

Amendment No. 321

Assembly Amendment to Assembly Bill No. 339	(BDR 14-120)
Proposed by: Assembly Committee on Judiciary	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DAN/BAW



Date: 4/18/2021

A.B. No. 339—Makes various changes relating to domestic violence.
 (BDR 14-120)



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 ~~it, or is found guilty or guilty but mentally ill of,~~ 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 assign the defendant to the program;** (2) **sets forth the circumstances under which a defendant is ineligible for the program;** (3) authorizes the court to take certain actions upon a violation of a term or condition by a defendant; ~~[(2)]~~ **(4)** provides that upon fulfillment of the terms and conditions, the court is ~~required~~ **authorized** to ~~discharge the defendant and~~ **conditionally** dismiss the ~~proceedings;~~ **charges;** and ~~[(3)]~~ **(5)** sets forth the effect of such a ~~discharge and~~ **conditional** dismissal. **Section 5** of this bill requires the court to order the sealing of the records of the case of a defendant who successfully completes a program ~~it,~~ **except that the court is prohibited from ordering a law enforcement agency or prosecuting attorney to**

27 seal the records sooner than 7 years after the conditional dismissal. Sections 6-9 of this
 28 bill make conforming changes relating to the sealing of the records of the case of a defendant
 29 who successfully completes a program.

30 Existing law provides that if a person is charged with committing a battery which
 31 constitutes domestic violence: (1) a prosecuting attorney is prohibited from dismissing such a
 32 charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser
 33 charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the
 34 charge is not supported by probable cause or cannot be proved at the time of trial; and (2) a
 35 court is prohibited from granting probation to or suspending the sentence of the person, except
 36 that a justice court or municipal court may suspend the sentence of a person under certain
 37 circumstances and a court may grant probation to or suspend the sentence of a person to
 38 assign the person to a program for the treatment of veterans and members of the military if the
 39 charge is for a first offense punishable as a misdemeanor. (NRS 200.485) **Section 10** of this
 40 bill: (1) eliminates the prohibition on plea bargaining by a prosecuting attorney; and (2)
 41 authorizes a court to suspend a sentence to assign a person to a program established pursuant
 42 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 adding thereto the
 2 provisions set forth as sections 2 to 5, inclusive, of this act.

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

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

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

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

14 2. *The assignment of a defendant to a program pursuant to this section*
 15 *must:*

16 (a) *Include the terms and conditions for successful completion of the*
 17 *program; and*

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

20 **Sec. 4.** 1. *If a defendant tenders a plea of guilty, guilty but mentally ill or*
 21 *nolo contendere to ~~it, or is found guilty or guilty but mentally ill of,~~ a*
 22 *misdemeanor battery which constitutes domestic violence, after hearing*
 23 *argument from the parties, the court may, without entering a judgment of*
 24 *conviction and with the consent of the defendant, suspend further proceedings*
 25 *upon terms and conditions that must include attendance and successful*
 26 *completion of a program established pursuant to section 3 of this act.*

27 2. *The court shall:*

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

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

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

3 (a) The defendant was previously convicted of misdemeanor battery which
4 constitutes domestic violence or previously completed a program established
5 pursuant to section 3 of this act; or

6 (b) The defendant entered into a plea agreement with a prosecuting attorney,
7 unless the plea agreement allows the defendant to complete a program
8 established pursuant to section 3 of this act.

9 4. Upon violation of a term or condition:

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

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

18 ~~3. 5. Upon fulfillment of the terms and conditions, the court shall~~
19 ~~discharge the defendant and dismiss the proceedings.~~

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

37 Sec. 5. 1. ~~After~~ Except as provided in subsection 3, after a case is
38 conditionally dismissed pursuant to section 4 of this act, the court shall order
39 sealed all documents, papers and exhibits in the defendant's record, minute book
40 entries and entries on dockets, and other documents relating to the case in the
41 custody of such other agencies and officers as are named in the court's order if
42 the defendant fulfills the terms and conditions imposed by the court.

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

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

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

52 179.245 1. Except as otherwise provided in subsection 6 and NRS 176.211,
53 176A.245, 176A.265, 176A.295, 179.247, 179.259, 201.354 and 453.3365, and

1 **section 5 of this act**, a person may petition the court in which the person was
2 convicted for the sealing of all records relating to a conviction of:

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

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

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

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

14 (e) A violation of NRS 422.540 to 422.570, inclusive, a violation of NRS
15 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic
16 violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of
17 release from actual custody or from the date when the person is no longer under a
18 suspended sentence, whichever occurs later;

19 (f) Except as otherwise provided in paragraph (e), if the offense is punished as
20 a misdemeanor, a battery pursuant to NRS 200.481, harassment pursuant to NRS
21 200.571, stalking pursuant to NRS 200.575 or a violation of a temporary or
22 extended order for protection, after 2 years from the date of release from actual
23 custody or from the date when the person is no longer under a suspended sentence,
24 whichever occurs later; or

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

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

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

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

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

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

41 (1) Date of birth of the petitioner;

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

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

45 3. Upon receiving a petition pursuant to this section, the court shall notify the
46 law enforcement agency that arrested the petitioner for the crime and the
47 prosecuting attorney, including, without limitation, the Attorney General, who
48 prosecuted the petitioner for the crime. The prosecuting attorney and any person
49 having relevant evidence may testify and present evidence at any hearing on the
50 petition.

51 4. If the prosecuting attorney who prosecuted the petitioner for the crime
52 stipulates to the sealing of the records after receiving notification pursuant to
53 subsection 3 and the court makes the findings set forth in subsection 5, the court

1 may order the sealing of the records in accordance with subsection 5 without a
2 hearing. If the prosecuting attorney does not stipulate to the sealing of the records, a
3 hearing on the petition must be conducted.

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

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

17 (a) A crime against a child;

18 (b) A sexual offense;

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

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

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

23 (f) A homicide resulting from driving or being in actual physical control of a
24 vehicle while under the influence of intoxicating liquor or a controlled substance or
25 resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or
26 484C.430;

27 (g) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS
28 488.427; or

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

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

33 8. As used in this section:

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

35 (b) "Sexual offense" means:

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

39 (2) Sexual assault pursuant to NRS 200.366.

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

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

43 (5) An offense involving the administration of a drug to another person
44 with the intent to enable or assist the commission of a felony pursuant to NRS
45 200.405, if the felony is an offense listed in this paragraph.

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

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

52 (8) An offense involving pornography and a minor pursuant to NRS
53 200.710 to 200.730, inclusive.

1 (9) Incest pursuant to NRS 201.180.

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

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

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

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

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

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

12 (16) Luring a child or a person with mental illness pursuant to NRS
13 201.560, if punishable as a felony.

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

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

16 179.275 Where the court orders the sealing of a record pursuant to NRS
17 34.970, 174.034, 176.211, 176A.245, 176A.265, 176A.295, 179.245, 179.247,
18 179.255, 179.259, 179.2595, 179.271, 201.354 or 453.3365, **or section 5 of this act**,
19 a copy of the order must be sent to:

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

21 2. Each agency of criminal justice and each public or private company,
22 agency, official or other custodian of records named in the order, and that person
23 shall seal the records in his or her custody which relate to the matters contained in
24 the order, shall advise the 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, 174.034,
28 176.211, 176A.245, 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259,
29 179.2595, 179.271, 201.354 or 453.3365 **or section 5 of this act**:

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

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

37 (1) The right to vote;

38 (2) The right to hold office; and

39 (3) The right to serve on a jury.

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

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

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

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

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

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

6 179.295 1. The person who is the subject of the records that are sealed
7 pursuant to NRS 34.970, 174.034, 176.211, 176A.245, 176A.265, 176A.295,
8 179.245, 179.247, 179.255, 179.259, 179.2595, 179.271, 201.354 or 453.3365 **or**
9 **section 5 of this act** may petition the court that ordered the records sealed to permit
10 inspection of the records by a person named in the petition, and the court may order
11 such inspection. Except as otherwise provided in this section, subsection 9 of NRS
12 179.255 and NRS 179.259 and 179.301, the court may not order the inspection of
13 the records under any other circumstances.

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

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

24 4. This section does not prohibit a court from considering a proceeding for
25 which records have been sealed pursuant to NRS 174.034, 176.211, 176A.245,
26 176A.265, 176A.295, 179.245, 179.247, 179.255, 179.259, 179.2595, 179.271,
27 201.354 or 453.3365 **or section 5 of this act** in determining whether to grant a
28 petition pursuant to NRS 176.211, 176A.245, 176A.265, 176A.295, 179.245,
29 179.255, 179.259, 179.2595 or 453.3365 **or section 5 of this act** for a conviction of
30 another offense.

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

32 200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to
33 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes
34 domestic violence pursuant to NRS 33.018:

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

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

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

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

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

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

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

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

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

11 2. Unless a greater penalty is provided pursuant to subsection 3 or NRS
12 200.481, a person convicted of a battery which constitutes domestic violence
13 pursuant to NRS 33.018, if the battery is committed by strangulation as described in
14 NRS 200.481, is guilty of a category C felony and shall be punished as provided in
15 NRS 193.130.

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

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

19 (b) A battery which constitutes domestic violence pursuant to NRS 33.018, if
20 the battery is committed with the use of a deadly weapon as described in NRS
21 200.481; or

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

24 ↳ and who commits a battery which constitutes domestic violence pursuant to NRS
25 33.018 is guilty of a category B felony and shall be punished by imprisonment in
26 the state prison for a minimum term of not less than 2 years and a maximum term
27 of not more than 15 years, and shall be further punished by a fine of not less than
28 \$2,000, but not more than \$5,000.

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

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

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

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

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

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

50 (b) For the second offense within 7 years, require the person to participate in
51 weekly counseling sessions of not less than 1 1/2 hours per week for not less than
52 12 months, at his or her expense, in a program for the treatment of persons who
53 commit domestic violence that has been certified pursuant to NRS 439.258.

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

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

8 (a) When evidenced by a conviction; or

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

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

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

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

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

41 (a) As set forth in NRS 4.373 and 5.055; ~~["or"]~~

42 (b) To assign the person to a program for the treatment of veterans and
43 members of the military pursuant to NRS 176A.290 if the charge is for a first
44 offense punishable as a misdemeanor ~~[";"]~~ ; or

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

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

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

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

1 12. A person who violates any provision included in a judgment of conviction
2 or admonishment of rights issued pursuant to this section concerning the surrender,
3 sale, transfer, ownership, possession, custody or control of a firearm is guilty of a
4 category B felony and shall be punished by imprisonment in the state prison for a
5 minimum term of not less than 1 year and a maximum term of not more than 6
6 years, and may be further punished by a fine of not more than \$5,000. The court
7 must include in the judgment of conviction or admonishment of rights a statement
8 that a violation of such a provision in the judgment or admonishment is a category
9 B felony and shall be punished by imprisonment in the state prison for a minimum
10 term of not less than 1 year and a maximum term of not more than 6 years, and may
11 be further punished by a fine of not more than \$5,000.

12 13. As used in this section:

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

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

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

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

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

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