

ASSEMBLY BILL NO. 339—ASSEMBLYWOMAN NGUYEN

MARCH 19, 2021

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to domestic violence. (BDR 14-120)

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 crimes; authorizing a justice court or municipal court to establish a program of treatment for a defendant who is charged with misdemeanor battery which constitutes domestic violence; enacting various provisions pertaining to the program of treatment; eliminating the prohibition on plea bargaining by a prosecuting attorney if a person is charged with battery which constitutes domestic violence; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the establishment of various programs for treatment, including for the treatment of alcohol or other substance use disorders, for the treatment of mental illness or intellectual disabilities and for the treatment of veterans and members of the military who suffer from certain conditions. (NRS 176A.230, 176A.250, 176A.280) **Section 3** of this bill authorizes a justice court or municipal court to establish a program for the treatment of defendants convicted of misdemeanor battery which constitutes domestic violence. **Section 3** provides that: (1) the assignment of a defendant to a program must include the terms and conditions for successful completion of the program; and (2) progress reports must be provided at intervals set by the court to ensure that the defendant is making satisfactory progress towards completion of the program.

Section 4 of this bill provides that if a defendant pleads guilty, guilty but mentally ill or nolo contendere to, or is found guilty or guilty but mentally ill of, a misdemeanor battery which constitutes domestic violence, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings upon terms and conditions that must include completion of a program established pursuant to **section 3**. **Section 4** also: (1) authorizes the court to take certain actions upon a violation of a term or condition by a defendant; (2) provides that upon fulfillment of the terms and conditions, the court is required to



20 discharge the defendant and dismiss the proceedings; and (3) sets forth the effect of
21 such a discharge and dismissal. **Section 5** of this bill requires the court to order the
22 sealing of the records of the case of a defendant who successfully completes a
23 program. **Sections 6-9** of this bill make conforming changes relating to the sealing
24 of the records of the case of a defendant who successfully completes a program.

25 Existing law provides that if a person is charged with committing a battery
26 which constitutes domestic violence: (1) a prosecuting attorney is prohibited from
27 dismissing such a charge in exchange for a plea of guilty, guilty but mentally ill or
28 nolo contendere to a lesser charge or for any other reason unless the prosecuting
29 attorney knows, or it is obvious, that the charge is not supported by probable cause
30 or cannot be proved at the time of trial; and (2) a court is prohibited from granting
31 probation to or suspending the sentence of the person, except that a justice court or
32 municipal court may suspend the sentence of a person under certain circumstances
33 and a court may grant probation to or suspend the sentence of a person to assign the
34 person to a program for the treatment of veterans and members of the military if the
35 charge is for a first offense punishable as a misdemeanor. (NRS 200.485) **Section**
36 **10** of this bill: (1) eliminates the prohibition on plea bargaining by a prosecuting
37 attorney; and (2) authorizes a court to suspend a sentence to assign a person to a
38 program established pursuant to **section 3**.

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

1 **Section 1.** Chapter 176A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 5, inclusive,
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 5, inclusive, of this act, unless*
5 *the context otherwise requires, "misdemeanor battery which*
6 *constitutes domestic violence" means:*

7 *1. A violation of NRS 200.485 that is punishable as a*
8 *misdemeanor; or*

9 *2. A violation of a county or municipal ordinance which*
10 *prohibits the same conduct that is prohibited under NRS 200.485*
11 *and which is punishable as a misdemeanor.*

12 **Sec. 3.** *1. A justice court or municipal court may establish*
13 *an appropriate program for the treatment of defendants who are*
14 *charged with or convicted of misdemeanor battery which*
15 *constitutes domestic violence who would benefit from assignment*
16 *to the program.*

17 *2. The assignment of a defendant to a program pursuant to*
18 *this section must:*

19 *(a) Include the terms and conditions for successful completion*
20 *of the program; and*

21 *(b) Provide for progress reports at intervals set by the court to*
22 *ensure that the defendant is making satisfactory progress towards*
23 *completion of the program.*

24 **Sec. 4.** *1. If a defendant tenders a plea of guilty, guilty but*
25 *mentally ill or nolo contendere to, or is found guilty or guilty but*



1 *mentally ill of, a misdemeanor battery which constitutes domestic*
2 *violence, the court may, without entering a judgment of conviction*
3 *and with the consent of the defendant, suspend further*
4 *proceedings upon terms and conditions that must include*
5 *attendance and successful completion of a program established*
6 *pursuant to section 3 of this act.*

7 2. *Upon violation of a term or condition:*

8 (a) *The court may impose sanctions against the defendant for*
9 *the violation, but allow the defendant to remain in the program.*
10 *Before imposing a sanction, the court shall notify the defendant of*
11 *the violation and provide the defendant an opportunity to respond.*
12 *Any sanction imposed pursuant to this paragraph may include,*
13 *without limitation, imprisonment in a county or city jail or*
14 *detention facility for a term set by the court, which must not*
15 *exceed 6 months.*

16 (b) *The court may enter a judgment of conviction, if*
17 *applicable, and proceed as provided in the section pursuant to*
18 *which the defendant was charged.*

19 3. *Upon fulfillment of the terms and conditions, the court*
20 *shall discharge the defendant and dismiss the proceedings.*

21 4. *Discharge and dismissal pursuant to this section is without*
22 *adjudication of guilt and is not a conviction for purposes of this*
23 *section or for purposes of employment, civil rights or any statute*
24 *or regulation or license or questionnaire or for any other public or*
25 *private purpose, but is a conviction for the purpose of additional*
26 *penalties imposed for second or subsequent convictions or the*
27 *setting of bail. Discharge and dismissal restores the defendant, in*
28 *the contemplation of the law, to the status occupied before the*
29 *arrest, complaint, indictment or information. The defendant may*
30 *not be held thereafter under any law to be guilty of perjury or*
31 *otherwise giving a false statement by reason of failure to recite*
32 *or acknowledge that arrest, complaint, indictment, information or*
33 *trial in response to an inquiry made of the defendant for any*
34 *purpose.*

35 **Sec. 5. 1.** *After a case is dismissed pursuant to section 4 of*
36 *this act, the court shall order sealed all documents, papers and*
37 *exhibits in the defendant's record, minute book entries and entries*
38 *on dockets, and other documents relating to the case in the*
39 *custody of such other agencies and officers as are named in the*
40 *court's order if the defendant fulfills the terms and conditions*
41 *imposed by the court.*

42 2. *The court shall send a copy of the order to each agency or*
43 *officer named in the order. Each such agency or officer shall*
44 *notify the justice court or municipal court, as applicable, in*
45 *writing of its compliance with the order.*



1 **Sec. 6.** NRS 179.245 is hereby amended to read as follows:

2 179.245 1. Except as otherwise provided in subsection 6 and
3 NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,
4 201.354 and 453.3365, *and section 5 of this act*, a person may
5 petition the court in which the person was convicted for the sealing
6 of all records relating to a conviction of:

7 (a) A category A felony, a crime of violence pursuant to NRS
8 200.408 or residential burglary pursuant to NRS 205.060 after 10
9 years from the date of release from actual custody or discharge from
10 parole or probation, whichever occurs later;

11 (b) Except as otherwise provided in paragraphs (a) and (e), a
12 category B, C or D felony after 5 years from the date of release from
13 actual custody or discharge from parole or probation, whichever
14 occurs later;

15 (c) A category E felony after 2 years from the date of release
16 from actual custody or discharge from parole or probation,
17 whichever occurs later;

18 (d) Except as otherwise provided in paragraph (e), any gross
19 misdemeanor after 2 years from the date of release from actual
20 custody or discharge from probation, whichever occurs later;

21 (e) A violation of NRS 422.540 to 422.570, inclusive, a
22 violation of NRS 484C.110 or 484C.120 other than a felony, or a
23 battery which constitutes domestic violence pursuant to NRS 33.018
24 other than a felony, after 7 years from the date of release from actual
25 custody or from the date when the person is no longer under a
26 suspended sentence, whichever occurs later;

27 (f) Except as otherwise provided in paragraph (e), if the offense
28 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
29 harassment pursuant to NRS 200.571, stalking pursuant to NRS
30 200.575 or a violation of a temporary or extended order for
31 protection, after 2 years from the date of release from actual custody
32 or from the date when the person is no longer under a suspended
33 sentence, whichever occurs later; or

34 (g) Any other misdemeanor after 1 year from the date of release
35 from actual custody or from the date when the person is no longer
36 under a suspended sentence, whichever occurs later.

37 2. A petition filed pursuant to subsection 1 must:

38 (a) Be accompanied by the petitioner's current, verified records
39 received from the Central Repository for Nevada Records of
40 Criminal History;

41 (b) If the petition references NRS 453.3365, include a certificate
42 of acknowledgment or the disposition of the proceedings for the
43 records to be sealed from all agencies of criminal justice which
44 maintain such records;



1 (c) Include a list of any other public or private agency, company,
2 official or other custodian of records that is reasonably known to the
3 petitioner to have possession of records of the conviction and to
4 whom the order to seal records, if issued, will be directed; and

5 (d) Include information that, to the best knowledge and belief of
6 the petitioner, accurately and completely identifies the records to be
7 sealed, including, without limitation, the:

8 (1) Date of birth of the petitioner;

9 (2) Specific conviction to which the records to be sealed
10 pertain; and

11 (3) Date of arrest relating to the specific conviction to which
12 the records to be sealed pertain.

13 3. Upon receiving a petition pursuant to this section, the court
14 shall notify the law enforcement agency that arrested the petitioner
15 for the crime and the prosecuting attorney, including, without
16 limitation, the Attorney General, who prosecuted the petitioner for
17 the crime. The prosecuting attorney and any person having relevant
18 evidence may testify and present evidence at any hearing on the
19 petition.

20 4. If the prosecuting attorney who prosecuted the petitioner for
21 the crime stipulates to the sealing of the records after receiving
22 notification pursuant to subsection 3 and the court makes the
23 findings set forth in subsection 5, the court may order the sealing of
24 the records in accordance with subsection 5 without a hearing. If the
25 prosecuting attorney does not stipulate to the sealing of the records,
26 a hearing on the petition must be conducted.

27 5. If the court finds that, in the period prescribed in subsection
28 1, the petitioner has not been charged with any offense for which the
29 charges are pending or convicted of any offense, except for minor
30 moving or standing traffic violations, the court may order sealed all
31 records of the conviction which are in the custody of any agency of
32 criminal justice or any public or private agency, company, official
33 or other custodian of records in the State of Nevada, and may also
34 order all such records of the petitioner returned to the file of the
35 court where the proceeding was commenced from, including,
36 without limitation, the Federal Bureau of Investigation and all other
37 agencies of criminal justice which maintain such records and which
38 are reasonably known by either the petitioner or the court to have
39 possession of such records.

40 6. A person may not petition the court to seal records relating
41 to a conviction of:

42 (a) A crime against a child;

43 (b) A sexual offense;

44 (c) Invasion of the home with a deadly weapon pursuant to
45 NRS 205.067;



1 (d) A violation of NRS 484C.110 or 484C.120 that is punishable
2 as a felony pursuant to paragraph (c) of subsection 1 of
3 NRS 484C.400;

4 (e) A violation of NRS 484C.430;

5 (f) A homicide resulting from driving or being in actual physical
6 control of a vehicle while under the influence of intoxicating liquor
7 or a controlled substance or resulting from any other conduct
8 prohibited by NRS 484C.110, 484C.130 or 484C.430;

9 (g) A violation of NRS 488.410 that is punishable as a felony
10 pursuant to NRS 488.427; or

11 (h) A violation of NRS 488.420 or 488.425.

12 7. If the court grants a petition for the sealing of records
13 pursuant to this section, upon the request of the person whose
14 records are sealed, the court may order sealed all records of the civil
15 proceeding in which the records were sealed.

16 8. As used in this section:

17 (a) "Crime against a child" has the meaning ascribed to it in
18 NRS 179D.0357.

19 (b) "Sexual offense" means:

20 (1) Murder of the first degree committed in the perpetration
21 or attempted perpetration of sexual assault or of sexual abuse or
22 sexual molestation of a child less than 14 years of age pursuant to
23 paragraph (b) of subsection 1 of NRS 200.030.

24 (2) Sexual assault pursuant to NRS 200.366.

25 (3) Statutory sexual seduction pursuant to NRS 200.368, if
26 punishable as a felony.

27 (4) Battery with intent to commit sexual assault pursuant to
28 NRS 200.400.

29 (5) An offense involving the administration of a drug to
30 another person with the intent to enable or assist the commission of
31 a felony pursuant to NRS 200.405, if the felony is an offense listed
32 in this paragraph.

33 (6) An offense involving the administration of a controlled
34 substance to another person with the intent to enable or assist the
35 commission of a crime of violence pursuant to NRS 200.408, if the
36 crime of violence is an offense listed in this paragraph.

37 (7) Abuse of a child pursuant to NRS 200.508, if the abuse
38 involved sexual abuse or sexual exploitation.

39 (8) An offense involving pornography and a minor pursuant
40 to NRS 200.710 to 200.730, inclusive.

41 (9) Incest pursuant to NRS 201.180.

42 (10) Open or gross lewdness pursuant to NRS 201.210, if
43 punishable as a felony.

44 (11) Indecent or obscene exposure pursuant to NRS 201.220,
45 if punishable as a felony.



- 1 (12) Lewdness with a child pursuant to NRS 201.230.
- 2 (13) Sexual penetration of a dead human body pursuant to
- 3 NRS 201.450.
- 4 (14) Sexual conduct between certain employees of a school
- 5 or volunteers at a school and a pupil pursuant to NRS 201.540.
- 6 (15) Sexual conduct between certain employees of a college
- 7 or university and a student pursuant to NRS 201.550.
- 8 (16) Luring a child or a person with mental illness pursuant
- 9 to NRS 201.560, if punishable as a felony.
- 10 (17) An attempt to commit an offense listed in this
- 11 paragraph.

12 **Sec. 7.** NRS 179.275 is hereby amended to read as follows:

13 179.275 Where the court orders the sealing of a record
14 pursuant to NRS 34.970, 174.034, 176.211, 176A.245, 176A.265,
15 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 179.271,
16 201.354 or 453.3365, *or section 5 of this act*, a copy of the order
17 must be sent to:

18 1. The Central Repository for Nevada Records of Criminal
19 History; and

20 2. Each agency of criminal justice and each public or private
21 company, agency, official or other custodian of records named in
22 the order, and that person shall seal the records in his or her custody
23 which relate to the matters contained in the order, shall advise the
24 court of compliance and shall then seal the order.

25 **Sec. 8.** NRS 179.285 is hereby amended to read as follows:

26 179.285 Except as otherwise provided in NRS 179.301:

27 1. If the court orders a record sealed pursuant to NRS 34.970,
28 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
29 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
30 453.3365 ~~or~~ *or section 5 of this act*:

31 (a) All proceedings recounted in the record are deemed never to
32 have occurred, and the person to whom the order pertains may
33 properly answer accordingly to any inquiry, including, without
34 limitation, an inquiry relating to an application for employment,
35 concerning the arrest, conviction, dismissal or acquittal and the
36 events and proceedings relating to the arrest, conviction, dismissal
37 or acquittal.

38 (b) The person is immediately restored to the following civil
39 rights if the person's civil rights previously have not been restored:

- 40 (1) The right to vote;
- 41 (2) The right to hold office; and
- 42 (3) The right to serve on a jury.

43 2. Upon the sealing of the person's records, a person who is
44 restored to his or her civil rights pursuant to subsection 1 must be
45 given:



1 (a) An official document which demonstrates that the person has
2 been restored to the civil rights set forth in paragraph (b) of
3 subsection 1; and

4 (b) A written notice informing the person that he or she has not
5 been restored to the right to bear arms, unless the person has
6 received a pardon and the pardon does not restrict his or her right to
7 bear arms.

8 3. A person who has had his or her records sealed in this State
9 or any other state and whose official documentation of the
10 restoration of civil rights is lost, damaged or destroyed may file a
11 written request with a court of competent jurisdiction to restore his
12 or her civil rights pursuant to this section. Upon verification that the
13 person has had his or her records sealed, the court shall issue an
14 order restoring the person to the civil rights to vote, to hold office
15 and to serve on a jury. A person must not be required to pay a fee to
16 receive such an order.

17 4. A person who has had his or her records sealed in this State
18 or any other state may present official documentation that the person
19 has been restored to his or her civil rights or a court order restoring
20 civil rights as proof that the person has been restored to the right to
21 vote, to hold office and to serve as a juror.

22 **Sec. 9.** NRS 179.295 is hereby amended to read as follows:

23 179.295 1. The person who is the subject of the records that
24 are sealed pursuant to NRS 34.970, 174.034, 176.211, 176A.245,
25 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,
26 179.2595, 179.271, 201.354 or 453.3365 *or section 5 of this act*
27 may petition the court that ordered the records sealed to permit
28 inspection of the records by a person named in the petition, and the
29 court may order such inspection. Except as otherwise provided in
30 this section, subsection 9 of NRS 179.255 and NRS 179.259 and
31 179.301, the court may not order the inspection of the records under
32 any other circumstances.

33 2. If a person has been arrested, the charges have been
34 dismissed and the records of the arrest have been sealed, the court
35 may order the inspection of the records by a prosecuting attorney
36 upon a showing that as a result of newly discovered evidence, the
37 person has been arrested for the same or a similar offense and that
38 there is sufficient evidence reasonably to conclude that the person
39 will stand trial for the offense.

40 3. The court may, upon the application of a prosecuting
41 attorney or an attorney representing a defendant in a criminal action,
42 order an inspection of such records for the purpose of obtaining
43 information relating to persons who were involved in the incident
44 recorded.



1 4. This section does not prohibit a court from considering a
2 proceeding for which records have been sealed pursuant to NRS
3 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
4 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
5 453.3365 *or section 5 of this act* in determining whether to grant a
6 petition pursuant to NRS 176.211, 176A.245, 176A.265, 176A.295,
7 179.245, 179.255, 179.259, 179.2595 or 453.3365 *or section 5 of*
8 *this act* for a conviction of another offense.

9 **Sec. 10.** NRS 200.485 is hereby amended to read as follows:

10 200.485 1. Unless a greater penalty is provided pursuant to
11 subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of
12 a battery which constitutes domestic violence pursuant to
13 NRS 33.018:

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

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

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

20 ➤ The person shall be further punished by a fine of not less than
21 \$200, but not more than \$1,000. A term of imprisonment imposed
22 pursuant to this paragraph may be served intermittently at the
23 discretion of the judge or justice of the peace, except that each
24 period of confinement must be not less than 12 consecutive hours
25 and must occur at a time when the person is not required to be at his
26 or her place of employment or on a weekend.

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

29 (1) Imprisonment in the city or county jail or detention
30 facility for not less than 20 days, but not more than 6 months; and

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

33 ➤ The person shall be further punished by a fine of not less than
34 \$500, but not more than \$1,000. A term of imprisonment imposed
35 pursuant to this paragraph may be served intermittently at the
36 discretion of the judge or justice of the peace, except that each
37 period of confinement must not be less than 12 consecutive hours
38 and must occur at a time when the person is not required to be at his
39 or her place of employment or on a weekend.

40 (c) For the third offense within 7 years, is guilty of a category B
41 felony and shall be punished by imprisonment in the state prison for
42 a minimum term of not less than 1 year and a maximum term of not
43 more than 6 years, and may be further punished by a fine of not less
44 than \$1,000, but not more than \$5,000.



1 2. Unless a greater penalty is provided pursuant to subsection 3
2 or NRS 200.481, a person convicted of a battery which constitutes
3 domestic violence pursuant to NRS 33.018, if the battery is
4 committed by strangulation as described in NRS 200.481, is guilty
5 of a category C felony and shall be punished as provided in
6 NRS 193.130.

7 3. Unless a greater penalty is provided pursuant to NRS
8 200.481, a person who has been previously convicted of:

9 (a) A felony that constitutes domestic violence pursuant to
10 NRS 33.018;

11 (b) A battery which constitutes domestic violence pursuant to
12 NRS 33.018, if the battery is committed with the use of a deadly
13 weapon as described in NRS 200.481; or

14 (c) A violation of the law of any other jurisdiction that prohibits
15 the same or similar conduct set forth in paragraph (a) or (b),

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

22 4. Unless a greater penalty is provided pursuant to NRS
23 200.481, a person convicted of a battery which constitutes domestic
24 violence pursuant to NRS 33.018, if the battery is committed against
25 a victim who was pregnant at the time of the battery and the person
26 knew or should have known that the victim was pregnant:

27 (a) For the first offense, is guilty of a gross misdemeanor.

28 (b) For the second or any subsequent offense, is guilty of a
29 category B felony and shall be punished by imprisonment in the
30 state prison of a minimum term of not less than 1 year and a
31 maximum term of not more than 6 years, and may be further
32 punished by a fine of not less than \$1,000, but not more than
33 \$5,000.

34 5. Unless a greater penalty is provided pursuant to NRS
35 200.481, a person convicted of a battery which constitutes domestic
36 violence pursuant to NRS 33.018, if the battery causes substantial
37 bodily harm, is guilty of a category B felony and shall be punished
38 by imprisonment in the state prison of a minimum term of not less
39 than 1 year and a maximum term of not more than 6 years, and may
40 be further punished by a fine of not less than \$1,000, but not more
41 than \$5,000.

42 6. In addition to any other penalty, if a person is convicted of a
43 battery which constitutes domestic violence pursuant to NRS
44 33.018, the court shall:



1 (a) For the first offense within 7 years, require the person to
2 participate in weekly counseling sessions of not less than 1 1/2
3 hours per week for not less than 6 months, at his or her expense, in a
4 program for the treatment of persons who commit domestic violence
5 that has been certified pursuant to NRS 439.258.

6 (b) For the second offense within 7 years, require the person to
7 participate in weekly counseling sessions of not less than 1 1/2
8 hours per week for not less than 12 months, at his or her expense, in
9 a program for the treatment of persons who commit domestic
10 violence that has been certified pursuant to NRS 439.258.

11 ➤ If the person resides in this State but the nearest location at which
12 counseling services are available is in another state, the court may
13 allow the person to participate in counseling in the other state in a
14 program for the treatment of persons who commit domestic violence
15 that has been certified pursuant to NRS 439.258.

16 7. Except as otherwise provided in this subsection, an offense
17 that occurred within 7 years immediately preceding the date of the
18 principal offense or after the principal offense constitutes a prior
19 offense for the purposes of this section:

20 (a) When evidenced by a conviction; or

21 (b) If the offense is conditionally dismissed pursuant to NRS
22 176A.290 or dismissed in connection with successful completion of
23 a diversionary program or specialty court program,

24 ➤ without regard to the sequence of the offenses and convictions.
25 An offense which is listed in paragraph (a), (b) or (c) of subsection 3
26 that occurred on any date preceding the date of the principal offense
27 or after the principal offense constitutes a prior offense for the
28 purposes of this section when evidenced by a conviction, without
29 regard to the sequence of the offenses and convictions. The facts
30 concerning a prior offense must be alleged in the complaint,
31 indictment or information, must not be read to the jury or proved at
32 trial but must be proved at the time of sentencing and, if the
33 principal offense is alleged to be a felony, must also be shown at the
34 preliminary examination or presented to the grand jury.

35 8. In addition to any other penalty, the court may require such a
36 person to participate, at his or her expense, in a program of
37 treatment for an alcohol or other substance use disorder that has
38 been certified by the Division of Public and Behavioral Health of
39 the Department of Health and Human Services.

40 9. If it appears from information presented to the court that a
41 child under the age of 18 years may need counseling as a result of
42 the commission of a battery which constitutes domestic violence
43 pursuant to NRS 33.018, the court may refer the child to an agency
44 which provides child welfare services. If the court refers a child to
45 an agency which provides child welfare services, the court shall



1 require the person convicted of a battery which constitutes domestic
2 violence pursuant to NRS 33.018 to reimburse the agency for the
3 costs of any services provided, to the extent of the convicted
4 person's ability to pay.

5 10. If a person is charged with committing a battery which
6 constitutes domestic violence pursuant to NRS 33.018, ~~fa~~
7 ~~prosecuting attorney shall not dismiss such a charge in exchange for~~
8 ~~a plea of guilty, guilty but mentally ill or nolo contendere to a lesser~~
9 ~~charge or for any other reason unless the prosecuting attorney~~
10 ~~knows, or it is obvious, that the charge is not supported by probable~~
11 ~~cause or cannot be proved at the time of trial. Except] *except* as
12 otherwise provided in this subsection, a court shall not grant
13 probation to or suspend the sentence of such a person. A court may
14 grant probation to or suspend the sentence of such a person:~~

15 (a) As set forth in NRS 4.373 and 5.055; ~~or~~

16 (b) To assign the person to a program for the treatment of
17 veterans and members of the military pursuant to NRS 176A.290 if
18 the charge is for a first offense punishable as a misdemeanor ~~or~~; *or*

19 *(c) To assign the person to a program pursuant to section 4 of*
20 *this act.*

21 11. In every judgment of conviction or admonishment of rights
22 issued pursuant to this section, the court shall:

23 (a) Inform the person convicted that he or she is prohibited from
24 owning, possessing or having under his or her custody or control
25 any firearm pursuant to NRS 202.360; and

26 (b) Order the person convicted to permanently surrender, sell or
27 transfer any firearm that he or she owns or that is in his or her
28 possession or under his or her custody or control in the manner set
29 forth in NRS 202.361.

30 12. A person who violates any provision included in a
31 judgment of conviction or admonishment of rights issued pursuant
32 to this section concerning the surrender, sale, transfer, ownership,
33 possession, custody or control of a firearm is guilty of a category B
34 felony and shall be punished by imprisonment in the state prison for
35 a minimum term of not less than 1 year and a maximum term of not
36 more than 6 years, and may be further punished by a fine of not
37 more than \$5,000. The court must include in the judgment of
38 conviction or admonishment of rights a statement that a violation of
39 such a provision in the judgment or admonishment is a category B
40 felony and shall be punished by imprisonment in the state prison for
41 a minimum term of not less than 1 year and a maximum term of not
42 more than 6 years, and may be further punished by a fine of not
43 more than \$5,000.

44 13. As used in this section:



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

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

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

8 **Sec. 11.** The amendatory provisions of this act apply to an
9 offense committed:

- 10 1. On or after October 1, 2021; or
- 11 2. Before October 1, 2021, if a judgment of conviction has not
12 been entered for the offense as of October 1, 2021.

