

Amendment No. 170

Senate Amendment to Senate Bill No. 289	(BDR 15-996)
Proposed by: Senate Committee on Judiciary	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/EWR



Date: 4/14/2023

S.B. No. 289—Revises provisions relating to crimes against providers of health care. (BDR 15-996)



SENATE BILL NO. 289—SENATOR NGUYEN

MARCH 15, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to crimes against providers of health care. (BDR 15-996)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to crimes; expanding the applicability of enhanced penalties for assault or battery against a provider of health care under certain circumstances; ~~creating a rebuttable presumption that a person knew or should have known that another person was a provider of health care under certain circumstances;~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that an assault without a deadly weapon or battery without a deadly weapon or without substantial harm to the victim is generally punishable as a misdemeanor. (NRS 200.471, 200.481) A person who commits assault without a deadly weapon against a provider of health care in the performance of his or her duties where the perpetrator knows or should know that the victim is a provider of health care is instead guilty of: (1) a category D felony, if the perpetrator is a probationer, a prisoner who is in lawful custody or confinement or a parolee; and (2) in all other cases, a gross misdemeanor. (NRS 200.471) Additionally, a person who commits a battery against a provider of health care performing his or her duty is guilty of: (1) a gross misdemeanor, if the perpetrator knows or should know that the victim is a provider of health care; or (2) category B felony if the perpetrator knows or should know that the victim is a provider of health care and the battery involves substantial bodily harm or strangulation. (NRS 200.481) **Sections 1 and 2** of this bill provide that, for those purposes, the term "provider of health care" includes: **(1) a behavior analyst, assistant behavior analyst, registered behavior technician, mental health technician, ~~patient~~ public safety officer at a health care facility or participant in a program of training to provide emergency medical services;** or **(2) any person who is employed by ~~he~~ serves as a contractor for** or volunteers at a health care facility **and meets certain other requirements. Sections 1 and 2** additionally provide that the enhanced penalties for an assault or a battery against a provider of health care apply any time the provider of health care is assaulted or battered on the premises of a health care facility **where the provider of health care performs his or her duty** and the perpetrator knows or should know that the victim is a provider of health care, whether or not the provider of health care was performing his or her duty. ~~Sections 1 and 2 also create a rebuttable presumption that the perpetrator of an assault or battery against a provider of health care knew or should have known the victim was a provider of health care if the assault or battery occurred on the premises of a health care facility.~~

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

Section 1. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means:

(1) Unlawfully attempting to use physical force against another person; or
(2) Intentionally placing another person in reasonable apprehension of
immediate bodily harm.

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

(c) *"Health care facility" means a facility licensed pursuant to chapter 449
of NRS, an office of a person listed in NRS 629.031, a clinic or any other
location, other than a residence, where health care is provided.*

(d) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;
(2) A person employed in a full-time salaried occupation of fire fighting
for the benefit or safety of the public;
(3) A member of a volunteer fire department;
(4) A jailer, guard or other correctional officer of a city or county jail;
(5) A prosecuting attorney of an agency or political subdivision of the
United States or of this State;

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

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

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

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

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

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

(I) Interact with the public;

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

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

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

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

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

~~(d)~~ (e) "Provider of health care" means ~~for~~ :

(1) A physician, a medical student, a perfusionist or a physician assistant
licensed pursuant to chapter 630 of NRS, a practitioner of respiratory care, a
homeopathic physician, an advanced practitioner of homeopathy, a homeopathic

assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractic physician, a chiropractic assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a medication aide - certified, a dentist, a dental student, a dental hygienist, a dental hygienist student, a pharmacist, a pharmacy student, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern, *a behavior analyst, an assistant behavior analyst, a registered behavior technician, a mental health technician*, a licensed dietitian, the holder of a license or a limited license issued under the provisions of chapter 653 of NRS, ~~a patient~~ *public safety officer* ~~or~~ *at a health care facility*, an emergency medical technician, an advanced emergency medical technician, ~~and~~ a paramedic ~~;~~

~~(c) and any person who is employed by, serves as a contractor for or volunteers at, or a participant in a program of training to provide emergency medical services; or~~

(2) An employee or volunteer for a health care facility ~~or~~ who:

(I) Interacts with the public;

(II) Performs tasks related to providing health care; and

(III) Wears identification, clothing or a uniform that identifies the person as an employee or volunteer of the health care facility.

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

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

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

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

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

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

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

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

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

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault ~~is~~:

(I) Is committed upon ~~an~~;

(I) An officer, ~~a provider of health care,~~ a school employee, a taxicab driver or a transit operator who is performing his or her duty ;

(II) A provider of health care ~~who~~ while the provider of health care is performing his or her duty ~~who~~ or is on the premises ~~of a health care facility~~ ~~where he or she performs that duty~~; or ~~upon a~~

(III) A sports official based on the performance of his or her duties at a sporting event ; and ~~the~~

(2) The person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official,

1 ↪ for a gross misdemeanor, unless the assault is made with the use of a deadly
2 weapon or the present ability to use a deadly weapon, then for a category B felony
3 by imprisonment in the state prison for a minimum term of not less than 1 year and
4 a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or
5 by both fine and imprisonment.

6 (d) If the assault ~~is~~:

7 (I) *Is committed by a probationer, a prisoner who is in lawful custody or*
8 *confinement or a parolee upon ~~an~~:*

9 (1) An officer, ~~a provider of health care,~~ a school employee, a taxicab
10 driver or a transit operator who is performing his or her duty ;

11 (II) *A provider of health care ~~who~~ while the provider of health care*
12 *is performing his or her duty or ~~who~~ is on the premises ~~of a health care~~*
13 ~~*facility*~~ *where he or she performs that duty; or ~~upon a~~*

14 (III) A sports official based on the performance of his or her duties at a
15 sporting event ; ~~by a probationer, a prisoner who is in lawful custody or~~
16 ~~*confinement or a parolee,*~~ and ~~the~~

17 (2) *The* probationer, prisoner or parolee charged knew or should have
18 known that the victim was an officer, a provider of health care, a school employee,
19 a taxicab driver, a transit operator or a sports official.

20 ↪ for a category D felony as provided in NRS 193.130, unless the assault is made
21 with the use of a deadly weapon or the present ability to use a deadly weapon, then
22 for a category B felony by imprisonment in the state prison for a minimum term of
23 not less than 1 year and a maximum term of not more than 6 years, or by a fine of
24 not more than \$5,000, or by both fine and imprisonment.

25 ~~*3. There is a rebuttable presumption that a person who assaults a provider*~~
26 ~~*of health care knew or should have known that the victim was a provider of*~~
27 ~~*health care if the assault occurred on the premises of the health care facility*~~
28 ~~*where the provider of health care works or volunteers.*~~

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

30 200.481 1. As used in this section:

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

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

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

35 (d) *"Health care facility" has the meaning ascribed to it in NRS 200.471.*

36 (e) "Officer" means:

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

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

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

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

43 (5) A prosecuting attorney of an agency or political subdivision of the
44 United States or of this State;

45 (6) A justice of the Supreme Court, judge of the Court of Appeals, district
46 judge, justice of the peace, municipal judge, magistrate, court commissioner, master
47 or referee, including, without limitation, a person acting pro tempore in a capacity
48 listed in this subparagraph;

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

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

53 (I) Interact with the public;

(II) Perform tasks related to law enforcement; and
(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

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

(I) Interact with the public;

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

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

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

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

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

~~[(e)]~~ (f) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

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

~~[(h)]~~ (h) "Sporting event" has the meaning ascribed to it in NRS 41.630.

~~[(i)]~~ (i) "Sports official" has the meaning ascribed to it in NRS 41.630.

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

~~[(k)]~~ (k) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

~~[(l)]~~ (l) "Taxicab driver" means a person who operates a taxicab.

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

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony as provided in NRS 193.130.

(c) If:

(1) The battery is committed upon ~~[(an)]~~ :

(I) An officer, ~~[(provider of health care,)]~~ school employee, taxicab driver or transit operator who was performing his or her duty ;

(II) A provider of health care ~~[(who)]~~ while the provider of health care is performing his or her duty or is on the premises ~~[(of a health care facility);]~~ where he or she performs that duty; or ~~[(upon a)]~~

(III) A sports official based on the performance of his or her duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm or the battery is committed by strangulation; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

↳ for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

(d) If the battery ~~is~~:

(I) ~~Is~~ committed upon ~~an~~ :

(I) ~~An~~ officer, ~~provider of health care,~~ school employee, taxicab driver or transit operator who is performing his or her duty ;

(II) ~~A provider of health care~~ ~~who~~ while the provider of health care is performing his or her duty or is on the premises ~~of a health care facility,~~ where he or she performs that duty; or ~~upon a~~

(III) ~~A~~ sports official based on the performance of his or her duties at a sporting event ; and ~~the~~

(2) ~~The~~ person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

↳ for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

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

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

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

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

~~(3. There is a rebuttable presumption that a person who batters a provider of health care knew or should have known that the victim was a provider of health care if the battery occurred on the premises of the health care facility where the provider of health care works or volunteers.)~~