

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 a misdemeanor battery which constitutes domestic violence, after hearing arguments from the parties, 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) requires the court to allow a victim or prosecuting attorney to be heard before assigning the defendant to the program and to consider the safety of the victim in determining whether to



20 assign the defendant to the program; (2) sets forth the circumstances under which a
 21 defendant is ineligible for the program; (3) authorizes the court to take certain
 22 actions upon a violation of a term or condition by a defendant; (4) provides that
 23 upon fulfillment of the terms and conditions, the court is authorized to conditionally
 24 dismiss the charges; and (5) sets forth the effect of such a conditional dismissal.
 25 **Section 5** of this bill requires the court to order the sealing of the records of the
 26 case of a defendant who successfully completes a program, except that the court is
 27 prohibited from ordering a law enforcement agency or prosecuting attorney to seal
 28 the records sooner than 7 years after the conditional dismissal. **Sections 6-9** of this
 29 bill make conforming changes relating to the sealing of the records of the case of a
 30 defendant who successfully completes a program.

31 Existing law provides that if a person is charged with committing a battery
 32 which constitutes domestic violence: (1) a prosecuting attorney is prohibited from
 33 dismissing such a charge in exchange for a plea of guilty, guilty but mentally ill or
 34 nolo contendere to a lesser charge or for any other reason unless the prosecuting
 35 attorney knows, or it is obvious, that the charge is not supported by probable cause
 36 or cannot be proved at the time of trial; and (2) a court is prohibited from granting
 37 probation to or suspending the sentence of the person, except that a justice court or
 38 municipal court may suspend the sentence of a person under certain circumstances
 39 and a court may grant probation to or suspend the sentence of a person to assign the
 40 person to a program for the treatment of veterans and members of the military if the
 41 charge is for a first offense punishable as a misdemeanor. (NRS 200.485) **Section**
 42 **10** of this bill: (1) eliminates the prohibition on plea bargaining by a prosecuting
 43 attorney; and (2) authorizes a court to suspend a sentence to assign a person to a
 44 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*



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

4 **Sec. 4. 1. *If a defendant tenders a plea of guilty, guilty but***
5 ***mentally ill or nolo contendere to a misdemeanor battery which***
6 ***constitutes domestic violence, after hearing argument from the***
7 ***parties, the court may, without entering a judgment of conviction***
8 ***and with the consent of the defendant, suspend further***
9 ***proceedings upon terms and conditions that must include***
10 ***attendance and successful completion of a program established***
11 ***pursuant to section 3 of this act.***

12 **2. *The court shall:***

13 ***(a) Allow the prosecuting attorney and the victim a reasonable***
14 ***opportunity to be heard before the court considers assigning the***
15 ***defendant to a program established pursuant to section 3 of this***
16 ***act; and***

17 ***(b) Consider the safety of the victim in determining whether to***
18 ***assign the defendant to a program established pursuant to section***
19 ***3 of this act.***

20 **3. *A defendant is not eligible for assignment to a program***
21 ***established pursuant to section 3 of this act if:***

22 ***(a) The defendant was previously convicted of misdemeanor***
23 ***battery which constitutes domestic violence or previously***
24 ***completed a program established pursuant to section 3 of this act;***
25 ***or***

26 ***(b) The defendant entered into a plea agreement with a***
27 ***prosecuting attorney, unless the plea agreement allows the***
28 ***defendant to complete a program established pursuant to section 3***
29 ***of this act.***

30 **4. *Upon violation of a term or condition:***

31 ***(a) The court may impose sanctions against the defendant for***
32 ***the violation, but allow the defendant to remain in the program.***
33 ***Before imposing a sanction, the court shall notify the defendant of***
34 ***the violation and provide the defendant an opportunity to respond.***
35 ***Any sanction imposed pursuant to this paragraph may include,***
36 ***without limitation, imprisonment in a county or city jail or***
37 ***detention facility for a term set by the court, which must not***
38 ***exceed 6 months.***

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

42 **5. *Upon fulfillment of the terms and conditions, the court***
43 ***may conditionally dismiss the charges. If a court conditionally***
44 ***dismisses the charges, the court shall notify the defendant that the***
45 ***conditionally dismissed charges are a conviction for the purpose***



1 of additional penalties imposed for second or subsequent
2 convictions or the setting of bail in a future case, but are not a
3 conviction for purposes of employment, civil rights or any statute,
4 regulation, license or questionnaire or for any other public or
5 private purpose. Conditional dismissal restores the defendant, in
6 the contemplation of the law, to the status occupied before the
7 arrest, complaint, indictment or information. The defendant may
8 not be held thereafter under any law to be guilty of perjury or
9 otherwise giving a false statement by reason of failure to recite
10 or acknowledge that arrest, complaint, indictment, information or
11 trial in response to an inquiry made of the defendant for any
12 purpose.

13 **Sec. 5. 1.** Except as provided in subsection 3, after a case is
14 conditionally dismissed pursuant to section 4 of this act, the court
15 shall order sealed all documents, papers and exhibits in the
16 defendant's record, minute book entries and entries on dockets,
17 and other documents relating to the case in the custody of such
18 other agencies and officers as are named in the court's order if the
19 defendant fulfills the terms and conditions imposed by the court.

20 2. The court shall send a copy of the order to each agency or
21 officer named in the order. Each such agency or officer shall
22 notify the justice court or municipal court, as applicable, in
23 writing of its compliance with the order.

24 3. The court shall not order any law enforcement agency or
25 prosecuting attorney to seal any records pursuant to this section
26 sooner than 7 years after the conditional dismissal of the charges.
27 Any records that are not sealed pursuant to this subsection are
28 confidential and must not be disclosed except for any purpose for
29 which disclosure is authorized by section 4 of this act.

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

31 179.245 1. Except as otherwise provided in subsection 6 and
32 NRS 176.211, 176A.245, 176A.265, 176A.295, 179.247, 179.259,
33 201.354 and 453.3365, **and section 5 of this act**, a person may
34 petition the court in which the person was convicted for the sealing
35 of all records relating to a conviction of:

36 (a) A category A felony, a crime of violence pursuant to NRS
37 200.408 or residential burglary pursuant to NRS 205.060 after 10
38 years from the date of release from actual custody or discharge from
39 parole or probation, whichever occurs later;

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



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

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

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

13 (f) Except as otherwise provided in paragraph (e), if the offense
14 is punished as a misdemeanor, a battery pursuant to NRS 200.481,
15 harassment pursuant to NRS 200.571, stalking pursuant to NRS
16 200.575 or a violation of a temporary or extended order for
17 protection, after 2 years from the date of release from actual custody
18 or from the date when the person is no longer under a suspended
19 sentence, whichever occurs later; or

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

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

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

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

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

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

38 (1) Date of birth of the petitioner;

39 (2) Specific conviction to which the records to be sealed
40 pertain; and

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

43 3. Upon receiving a petition pursuant to this section, the court
44 shall notify the law enforcement agency that arrested the petitioner
45 for the crime and the prosecuting attorney, including, without



1 limitation, the Attorney General, who prosecuted the petitioner for
2 the crime. The prosecuting attorney and any person having relevant
3 evidence may testify and present evidence at any hearing on the
4 petition.

5 4. If the prosecuting attorney who prosecuted the petitioner for
6 the crime stipulates to the sealing of the records after receiving
7 notification pursuant to subsection 3 and the court makes the
8 findings set forth in subsection 5, the court may order the sealing of
9 the records in accordance with subsection 5 without a hearing. If the
10 prosecuting attorney does not stipulate to the sealing of the records,
11 a hearing on the petition must be conducted.

12 5. If the court finds that, in the period prescribed in subsection
13 1, the petitioner has not been charged with any offense for which the
14 charges are pending or convicted of any offense, except for minor
15 moving or standing traffic violations, the court may order sealed all
16 records of the conviction which are in the custody of any agency of
17 criminal justice or any public or private agency, company, official
18 or other custodian of records in the State of Nevada, and may also
19 order all such records of the petitioner returned to the file of the
20 court where the proceeding was commenced from, including,
21 without limitation, the Federal Bureau of Investigation and all other
22 agencies of criminal justice which maintain such records and which
23 are reasonably known by either the petitioner or the court to have
24 possession of such records.

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

27 (a) A crime against a child;

28 (b) A sexual offense;

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

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

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

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

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

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

42 7. If the court grants a petition for the sealing of records
43 pursuant to this section, upon the request of the person whose
44 records are sealed, the court may order sealed all records of the civil
45 proceeding in which the records were sealed.



1 8. As used in this section:

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

4 (b) "Sexual offense" means:

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

9 (2) Sexual assault pursuant to NRS 200.366.

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

12 (4) Battery with intent to commit sexual assault pursuant to
13 NRS 200.400.

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

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

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

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

26 (9) Incest pursuant to NRS 201.180.

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

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

31 (12) Lewdness with a child pursuant to NRS 201.230.

32 (13) Sexual penetration of a dead human body pursuant to
33 NRS 201.450.

34 (14) Sexual conduct between certain employees of a school
35 or volunteers at a school and a pupil pursuant to NRS 201.540.

36 (15) Sexual conduct between certain employees of a college
37 or university and a student pursuant to NRS 201.550.

38 (16) Luring a child or a person with mental illness pursuant
39 to NRS 201.560, if punishable as a felony.

40 (17) An attempt to commit an offense listed in this
41 paragraph.

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

43 179.275 Where the court orders the sealing of a record
44 pursuant to NRS 34.970, 174.034, 176.211, 176A.245, 176A.265,
45 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 179.271,



1 201.354 or 453.3365, *or section 5 of this act*, a copy of the order
2 must be sent to:

3 1. The Central Repository for Nevada Records of Criminal
4 History; and

5 2. Each agency of criminal justice and each public or private
6 company, agency, official or other custodian of records named in
7 the order, and that person shall seal the records in his or her custody
8 which relate to the matters contained in the order, shall advise the
9 court of compliance and shall then seal the order.

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

11 179.285 Except as otherwise provided in NRS 179.301:

12 1. If the court orders a record sealed pursuant to NRS 34.970,
13 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
14 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
15 453.3365 ~~§~~ *or section 5 of this act*:

16 (a) All proceedings recounted in the record are deemed never to
17 have occurred, and the person to whom the order pertains may
18 properly answer accordingly to any inquiry, including, without
19 limitation, an inquiry relating to an application for employment,
20 concerning the arrest, conviction, dismissal or acquittal and the
21 events and proceedings relating to the arrest, conviction, dismissal
22 or acquittal.

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

- 25 (1) The right to vote;
26 (2) The right to hold office; and
27 (3) The right to serve on a jury.

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

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

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

38 3. A person who has had his or her records sealed in this State
39 or any other state and whose official documentation of the
40 restoration of civil rights is lost, damaged or destroyed may file a
41 written request with a court of competent jurisdiction to restore his
42 or her civil rights pursuant to this section. Upon verification that the
43 person has had his or her records sealed, the court shall issue an
44 order restoring the person to the civil rights to vote, to hold office



1 and to serve on a jury. A person must not be required to pay a fee to
2 receive such an order.

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

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

9 179.295 1. The person who is the subject of the records that
10 are sealed pursuant to NRS 34.970, 174.034, 176.211, 176A.245,
11 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,
12 179.2595, 179.271, 201.354 or 453.3365 *or section 5 of this act*
13 may petition the court that ordered the records sealed to permit
14 inspection of the records by a person named in the petition, and the
15 court may order such inspection. Except as otherwise provided in
16 this section, subsection 9 of NRS 179.255 and NRS 179.259 and
17 179.301, the court may not order the inspection of the records under
18 any other circumstances.

19 2. If a person has been arrested, the charges have been
20 dismissed and the records of the arrest have been sealed, the court
21 may order the inspection of the records by a prosecuting attorney
22 upon a showing that as a result of newly discovered evidence, the
23 person has been arrested for the same or a similar offense and that
24 there is sufficient evidence reasonably to conclude that the person
25 will stand trial for the offense.

26 3. The court may, upon the application of a prosecuting
27 attorney or an attorney representing a defendant in a criminal action,
28 order an inspection of such records for the purpose of obtaining
29 information relating to persons who were involved in the incident
30 recorded.

31 4. This section does not prohibit a court from considering a
32 proceeding for which records have been sealed pursuant to NRS
33 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245,
34 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or
35 453.3365 *or section 5 of this act* in determining whether to grant a
36 petition pursuant to NRS 176.211, 176A.245, 176A.265, 176A.295,
37 179.245, 179.255, 179.259, 179.2595 or 453.3365 *or section 5 of*
38 *this act* for a conviction of another offense.

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

40 200.485 1. Unless a greater penalty is provided pursuant to
41 subsections 2 to 5, inclusive, or NRS 200.481, a person convicted of
42 a battery which constitutes domestic violence pursuant to
43 NRS 33.018:

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



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

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

5 ➤ The person shall be further punished by a fine of not less than
6 \$200, but not more than \$1,000. A term of imprisonment imposed
7 pursuant to this paragraph may be served intermittently at the
8 discretion of the judge or justice of the peace, except that each
9 period of confinement must be not less than 12 consecutive hours
10 and must occur at a time when the person is not required to be at his
11 or her place of employment or on a weekend.

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

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

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

18 ➤ The person shall be further punished by a fine of not less than
19 \$500, but not more than \$1,000. A term of imprisonment imposed
20 pursuant to this paragraph may be served intermittently at the
21 discretion of the judge or justice of the peace, except that each
22 period of confinement must not be less than 12 consecutive hours
23 and must occur at a time when the person is not required to be at his
24 or her place of employment or on a weekend.

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

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

36 3. Unless a greater penalty is provided pursuant to NRS
37 200.481, a person who has been previously convicted of:

38 (a) A felony that constitutes domestic violence pursuant to
39 NRS 33.018;

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

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



1 ➔ and who commits a battery which constitutes domestic violence
2 pursuant to NRS 33.018 is guilty of a category B felony and shall be
3 punished by imprisonment in the state prison for a minimum term of
4 not less than 2 years and a maximum term of not more than 15
5 years, and shall be further punished by a fine of not less than
6 \$2,000, but not more than \$5,000.

7 4. Unless a greater penalty is provided pursuant to NRS
8 200.481, a person convicted of a battery which constitutes domestic
9 violence pursuant to NRS 33.018, if the battery is committed against
10 a victim who was pregnant at the time of the battery and the person
11 knew or should have known that the victim was pregnant:

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

13 (b) For the second or any subsequent offense, is guilty of a
14 category B felony and shall be punished by imprisonment in the
15 state prison of a minimum term of not less than 1 year and a
16 maximum term of not more than 6 years, and may be further
17 punished by a fine of not less than \$1,000, but not more than
18 \$5,000.

19 5. Unless a greater penalty is provided pursuant to NRS
20 200.481, a person convicted of a battery which constitutes domestic
21 violence pursuant to NRS 33.018, if the battery causes substantial
22 bodily harm, is guilty of a category B felony and shall be punished
23 by imprisonment in the state prison of a minimum term of not less
24 than 1 year and a maximum term of not more than 6 years, and may
25 be further punished by a fine of not less than \$1,000, but not more
26 than \$5,000.

27 6. 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, at his or her expense, in a
33 program for the treatment of persons who commit domestic violence
34 that has been certified pursuant to NRS 439.258.

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

40 ➔ If the person resides in this State but the nearest location at which
41 counseling services are available is in another state, the court may
42 allow the person to participate in counseling in the other state in a
43 program for the treatment of persons who commit domestic violence
44 that has been certified pursuant to NRS 439.258.



1 7. Except as otherwise provided in this subsection, an offense
2 that occurred within 7 years immediately preceding the date of the
3 principal offense or after the principal offense constitutes a prior
4 offense for the purposes of this section:

5 (a) When evidenced by a conviction; or

6 (b) If the offense is conditionally dismissed pursuant to NRS
7 176A.290 or *section 4 of this act or* dismissed in connection with
8 successful completion of a diversionary program or specialty court
9 program,

10 ↪ without regard to the sequence of the offenses and convictions.
11 An offense which is listed in paragraph (a), (b) or (c) of subsection 3
12 that occurred on any date preceding the date of the principal offense
13 or after the principal offense constitutes a prior offense for the
14 purposes of this section when evidenced by a conviction, without
15 regard to the sequence of the offenses and convictions. The facts
16 concerning a prior offense must be alleged in the complaint,
17 indictment or information, must not be read to the jury or proved at
18 trial but must be proved at the time of sentencing and, if the
19 principal offense is alleged to be a felony, must also be shown at the
20 preliminary examination or presented to the grand jury.

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

26 9. If it appears from information presented to the court that a
27 child under the age of 18 years may need counseling as a result of
28 the commission of a battery which constitutes domestic violence
29 pursuant to NRS 33.018, the court may refer the child to an agency
30 which provides child welfare services. If the court refers a child to
31 an agency which provides child welfare services, the court shall
32 require the person convicted of a battery which constitutes domestic
33 violence pursuant to NRS 33.018 to reimburse the agency for the
34 costs of any services provided, to the extent of the convicted
35 person's ability to pay.

36 10. If a person is charged with committing a battery which
37 constitutes domestic violence pursuant to NRS 33.018, ~~for~~
38 ~~prosecuting attorney shall not dismiss such a charge in exchange for~~
39 ~~a plea of guilty, guilty but mentally ill or nolo contendere to a lesser~~
40 ~~charge or for any other reason unless the prosecuting attorney~~
41 ~~knows, or it is obvious, that the charge is not supported by probable~~
42 ~~cause or cannot be proved at the time of trial. Except] *except* as
43 otherwise provided in this subsection, a court shall not grant
44 probation to or suspend the sentence of such a person. A court may
45 grant probation to or suspend the sentence of such a person:~~



- 1 (a) As set forth in NRS 4.373 and 5.055; ~~for~~
2 (b) To assign the person to a program for the treatment of
3 veterans and members of the military pursuant to NRS 176A.290 if
4 the charge is for a first offense punishable as a misdemeanor ~~for~~; or
5 (c) *To assign the person to a program pursuant to section 4 of*
6 *this act.*

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

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

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

16 12. A person who violates any provision included in a
17 judgment of conviction or admonishment of rights issued pursuant
18 to this section concerning the surrender, sale, transfer, ownership,
19 possession, custody or control of a firearm is guilty of a category B
20 felony and shall be punished by imprisonment in the state prison for
21 a minimum term of not less than 1 year and a maximum term of not
22 more than 6 years, and may be further punished by a fine of not
23 more than \$5,000. The court must include in the judgment of
24 conviction or admonishment of rights a statement that a violation of
25 such a provision in the judgment or admonishment is a category B
26 felony and shall be punished by imprisonment in the state prison for
27 a minimum term of not less than 1 year and a maximum term of not
28 more than 6 years, and may be further punished by a fine of not
29 more than \$5,000.

30 13. As used in this section:

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

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

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

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

40 1. On or after October 1, 2021; or

41 2. Before October 1, 2021, if a judgment of conviction has not
42 been entered for the offense as of October 1, 2021.

