

Amendment No. 635

Assembly Amendment to Senate Bill No. 289 First Reprint (BDR 15-996)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: No 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: 5/22/2023

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.

~

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; 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, public safety officer at a health care facility or participant in a program of training to provide emergency medical services; **(2) a person who provides health care services in the home for compensation;** or ~~(2)~~ **(3)** any person who is employed by 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.

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 ~~(a)~~ :

(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 person who provides health care services in the home for compensation, 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 public safety officer at a health care facility, an emergency medical technician, an advanced emergency medical technician, ~~and~~ a paramedic ~~+~~ ~~—(e)~~ or a participant in a program of training to provide emergency medical services; or

(2) An employee of or volunteer for a health care facility 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 while the provider of health care is performing his or her duty or is on the premises 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,

→ for a gross misdemeanor, unless the assault is made with the use of a deadly weapon or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and

1 a maximum term of not more than 6 years, or by a fine of not more than \$5,000, or
2 by both fine and imprisonment.

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

4 *(1) Is committed by a probationer, a prisoner who is in lawful custody or*
5 *confinement or a parolee upon ~~an~~ :*

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

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

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

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

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

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

23 200.481 1. As used in this section:

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

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

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

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

29 (e) "Officer" means:

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

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

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

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

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

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

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

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

46 (I) Interact with the public;

47 (II) Perform tasks related to law enforcement; and

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

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

52 (I) Interact with the public;

53 (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 while the provider of health care is performing his or her duty or is on the premises 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)]~~ :

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

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

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

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

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

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

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

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

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

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

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

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