

Amendment No. 170

Senate Amendment to Senate Bill No. 289	(BDR 15-996)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amends:</b> 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 know 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 ~~or 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.

~~(e)~~ (e) "Provider of health care" means ~~fee~~ :

(I) 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

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

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

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

20 (I) Interacts with the public;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 (2) The person charged knew or should have known that the victim was an  
 51 officer, a provider of health care, a school employee, a taxicab driver, a transit  
 52 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     (1) *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;

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

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

6 (I) Interact with the public;

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

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

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

12 (I) Interact with the public;

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

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

17 ~~[(e)]~~ (f) "Provider of health care" has the meaning ascribed to it in NRS  
 18 200.471.

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

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

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

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

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

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

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

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

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

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

40 (c) If:

41 (1) The battery is committed upon ~~an~~ :

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

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

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

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

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

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

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

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

9 (I) ~~An~~ officer, ~~provider of health care,~~ school employee, taxicab  
10 driver or 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 is on the premises ~~of a health care facility,~~  
13 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 ; and ~~the~~

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

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

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

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

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

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

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

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

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

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