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ASSEMBLY BILL NO. 97—COMMITTEE ON JUDICIARY  
(ON BEHALF OF THE NEVADA SUPREME COURT)

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions pertaining to domestic violence. (BDR 3-608)

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.

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AN ACT relating to domestic violence; revising the definition of domestic violence for the purposes of various statutes; revising the penalty for battery that constitutes domestic violence; making various other changes to certain provisions pertaining to domestic violence; and providing other matters properly relating thereto.

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 his spouse, former spouse,  
4 any other person to whom he is related by blood or marriage, ~~fa~~  
5 ~~person with whom he is or was actually residing,] a person with~~  
6 whom he has had or is having a dating relationship, a person with  
7 whom he has a child in common, the minor child of any of those  
8 persons or his minor child:  
9     (a) A battery.  
10    (b) An assault.  
11    (c) Compelling the other by force or threat of force to perform  
12 an act from which he has the right to refrain or to refrain from an act  
13 which he has the right to perform.  
14    (d) A sexual assault.



1 (e) A knowing, purposeful or reckless course of conduct  
2 intended to harass the other. Such conduct may include, but is not  
3 limited to:

- 4 (1) Stalking.
- 5 (2) Arson.
- 6 (3) Trespassing.
- 7 (4) Larceny.
- 8 (5) Destruction of private property.
- 9 (6) Carrying a concealed weapon without a permit.

10 (f) A false imprisonment.

11 (g) Unlawful entry of the other’s residence, or forcible entry  
12 against the other’s will if there is a reasonably foreseeable risk of  
13 harm to the other from the entry.

14 2. As used in this section, “dating relationship” means  
15 frequent, intimate associations primarily characterized by the  
16 expectation of affectional or sexual involvement. The term does not  
17 include a casual relationship or an ordinary association between  
18 persons in a business or social context.

19 **Sec. 2.** NRS 171.1225 is hereby amended to read as follows:

20 171.1225 1. When investigating an act of domestic violence,  
21 a peace officer shall:

22 (a) Make a good faith effort to explain the provisions of NRS  
23 171.137 pertaining to domestic violence and advise victims of all  
24 reasonable means to prevent further abuse, including advising each  
25 person of the availability of a shelter or other services in the  
26 community.

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

29 (1) My name is officer ..... (naming the  
30 investigating officer). Nevada law requires me to inform you of the  
31 following information.

32 (2) If I have probable cause to believe that a battery has been  
33 committed against you, your minor child or the minor child of the  
34 person believed to have committed the battery in the last 24 hours  
35 by your spouse, your former spouse, any other person to whom you  
36 are related by blood or marriage, ~~[a person with whom you are or~~  
37 ~~were actually residing.]~~ a person with whom you have had or are  
38 having a dating relationship or a person with whom you have a child  
39 in common, I am required, unless mitigating circumstances exist, to  
40 arrest the person suspected of committing the act.

41 (3) If I am unable to arrest the person suspected of  
42 committing the battery, you have the right to request that the  
43 prosecutor file a criminal complaint against the person. I can  
44 provide you with information on this procedure. If convicted, the



1 person who committed the battery may be placed on probation,  
2 ordered to see a counselor, put in jail or fined.

3 (4) The law provides that you may seek a court order for the  
4 protection of you or your minor children against further threats or  
5 acts of domestic violence. You do not need to hire a lawyer to  
6 obtain such an order for protection.

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

9 (I) Stop threatening, harassing or injuring you or your  
10 children;

11 (II) Move out of your residence;

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

13 (IV) Stay away from the school attended by your  
14 children;

15 (V) Stay away from any place you or your children  
16 regularly go; and

17 (VI) Avoid or limit all communication with you or your  
18 children.

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

23 (I) The rent or mortgage due on the place in which you  
24 live;

25 (II) The amount of money necessary for the support of  
26 your children; and

27 (III) Part or all of the costs incurred by you in obtaining  
28 the order for protection.

29 (7) To get an order for protection, go to room number .....  
30 (state the room number of the office at the court) at the court, which  
31 is located at ..... (state the address of the court). Ask the  
32 clerk of the court to provide you with the forms for an order of  
33 protection.

34 (8) If the person who committed or threatened the act of  
35 domestic violence against you violates the terms of an order for  
36 protection, he may be arrested and, if the arresting officer  
37 determines that such a violation is accompanied by a direct or  
38 indirect threat of harm, he will not be admitted to bail sooner than  
39 12 hours after his arrest.

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



1 2. As used in this section, “act of domestic violence” means  
2 any of the following acts committed by a person against his spouse,  
3 former spouse, any other person to whom he is related by blood or  
4 marriage,  ~~[a person with whom he is or was actually residing.]~~ a  
5 person with whom he has had or is having a dating relationship, a  
6 person with whom he has a child in common, the minor child of any  
7 of those persons or his minor child:

- 8 (a) A battery.
- 9 (b) An assault.
- 10 (c) Compelling the other by force or threat of force to perform  
11 an act from which he has the right to refrain or to refrain from an act  
12 which he has the right to perform.
- 13 (d) A sexual assault.
- 14 (e) A knowing, purposeful or reckless course of conduct  
15 intended to harass the other. Such conduct may include, but is not  
16 limited to:
  - 17 (1) Stalking.
  - 18 (2) Arson.
  - 19 (3) Trespassing.
  - 20 (4) Larceny.
  - 21 (5) Destruction of private property.
  - 22 (6) Carrying a concealed weapon without a permit.
- 23 (f) False imprisonment.
- 24 (g) Unlawful entry of the other’s residence, or forcible entry  
25 against the other’s will if there is a reasonably foreseeable risk of  
26 harm to the other from the entry.

27 3. The failure of a peace officer to carry out the requirements  
28 set forth in subsection 1 is not a defense in a criminal prosecution  
29 for the commission of an act of domestic violence, nor may such an  
30 omission be considered as negligence or as causation in any civil  
31 action against the peace officer or his employer.

32 4. As used in this section, “dating relationship” means  
33 frequent, intimate associations primarily characterized by the  
34 expectation of affectional or sexual involvement. The term does not  
35 include a casual relationship or an ordinary association between  
36 persons in a business or social context.

37 **Sec. 3.** NRS 171.137 is hereby amended to read as follows:  
38 171.137 1. Except as otherwise provided in subsection 2,  
39 whether or not a warrant has been issued, a peace officer shall,  
40 unless mitigating circumstances exist, arrest a person when he has  
41 probable cause to believe that the person to be arrested has, within  
42 the preceding 24 hours, committed a battery upon his spouse, former  
43 spouse, any other person to whom he is related by blood or  
44 marriage,  ~~[a person with whom he is or was actually residing.]~~ a  
45 person with whom he has had or is having a dating relationship, a



1 person with whom he has a child in common, the minor child of any  
2 of those persons or his minor child.

3 2. If the peace officer has probable cause to believe that a  
4 battery described in subsection 1 was a mutual battery, he shall  
5 attempt to determine which person was the primary physical  
6 aggressor. If the peace officer determines that one of the persons  
7 who allegedly committed a battery was the primary physical  
8 aggressor involved in the incident, the peace officer is not required  
9 to arrest any other person believed to have committed a battery  
10 during the incident. In determining whether a person is a primary  
11 physical aggressor for the purposes of this subsection, the peace  
12 officer shall consider:

- 13 (a) Prior domestic violence involving either person;
- 14 (b) The relative severity of the injuries inflicted upon the  
15 persons involved;
- 16 (c) The potential for future injury;
- 17 (d) Whether one of the alleged batteries was committed in self-  
18 defense; and
- 19 (e) Any other factor that may help the peace officer decide  
20 which person was the primary physical aggressor.

21 3. A peace officer shall not base his decision regarding whether  
22 to arrest a person pursuant to this section on his perception of the  
23 willingness of a victim or a witness to the incident to testify or  
24 otherwise participate in related judicial proceedings.

25 4. As used in this section, "dating relationship" means  
26 frequent, intimate associations primarily characterized by the  
27 expectation of affectional or sexual involvement. The term does not  
28 include a casual relationship or an ordinary association between  
29 persons in a business or social context.

30 **Sec. 4.** NRS 200.485 is hereby amended to read as follows:

31 200.485 1. Unless a greater penalty is provided pursuant to  
32 NRS 200.481, a person convicted of a battery that constitutes  
33 domestic violence pursuant to NRS 33.018:

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

36 (1) Imprisonment in the city or county jail or detention  
37 facility for not less than 2 days, but not more than 6 months; ~~and~~  
38 *or*

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

41 The person shall be further punished by a fine of not less than \$200,  
42 but not more than \$1,000. A term of imprisonment imposed  
43 pursuant to this paragraph may be served intermittently at the  
44 discretion of the judge or justice of the peace, except that each  
45 period of confinement must be not less than 4 consecutive hours and



1 must occur at a time when the person is not required to be at his  
2 place of employment or on a weekend.

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

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

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

9 The person shall be further punished by a fine of not less than  
10 ~~[\$500,] \$750~~, but not more than \$1,000 ~~[,]~~, *or in lieu of a fine, by*  
11 *an order to perform an equivalent number of hours of community*  
12 *service.*

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

16 2. In addition to any other penalty, if a person is convicted of a  
17 battery which constitutes domestic violence pursuant to NRS  
18 33.018, the court shall:

19 (a) For the first offense within 7 years, require him to participate  
20 in weekly counseling sessions of not less than 1 1/2 hours per week  
21 for not less than 6 months, but not more than 12 months, at his  
22 expense, in a program for the treatment of persons who commit  
23 domestic violence that has been certified pursuant to NRS 228.470.

24 (b) For the second offense within 7 years, require him to  
25 participate in weekly counseling sessions of not less than 1 1/2  
26 hours per week for 12 months, at his expense, in a program for the  
27 treatment of persons who commit domestic violence that has been  
28 certified pursuant to NRS 228.470.

29 3. An offense that occurred within 7 years immediately  
30 preceding the date of the principal offense or after the principal  
31 offense constitutes a prior offense for the purposes of this section  
32 when evidenced by a conviction, without regard to the sequence of  
33 the offenses and convictions. The facts concerning a prior offense  
34 must be alleged in the complaint, indictment or information, must  
35 not be read to the jury or proved at trial but must be proved at the  
36 time of sentencing and, if the principal offense is alleged to be a  
37 felony, must also be shown at the preliminary examination or  
38 presented to the grand jury.

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



1 5. In addition to any other penalty, the court may require such a  
2 person to participate, at his expense, in a program of treatment for  
3 the abuse of alcohol or drugs that has been certified by the Health  
4 Division of the Department of Human Resources.

5 6. If it appears from information presented to the court that a  
6 child under the age of 18 years may need counseling as a result of  
7 the commission of a battery which constitutes domestic violence  
8 pursuant to NRS 33.018, the court may refer the child to an agency  
9 which provides child welfare services. If the court refers a child to  
10 an agency which provides child welfare services, the court shall  
11 require the person convicted of a battery which constitutes domestic  
12 violence pursuant to NRS 33.018 to reimburse the agency for the  
13 costs of any services provided, to the extent of his ability to pay.

14 7. If a person is ~~[charged with]~~ **convicted of** committing a  
15 battery which constitutes domestic violence pursuant to NRS  
16 33.018, a ~~[prosecuting attorney shall not dismiss such a charge in  
17 exchange for a plea of guilty, guilty but mentally ill or nolo  
18 contendere to a lesser charge or for any other reason unless he  
19 knows, or it is obvious, that the charge is not supported by probable  
20 cause or cannot be proved at the time of trial. A]~~ court shall not  
21 grant probation to ~~[and,]~~ **or**, except as otherwise provided in NRS  
22 4.373 and 5.055, ~~[a court shall not]~~ suspend the sentence of such a  
23 person.

24 8. As used in this section:

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

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

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

32 **Sec. 5.** NRS 217.400 is hereby amended to read as follows:

33 217.400 As used in NRS 217.400 to 217.475, inclusive, unless  
34 the context otherwise requires:

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

39 2. "Division" means the Division of Child and Family Services  
40 of the Department of Human Resources.

41 3. "Domestic violence" means:

42 (a) The attempt to cause or the causing of bodily injury to a  
43 family ~~[or household]~~ member or the placing of the **family** member  
44 in fear of imminent physical harm by threat of force.



- 1 (b) Any of the following acts committed by a person against a  
2 family ~~or household~~ member, a person with whom he had or is  
3 having a dating relationship or with whom he has a child in  
4 common, or upon his minor child or a minor child of that person:
- 5 (1) A battery.
  - 6 (2) An assault.
  - 7 (3) Compelling the other by force or threat of force to  
8 perform an act from which he has the right to refrain or to refrain  
9 from an act which he has the right to perform.
  - 10 (4) A sexual assault.
  - 11 (5) A knowing, purposeful or reckless course of conduct  
12 intended to harass the other. Such conduct may include, without  
13 limitation:
    - 14 (I) Stalking.
    - 15 (II) Arson.
    - 16 (III) Trespassing.
    - 17 (IV) Larceny.
    - 18 (V) Destruction of private property.
    - 19 (VI) Carrying a concealed weapon without a permit.
  - 20 (6) False imprisonment.
  - 21 (7) Unlawful entry of the other's residence, or forcible entry  
22 against the other's will if there is a reasonably foreseeable risk of  
23 harm to the other from the entry.
- 24 4. "Family ~~or household~~ member" means a spouse, ~~a~~ former  
25 spouse ~~or~~ *parent of the person committing the act of domestic*  
26 *violence*, or other adult person who is related by blood or marriage  
27 ~~or is or was actually residing~~ with the person committing the act of  
28 domestic violence.
- 29 5. "Participant" means an adult, child or incompetent person  
30 for whom a fictitious address has been issued pursuant to NRS  
31 217.462 to 217.471, inclusive.
- 32 6. "Victim of domestic violence" includes the dependent  
33 children of the victim.
- 34 7. "Victim of sexual assault" means a person who has been  
35 sexually assaulted as defined in NRS 200.366 or a person upon  
36 whom a sexual assault has been attempted.
- 37 **Sec. 6.** This act becomes effective on July 1, 2003.

