

ASSEMBLY BILL NO. 88—ASSEMBLYMAN ELLISON

PREFILED JANUARY 27, 2017

Referred to Committee on Judiciary

SUMMARY—Provides additional protection against certain crimes for a peace officer, firefighter or emergency medical provider or the spouse or child of such a person. (BDR 15-156)

FISCAL NOTE: Effect on Local Government: No. 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; imposing an additional penalty for the commission of certain crimes against a peace officer, firefighter or emergency medical provider or the spouse or child of such a person under certain circumstances; revising provisions relating to aggravating factors for murder in the first degree; creating civil liability for the commission of certain crimes; revising provisions concerning the reporting of certain crimes; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes an additional penalty for the commission of certain
2 crimes that were motivated by the actual or perceived race, color, religion, national
3 origin, physical or mental disability, sexual orientation or gender identity or
4 expression of the victim. (NRS 193.1675, 207.185) Existing law also creates civil
5 liability for the perpetrator of certain crimes motivated by any of these factors and
6 authorizes the recovery of actual and punitive damages by a victim. (NRS 41.690)
7 **Sections 1, 3 and 4** of this bill expand these provisions to include the commission
8 of certain crimes that are motivated by: (1) a victim’s employment status as a peace
9 officer, firefighter or emergency medical provider; or (2) the relationship of the
10 victim as the spouse or child of any age of a person who holds such a position.

11 Existing law makes the murder of a peace officer or firefighter an aggravating
12 factor for murder in the first degree. (NRS 200.033) **Section 2** of this bill adds the
13 murder of an emergency medical provider as an additional aggravating factor.

14 Existing law requires the Director of the Department of Public Safety to
15 establish a program for reporting crimes that is designed to collect, compile and
16 analyze statistical data about crimes motivated by race, color, religion, national
17 origin, physical or mental disability, sexual orientation or gender identity or



18 expression. (NRS 179A.175) **Section 5** of this bill requires that such a program
19 collect, compile and analyze statistical data on crimes motivated by: (1) a victim's
20 employment as a peace officer, firefighter or emergency medical provider; or (2)
21 the relationship of the victim as the spouse or child of any age of a person who
22 holds such a position.

1 WHEREAS, The peace officers, firefighters and emergency
2 medical providers of this State place their lives at risk on a daily
3 basis to ensure the safety of their fellow Nevadans; and

4 WHEREAS, Violence motivated solely by bias against these first
5 responders has recently increased, making it difficult for these
6 professionals to perform their duties; and

7 WHEREAS, Crimes directed against first responders are
8 discriminatory in a similar manner to crimes that are motivated by
9 race, color, religion, national origin, physical or mental disability,
10 sexual orientation or gender identity or expression in that they target
11 individuals based on their status as first responders; and

12 WHEREAS, Providing additional protection to peace officers,
13 firefighters and emergency medical providers from crimes
14 committed against them or their families based on their employment
15 status is warranted to ensure these first responders are able to carry
16 out their duties to protect the public; now, therefore,
17

18 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
19 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
20

21 **Section 1.** NRS 193.1675 is hereby amended to read as
22 follows:

23 193.1675 1. Except as otherwise provided in NRS 193.169,
24 any person who willfully violates any provision of NRS 200.030,
25 200.050, 200.280, 200.310, 200.366, 200.380, 200.400, 200.460 to
26 200.465, inclusive, paragraph (b) of subsection 2 of NRS 200.471,
27 NRS 200.481 which is punishable as a felony, NRS 200.508,
28 200.5099, subsection 2 of NRS 200.575, NRS 205.010 to 205.025,
29 inclusive, 205.060, 205.067, 205.075, NRS 205.0832 which is
30 punishable as a felony, NRS 205.220, 205.226, 205.228, 205.270,
31 206.150, NRS 206.330 which is punishable as a felony or NRS
32 207.190 ~~because~~ :

33 *(a) Because* the actual or perceived race, color, religion,
34 national origin, physical or mental disability, sexual orientation or
35 gender identity or expression of the victim was different from that
36 characteristic of the perpetrator ; *or*

37 *(b) Because of the employment status of the victim as a peace*
38 *officer, firefighter or emergency provider or the relationship of the*



1 *victim as the spouse or child of any age of a person with such*
2 *employment status,*

3 ↪ may, in addition to the term of imprisonment prescribed by
4 statute for the crime, be punished by imprisonment in the state
5 prison for a minimum term of not less than 1 year and a maximum
6 term of not more than 20 years.

7 **2.** In determining the length of any additional penalty imposed
8 ~~1~~ *pursuant to subsection 1,* the court shall consider the following
9 information:

- 10 (a) The facts and circumstances of the crime;
- 11 (b) The criminal history of the person;
- 12 (c) The impact of the crime on any victim;
- 13 (d) Any mitigating factors presented by the person; and
- 14 (e) Any other relevant information.

15 ↪ The court shall state on the record that it has considered the
16 information described in paragraphs (a) to (e), inclusive, in
17 determining the length of any additional penalty imposed.

18 ~~1~~ **3.** A sentence imposed pursuant to this section:

- 19 (a) Must not exceed the sentence imposed for the crime; and
- 20 (b) Runs consecutively with the sentence prescribed by statute
21 for the crime.

22 ~~1~~ **4.** This section does not create a separate offense but
23 provides an additional penalty for the primary offense, whose
24 imposition is contingent upon the finding of the prescribed fact.

25 **5. As used in this section:**

26 (a) *“Emergency medical provider” has the meaning ascribed*
27 *to it in NRS 450B.199.*

28 (b) *“Firefighter” has the meaning ascribed to it in*
29 *NRS 450B.071.*

30 (c) *“Peace officer” has the meaning ascribed to it in*
31 *NRS 169.125.*

32 **Sec. 2.** NRS 200.033 is hereby amended to read as follows:

33 200.033 The only circumstances by which murder of the first
34 degree may be aggravated are:

35 1. The murder was committed by a person under sentence of
36 imprisonment.

37 2. The murder was committed by a person who, at any time
38 before a penalty hearing is conducted for the murder pursuant to
39 NRS 175.552, is or has been convicted of:

40 (a) Another murder and the provisions of subsection 12 do not
41 otherwise apply to that other murder; or

42 (b) A felony involving the use or threat of violence to the person
43 of another and the provisions of subsection 4 do not otherwise apply
44 to that felony.



1 ↪ For the purposes of this subsection, a person shall be deemed to
2 have been convicted at the time the jury verdict of guilt is rendered
3 or upon pronouncement of guilt by a judge or judges sitting without
4 a jury.

5 3. The murder was committed by a person who knowingly
6 created a great risk of death to more than one person by means of a
7 weapon, device or course of action which would normally be
8 hazardous to the lives of more than one person.

9 4. The murder was committed while the person was engaged,
10 alone or with others, in the commission of, or an attempt to commit
11 or flight after committing or attempting to commit, any robbery,
12 arson in the first degree, burglary, invasion of the home or
13 kidnapping in the first degree, and the person charged:

14 (a) Killed or attempted to kill the person murdered; or

15 (b) Knew or had reason to know that life would be taken or
16 lethal force used.

17 5. The murder was committed to avoid or prevent a lawful
18 arrest or to effect an escape from custody.

19 6. The murder was committed by a person, for himself or
20 herself or another, to receive money or any other thing of monetary
21 value.

22 7. The murder was committed upon a peace officer , ~~fire~~
23 firefighter *or emergency medical provider* who was killed while
24 engaged in the performance of his or her official duty or because of
25 an act performed in his or her official capacity, and the defendant
26 knew or reasonably should have known that the victim was a peace
27 officer , ~~fire~~ firefighter ~~or~~ *or emergency medical provider*. For the
28 purposes of this subsection ~~the "peace~~ :

29 (a) *"Emergency medical provider" has the meaning ascribed*
30 *to it in NRS 450B.199.*

31 (b) *"Firefighter" has the meaning ascribed to it in*
32 *NRS 450B.071.*

33 (c) *"Peace officer" means:*

34 ~~(a)~~ (1) An employee of the Department of Corrections who
35 does not exercise general control over offenders imprisoned within
36 the institutions and facilities of the Department, but whose normal
37 duties require the employee to come into contact with those
38 offenders when carrying out the duties prescribed by the Director of
39 the Department.

40 ~~(b)~~ (2) Any person upon whom some or all of the powers of a
41 peace officer are conferred pursuant to NRS 289.150 to 289.360,
42 inclusive, when carrying out those powers.

43 8. The murder involved torture or the mutilation of the victim.

44 9. The murder was committed upon one or more persons at
45 random and without apparent motive.



1 10. The murder was committed upon a person less than 14
2 years of age.

3 11. The murder was committed upon a person because of the
4 actual or perceived race, color, religion, national origin, physical or
5 mental disability or sexual orientation of that person.

6 12. The defendant has, in the immediate proceeding, been
7 convicted of more than one offense of murder in the first or second
8 degree. For the purposes of this subsection, a person shall be
9 deemed to have been convicted of a murder at the time the jury
10 verdict of guilt is rendered or upon pronouncement of guilt by a
11 judge or judges sitting without a jury.

12 13. The person, alone or with others, subjected or attempted to
13 subject the victim of the murder to nonconsensual sexual penetration
14 immediately before, during or immediately after the commission of
15 the murder. For the purposes of this subsection:

16 (a) "Nonconsensual" means against the victim's will or under
17 conditions in which the person knows or reasonably should know
18 that the victim is mentally or physically incapable of resisting,
19 consenting or understanding the nature of his or her conduct,
20 including, but not limited to, conditions in which the person knows
21 or reasonably should know that the victim is dead.

22 (b) "Sexual penetration" means cunnilingus, fellatio or any
23 intrusion, however slight, of any part of the victim's body or any
24 object manipulated or inserted by a person, alone or with others, into
25 the genital or anal openings of the body of the victim, whether or
26 not the victim is alive. The term includes, but is not limited to, anal
27 intercourse and sexual intercourse in what would be its ordinary
28 meaning.

29 14. The murder was committed on the property of a public or
30 private school, at an activity sponsored by a public or private school
31 or on a school bus while the bus was engaged in its official duties by
32 a person who intended to create a great risk of death or substantial
33 bodily harm to more than one person by means of a weapon, device
34 or course of action that would normally be hazardous to the lives of
35 more than one person. For the purposes of this subsection, "school
36 bus" has the meaning ascribed to it in NRS 483.160.

37 15. The murder was committed with the intent to commit,
38 cause, aid, further or conceal an act of terrorism. For the purposes of
39 this subsection, "act of terrorism" has the meaning ascribed to it in
40 NRS 202.4415.

41 **Sec. 3.** NRS 207.185 is hereby amended to read as follows:

42 207.185 **1.** Unless a greater penalty is provided by law, a
43 person who ~~is~~ **by** :

44 **(a) By** reason of the actual or perceived race, color, religion,
45 national origin, physical or mental disability, sexual orientation or



1 gender identity or expression of another person or group of persons
2 ~~it~~; or

3 *(b) Because of the employment status of the victim as a peace*
4 *officer, firefighter or emergency provider or the relationship of the*
5 *victim as the spouse or child of any age of a person with such*
6 *employment status,*

7 *↪* willfully violates any provision of NRS 200.471, 200.481,
8 200.5099, 200.571, 200.575, 203.010, 203.020, 203.030, 203.060,
9 203.080, 203.090, 203.100, 203.110, 203.119, NRS 205.0832 which
10 is punishable as a misdemeanor, NRS 205.240, 205.2715, 205.274,
11 205.2741, 206.010, 206.040, 206.125, 206.140, 206.200, 206.310,
12 NRS 206.330 which is punishable as a misdemeanor, NRS 207.180,
13 207.200 or 207.210 is guilty of a gross misdemeanor.

14 **2. As used in this section:**

15 *(a) "Emergency medical provider" has the meaning ascribed*
16 *to it in NRS 450B.199.*

17 *(b) "Firefighter" has the meaning ascribed to it in*
18 *NRS 450B.071.*

19 *(c) "Peace officer" has the meaning ascribed to it in*
20 *NRS 169.125.*

21 **Sec. 4.** NRS 41.690 is hereby amended to read as follows:

22 41.690 1. A person who has suffered injury as the proximate
23 result of the willful violation of the provisions of NRS 200.030,
24 200.050, 200.280, 200.310, 200.366, 200.380, 200.400, 200.460,
25 200.463, 200.4631, 200.464, 200.465, 200.467, 200.468, 200.471,
26 200.481, 200.508, 200.5099, 200.571, 200.575, 203.010, 203.020,
27 203.030, 203.060, 203.080, 203.090, 203.100, 203.110, 203.119,
28 205.010 to 205.025, inclusive, 205.060, 205.067, 205.075,
29 205.0832, 205.220, 205.226, 205.228, 205.240, 205.270, 205.2715,
30 205.274, 205.2741, 206.010, 206.040, 206.125, 206.140, 206.150,
31 206.200, 206.310, 206.330, 207.180, 207.190, 207.200 or 207.210
32 by a perpetrator who was motivated by the injured person's
33 ~~actual~~:

34 *(a) Actual* or perceived race, color, religion, national origin,
35 physical or mental disability, sexual orientation or gender identity or
36 expression ; or

37 *(b) Employment status as a peace officer, firefighter or*
38 *emergency provider or relationship as the spouse or child of any*
39 *age of a person with such employment status,*

40 *↪* may bring an action for the recovery of his or her actual damages
41 and any punitive damages which the facts may warrant. If the
42 person who has suffered injury prevails in an action brought
43 pursuant to this subsection, the court shall award the person costs
44 and reasonable attorney's fees.



1 2. The liability imposed by this section is in addition to any
2 other liability imposed by law.

3 3. As used in this section, "gender identity or expression" has
4 the meaning ascribed to it in NRS 193.0148.

5 4. *As used in this section:*

6 (a) *"Emergency medical provider" has the meaning ascribed*
7 *to it in NRS 450B.199.*

8 (b) *"Firefighter" has the meaning ascribed to it in*
9 *NRS 450B.071.*

10 (c) *"Peace officer" has the meaning ascribed to it in*
11 *NRS 169.125.*

12 **Sec. 5.** NRS 179A.175 is hereby amended to read as follows:

13 179A.175 1. The Director of the Department shall establish
14 within the Central Repository a program for reporting crimes that
15 manifest evidence of prejudice based on race, color, religion,
16 national origin, physical or mental disability, sexual orientation ,
17 ~~+~~ gender identity or expression ~~+~~ *or employment status as a*
18 *peace officer, firefighter or emergency medical provider or the*
19 *relationship of the victim as the spouse or child of any age of a*
20 *peace officer, firefighter or emergency provider.*

21 2. The program must be designed to collect, compile and
22 analyze statistical data about crimes that manifest evidence of
23 prejudice based on race, color, religion, national origin, physical or
24 mental disability, sexual orientation , ~~+~~ gender identity or
25 expression ~~+~~ *or employment status as a peace officer, firefighter*
26 *or emergency medical provider or the relationship of the victim as*
27 *the spouse or child of any age of a peace officer, firefighter or*
28 *emergency provider.* The Director shall adopt guidelines for the
29 collection of the statistical data, including, but not limited to, the
30 criteria to establish the presence of prejudice.

31 3. The Central Repository shall include in any appropriate
32 report an independent section relating solely to the analysis of
33 crimes that manifest evidence of prejudice based on race, color,
34 religion, national origin, physical or mental disability, sexual
35 orientation , ~~+~~ gender identity or expression ~~+~~ *or employment*
36 *status as a peace officer, firefighter or emergency medical*
37 *provider or the relationship of the victim as the spouse or child of*
38 *any age of a peace officer, firefighter or emergency provider.*

39 4. Data acquired pursuant to this section must be used only for
40 research or statistical purposes and must not contain any information
41 that may reveal the identity of an individual victim of a crime.

42 5. As used in this section ~~+~~ *"gender"* :

43 (a) *"Emergency medical provider" has the meaning ascribed*
44 *to it in NRS 450B.199.*



1 ***(b) “Firefighter” has the meaning ascribed to it in***
2 ***NRS 450B.071.***

3 ***(c) “Gender identity or expression” has the meaning ascribed to***
4 ***it in NRS 193.0148.***

5 ***(d) “Peace officer” has the meaning ascribed to it in***
6 ***NRS 169.125.***

7 **Sec. 6.** The amendatory provisions of section 4 of this act
8 apply only to a cause of action that accrues on or after October 1,
9 2017.

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