

Senate Bill No. 412–Committee on Judiciary

CHAPTER.....

AN ACT relating to criminal justice; revising provisions governing early discharge from probation; revising the definition of the term “strangulation” as it relates to the crime of battery; prohibiting certain acts involving the use, possession or carrying of a firearm during the commission of certain drug offenses; revising provisions relating to warnings against trespassing; providing a penalty; making an appropriation to the Department of Public Safety to purchase two machines capable of testing for fentanyl and its derivatives and measuring the concentration thereof in mixtures; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to petition the court to recommend the early discharge of a person from probation if the person satisfies certain requirements, including not having been convicted of a violent or sexual offense or abuse, neglect or endangerment of a child. (NRS 176A.840) **Section 11** of this bill adds certain offenses involving a firearm and invasion of the home to such disqualifying offenses for purposes of the early discharge of a person from probation.

Existing law establishes the definition of and the penalties for the crime of battery. (NRS 200.481) **Section 14** of this bill revises the definition of the term “strangulation” as it relates to the crime of battery.

Existing law prohibits the ownership or possession of firearms by certain persons. (NRS 202.360) **Section 15** of this bill additionally prohibits a person from using or carrying a firearm during and in relation to, or possessing a firearm in furtherance of, the commission of certain drug offenses and provides that a person who violates any such provision is guilty of a category B felony.

Existing law generally provides that a person who, under circumstances not amounting to a burglary, willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass is guilty of a misdemeanor. (NRS 207.200) **Section 36.5** of this bill requires that such a warning by an owner or occupant must have been given during the previous 24 months.

Section 57.5 of this bill makes an appropriation from the State General Fund to the Department of Public Safety for the purpose of purchasing two machines that are capable of testing for fentanyl and its derivatives and measuring the concentration thereof in mixtures.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Sections 1-10. (Deleted by amendment.)



Sec. 11. NRS 176A.840 is hereby amended to read as follows:
176A.840 1. The Division shall petition the court to recommend the early discharge of a person from probation if the person:

(a) Has not violated any condition of probation during the immediately preceding 12 months;

(b) Is current with any fee to defray the costs of his or her supervision charged by the Division pursuant to NRS 213.1076;

(c) Has paid restitution *ordered by the court* in full or, because of economic hardship that is verified by the Division, has been unable to make restitution as ordered by the court;

(d) Has completed any program of substance use treatment or mental health treatment or a specialty court program as mandated by the court or the Division; and

(e) Has not been convicted of a violent or sexual offense as defined in NRS 202.876 or a violation of NRS 200.508 ~~or~~ *205.067*.

2. This section must not be construed to prohibit the court from allowing the early discharge of a person from probation if the person does not meet the requirements set forth in subsection 1.

Secs. 12 and 13. (Deleted by amendment.)

Sec. 14. NRS 200.481 is hereby amended to read as follows:
200.481 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Child" means a person less than 18 years of age.

(c) "Fire-fighting agency" has the meaning ascribed to it in NRS 239B.020.

(d) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail or detention facility;

(5) A prosecuting attorney of an agency or political subdivision of the United States or of this State;

(6) A justice of the Supreme Court, judge of the Court of Appeals, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including, without limitation, a person acting pro tempore in a capacity listed in this subparagraph;



(7) An employee of this State or a political subdivision of this State whose official duties require the employee to make home visits;

(8) A civilian employee or a volunteer of a law enforcement agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to law enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the law enforcement agency;

(9) A civilian employee or a volunteer of a fire-fighting agency whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to fire fighting or fire prevention; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for the fire-fighting agency; or

(10) A civilian employee or volunteer of this State or a political subdivision of this State whose official duties require the employee or volunteer to:

(I) Interact with the public;

(II) Perform tasks related to code enforcement; and

(III) Wear identification, clothing or a uniform that identifies the employee or volunteer as working or volunteering for this State or a political subdivision of this State.

(e) "Provider of health care" has the meaning ascribed to it in NRS 200.471.

(f) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100 or 391.281.

(g) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(h) "Sports official" has the meaning ascribed to it in NRS 41.630.

(i) "Strangulation" means intentionally ~~[impeding the normal breathing or circulation of the blood by]~~ applying *sufficient* pressure ~~[on the throat or neck or by blocking the nose or mouth of]~~ to another person ~~[in a manner that creates a risk of death or substantial bodily harm.]~~ *to make it difficult or impossible for the person to breathe, including, without limitation, applying pressure to the neck, throat or windpipe that may prevent or hinder breathing or reduce the intake of air, or applying any pressure to*



the neck on either side of the windpipe, but not the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

(j) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(k) "Taxicab driver" means a person who operates a taxicab.

(l) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. Except as otherwise provided in NRS 200.485, a person convicted of a battery, other than a battery committed by an adult upon a child which constitutes child abuse, shall be punished:

(a) If the battery is not committed with a deadly weapon, and no substantial bodily harm to the victim results, except under circumstances where a greater penalty is provided in this section or NRS 197.090, for a misdemeanor.

(b) If the battery is not committed with a deadly weapon, and either substantial bodily harm to the victim results or the battery is committed by strangulation, for a category C felony as provided in NRS 193.130.

(c) If:

(1) The battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who was performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event;

(2) The officer, provider of health care, school employee, taxicab driver, transit operator or sports official suffers substantial bodily harm or the battery is committed by strangulation; and

(3) The person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official,

↳ for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

(d) If the battery is committed upon an officer, provider of health care, school employee, taxicab driver or transit operator who is performing his or her duty or upon a sports official based on the performance of his or her duties at a sporting event and the person charged knew or should have known that the victim was an officer, provider of health care, school employee, taxicab driver, transit operator or sports official, for a gross misdemeanor, except under circumstances where a greater penalty is provided in this section.

(e) If the battery is committed with the use of a deadly weapon, and:



(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

(f) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, without the use of a deadly weapon, whether or not substantial bodily harm results and whether or not the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

(g) If the battery is committed by a probationer, a prisoner who is in lawful custody or confinement or a parolee, with the use of a deadly weapon, and:

(1) No substantial bodily harm to the victim results, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.

(2) Substantial bodily harm to the victim results or the battery is committed by strangulation, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years.

Sec. 15. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of the crime of battery which constitutes domestic violence pursuant to NRS 200.485, or a law of any other jurisdiction that prohibits the same or substantially similar conduct, committed against or upon:

- (1) The spouse or former spouse of the person;
- (2) Any other person with whom the person has had or is having a dating relationship, as defined in NRS 33.018;
- (3) Any other person with whom the person has a child in common;
- (4) The parent of the person; or



(5) The child of the person or a child for whom the person is the legal guardian.

(b) Has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(c) Has been convicted of a violation of NRS 200.575 or a law of any other state that prohibits the same or substantially similar conduct and the court entered a finding in the judgment of conviction or admonishment of rights pursuant to subsection 7 of NRS 200.575;

(d) Except as otherwise provided in NRS 33.031, is currently subject to:

(1) An extended order for protection against domestic violence pursuant to NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party is prohibited from possessing or having under his or her custody or control any firearm while the order is in effect; or

(2) An equivalent order in any other state;

(e) Is a fugitive from justice;

(f) Is an unlawful user of, or addicted to, any controlled substance; or

(g) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

↳ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility by a court of this State, any other state or the United States;

(b) Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;

(c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;

(d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or

(e) Is illegally or unlawfully in the United States.



↪ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. *A person shall not use or carry a firearm during and in relation to, or possess a firearm in furtherance of, the commission of any act in violation of NRS 453.321, 453.322, 453.337, 453.3385 or 453.401. A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.*

4. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Secs. 16-36. (Deleted by amendment.)

Sec. 36.5. NRS 207.200 is hereby amended to read as follows:

207.200 1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned *during the previous 24 months* by the owner or occupant thereof not to trespass,

↪ is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

2. A sufficient warning against trespassing, within the meaning of this section, is given by any of the following methods:

(a) Painting with fluorescent orange paint:

(1) Not less than 50 square inches of a structure or natural object or the top 12 inches of a post, whether made of wood, metal or other material, at:

(I) Intervals of such a distance as is necessary to ensure that at least one such structure, natural object or post would be within the direct line of sight of a person standing next to another such structure, natural object or post, but at intervals of not more than 1,000 feet; and

(II) Each corner of the land, upon or near the boundary; and



(2) Each side of all gates, cattle guards and openings that are designed to allow human ingress to the area;

(b) Fencing the area;

(c) Posting “no trespassing” signs or other notice of like meaning at:

(1) Intervals of such a distance as is necessary to ensure that at least one such sign would be within the direct line of sight of a person standing next to another such sign, but at intervals of not more than 500 feet; and

(2) Each corner of the land, upon or near the boundary;

(d) Using the area as cultivated land; or

(e) By the owner or occupant of the land or building making an oral or written demand to any guest to vacate the land or building.

3. It is prima facie evidence of trespass for any person to be found on private or public property which is posted or fenced as provided in subsection 2 without lawful business with the owner or occupant of the property.

4. An entryman on land under the laws of the United States is an owner within the meaning of this section.

5. As used in this section:

(a) “Cultivated land” means land that has been cleared of its natural vegetation and is presently planted with a crop.

(b) “Fence” means a barrier sufficient to indicate an intent to restrict the area to human ingress, including, but not limited to, a wall, hedge or chain link or wire mesh fence. The term does not include a barrier made of barbed wire.

(c) “Guest” means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170.

Secs. 37-57. (Deleted by amendment.)

Sec. 57.5. 1. There is hereby appropriated from the State General Fund to the Department of Public Safety the sum of \$500,000 for the purchase of two machines that are capable of testing for fentanyl and its derivatives and measuring the concentration thereof in mixtures.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2025, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2025, by either the entity to which the money was



appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2025.

Sec. 58. 1. This section and sections 1 to 57, inclusive, of this act become effective upon passage and approval.

2. Section 57.5 of this act becomes effective on July 1, 2023.

