

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 provisions relating to the privilege for communication between a victim of certain crimes and a victim's advocate; 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 convicted of 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 requires a peace
9 officer to arrest a person suspected of committing a battery which constitutes
10 domestic violence: (1) if the peace officer had a face-to-face encounter with the
11 person that was of sufficient duration to determine whether probable cause existed
12 while responding to the initial incident or call for service, within 24 hours after the
13 alleged battery; or (2) if the peace officer did not have a face-to-face encounter with



the person that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service, within 7 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 revises the period for such a discretionary arrest to be: (1) if the peace officer had a face-to-face encounter with the person that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service, within 24 hours after the alleged battery; or (2) if the peace officer did not have a face-to-face encounter with the person to be arrested that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service, within 7 days after the alleged battery.

Existing law establishes a privilege for confidential communication between a victim of certain crimes and a victim's advocate. (NRS 49.2541-49.2549) To be a "victim's advocate," as defined in existing law, a person must have certain work experience and have received at least 20 hours of relevant training. (NRS 49.2545) **Section 13.3** of this bill requires that such training must include instruction in certain topics. **Section 13.7** of this bill also provides that a person who works for a domestic violence, sexual assault or human trafficking services organization or a nonprofit organization which provides assistance to victims may be a victim's advocate for purposes of the privilege. **Section 13.9** of this bill makes a conforming change that is necessary as a result of the change relating to the changes made in **section 13.7**. **Section 13.5** of this bill makes a conforming change to indicate the proper placement of **section 13.3** in the Nevada Revised Statutes.

Section 21 of this bill provides that, notwithstanding the amendatory provisions of **sections 13.3-13.9** until January 1, 2024, the privilege established for confidential communication between a victim and a victim's advocate shall be deemed to apply to a communication between a victim and a victim's advocate, regardless of whether the victim's advocate has completed the required relevant training, as defined in **section 13.3**, before October 1, 2023, if the victim's advocate was serving as a victim's advocate before October 1, 2023.

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 prohibits a court from granting probation to or suspending the sentence of a person convicted of a battery which constitutes domestic violence that is punishable as a 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 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, *and if I had a face-to-face encounter with the person suspected of committing the battery that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service*, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the battery.

(3) *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 7 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, and if I did not have a face-to-face encounter with the person suspected of committing the battery that was of sufficient duration to determine whether*



probable cause existed while responding to the initial incident or call for service, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the battery.

(4) 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)]~~ (5) 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 against further threats or acts of domestic violence. You do not need to hire a lawyer to obtain such an order for protection.

~~[(5)]~~ (6) An order for protection may require the person who committed or threatened the act of domestic violence against you to:

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

(II) Move out of your residence;

(III) Stay away from your place of employment;

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

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

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

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

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

~~[(6)]~~ (7) A court may make future orders for protection which award you custody of your children and require the person who committed or threatened the act of domestic violence against you to:

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

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

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



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

~~[(7)]~~ (8) To get an order for protection, go to room number (state the room number of the office at the court) at the court, which is located at (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.

~~[(8)]~~ (9) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, the person may be arrested and, if:

(I) The arresting officer determines that such a violation 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)]~~ (10) 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,]~~ 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 ~~[]~~:

(a) If the peace officer had a face-to-face encounter with the person to be arrested that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service, within the preceding 24 hours.

(b) If the peace officer did not have a face-to-face encounter with the person to be arrested that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service, within the preceding 7 days.

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



1 physical aggressor. If the peace officer determines that one of the
2 persons who allegedly committed a battery was the primary physical
3 aggressor involved in the incident, the peace officer is not required
4 to arrest any other person believed to have committed a battery
5 during the incident. In determining whether a person is a primary
6 physical aggressor for the purposes of this subsection, the peace
7 officer shall consider:

- 8 (a) Prior domestic violence involving either person;
- 9 (b) The relative severity of the injuries inflicted upon the
10 persons involved;
- 11 (c) The potential for future injury;
- 12 (d) Whether one of the alleged batteries was committed in self-
13 defense; and
- 14 (e) Any other factor that may help the peace officer decide
15 which person was the primary physical aggressor.

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

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

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

- 25 (a) Siblings, except those siblings who are in a custodial or
26 guardianship relationship with each other; or
- 27 (b) Cousins, except those cousins who are in a custodial or
28 guardianship relationship with each other.

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

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

35 171.1375 1. Whether or not a warrant has been issued, a
36 peace officer may arrest a person ~~{when the}~~ *if the* peace officer
37 ~~{has}~~ :

38 *(a) Has* probable cause to believe that the person to be arrested
39 has, within the preceding 24 hours, committed a battery upon:

40 ~~{(a)}~~ *(1)* A person with whom he or she is actually residing;

41 ~~{(b)}~~ *(2)* A sibling, if the person is not the custodian or guardian
42 of the sibling; or

43 ~~{(c)}~~ *(3)* A cousin, if the person is not the custodian or guardian
44 of the cousin ~~{;}~~ *; and*



(b) *Had a face-to-face encounter with the person to be arrested that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service.*

2. *Whether or not a warrant has been issued, a peace officer may arrest a person if the peace officer:*

(a) *Has probable cause to believe that the person to be arrested has, within the immediately preceding 7 days, committed a battery upon:*

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

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

(3) *A cousin, if the person is not the custodian or guardian of the cousin; and*

(b) *Did not have a face-to-face encounter with the person to be arrested that was of sufficient duration to determine whether probable cause existed while responding to the initial incident or call for service.*

3. 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. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 13.3. Chapter 49 of NRS is hereby amended by adding thereto a new section to read as follows:

“Relevant training” means at least 20 cumulative hours of instruction in:

1. *Ethics;*

2. *Civil and criminal laws relating to domestic violence, sexual assault or human trafficking;*

3. *Relevant laws relating to confidentiality of communication, as defined in NRS 49.2546, and privileges pursuant to this chapter;*

4. *Trauma-informed care; and*

5. *Any other relevant topics necessary to meet the needs of victims of domestic violence, sexual assault or human trafficking.*



1 **Sec. 13.5.** NRS 49.2541 is hereby amended to read as follows:
2 49.2541 As used in NRS 49.2541 to 49.2549, inclusive, *and*
3 *section 13.3 of this act*, the words and terms defined in NRS
4 49.2542 to 49.2545, inclusive, *and section 13.3 of this act* have the
5 meanings ascribed to them in those sections.

6 **Sec. 13.7.** NRS 49.2545 is hereby amended to read as follows:
7 49.2545 “Victim’s advocate” means a person *who has*
8 *completed relevant training and* who ~~[works]~~ , *with or without*
9 *compensation:*

10 1. *Works* for ~~[a nonprofit program, a]~~ :

11 (a) A program of a university, state college or community
12 college within the Nevada System of Higher Education ~~[or a]~~ *which*
13 *provides assistance to victims;*

14 (b) A program of a tribal organization which provides assistance
15 to victims ~~[who]~~ ;

16 (c) *An organization which provides services to victims of*
17 *domestic violence, sexual assault or human trafficking; or*

18 (d) *A nonprofit organization which* provides *assistance to*
19 *victims; or*

20 2. *Provides* services to a victim of an alleged incident of sexual
21 misconduct pursuant to NRS 396.125 to 396.1595, inclusive . ~~[~~
22 ~~with or without compensation and who has received at least 20~~
23 ~~hours of relevant training.]~~

24 **Sec. 13.9.** NRS 49.2546 is hereby amended to read as follows:
25 49.2546 1. A communication shall be deemed to be
26 confidential if the communication is between a victim and a victim’s
27 advocate and is not intended to be disclosed to third persons other
28 than:

29 (a) A person who is present to further the interest of the victim;

30 (b) A person reasonably necessary for the transmission of the
31 communication; or

32 (c) A person who is participating in the advice, counseling or
33 assistance of the victim, including, without limitation, a member of
34 the victim’s family.

35 2. As used in this section, “communication” includes, without
36 limitation, all records concerning the victim and the services
37 provided to the victim which are within the possession of:

38 (a) The victim’s advocate; or

39 (b) ~~[The nonprofit]~~ A program ~~[, the program of a university,~~
40 ~~state college or community college within the Nevada System of~~
41 ~~Higher Education]~~ or ~~[the program of a tribal]~~ organization
42 *described in paragraphs (a) to (d), inclusive, of subsection 1 of*
43 *NRS 49.2545* for whom the victim’s advocate works.



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:

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

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



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

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

Sec. 15. (Deleted by amendment.)

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 a minimum term of not less than 1 year and a maximum term of not



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

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

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

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

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

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

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

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

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

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

39 5. Unless a greater penalty is provided pursuant to NRS
40 200.481, a person convicted of a battery which constitutes domestic
41 violence pursuant to NRS 33.018, if the battery causes substantial
42 bodily harm, is guilty of a category B felony and shall be punished
43 by imprisonment in the state prison of a minimum term of not less
44 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 ~~is~~ ~~—(a) Except as otherwise provided in paragraph (b),]~~ shall not grant probation to or suspend the sentence of a person ~~[described in subsection 10:~~

~~—(b) May grant probation to or suspend the sentence of a person described in subsection 10:~~

~~—(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.]~~
convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 that is punishable as a felony.

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



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
3 more than \$5,000. The court must include in the judgment of
4 conviction or admonishment of rights a statement that a violation of
5 such a provision in the judgment or admonishment is a category B
6 felony and shall be punished by imprisonment in the state prison for
7 a minimum term of not less than 1 year and a maximum term of not
8 more than 6 years, and may be further punished by a fine of not
9 more than \$5,000.

10 14. As used in this section:

11 (a) “Agency which provides child welfare services” has the
12 meaning ascribed to it in NRS 432B.030.

13 (b) “Battery” has the meaning ascribed to it in paragraph (a) of
14 subsection 1 of NRS 200.481.

15 (c) “Offense” includes a battery which constitutes domestic
16 violence pursuant to NRS 33.018 or a violation of the law of any
17 other jurisdiction that prohibits the same or similar conduct.

18 **Sec. 17.** (Deleted by amendment.)

19 **Sec. 18.** (Deleted by amendment.)

20 **Sec. 19.** (Deleted by amendment.)

21 **Sec. 20.** (Deleted by amendment.)

22 **Sec. 21.** Notwithstanding the amendatory provisions of
23 sections 13.3 to 13.9, inclusive, of this act, until January 1, 2024, the
24 privilege established in NRS 49.2546, as that section existed before
25 October 1, 2023, shall be deemed to apply to a communication
26 between a victim and a victim’s advocate, as provided in NRS
27 49.2541 to 49.2549, inclusive, regardless of whether or not the
28 victim’s advocate has completed the required relevant training, as
29 defined in section 13.3 of this act, before October 1, 2023, if the
30 victim’s advocate was serving as a victim’s advocate before
31 October 1, 2023.

