(2) The person has previously violated a temporary or extended order for protection; or

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

(I) A concentration of alcohol of 0.08 or more in the person's blood or breath; or



(II) An amount of a prohibited substance in the person's blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110.

6. The court may include a provision in a temporary or extended order authorizing the applicant to record any communication with the adverse party for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. In determining whether to include such a provision in the temporary or extended order, the court shall consider:

(a) Whether the adverse party and the applicant have a child in common;

(b) Whether the adverse party has a history of engaging in harassment or violent or threatening behavior; and

(c) Any other relevant factors.

Sec. 7. NRS 33.280 is hereby amended to read as follows:

33.280 1. A temporary or extended order for protection against harassment in the workplace may:

(a) Enjoin the person who allegedly committed the harassment from contacting the employer, an employee of the employer while the employee is performing the employee's duties of employment and any person while the person is present at the workplace of the employer;

(b) Order the person who allegedly committed the harassment to stay away from the workplace of the employer; and

(c) Order such other relief as the court deems necessary to protect the employer, the workplace of the employer, the employees of the employer while performing their duties of employment and any other persons who are present at the workplace.

2. A court may not issue a temporary or extended order for protection against harassment in the workplace that is against more than one person.

3. A temporary or extended order for protection against harassment in the workplace must:

(a) Specify, as applicable, the county and city, if any, in which the workplace of the employer is located and in which the employees of the employer perform their duties of employment;

(b) Include a provision ordering any law enforcement officer to arrest the person who allegedly committed the harassment, with or without a warrant, if the officer has probable cause to believe that the person has been served with a copy of the order and has violated a provision of the order;

(c) State the reasons for granting the order; and

(d) Include the following statement:

WARNING



This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of violating an order for protection against harassment in the workplace and any other crime that you may have committed in disobeying this order.

4. In addition to the requirements of subsection 3, if the court granted a temporary order for protection against harassment in the workplace without notice, the order must:

(a) Include a statement that the person who allegedly committed the harassment is entitled to a hearing on the order pursuant to NRS 33.270;

(b) Include the name and address of the court in which the petition for a hearing may be filed;

(c) Contain the date and hour of issuance;

(d) Be immediately filed with the clerk of the court;

(e) Define the irreparable injury, loss or damage resulting from the harassment and state why it is irreparable; and

(f) Set forth the reasons for granting the order without notice.

5. The court may include a provision in a temporary or extended order for protection against harassment in the workplace authorizing the employer, an employee of the employer while the employee is performing the employee's duties of employment or any person present at the workplace of the employer to record any communication with the person who allegedly committed the harassment for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. In determining whether to include such a provision in a temporary or extended order for protection against harassment in the workplace, the court shall consider:

(a) Whether the person who allegedly committed the harassment and the employer, the employee of the employer or the person present at the workplace of the employer have a child in common;

(b) Whether the person who allegedly committed the harassment has a history of engaging in harassment or violent or threatening behavior; and

(c) Any other relevant factors.

Sec. 8. NRS 33.400 is hereby amended to read as follows:

33.400 1. In addition to any other remedy provided by law, the parent or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order against a person who is 18 years of age or older and who the parent or guardian reasonably believes has committed or is committing a crime involving:



(a) Physical or mental injury to the child of a nonaccidental nature; or

(b) Sexual abuse or sexual exploitation of the child.

2. If such an order on behalf of a child is granted, the court may direct the person who allegedly committed or is committing the crime to:

(a) Stay away from the home, school, business or place of employment of the child and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty or guilty but mentally ill during the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the child against whom the alleged crime was committed and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

4. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

5. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.



6. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.
(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. Any court order issued pursuant to this section must:

(a) Be in writing;
(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

8. The court may include a provision in a temporary or extended order authorizing a child or the parent or guardian of a child to record any communication with the adverse party for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. In determining whether to include such a provision in the temporary or extended order, the court shall consider:

(a) Whether the adverse party and the child or the parent or guardian of the child have a child in common;

(b) Whether the adverse party has a history of engaging in harassment or violent or threatening behavior; and

(c) Any other relevant factors.

Sec. 9. NRS 48.061 is hereby amended to read as follows:

48.061 1. Except as otherwise provided in subsection 2, evidence of domestic violence and expert testimony concerning the effect of domestic violence, including, without limitation, the effect of physical, emotional or mental abuse, on the beliefs, behavior and perception of the alleged victim of the domestic violence that is offered by the prosecution or defense is admissible in a criminal proceeding for any relevant purpose, including, without limitation, when determining:

(a) Whether a defendant is excepted from criminal liability pursuant to subsection 8 of NRS 194.010, to show the state of mind of the defendant.

(b) Whether a defendant in accordance with NRS 200.200 has killed another in self-defense, toward the establishment of the legal defense.

2. Expert testimony concerning the effect of domestic violence may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.



3. As used in this section, “domestic violence” means the commission of **or the attempt to commit** any act described in NRS 33.018.

Sec. 10. NRS 50.205 is hereby amended to read as follows:

50.205 1. In case of failure of a witness to attend, the court or officer issuing the subpoena, upon proof of the service thereof and of the failure of the witness, may issue a warrant to the sheriff of the county to arrest the witness and bring the witness before the court or officer where the attendance of the witness was required.

2. Upon the arrest of a witness pursuant to subsection 1, the court or officer issuing the warrant shall appoint an attorney to represent the witness and provide the attorney:

(a) With the last known contact information of the witness; and

(b) Notice of every proceeding.

3. Except as otherwise provided in subsection 4, every witness detained pursuant to a warrant issued pursuant to this section must be brought before the court or officer as soon as practicable but not later than 72 hours after the beginning of the detention. The court or officer shall consider the least restrictive means to secure the presence of the witness and make a determination whether the detention of the witness should continue. If the court determines that the detention of the witness should continue, the court must make written findings stating why detention should continue.

4. A person detained as a witness pursuant to this section who is a victim of domestic violence or sexual assault:

(a) Must be brought before the court or officer as soon as practicable but not later than 24 hours after the beginning of the detention;

(b) May be detained or continue detention pursuant to a determination by telephone; and

(c) To the extent practicable, must have the attorney appointed pursuant to subsection 2 participate in any determination pursuant to this section.

5. The court or officer shall:

(a) Set a schedule for the periodic review of whether detention should continue; and

(b) Schedule the case in which the witness will testify to take place as soon as possible if substantial rights of the defendant are not prejudiced.

6. As used in this section:

(a) “Domestic violence” means the commission of **or the attempt to commit** any act described in NRS 33.018.

(b) “Sexual assault” has the meaning ascribed to it in NRS 49.2543.



Sec. 11. NRS 118A.345 is hereby amended to read as follows:

118A.345 1. Notwithstanding any provision in a rental agreement to the contrary, if a tenant, cotenant or household member is the victim of domestic violence, harassment, sexual assault or stalking, the tenant or any cotenant may terminate the rental agreement by giving the landlord written notice of termination effective at the end of the current rental period or 30 days after the notice is provided to the landlord, whichever occurs sooner.

2. In the case of a termination of a rental agreement pursuant to this section on the grounds that a tenant, cotenant or household member is a victim of domestic violence, the written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of an order for protection against domestic violence issued to the tenant, cotenant or household member who is the victim of domestic violence;

(b) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the domestic violence; or

(c) A copy of a written affidavit in the form prescribed pursuant to NRS 118A.347 and signed by a qualified third party acting in his or her official capacity stating that the tenant, cotenant or household member is a victim of domestic violence and identifying the adverse party.

3. In the case of a termination of a rental agreement pursuant to this section on the grounds that a tenant, cotenant or household member is a victim of harassment, sexual assault or stalking, the written notice provided to a landlord pursuant to subsection 1 must describe the reason for the termination of the rental agreement and be accompanied by:

(a) A copy of a written report from a law enforcement agency indicating that the tenant, cotenant or household member notified the law enforcement agency of the harassment, sexual assault or stalking, as applicable; or

(b) A copy of a temporary or extended order issued pursuant to NRS 200.378 or 200.591, as applicable.

4. A tenant or cotenant may terminate a rental agreement pursuant to this section only if the actions, events or circumstances that resulted in the tenant, cotenant or household member becoming a victim of domestic violence, harassment, sexual assault or stalking occurred within the 90 days immediately preceding the written notice of termination to the landlord.

5. A tenant or cotenant who terminates a rental agreement pursuant to this section is only liable, if solely or jointly liable for



purposes of the rental agreement, for any rent owed or required to be paid through the date of termination and any other outstanding obligations. If the tenant or cotenant has prepaid rent that would apply for the rental period in which the rental agreement is terminated, the landlord may retain the prepaid rent and no refund is due to the tenant or cotenant unless the amount of the prepaid rent exceeds what is owed for that rental period. Except as otherwise provided in NRS 118A.242, if the tenant or cotenant has paid a security deposit, the deposit must not be withheld for the early termination of the rental agreement if the rental agreement is terminated pursuant to this section.

6. A person who is named as the adverse party may be civilly liable for all economic losses incurred by a landlord for the early termination of a rental agreement pursuant to this section, including, without limitation, unpaid rent, fees relating to early termination, costs for the repair of any damages to the dwelling and any reductions in or waivers of rent previously extended to the tenant or cotenant who terminates the rental agreement pursuant to this section.

7. A landlord shall not provide to an adverse party any information concerning the whereabouts of a tenant, cotenant or household member if the tenant or cotenant provided notice pursuant to subsection 1.

8. If a tenant or cotenant provided notice pursuant to subsection 1, the tenant, the cotenant or a household member may require the landlord to install a new lock onto the dwelling if the tenant, cotenant or household member pays the cost of installing the new lock. A landlord complies with the requirements of this subsection by:

(a) Rekeying the lock if the lock is in good working condition; or

(b) Replacing the entire locking mechanism with a new locking mechanism of equal or superior quality.

9. A landlord who installs a new lock pursuant to subsection 8 may retain a copy of the new key. Notwithstanding any provision in a rental agreement to the contrary, the landlord shall:

(a) Refuse to provide a key which unlocks the new lock to an adverse party.

(b) Refuse to provide to an adverse party, whether or not that party is a tenant, cotenant or household member, access to the dwelling to reclaim property unless a law enforcement officer is present.

10. This section shall not be construed to limit a landlord's right to terminate a rental agreement for reasons unrelated to domestic violence, harassment, sexual assault or stalking.



11. Notwithstanding any other provision of law, the termination of a rental agreement pursuant to this section:

(a) Must not be disclosed, described or characterized as an early termination by a current landlord to a prospective landlord; and

(b) Is not required to be disclosed as an early termination by a tenant or cotenant to a prospective landlord.

12. As used in this section:

(a) “Adverse party” means a person who is named in an order for protection against domestic violence, harassment, sexual assault or stalking, a written report from a law enforcement agency or a written statement from a qualified third party and who is alleged to be the cause of the early termination of a rental agreement pursuant to this section.

(b) “Cotenant” means a tenant who, pursuant to a rental agreement, is entitled to occupy a dwelling that another tenant is also entitled to occupy pursuant to the same rental agreement.

(c) “Domestic violence” means the commission of **or the attempt to commit** any act described in NRS 33.018.

(d) “Harassment” means a violation of NRS 200.571.

(e) “Household member” means any person who is related by blood or marriage and is actually residing with a tenant or cotenant.

(f) “Qualified third party” means:

(1) A physician licensed to practice in this State;

(2) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry of the American Osteopathic Association;

(3) A psychologist licensed to practice in this State;

(4) A social worker licensed to practice in this State;

(5) A registered nurse holding a master’s degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(6) A marriage and family therapist or clinical professional counselor licensed to practice in this State pursuant to chapter 641A of NRS;

(7) Any person who:

(I) Is employed by an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met and who is licensed to provide health care pursuant to the provisions of title 54 of NRS, or is a member of the board of directors or serves as the executive director of an agency or service which advises persons regarding domestic violence or refers them to persons or agencies where their request and needs can be met;



(II) Has received training relating to domestic violence;
and

(III) Is a resident of this State; or

(8) Any member of the clergy of a church or religious society or denomination that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church or religious society or denomination and who is a resident of this State.

(g) “Sexual assault” means a violation of NRS 200.366.

(h) “Stalking” means a violation of NRS 200.575.

Sec. 12. NRS 125C.0035 is hereby amended to read as follows:

125C.0035 1. In any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child. If it appears to the court that joint physical custody would be in the best interest of the child, the court may grant physical custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award physical custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125C.0025 or to either parent pursuant to NRS 125C.003. If the court does not enter an order awarding joint physical custody of a child after either parent has applied for joint physical custody, the court shall state in its decision the reason for its denial of the parent’s application.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the fifth degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.

(b) Any nomination of a guardian for the child by a parent.



(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

(l) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;



(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➡ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint physical custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking physical custody does not rebut the presumption, the court shall not enter an order for sole or joint physical custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For the purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. If, after a court enters a final order concerning physical custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded sole or joint physical custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the



order concerning physical custody, reconsider the previous order concerning physical custody pursuant to subsections 7 and 8.

10. As used in this section:

(a) “Abduction” means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

(b) “Domestic violence” means the commission of **or the attempt to commit** any act described in NRS 33.018.

Sec. 13. NRS 125C.230 is hereby amended to read as follows:

125C.230 1. Except as otherwise provided in NRS 125C.210 and 125C.220, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody of a child has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

2. If after an evidentiary hearing held pursuant to subsection 1 the court determines that more than one party has engaged in acts of domestic violence, it shall, if possible, determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving any of the parties;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors that the court deems relevant to the determination.

➤ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 1 applies to each of the parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 1 applies only to the party determined by the court to be the primary physical aggressor.



3. As used in this section, “domestic violence” means the commission of *or the attempt to commit* any act described in NRS 33.018.

Sec. 14. 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, subsection 5 of NRS 200.378 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 emergency or extended order for protection against high-risk behavior issued pursuant to NRS 33.570 or 33.580;

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

(f) A temporary or extended order issued pursuant to NRS 200.378; or

(g) 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~~ 5 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 ~~15~~ 20 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:



1 (a) Must not exceed the sentence imposed for the crime; and
2 (b) Runs concurrently or consecutively with the sentence
3 prescribed by statute for the crime, as ordered by the court.

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

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

14 **Sec. 15.** NRS 200.378 is hereby amended to read as follows:

15 200.378 1. In addition to any other remedy provided by law,
16 a person who reasonably believes that the crime of sexual assault
17 has been committed against him or her by another person may
18 petition any court of competent jurisdiction for a temporary or
19 extended order directing the person who allegedly committed the
20 sexual assault to:

21 (a) Stay away from the home, school, business or place of
22 employment of the victim of the alleged sexual assault and any other
23 location specifically named by the court.

24 (b) Refrain from contacting, intimidating, threatening or
25 otherwise interfering with the victim of the alleged sexual assault
26 and any other person named in the order, including, without
27 limitation, a member of the family or the household of the victim of
28 the alleged sexual assault.

29 (c) Comply with any other restriction which the court deems
30 necessary to protect the victim of the alleged sexual assault or to
31 protect any other person named in the order, including, without
32 limitation, a member of the family or the household of the victim of
33 the alleged sexual assault.

34 2. If a defendant charged with a crime involving sexual assault
35 is released from custody before trial or is found guilty at the trial,
36 the court may issue a temporary or extended order or provide as a
37 condition of the release or sentence that the defendant:

38 (a) Stay away from the home, school, business or place of
39 employment of the victim of the alleged sexual assault and any other
40 location specifically named by the court.

41 (b) Refrain from contacting, intimidating, threatening or
42 otherwise interfering with the victim of the alleged sexual assault
43 and any other person named in the order, including, without
44 limitation, a member of the family or the household of the victim of
45 the alleged sexual assault.



(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged sexual assault or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged sexual assault.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the arrest if:

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

(b) The person has previously violated a temporary or extended order for protection; or

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

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

(2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110.



8. The court may include a provision in a temporary or extended order authorizing the victim of the alleged sexual assault and any other person named in the order to record any communication with the adverse party for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. In determining whether to include such a provision in the temporary or extended order, the court shall consider:

(a) Whether the adverse party and the victim of the alleged sexual assault have a child in common;

(b) Whether the adverse party has a history of engaging in harassment or violent or threatening behavior; and

(c) Any other relevant factors.

Sec. 16. 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 punished by:

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

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

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be punished by:

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

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

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

(c) For the third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for



1 a minimum term of not less than 1 year and a maximum term of not
2 more than 6 years, and may be further punished by a fine of not less
3 than \$1,000, but not more than \$5,000.

4 2. Unless a greater penalty is provided pursuant to subsection 3
5 or NRS 200.481, a person convicted of a battery which constitutes
6 domestic violence pursuant to NRS 33.018, if the battery is
7 committed by strangulation as described in NRS 200.481, is guilty
8 of a category C felony and shall be punished as provided in
9 NRS 193.130.

10 3. Unless a greater penalty is provided pursuant to NRS
11 200.481, a person who has been previously convicted of:

12 (a) A felony that constitutes domestic violence pursuant to
13 NRS 33.018;

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

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

19 and who commits a battery which constitutes domestic violence
20 pursuant to NRS 33.018 is guilty of a category B felony and shall be
21 punished by imprisonment in the state prison for a minimum term of
22 not less than 2 years and a maximum term of not more than 15
23 years, and shall be further punished by a fine of not less than
24 \$2,000, but not more than \$5,000.

25 4. Unless a greater penalty is provided pursuant to NRS
26 200.481, a person convicted of a battery which constitutes domestic
27 violence pursuant to NRS 33.018, if the battery is committed against
28 a victim who was pregnant at the time of the battery and the person
29 knew or should have known that the victim was pregnant:

30 (a) For the first offense, is guilty of a gross misdemeanor and
31 shall be punished by imprisonment in the county jail for not less
32 than 20 days and may be further punished by a fine of not less than
33 \$500, but not more than \$1,000.

34 (b) For the second or any subsequent offense, is guilty of a
35 category B felony and shall be punished by imprisonment in the
36 state prison of a minimum term of not less than 1 year and a
37 maximum term of not more than 6 years, and may be further
38 punished by a fine of not less than \$1,000, but not more than
39 \$5,000.

40 5. Unless a greater penalty is provided pursuant to NRS
41 200.481, a person convicted of a battery which constitutes domestic
42 violence pursuant to NRS 33.018, if the battery causes substantial
43 bodily harm, is guilty of a category B felony and shall be punished
44 by imprisonment in the state prison of a minimum term of not less
45 than 1 year and a maximum term of not more than 6 years, and may



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

3 6. In addition to any other penalty, if a person is convicted of a
4 battery which constitutes domestic violence pursuant to NRS
5 33.018, the court shall:

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

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

16 ➔ If the person resides in this State but the nearest location at which
17 counseling services are available is in another state, the court may
18 allow the person to participate in counseling in the other state in a
19 program for the treatment of persons who commit domestic violence
20 that has been certified pursuant to NRS 439.258.

21 7. Except as otherwise provided in this subsection, an offense
22 that occurred within 7 years immediately preceding the date of the
23 principal offense or after the principal offense constitutes a prior
24 offense for the purposes of this section:

25 (a) When evidenced by a conviction; or

26 (b) If the offense is conditionally dismissed or the judgment of
27 conviction is set aside pursuant to NRS 176A.240, 176A.260 or
28 176A.290 or dismissed in connection with successful completion of
29 a diversionary program or specialty court program,

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

41 8. In addition to any other penalty, the court may require such a
42 person to participate, at his or her expense, in a program of
43 treatment for an alcohol or other substance use disorder that has
44 been certified by the Division of Public and Behavioral Health of
45 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 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 a person ~~{described in subsection 10.}~~ *who is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018.*

(b) May grant probation to or suspend the sentence of a person ~~{described in subsection 10.}~~ *who is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018:*

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

(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.

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.

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.

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. 17. NRS 200.591 is hereby amended to read as follows:

200.591 1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him or her by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:



(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:

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



(b) The person has previously violated a temporary or extended order for protection; or

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

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

(2) An amount of a prohibited substance in his or her blood or urine, as applicable, that is equal to or greater than the amount set forth in subsection 3 or 4 of NRS 484C.110.

8. The court may include a provision in a temporary or extended order authorizing a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him or her by the adverse party to record any communication with the adverse party for the purpose of obtaining evidence reasonably believed to relate to a violation of the order. In determining whether to include such a provision in a temporary or extended order, the court shall consider:

(a) Whether the adverse party and the person filing a petition pursuant to subsection 1 have a child in common;

(b) Whether the adverse party has a history of engaging in harassment or violent or threatening behavior; and

(c) Any other relevant factors.

Sec. 18. NRS 200.620 is hereby amended to read as follows:

200.620 1. Except as otherwise provided in subsection 5 and NRS **33.030, 33.280, 33.400**, 179.410 to 179.515, inclusive, **200.378, 200.591**, 209.419 and 704.195, it is unlawful for any person to intercept or attempt to intercept any wire communication unless:

(a) The interception or attempted interception is made with the prior consent of one of the parties to the communication; and

(b) An emergency situation exists and it is impractical to obtain a court order as required by NRS 179.410 to 179.515, inclusive, before the interception, in which event the interception is subject to the requirements of subsection 3. If the application for ratification is denied, any use or disclosure of the information so intercepted is unlawful, and the person who made the interception shall notify the sender and the receiver of the communication that:

(1) The communication was intercepted; and

(2) Upon application to the court, ratification of the interception was denied.

2. This section does not apply to any person, or to the officers, employees or agents of any person, engaged in the business of providing service and facilities for wire communication where the interception or attempted interception is to construct, maintain, conduct or operate the service or facilities of that person.



3. Any person who has made an interception in an emergency situation as provided in paragraph (b) of subsection 1 shall, within 72 hours of the interception, make a written application to a justice of the Supreme Court or district judge for ratification of the interception. The interception must not be ratified unless the applicant shows that:

(a) An emergency situation existed and it was impractical to obtain a court order before the interception; and

(b) Except for the absence of a court order, the interception met the requirements of NRS 179.410 to 179.515, inclusive.

4. NRS 200.610 to 200.690, inclusive, do not prohibit the recording, and NRS 179.410 to 179.515, inclusive, do not prohibit the reception in evidence, of conversations on wire communications installed in the office of an official law enforcement or fire-fighting agency, or a public utility, if the equipment used for the recording is installed in a facility for wire communications or on a telephone with a number listed in a directory, on which emergency calls or requests by a person for response by the law enforcement or fire-fighting agency or public utility are likely to be received. In addition, those sections do not prohibit the recording or reception in evidence of conversations initiated by the law enforcement or fire-fighting agency or public utility from such a facility or telephone in connection with responding to the original call or request, if the agency or public utility informs the other party that the conversation is being recorded.

5. The interception or attempted interception of a wire communication is not unlawful under the circumstances set forth in subsection 1 of NRS 179.463.

Sec. 19. NRS 432.207 is hereby amended to read as follows:

432.207 1. The Children's Advocate or his or her designee may apply to the court for a warrant to take physical custody of a missing child if, during an investigation of the missing child, it appears that there is probable cause to believe that:

(a) An act of abduction has been committed against the child; and

(b) The act of abduction was not committed to protect:

(1) The child from continued abuse or neglect or from a bona fide and imminent threat of abuse or neglect; or

(2) The person who allegedly abducted the child from continued domestic violence or a bona fide and imminent threat of domestic violence.

2. In filing the application for a warrant, the Children's Advocate and his or her designee acts on behalf of the court and not on behalf of any party.

3. The application must include, without limitation:



- 1 (a) The name of the person having legal custody of the child;
- 2 (b) The name of the person alleged to have committed the act of
- 3 abduction of the child;
- 4 (c) The name of the person alleged to have possession of the
- 5 child, if different from the person described in paragraph (b);
- 6 (d) A statement of the facts and circumstances pertaining to the
- 7 abduction of the child;
- 8 (e) A statement indicating whether, to the knowledge of the
- 9 applicant after reasonable investigation under the circumstances, the
- 10 child, the person having legal custody of the child, the person
- 11 alleged to have committed the act of abduction or the person alleged
- 12 to have possession of the child has been:
 - 13 (1) The subject of an investigation of alleged abuse or
 - 14 neglect of a child or domestic violence;
 - 15 (2) A party to a proceeding concerning the alleged abuse or
 - 16 neglect of a child, an act of abduction of a child or domestic
 - 17 violence; or
 - 18 (3) A party against whom an order for protection against
 - 19 domestic violence was issued;
- 20 (f) A statement indicating which court, if any, has exercised
- 21 jurisdiction over the custody or welfare of the child;
- 22 (g) A copy of the most recent child custody determination, if
- 23 any, concerning the child, or if there is no such determination, a
- 24 statement as to the legal basis for the custody of the child; and
- 25 (h) A declaration made under oath and penalty of perjury that
- 26 every factual representation made in the application is true and
- 27 correct to the best of the knowledge of the applicant.
- 28 4. The court may, in its discretion, supplement the allegations
- 29 made in the application with the sworn testimony of the applicant at
- 30 a hearing before the court. Any such testimony must be recorded
- 31 and preserved in the records of the court.
- 32 5. If an application is filed pursuant to this section:
- 33 (a) The Children's Advocate or his or her designee may not be
- 34 assessed a filing fee for the application; and
- 35 (b) Any proceedings regarding the application must be
- 36 expedited by the court.
- 37 6. If the court determines that no exigent circumstances exist in
- 38 relation to the issuance of the warrant, the court:
 - 39 (a) Shall hold a hearing before it issues the warrant;
 - 40 (b) Shall provide, or ensure that the Children's Advocate or his
 - 41 or her designee provides, notice of the hearing to the custodial
 - 42 parent, the person alleged to have committed the act of abduction
 - 43 and, if different, the person alleged to have possession of the child;



(c) If the person alleged to have committed the act of abduction or, if different, the person alleged to have possession of the child is present at the hearing or otherwise appears at the hearing, may:

(1) Order such person to return the child in accordance with the determination of the court regarding the placement of the child; and

(2) Issue the warrant in accordance with subsection 9; and

(d) If the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child received notice but are not present at the hearing, do not otherwise appear at the hearing and do not submit statements to the court, may issue the warrant in accordance with subsection 9.

7. If the court determines that exigent circumstances exist in relation to the issuance of the warrant, including, without limitation, that the child is in imminent danger of being removed from this State or in imminent danger of serious physical harm, the court may issue the warrant after an ex parte hearing. If the court issues the warrant after an ex parte hearing:

(a) The court shall afford the custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child an opportunity to be heard at the earliest possible time after the warrant is executed, but not later than 48 hours after the warrant is executed unless a hearing within that period is impossible. If a hearing within that period is impossible, the court shall hold the hearing on the first judicial day possible.

(b) The Children's Advocate or his or her designee shall provide notice of the hearing to be held pursuant to paragraph (a) to the custodial parent, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child.

8. The custodial parent of the child, the person alleged to have committed the act of abduction and, if different, the person alleged to have possession of the child may:

(a) Appear at a hearing held pursuant to subsection 6 or 7 in person, by telephone or by video; and

(b) Submit written statements to the court electronically or by other means.

9. If, after a hearing held pursuant to subsection 6 or 7, as applicable, the court:

(a) Determines that there is probable cause to believe that an act of abduction has been committed against the child and that the act of abduction was not committed for the protection of the child or the person who allegedly abducted the child as described in



subsubsection 1, the court may issue a warrant to take physical custody of the child; or

(b) Finds by a preponderance of the evidence that the act of abduction of the child was committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1, the court shall:

(1) Assume temporary emergency jurisdiction of the matter and shall enter a temporary emergency order for the custody of the child which is in the best interest of the child and which is sufficient to protect the safety and welfare of all interested persons; and

(2) Provide in the order a period of time which the court considers adequate and within which the person seeking the emergency order may obtain an initial or modified child custody determination regarding the child from a court that has jurisdiction to enter such an order.

10. A warrant issued by the court pursuant to this section:

(a) Must set forth findings of fact that establish probable cause for believing that an act of abduction occurred and that the act of abduction was not committed for the protection of the child or the person who allegedly abducted the child as described in subsection 1;

(b) Must direct law enforcement officers to take physical custody of the child and deliver the child in accordance with the determination of the court regarding the placement of the child;

(c) Must specify the property that may be searched and the child who may be seized pursuant to the warrant;

(d) Must authorize law enforcement officers to enter private property as described in paragraph (c) to take physical custody of the child;

(e) Must order that the child be returned to his or her legal custodian unless such placement is not in the best interest of the child; and

(f) Is enforceable throughout this State.

11. As soon as reasonably practicable but not later than 24 hours after a law enforcement officer executes a warrant issued pursuant to this section, the Children's Advocate or his or her designee shall inform the court of the execution of the warrant.

12. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359.

(b) "Abuse or neglect of a child" has the meaning ascribed to it in NRS 432B.020.

(c) "Child custody determination" means a judgment, decree or other order of a court providing for the legal custody, physical



1 custody or visitation with respect to a child. The term includes a
2 permanent, temporary, initial and modification order.

3 (d) "Court" means a court of this state authorized to establish,
4 enforce or modify a child custody determination.

5 (e) "Domestic violence" means the commission of **or the**
6 **attempt to commit** any act described in NRS 33.018.

7 **Sec. 20.** NRS 432B.157 is hereby amended to read as follows:

8 432B.157 1. Except as otherwise provided in NRS 125C.210
9 and 432B.153, a determination by the court after an evidentiary
10 hearing and finding by clear and convincing evidence that either
11 parent or any other person seeking custody of a child has engaged in
12 one or more acts of domestic violence against the child, a parent of
13 the child or any other person residing with the child creates a
14 rebuttable presumption that it is not in the best interest of the child
15 for the perpetrator of the domestic violence to have custody of the
16 child. Upon making such a determination, the court shall set forth:

17 (a) Findings of fact that support the determination that one or
18 more acts of domestic violence occurred; and

19 (b) Findings that the custody or visitation arrangement ordered
20 by the court adequately protects the child and the parent or other
21 victim of domestic violence who resided with the child.

22 2. If after an evidentiary hearing held pursuant to subsection 1
23 the court determines that more than one party has engaged in acts of
24 domestic violence, it shall, if possible, determine which person was
25 the primary physical aggressor. In determining which party was the
26 primary physical aggressor for the purposes of this section, the court
27 shall consider:

28 (a) All prior acts of domestic violence involving any of the
29 parties;

30 (b) The relative severity of the injuries, if any, inflicted upon the
31 persons involved in those prior acts of domestic violence;

32 (c) The likelihood of future injury;

33 (d) Whether, during the prior acts, one of the parties acted in
34 self-defense; and

35 (e) Any other factors that the court deems relevant to the
36 determination.

37 ➤ In such a case, if it is not possible for the court to determine
38 which party is the primary physical aggressor, the presumption
39 created pursuant to subsection 1 applies to each of the parties. If it is
40 possible for the court to determine which party is the primary
41 physical aggressor, the presumption created pursuant to subsection 1
42 applies only to the party determined by the court to be the primary
43 physical aggressor.

44 3. A court, agency, institution or other person who places a
45 child in protective custody shall not release a child to the custody of



1 a person who a court has determined pursuant to subsection 1 has
2 engaged in one or more acts of domestic violence against the child,
3 a parent of the child or any other person residing with the child
4 unless:

5 (a) A court determines that it is in the best interest of the child
6 for the perpetrator of the domestic violence to have custody of the
7 child; or

8 (b) Pursuant to the provisions of subsection 2, the presumption
9 created pursuant to subsection 1 does not apply to the person to
10 whom the court releases the child.

11 4. As used in this section, “domestic violence” means the
12 commission of *or the attempt to commit* any act described in
13 NRS 33.018.

