

ASSEMBLY BILL NO. 278—ASSEMBLYMEN FUMO; AND NGUYEN

MARCH 15, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing criminal justice. (BDR 3-120)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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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 criminal justice; revising the list of persons against whom the commission of certain acts constitute domestic violence; requiring a jury trial in a justice court or municipal court under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law sets forth certain unlawful acts which constitute domestic violence  
2 when committed against certain specified persons. (NRS 33.018) **Section 1** of this  
3 bill revises the list of persons against whom such acts constitute domestic violence  
4 to: (1) remove certain persons with whom the person is related by marriage; (2)  
5 only include a minor child with whom a person is actually residing; (3) only  
6 include a person who has been appointed the custodian or legal guardian for the  
7 person’s minor child with whom the person is actually residing; and (4) limit the  
8 term “related by blood” to not include any sibling, stepsibling, cousin, aunt or  
9 uncle.

10 Existing law requires that certain cases tried in district court must be tried by  
11 jury unless the defendant waives a jury trial. Existing law requires cases in justice  
12 court to be tried by jury only if the defendant demands a jury trial. (NRS 175.011)  
13 **Section 3** of this bill requires a jury trial in a justice court or municipal court for a  
14 battery which constitutes domestic violence that is punishable as a misdemeanor,  
15 unless the defendant waives a jury trial. **Section 2** of this bill makes a conforming  
16 change.



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

1       **Section 1.** NRS 33.018 is hereby amended to read as follows:

2       33.018 1. Domestic violence occurs when a person commits  
3 one of the following acts against or upon the person's spouse or  
4 former spouse, any other person to whom the person is related by  
5 blood, ~~[or marriage,]~~ any other person with whom the person has  
6 had or is having a dating relationship, any other person with whom  
7 the person has a child in common, the minor child of any of those  
8 persons, the person's minor child *with whom the person is or was*  
9 *actually residing* or any other person who has been appointed the  
10 custodian or legal guardian for the person's minor child ~~[ ]~~ *with*  
11 *whom the person is or was actually residing:*

12       (a) A battery.

13       (b) An assault.

14       (c) Compelling the other person by force or threat of force to  
15 perform an act from which the other person has the right to refrain  
16 or to refrain from an act which the other person has the right to  
17 perform.

18       (d) A sexual assault.

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

22           (1) Stalking.

23           (2) Arson.

24           (3) Trespassing.

25           (4) Larceny.

26           (5) Destruction of private property.

27           (6) Carrying a concealed weapon without a permit.

28           (7) Injuring or killing an animal.

29       (f) A false imprisonment.

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

33       2. As used in this section ~~[ "dating" ]~~ :

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

38       (b) *"Related by blood" does not include any sibling,*  
39 *stepsibling, cousin, aunt or uncle.*

40       **Sec. 2.** NRS 4.230 is hereby amended to read as follows:

41       4.230 Every justice must keep a docket, by conventional or  
42 electronic means, in which the justice must enter:



- 1       1. The title of every action or proceeding.  
2       2. The object of the action or proceeding; and if a sum of  
3 money be claimed, the amount thereof.  
4       3. The date of the summons, and the time of its return; and if  
5 an order to arrest the defendant be made, or a writ of attachment be  
6 issued, a statement of the fact.  
7       4. The time when the parties, or either of them, appear, or their  
8 nonappearance, if default be made; a minute of the pleadings and  
9 motions; if in writing, referring to them; if not in writing, a concise  
10 statement of the material parts of the pleading.  
11       5. Every adjournment, stating on whose application and to  
12 what time.  
13       6. The demand for a trial by jury, when the same is made, and  
14 by whom made, the order for the jury, and the time appointed for the  
15 return of the jury and for the trial.  
16       7. *The waiver for a trial by jury for a battery which*  
17 *constitutes domestic violence pursuant to NRS 33.018 that is*  
18 *punishable as a misdemeanor.*  
19       8. The names of the jurors who appear and are sworn, and the  
20 names of all witnesses sworn, and at whose request.  
21       ~~8.~~ 9. The verdict of the jury, and when received; if the jury  
22 disagree and are discharged, the fact of such disagreement and  
23 discharge.  
24       ~~9.~~ 10. The judgment of the court, specifying the costs  
25 included, and the time when rendered.  
26       ~~10.~~ 11. The issuing of the execution, when issued and to  
27 whom; the renewals thereof, if any, and when made, and a statement  
28 of any money paid to the justice, when and by whom.  
29       ~~11.~~ 12. The receipt of a notice of appeal, if any be given, and  
30 of the appeal bond, if any be filed.  
31       **Sec. 3.** NRS 175.011 is hereby amended to read as follows:  
32       175.011 1. In a district court, cases required to be tried by  
33 jury must be so tried unless the defendant waives a jury trial in  
34 writing with the approval of the court and the consent of the State. A  
35 defendant who pleads not guilty to the charge of a capital offense  
36 must be tried by jury.  
37       2. ~~12.~~ *Except as otherwise provided in subsection 3, in*  
38 *justice court, a case must be tried by jury only if the defendant so*  
39 *demand in writing not less than 30 days before trial. Except as*  
40 *otherwise provided in NRS 4.390 and 4.400, if a case is tried by*  
41 *jury, a reporter must be present who is a certified court reporter and*  
42 *shall report the trial.*  
43       3. *In a justice court or municipal court, a battery which*  
44 *constitutes domestic violence pursuant to NRS 33.018 that is*



- 1 *punishable as a misdemeanor must be tried by jury unless the*
- 2 *defendant waives a jury trial in writing.*

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