

SENATE BILL NO. 412—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE OFFICE OF THE GOVERNOR)

MARCH 27, 2023

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to criminal justice. (BDR 15-1091)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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

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:

- 1 Existing law requires the Division of Parole and Probation of the Department of
- 2 Public Safety to petition the court to recommend the early discharge of a person
- 3 from probation if the person satisfies certain requirements, including not having
- 4 been convicted of a violent or sexual offense or abuse, neglect or endangerment of
- 5 a child. (NRS 176A.840) **Section 11** of this bill adds certain offenses involving a
- 6 firearm and invasion of the home to such disqualifying offenses for purposes of the
- 7 early discharge of a person from probation.
- 8 Existing law establishes the definition of and the penalties for the crime of
- 9 battery. (NRS 200.481) **Section 14** of this bill revises the definition of the term
- 10 “strangulation” as it relates to the crime of battery.
- 11 Existing law prohibits the ownership or possession of firearms by certain
- 12 persons. (NRS 202.360) **Section 15** of this bill additionally prohibits a person from
- 13 using or carrying a firearm during and in relation to, or possessing a firearm in



14 furtherance of, the commission of certain drug offenses and provides that a person
15 who violates any such provision is guilty of a category B felony.

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

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

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** (Deleted by amendment.)

6 **Sec. 6.** (Deleted by amendment.)

7 **Sec. 7.** (Deleted by amendment.)

8 **Sec. 8.** (Deleted by amendment.)

9 **Sec. 9.** (Deleted by amendment.)

10 **Sec. 10.** (Deleted by amendment.)

11 **Sec. 11.** NRS 176A.840 is hereby amended to read as follows:

12 176A.840 1. The Division shall petition the court to
13 recommend the early discharge of a person from probation if the
14 person:

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

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

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

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

25 (e) Has not been convicted of a violent or sexual offense as
26 defined in NRS 202.876 or a violation of NRS 200.508 ~~or~~ *or*
27 **205.067.**

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



1 **Sec. 12.** (Deleted by amendment.)

2 **Sec. 13.** (Deleted by amendment.)

3 **Sec. 14.** NRS 200.481 is hereby amended to read as follows:
4 200.481 1. As used in this section:

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

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

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

10 (d) "Officer" means:

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

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

15 (3) A member of a volunteer fire department;

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

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

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

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

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

30 (I) Interact with the public;

31 (II) Perform tasks related to law enforcement; and

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

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

37 (I) Interact with the public;

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

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

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



- 1 (I) Interact with the public;
- 2 (II) Perform tasks related to code enforcement; and
- 3 (III) Wear identification, clothing or a uniform that
- 4 identifies the employee or volunteer as working or volunteering for
- 5 this State or a political subdivision of this State.

6 (e) "Provider of health care" has the meaning ascribed to it in

7 NRS 200.471.

8 (f) "School employee" means a licensed or unlicensed person

9 employed by a board of trustees of a school district pursuant to NRS

10 391.100 or 391.281.

11 (g) "Sporting event" has the meaning ascribed to it in

12 NRS 41.630.

13 (h) "Sports official" has the meaning ascribed to it in

14 NRS 41.630.

15 (i) "Strangulation" means intentionally ~~impeding the normal~~

16 ~~breathing or circulation of the blood by~~ applying *sufficient* pressure

17 ~~on the throat or by blocking the nose or mouth of~~ *to*

18 ~~another person in a manner that creates a risk of death or~~

19 ~~substantial bodily harm.]~~ *to make it difficult or impossible for the*

20 *person to breathe, including, without limitation, applying pressure*

21 *to the neck, throat or windpipe that may prevent or hinder*

22 *breathing or reduce the intake of air, or applying any pressure to*

23 *the neck on either side of the windpipe, but not the windpipe itself,*

24 *to stop the flow of blood to the brain via the carotid arteries.*

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

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

27 (l) "Transit operator" means a person who operates a bus or

28 other vehicle as part of a public mass transportation system.

29 2. Except as otherwise provided in NRS 200.485, a person

30 convicted of a battery, other than a battery committed by an adult

31 upon a child which constitutes child abuse, shall be punished:

32 (a) If the battery is not committed with a deadly weapon, and no

33 substantial bodily harm to the victim results, except under

34 circumstances where a greater penalty is provided in this section or

35 NRS 197.090, for a misdemeanor.

36 (b) If the battery is not committed with a deadly weapon, and

37 either substantial bodily harm to the victim results or the battery is

38 committed by strangulation, for a category C felony as provided in

39 NRS 193.130.

40 (c) If:

41 (1) The battery is committed upon an officer, provider of

42 health care, school employee, taxicab driver or transit operator who

43 was performing his or her duty or upon a sports official based on the

44 performance of his or her duties at a sporting event;



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

4 (3) The person charged knew or should have known that the
5 victim was an officer, provider of health care, school employee,
6 taxicab driver, transit operator or sports official,
7 ↪ for a category B felony by imprisonment in the state prison for a
8 minimum term of not less than 2 years and a maximum term of not
9 more than 10 years, or by a fine of not more than \$10,000, or by
10 both fine and imprisonment.

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

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

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

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

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

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

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



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

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

6 202.360 1. A person shall not own or have in his or her
7 possession or under his or her custody or control any firearm if the
8 person:

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

13 (1) The spouse or former spouse of the person;

14 (2) Any other person with whom the person has had or is
15 having a dating relationship, as defined in NRS 33.018;

16 (3) Any other person with whom the person has a child in
17 common;

18 (4) The parent of the person; or

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

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

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

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

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

38 (2) An equivalent order in any other state;

39 (e) Is a fugitive from justice;

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

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

44 ➤ A person who violates the provisions of this subsection is guilty
45 of a category B felony and shall be punished by imprisonment in the



1 state prison for a minimum term of not less than 1 year and a
2 maximum term of not more than 6 years, and may be further
3 punished by a fine of not more than \$5,000.

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

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

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

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

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

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

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

19 3. *A person shall not use or carry a firearm during and in*
20 *relation to, or possess a firearm in furtherance of, the commission*
21 *of any act in violation of NRS 453.321, 453.322, 453.337,*
22 *453.3385 or 453.401. A person who violates the provisions of this*
23 *subsection is guilty of a category B felony and shall be punished*
24 *by imprisonment in the state prison for a minimum term of not*
25 *less than 1 year and a maximum term of not more than 6 years,*
26 *and may be further punished by a fine of not more than \$5,000.*

27 4. As used in this section:

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

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

32 **Sec. 16.** (Deleted by amendment.)

33 **Sec. 17.** (Deleted by amendment.)

34 **Sec. 18.** (Deleted by amendment.)

35 **Sec. 19.** (Deleted by amendment.)

36 **Sec. 20.** (Deleted by amendment.)

37 **Sec. 21.** (Deleted by amendment.)

38 **Sec. 22.** (Deleted by amendment.)

39 **Sec. 23.** (Deleted by amendment.)

40 **Sec. 24.** (Deleted by amendment.)

41 **Sec. 25.** (Deleted by amendment.)

42 **Sec. 26.** (Deleted by amendment.)

43 **Sec. 27.** (Deleted by amendment.)

44 **Sec. 28.** (Deleted by amendment.)

45 **Sec. 29.** (Deleted by amendment.)



1 **Sec. 30.** (Deleted by amendment.)

2 **Sec. 31.** (Deleted by amendment.)

3 **Sec. 32.** (Deleted by amendment.)

4 **Sec. 33.** (Deleted by amendment.)

5 **Sec. 34.** (Deleted by amendment.)

6 **Sec. 35.** (Deleted by amendment.)

7 **Sec. 36.** (Deleted by amendment.)

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

9 207.200 1. Unless a greater penalty is provided pursuant to
10 NRS 200.603, any person who, under circumstances not amounting
11 to a burglary:

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

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

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

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

22 (a) Painting with fluorescent orange paint:

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

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

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

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

35 (b) Fencing the area;

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

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

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

43 (d) Using the area as cultivated land; or

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



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

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

7 5. As used in this section:

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

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

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

18 **Sec. 37.** (Deleted by amendment.)

19 **Sec. 38.** (Deleted by amendment.)

20 **Sec. 39.** (Deleted by amendment.)

21 **Sec. 40.** (Deleted by amendment.)

22 **Sec. 41.** (Deleted by amendment.)

23 **Sec. 42.** (Deleted by amendment.)

24 **Sec. 43.** (Deleted by amendment.)

25 **Sec. 44.** (Deleted by amendment.)

26 **Sec. 45.** (Deleted by amendment.)

27 **Sec. 46.** (Deleted by amendment.)

28 **Sec. 47.** (Deleted by amendment.)

29 **Sec. 48.** (Deleted by amendment.)

30 **Sec. 49.** (Deleted by amendment.)

31 **Sec. 50.** (Deleted by amendment.)

32 **Sec. 51.** (Deleted by amendment.)

33 **Sec. 52.** (Deleted by amendment.)

34 **Sec. 53.** (Deleted by amendment.)

35 **Sec. 54.** (Deleted by amendment.)

36 **Sec. 55.** (Deleted by amendment.)

37 **Sec. 56.** (Deleted by amendment.)

38 **Sec. 57.** (Deleted by amendment.)

39 **Sec. 57.5.** 1. There is hereby appropriated from the State
40 General Fund to the Department of Public Safety the sum of
41 \$500,000 for the purchase of two machines that are capable of
42 testing for fentanyl and its derivatives and measuring the
43 concentration thereof in mixtures.

44 2. Any remaining balance of the appropriation made by
45 subsection 1 must not be committed for expenditure after June 30,



1 2025, by the entity to which the appropriation is made or any entity
2 to which money from the appropriation is granted or otherwise
3 transferred in any manner, and any portion of the appropriated
4 money remaining must not be spent for any purpose after
5 September 19, 2025, by either the entity to which the money was
6 appropriated or the entity to which the money was subsequently
7 granted or transferred, and must be reverted to the State General
8 Fund on or before September 19, 2025.

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

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



