

SENATE BILL NO. 361—SENATORS CANNIZZARO, SEGERBLOM,
MANENDO, RATTI, FARLEY; ATKINSON, CANCELA, DENIS,
FORD, PARKS, SPEARMAN AND WOODHOUSE

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions related to domestic violence.
(BDR 53-775)

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 domestic violence; providing under certain circumstances for hours of leave if an employee is a victim of an act which constitutes domestic violence; prohibiting the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from disqualifying certain persons from receiving unemployment benefits under certain circumstances; prohibiting employers from conditioning employment in certain circumstances; revising the list of persons against whom domestic violence may be committed; revising provisions that exclude certain misdemeanor offenses related to domestic violence from provisions that limit the time of day that an arrest for a misdemeanor may be made; increasing the penalty for a battery which constitutes domestic violence in certain circumstances; providing penalties; 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 requires an employer to provide certain hours of leave to an employee who has
- 4 been employed by the employer for at least 90 days and who is a victim of an act
- 5 which constitutes domestic violence, or such an employee whose family or



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6 household member is a victim of an act which constitutes domestic violence and the
7 employee is not the alleged perpetrator. **Section 1** specifically requires that such an
8 employee is entitled to 160 hours of leave during a 12-month period. Such leave:
9 (1) may be paid or unpaid; (2) must be used within the 12 months immediately
10 following the date on which the act which constitutes domestic violence occurred;
11 (3) may be used consecutively or intermittently; and (4) under certain
12 circumstances, must be deducted from leave permitted by the Family and Medical
13 Leave Act of 1993, 29 U.S.C. §§ 2601 et seq. **Section 1** authorizes an employee to
14 use the leave for purposes related to a person who is a victim of an act which
15 constitutes domestic violence. **Section 1** additionally requires an employer to
16 maintain a record of the use of the hours of leave for each employee for a 2-year
17 period and to make those records available for inspection by the Labor
18 Commissioner. Finally, **section 1** requires the Labor Commissioner to prepare a
19 bulletin setting forth the right to these benefits and requires employers to post the
20 bulletin in the workplace.

21 **Section 4** of this bill prohibits the Administrator of the Employment Security
22 Division of the Department of Employment, Training and Rehabilitation from
23 disqualifying a person from receiving unemployment compensation benefits if: (1)
24 the person left employment to protect himself or herself, or his or her family or
25 household member, from an act which constitutes domestic violence; and (2) the
26 person actively engaged in an effort to preserve employment. **Section 4** also
27 authorizes the Administrator to request evidence from the person to support a claim
28 for benefits.

29 **Section 6** of this bill requires an employer to provide reasonable
30 accommodations which will not create an undue hardship for an employee who is a
31 victim of an act which constitutes domestic violence or whose family or household
32 member is a victim of an act which constitutes domestic violence.

33 **Section 7** of this bill prohibits an employer from conditioning the employment
34 of an employee or prospective employee or taking certain employment actions
35 because: (1) the employee is a victim of an act which constitutes domestic violence;
36 (2) the employee's family or household member is a victim of an act which
37 constitutes domestic violence; or (3) of other circumstances related to being a
38 victim of an act which constitutes domestic violence.

39 **Section 7.5** of this bill revises the list of persons against whom domestic
40 violence may be committed to remove certain persons with whom the person is or
41 was actually residing. **Section 8.3** of this bill makes a conforming change.

42 Existing law establishes the acts which constitute domestic violence, including
43 committing a battery against a person with whom the aggressor has a certain
44 relationship. (NRS 33.018) Under existing law, a person who is convicted of a third
45 or subsequent offense of battery which constitutes domestic violence within 7 years
46 is guilty of a category C felony. Additionally, if a person is convicted of a battery
47 which constitutes domestic violence that is committed by strangulation, the person
48 is guilty of a category C felony. (NRS 200.485) **Section 9** of this bill makes it a
49 category B felony punishable by a minimum term of imprisonment of 2 years and a
50 maximum term of 15 years, and a fine of not less than \$2,000 but not more than
51 \$5,000, to commit a battery which constitutes domestic violence if the person has
52 previously been convicted of: (1) a felony in this State for committing battery
53 which constitutes domestic violence; or (2) a violation of the law of any other
54 jurisdiction that prohibits conduct that is the same or similar to a felony in this State
55 for committing a battery which constitutes domestic violence.

56 Existing law limits the time of day that an arrest for a misdemeanor may be
57 made. Under existing law, a battery that constitutes domestic violence is excluded
58 from such time limits and under certain circumstances such an arrest must be made.
59 (NRS 171.136, 171.137) **Section 8.7** of this bill makes conforming changes by
60 deleting the reference to battery that constitutes domestic violence and instead



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61 providing that an arrest for battery committed upon certain persons, including a
62 person with whom the person to be arrested is or was actually residing, may be
63 made at any time of day if the circumstances prescribed by existing law for
64 mandatory arrest for such an offense are met.

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

1 **Section 1.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *An employee who has been employed by an employer for at*
4 *least 90 days and who is a victim of an act which constitutes*
5 *domestic violence, or whose family or household member is a*
6 *victim of an act which constitutes domestic violence, and the*
7 *employee is not the alleged perpetrator, is entitled to not more than*
8 *160 hours of leave in one 12-month period. Hours of leave*
9 *provided pursuant to this subsection:*

10 (a) *May be paid or unpaid by the employer;*

11 (b) *Must be used within the 12 months immediately following*
12 *the date on which the act which constitutes domestic violence*
13 *occurred;*

14 (c) *May be used consecutively or intermittently; and*

15 (d) *If used for a reason for which leave may also be taken*
16 *pursuant to the Family and Medical Leave Act of 1993, 29 U.S.C.*
17 *§§ 2601 et seq., must be deducted from the amount of leave*
18 *the employee is entitled to take pursuant to this section and from*
19 *the amount of leave the employee is entitled to take pursuant to the*
20 *Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 et seq.*

21 2. *An employee may use the hours of leave pursuant to*
22 *subsection 1 as follows:*

23 (a) *An employee may use the hours of leave only:*

24 (1) *For the diagnosis, care or treatment of a health*
25 *condition related to an act which constitutes domestic violence*
26 *committed against the employee or family or household member of*
27 *the employee;*

28 (2) *To obtain counseling or assistance related to an act*
29 *which constitutes domestic violence committed against the*
30 *employee or family or household member of the employee;*

31 (3) *To participate in any court proceedings related to an act*
32 *which constitutes domestic violence committed against the*
33 *employee or family or household member of the employee; or*

34 (4) *To establish a safety plan, including, without limitation,*
35 *any action to increase the safety of the employee or the family or*
36 *household member of the employee from a future act which*
37 *constitutes domestic violence.*



1 ***(b) After taking any hours of leave upon the occurrence of the***
2 ***act which constitutes domestic violence, an employee shall give not***
3 ***less than 48 hours' advance notice to his or her employer of the***
4 ***need to use additional hours of leave for any purpose listed in***
5 ***paragraph (a).***

6 ***3. An employer shall not:***

7 ***(a) Deny an employee the right to use hours of leave in***
8 ***accordance with the conditions of this section;***

9 ***(b) Require an employee to find a replacement worker as a***
10 ***condition of using hours of leave; or***

11 ***(c) Retaliate against an employee for using hours of leave.***

12 ***4. The employer of an employee who takes hours of leave***
13 ***pursuant to this section may require the employee to provide to the***
14 ***employer documentation that confirms or supports the reason the***
15 ***employee provided for requesting leave. Such documentation may***
16 ***include, without limitation, a police report, a copy of an***
17 ***application for an order for protection, an affidavit from an***
18 ***organization which provides services to victims of domestic***
19 ***violence or documentation from a physician. Any documentation***
20 ***provided to an employer pursuant to this subsection is confidential***
21 ***and must be retained by the employer in a manner consistent with***
22 ***the requirements of the Family and Medical Leave Act of 1993, 29***
23 ***U.S.C. §§ 2601 et seq.***

24 ***5. The Labor Commissioner shall prepare a bulletin which***
25 ***clearly sets forth the right to the benefits created by this section.***
26 ***The Labor Commissioner shall post the bulletin on the Internet***
27 ***website maintained by the Office of Labor Commissioner, if any,***
28 ***and shall require all employers to post the bulletin in a***
29 ***conspicuous location in each workplace maintained by the***
30 ***employer. The bulletin may be included in any printed abstract***
31 ***posted by the employer pursuant to NRS 608.013.***

32 ***6. An employer shall maintain a record of the hours of leave***
33 ***taken pursuant to this section for each employee for a 2-year***
34 ***period following the entry of such information in the record and,***
35 ***upon request, shall make those records available for inspection by***
36 ***the Labor Commissioner. The employer shall exclude the names***
37 ***of the employees from the records, unless a request for a record is***
38 ***for the purpose of an investigation.***

39 ***7. The provisions of this section do not:***

40 ***(a) Limit or abridge any other rights, remedies or procedures***
41 ***available under the law.***

42 ***(b) Negate any other rights, remedies or procedures available***
43 ***to an aggrieved party.***



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1 (c) *Prohibit, preempt or discourage any contract or other*
2 *agreement that provides a more generous leave benefit or paid*
3 *leave benefit.*

4 8. *As used in this section:*

5 (a) *“Domestic violence” has the meaning ascribed to it in*
6 *NRS 33.018.*

7 (b) *“Family or household member” means a:*

8 (1) *Spouse;*

9 (2) *Domestic partner;*

10 (3) *Minor child; or*

11 (4) *Parent or other adult person who is related within the*
12 *first degree of consanguinity or affinity to the employee, or other*
13 *adult person who is or was actually residing with the employee at*
14 *the time of the act which constitutes domestic violence.*

15 **Sec. 2.** NRS 608.180 is hereby amended to read as follows:

16 608.180 The Labor Commissioner or the representative of the
17 Labor Commissioner shall cause the provisions of NRS 608.005 to
18 608.195, inclusive, *and section 1 of this act* to be enforced, and
19 upon notice from the Labor Commissioner or the representative:

20 1. The district attorney of any county in which a violation of
21 those sections has occurred;

22 2. The Deputy Labor Commissioner, as provided in
23 NRS 607.050;

24 3. The Attorney General, as provided in NRS 607.160 or
25 607.220; or

26 4. The special counsel, as provided in NRS 607.065,

27 ↪ shall prosecute the action for enforcement according to law.

28 **Sec. 3.** NRS 608.195 is hereby amended to read as follows:

29 608.195 1. Except as otherwise provided in NRS 608.0165,
30 any person who violates any provision of NRS 608.005 to 608.195,
31 inclusive, *and section 1 of this act*, or any regulation adopted
32 pursuant thereto, is guilty of a misdemeanor.

33 2. In addition to any other remedy or penalty, the Labor
34 Commissioner may impose against the person an administrative
35 penalty of not more than \$5,000 for each such violation.

36 **Sec. 4.** Chapter 612 of NRS is hereby amended by adding
37 thereto a new section to read as follows:

38 1. *The Administrator shall not deny any otherwise eligible*
39 *person benefits if the Administrator finds that:*

40 (a) *The person left employment to protect himself or herself, or*
41 *a family or household member, from an act which constitutes*
42 *domestic violence; and*

43 (b) *The person actively engaged in an effort to preserve*
44 *employment.*



1 2. *The Administrator may request the person to furnish*
2 *evidence satisfactory to support the person's claim for benefits.*

3 3. *As used in this section:*

4 (a) *"Domestic violence" has the meaning ascribed to it in*
5 *NRS 33.018.*

6 (b) *"Family or household member" means a:*

7 (1) *Spouse;*

8 (2) *Domestic partner;*

9 (3) *Minor child; or*

10 (4) *Parent or other adult person who is related within the*
11 *first degree of consanguinity or affinity to the employee, or other*
12 *adult person who is or was actually residing with the employee at*
13 *the time of the act which constitutes domestic violence.*

14 **Sec. 5.** Chapter 613 of NRS is hereby amended by adding
15 thereto the provisions set forth as sections 6 and 7 of this act.

16 **Sec. 6.** *1. An employer must make reasonable*
17 *accommodations which will not create an undue hardship for an*
18 *employee who is a victim of an act which constitutes domestic*
19 *violence or whose family or household member is a victim of an*
20 *act which constitutes domestic violence. The employer may*
21 *provide such accommodations, including, without limitation, as:*

22 (a) *A transfer or reassignment;*

23 (b) *A modified schedule;*

24 (c) *A new telephone number for work; or*

25 (d) *Any other reasonable accommodations which will not*
26 *create an undue hardship deemed necessary to ensure the safety of*
27 *the employee, the workplace, the employer or other employees.*

28 2. *An employer may require an employee to provide to the*
29 *employer documentation that confirms or supports the reason the*
30 *employee requires the reasonable accommodations.*

31 3. *As used in this section:*

32 (a) *"Domestic violence" has the meaning ascribed to it in*
33 *NRS 33.018.*

34 (b) *"Family or household member" has the meaning ascribed*
35 *to it in section 4 of this act.*

36 **Sec. 7.** *1. It is unlawful for any employer in this State to*
37 *discharge, discipline, discriminate against in any manner or deny*
38 *employment or promotion to, or threaten to take any such action*
39 *against, an employee because:*

40 (a) *The employee requested to use hours of leave pursuant to*
41 *section 1 of this act;*

42 (b) *The employee participated as a witness or interested party*
43 *in court proceedings related to an act which constitutes domestic*
44 *violence which triggered the use of leave pursuant to section 1 of*
45 *this act.*



1 (c) *The employee requested an accommodation pursuant to*
2 *section 6 of this act; or*

3 (d) *An act which constitutes domestic violence was committed*
4 *against the employee in the workplace of the employee.*

5 2. *As used in this section, "domestic violence" has the*
6 *meaning ascribed to it in NRS 33.018.*

7 **Sec. 7.5.** NRS 33.018 is hereby amended to read as follows:

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

18 (a) A battery.

19 (b) An assault.

20 (c) Compelling the other person by force or threat of force to
21 perform an act from which the other person has the right to refrain
22 or to refrain from an act which the other person has the right to
23 perform.

24 (d) A sexual assault.

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

28 (1) Stalking.

29 (2) Arson.

30 (3) Trespassing.

31 (4) Larceny.

32 (5) Destruction of private property.

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

34 (7) Injuring or killing an animal.

35 (f) A false imprisonment.

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

39 2. As used in this section, "dating relationship" means
40 frequent, intimate associations primarily characterized by the
41 expectation of affectional or sexual involvement. The term does not
42 include a casual relationship or an ordinary association between
43 persons in a business or social context.

44 **Sec. 8.** (Deleted by amendment.)



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1 **Sec. 8.3.** NRS 171.1225 is hereby amended to read as follows:
2 171.1225 1. When investigating an act of domestic violence,
3 a peace officer shall:

4 (a) Make a good faith effort to explain the provisions of NRS
5 171.137 pertaining to domestic violence and advise victims of all
6 reasonable means to prevent further abuse, including advising each
7 person of the availability of a shelter or other services in the
8 community.

9 (b) Provide a person suspected of being the victim of an act of
10 domestic violence with a written copy of the following statements:

11 (1) My name is Officer (naming the
12 investigating officer). Nevada law requires me to inform you of the
13 following information.

14 (2) If I have probable cause to believe that a battery has been
15 committed against you, your minor child or the minor child of the
16 person believed to have committed the battery in the last 24 hours
17 by your spouse, your former spouse, any other person to whom you
18 are related by blood or marriage, ~~fa person with whom you are or~~
19 ~~were actually residing,~~ a person with whom you have had or are
20 having a dating relationship or a person with whom you have a child
21 in common, I am required, unless mitigating circumstances exist, to
22 arrest the person suspected of committing the battery.

23 (3) If I am unable to arrest the person suspected of
24 committing the battery, you have the right to request that the
25 prosecutor file a criminal complaint against the person. I can
26 provide you with information on this procedure. If convicted, the
27 person who committed the battery may be placed on probation,
28 ordered to see a counselor, put in jail or fined.

29 (4) The law provides that you may seek a court order for the
30 protection of you, your minor children or any animal that is owned
31 or kept by you, by the person who committed or threatened the act
32 of domestic violence or by the minor child of either such person
33 against further threats or acts of domestic violence. You do not need
34 to hire a lawyer to obtain such an order for protection.

35 (5) An order for protection may require the person who
36 committed or threatened the act of domestic violence against you to:

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

39 (II) Move out of your residence;

40 (III) Stay away from your place of employment;

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

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



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

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

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

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

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

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

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

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

23 (7) To get an order for protection, go to room number
24 (state the room number of the office at the court) at the court, which
25 is located at (state the address of the court). Ask the
26 clerk of the court to provide you with the forms for an order of
27 protection.

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

31 (I) The arresting officer determines that such a violation
32 is accompanied by a direct or indirect threat of harm;

33 (II) The person has previously violated a temporary or
34 extended order for protection; or

35 (III) At the time of the violation or within 2 hours after
36 the violation, the person has a concentration of alcohol of 0.08 or
37 more in the person's blood or breath or an amount of a prohibited
38 substance in the person's blood or urine that is equal to or greater
39 than the amount set forth in subsection 3 of NRS 484C.110,

40 ➔ the person will not be admitted to bail sooner than 12 hours after
41 arrest.

42 (9) You may obtain emergency assistance or shelter by
43 contacting your local program against domestic violence at
44 (state name, address and telephone number of
45 local program) or you may call, without charge to you, the



1 Statewide Program Against Domestic Violence at
2 (state toll-free telephone number of Statewide Program).

3 2. The failure of a peace officer to carry out the requirements
4 set forth in subsection 1 is not a defense in a criminal prosecution
5 for the commission of an act of domestic violence, nor may such an
6 omission be considered as negligence or as causation in any civil
7 action against the peace officer or the officer's employer.

8 3. As used in this section:

9 (a) "Act of domestic violence" means any of the following acts
10 committed by a person against his or her spouse, former spouse, any
11 other person to whom he or she is related by blood or marriage, ~~a~~
12 ~~person with whom he or she is or was actually residing,~~ a person
13 with whom he or she has had or is having a dating relationship, a
14 person with whom he or she has a child in common, the minor child
15 of any of those persons or his or her minor child:

16 (1) A battery.

17 (2) An assault.

18 (3) Compelling the other by force or threat of force to
19 perform an act from which he or she has the right to refrain or to
20 refrain from an act which he or she has the right to perform.

21 (4) A sexual assault.

22 (5) A knowing, purposeful or reckless course of conduct
23 intended to harass the other. Such conduct may include, but is not
24 limited to:

25 (I) Stalking.

26 (II) Arson.

27 (III) Trespassing.

28 (IV) Larceny.

29 (V) Destruction of private property.

30 (VI) Carrying a concealed weapon without a permit.

31 (VII) Injuring or killing an animal.

32 (6) False imprisonment.

33 (7) Unlawful entry of the other's residence, or forcible entry
34 against the other's will if there is a reasonably foreseeable risk of
35 harm to the other from the entry.

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

40 **Sec. 8.7.** NRS 171.136 is hereby amended to read as follows:

41 171.136 1. If the offense charged is a felony or gross
42 misdemeanor, the arrest may be made on any day, and at any time of
43 day or night.

44 2. If it is a misdemeanor, the arrest cannot be made between
45 the hours of 7 p.m. and 7 a.m., except:



1 (a) Upon the direction of a magistrate, endorsed upon the
2 warrant;

3 (b) When the offense is committed in the presence of the
4 arresting officer;

5 (c) When the person is found and the arrest is made in a public
6 place or a place that is open to the public and:

7 (1) There is a warrant of arrest against the person; and

8 (2) The misdemeanor is discovered because there was
9 probable cause for the arresting officer to stop, detain or arrest the
10 person for another alleged violation or offense;

11 (d) When the offense is committed in the presence of a private
12 person and the person makes an arrest immediately after the offense
13 is committed;

14 (e) When ~~the offense charged is battery that constitutes~~
15 ~~domestic violence pursuant to NRS 33.018 and~~ the arrest is made in
16 the manner provided in NRS 171.137;

17 (f) When the offense charged is a violation of a temporary or
18 extended order for protection against domestic violence issued
19 pursuant to NRS 33.017 to 33.100, inclusive;

20 (g) When the person is already in custody as a result of another
21 lawful arrest; or

22 (h) When the person voluntarily surrenders himself or herself in
23 response to an outstanding warrant of arrest.

24 **Sec. 9.** NRS 200.485 is hereby amended to read as follows:

25 200.485 1. Unless a greater penalty is provided pursuant to
26 subsection 2 or **3 or** NRS 200.481, a person convicted of a battery
27 which constitutes domestic violence pursuant to NRS 33.018:

28 (a) For the first offense within 7 years, is guilty of a
29 misdemeanor and shall be sentenced to:

30 (1) Imprisonment in the city or county jail or detention
31 facility for not less than 2 days, but not more than 6 months; and

32 (2) Perform not less than 48 hours, but not more than 120
33 hours, of community service.

34 ➔ The person shall be further punished by a fine of not less than
35 \$200, but not more than \$1,000. A term of imprisonment imposed
36 pursuant to this paragraph may be served intermittently at the
37 discretion of the judge or justice of the peace, except that each
38 period of confinement must be not less than 4 consecutive hours and
39 must occur at a time when the person is not required to be at his or
40 her place of employment or on a weekend.

41 (b) For the second offense within 7 years, is guilty of a
42 misdemeanor and shall be sentenced to:

43 (1) Imprisonment in the city or county jail or detention
44 facility for not less than 10 days, but not more than 6 months; and



1 (2) Perform not less than 100 hours, but not more than 200
2 hours, of community service.

3 ➔ The person shall be further punished by a fine of not less than
4 \$500, but not more than \$1,000.

5 (c) For the third ~~and any subsequent~~ offense within 7 years, is
6 guilty of a category C felony and shall be punished as provided in
7 NRS 193.130.

8 2. Unless a greater penalty is provided pursuant to **subsection 3**
9 **or** NRS 200.481, a person convicted of a battery which constitutes
10 domestic violence pursuant to NRS 33.018, if the battery is
11 committed by strangulation as described in NRS 200.481, is guilty
12 of a category C felony and shall be punished as provided in NRS
13 193.130 and by a fine of not more than \$15,000.

14 3. ***Unless a greater penalty is provided pursuant to NRS***
15 ***200.481, a person who has been previously convicted of:***

16 (a) ***A battery which constitutes domestic violence pursuant to***
17 ***NRS 33.018 that is punishable as a felony pursuant to paragraph***
18 ***(c) of subsection 1 or subsection 2; or***

19 (b) ***A violation of the law of any other jurisdiction that***
20 ***prohibits the same or similar conduct set forth in paragraph (a),***

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

27 4. In addition to any other penalty, if a person is convicted of a
28 battery which constitutes domestic violence pursuant to NRS
29 33.018, the court shall:

30 (a) For the first offense within 7 years, require the person to
31 participate in weekly counseling sessions of not less than 1 1/2
32 hours per week for not less than 6 months, but not more than 12
33 months, at his or her expense, in a program for the treatment of
34 persons who commit domestic violence that has been certified
35 pursuant to NRS 228.470.

36 (b) For the second offense within 7 years, require the person to
37 participate in weekly counseling sessions of not less than 1 1/2
38 hours per week for 12 months, at his or her expense, in a program
39 for the treatment of persons who commit domestic violence that has
40 been certified pursuant to NRS 228.470.

41 ➔ If the person resides in this State but the nearest location at which
42 counseling services are available is in another state, the court may
43 allow the person to participate in counseling in the other state in a
44 program for the treatment of persons who commit domestic violence
45 that has been certified pursuant to NRS 228.470.



~~4. An~~

5. *Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in paragraph (a) or (b) of subsection 3 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions.* The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

~~6.~~ 6. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of \$35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

~~6.~~ 7. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

~~7.~~ 8. 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.

~~8.~~ 9. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant



1 probation to and, except as otherwise provided in NRS 4.373 and
2 5.055, a court shall not suspend the sentence of such a person.

3 ~~9~~ 10. As used in this section:

4 (a) "Agency which provides child welfare services" has the
5 meaning ascribed to it in NRS 432B.030.

6 (b) "Battery" has the meaning ascribed to it in paragraph (a) of
7 subsection 1 of NRS 200.481.

8 (c) "Offense" includes a battery which constitutes domestic
9 violence pursuant to NRS 33.018 or a violation of the law of any
10 other jurisdiction that prohibits the same or similar conduct.

11 **Sec. 10.** NRS 432B.640 is hereby amended to read as follows:

12 432B.640 1. Upon receiving a referral from a court pursuant
13 to subsection ~~7~~ 8 of NRS 200.485, an agency which provides child
14 welfare services may, as appropriate, conduct an assessment to
15 determine whether a psychological evaluation or counseling is
16 needed by a child.

17 2. If an agency which provides child welfare services conducts
18 an assessment pursuant to subsection 1 and determines that a
19 psychological evaluation or counseling would benefit the child, the
20 agency may, with the approval of the parent or legal guardian of the
21 child:

22 (a) Conduct the evaluation or counseling; or

23 (b) Refer the child to a person that has entered into an agreement
24 with the agency to provide those services.

25 **Sec. 11.** This act becomes effective;

26 1. Upon passage and approval for the purpose of adopting any
27 regulations and performing any other preparatory administrative
28 tasks necessary to carry out the provisions of this act; and

29 2. On January 1, 2018, for all other purposes.



