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ASSEMBLY BILL NO. 164—ASSEMBLYMEN HORNE, GANSERT, ANDERSON, MANENDO, KIHUEN; AIZLEY, ATKINSON, BOBZIEN, BUCKLEY, CARPENTER, CHRISTENSEN, CLABORN, CONKLIN, DENIS, DONDERO LOOP, HAMBRICK, HARDY, KIRKPATRICK, KOIVISTO, LESLIE, MASTROLUCA, MCARTHUR, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PIERCE, SEGERBLOM, SMITH, SPIEGEL AND STEWART

FEBRUARY 12, 2009

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JOINT SPONSORS: SENATORS BREEDEN, WIENER, CARE, PARKS, COPENING; HORSFORD, LEE, MATHEWS, MCGINNESS AND WASHINGTON

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Referred to Committee on Judiciary

SUMMARY—Revises certain provisions concerning the crime of battery. (BDR 15-251)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
Effect on the State: Yes.

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

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AN ACT relating to crimes; providing certain penalties for a battery that is committed by strangulation; increasing the penalty for a battery which constitutes domestic violence if the battery is committed by strangulation; increasing the penalty for a battery under other circumstances if the battery is committed by strangulation; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 **Section 3** of this bill revises provisions governing the crime of battery to
- 2 provide the same penalties for a battery which is committed by strangulation as are
- 3 imposed for a battery which results in substantial bodily harm. (NRS 200.481)
- 4 **Section 3** also defines the term “strangulation” similarly to the manner in which the
- 5 term is defined in a similar Minnesota law. (Minn. Stat. § 609.2247(1)(c))



\* A B 1 6 4 \*

6       **Sections 4 and 5** of this bill revise provisions governing the crime of battery  
7 which constitutes domestic violence to impose a category C felony with a  
8 maximum fine of \$15,000 upon any person who is convicted of a battery  
9 which constitutes domestic violence if the battery is committed by strangulation.  
10 (NRS 200.485)

11       **Sections 1, 2, 6 and 7** of this bill amend certain provisions regarding additional  
12 penalties, battery with the intent to commit sexual assault, the reporting of certain  
13 crimes committed against a child and bail so that those provisions will apply in the  
14 same manner to a battery which resulted in substantial bodily harm and a battery  
15 which was committed by strangulation. (NRS 193.166, 200.400, 202.876, 178.484)

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

1       **Section 1.** NRS 193.166 is hereby amended to read as follows:  
2       193.166 1. Except as otherwise provided in NRS 193.169, a  
3 person who commits a crime that is punishable as a felony, other  
4 than a crime that is punishable as a felony pursuant to subsection 6  
5 of NRS 33.400 or subsection 5 of NRS 200.591, in violation of:

6       (a) A temporary or extended order for protection against  
7 domestic violence issued pursuant to NRS 33.020;

8       (b) An order for protection against harassment in the workplace  
9 issued pursuant to NRS 33.270;

10       (c) A temporary or extended order for the protection of a child  
11 issued pursuant to NRS 33.400;

12       (d) An order for protection against domestic violence issued in  
13 an action or proceeding brought pursuant to title 11 of NRS; or

14       (e) A temporary or extended order issued pursuant to  
15 NRS 200.591,

16       ➤ shall, in addition to the term of imprisonment prescribed by  
17 statute for the crime, be punished by imprisonment in the state  
18 prison, except as otherwise provided in this subsection, for a  
19 minimum term of not less than 1 year and a maximum term of not  
20 more than 20 years. If the crime committed by the person is  
21 punishable as a category A felony or category B felony, in addition  
22 to the term of imprisonment prescribed by statute for that crime, the  
23 person shall be punished by imprisonment in the state prison for a  
24 minimum term of not less than 1 year and a maximum term of not  
25 more than 5 years.

26       2. In determining the length of the additional penalty imposed  
27 pursuant to this section, the court shall consider the following  
28 information:

29       (a) The facts and circumstances of the crime;

30       (b) The criminal history of the person;

31       (c) The impact of the crime on any victim;

32       (d) Any mitigating factors presented by the person; and



1 (e) Any other relevant information.  
2 ➔ The court shall state on the record that it has considered the  
3 information described in paragraphs (a) to (e), inclusive, in  
4 determining the length of the additional penalty imposed.  
5 3. The sentence prescribed by this section:  
6 (a) Must not exceed the sentence imposed for the crime; and  
7 (b) Runs concurrently or consecutively with the sentence  
8 prescribed by statute for the crime, as ordered by the court.  
9 4. The court shall not grant probation to or suspend the  
10 sentence of any person convicted of attempted murder, battery  
11 which involves the use of a deadly weapon, ~~[or]~~ battery which  
12 results in substantial bodily harm *or battery which is committed by*  
13 *strangulation as described in NRS 200.481 or 200.485* if an  
14 additional term of imprisonment may be imposed for that primary  
15 offense pursuant to this section.  
16 5. This section does not create a separate offense but provides  
17 an additional penalty for the primary offense, whose imposition is  
18 contingent upon the finding of the prescribed fact.  
19 **Sec. 2.** NRS 200.400 is hereby amended to read as follows:  
20 200.400 1. As used in this section ~~[, "battery"]~~ :  
21 (a) *"Battery"* means any willful and unlawful use of force or  
22 violence upon the person of another.  
23 (b) *"Strangulation"* has the meaning ascribed to it in  
24 *NRS 200.481*.  
25 2. A person who is convicted of battery with the intent to  
26 commit mayhem, robbery or grand larceny is guilty of a category B  
27 felony and shall be punished by imprisonment in the state prison for  
28 a minimum term of not less than 2 years and a maximum term of not  
29 more than 10 years, and may be further punished by a fine of not  
30 more than \$10,000.  
31 3. A person who is convicted of battery with the intent to kill is  
32 guilty of a category B felony and shall be punished by imprisonment  
33 in the state prison for a minimum term of not less than 2 years and a  
34 maximum term of not more than 20 years.  
35 4. A person who is convicted of battery with the intent to  
36 commit sexual assault shall be punished:  
37 (a) If the crime results in substantial bodily harm to the victim  
38 ~~[or]~~ *or is committed by strangulation*, for a category A felony by  
39 imprisonment in the state prison:  
40 (1) For life without the possibility of parole; or  
41 (2) For life with the possibility of parole, with eligibility for  
42 parole beginning when a minimum of 10 years has been served,  
43 ➔ as determined by the verdict of the jury, or the judgment of the  
44 court if there is no jury.



1 (b) If the crime does not result in substantial bodily harm to the  
2 victim and the victim is 16 years of age or older, for a category A  
3 felony by imprisonment in the state prison for a minimum term of  
4 not less than 2 years and a maximum term of life with the possibility  
5 of parole.

6 (c) If the crime does not result in substantial bodily harm to the  
7 victim and the victim is a child under the age of 16, for a category A  
8 felony by imprisonment in the state prison for a minimum term of  
9 not less than 5 years and a maximum term of life with the possibility  
10 of parole.

11 ➤ In addition to any other penalty, a person convicted pursuant to  
12 this subsection may be punished by a fine of not more than \$10,000.

13 **Sec. 3.** NRS 200.481 is hereby amended to read as follows:

14 200.481 1. As used in this section:

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

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

18 (c) "Officer" means:

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

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

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

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

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

30 (6) An employee of the State or a political subdivision of the  
31 State whose official duties require him to make home visits.

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

34 (e) "School employee" means a licensed or unlicensed person  
35 employed by a board of trustees of a school district pursuant to  
36 NRS 391.100.

37 (f) "Sporting event" has the meaning ascribed to it in  
38 NRS 41.630.

39 (g) "Sports official" has the meaning ascribed to it in  
40 NRS 41.630.

41 (h) "*Strangulation*" means *intentionally impeding the normal*  
42 *breathing or circulation of the blood by applying pressure on the*  
43 *throat or neck or by blocking the nose or mouth of another*  
44 *person.*

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



1 ~~(j)~~ (j) "Taxicab driver" means a person who operates a  
2 taxicab.

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

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

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

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

16 (c) If ~~the~~ :

17 (1) *The* battery is committed ~~(j)~~ :

18 ~~(1) Upon~~ *upon* an officer, provider of health care, school  
19 employee, taxicab driver or transit operator who was performing his  
20 duty or upon a sports official based on the performance of his duties  
21 at a sporting event;

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

25 (3) The person charged knew or should have known that the  
26 victim was an officer, provider of health care, school employee,  
27 taxicab driver, transit operator or sports official,  
28 ➔ for a category B felony by imprisonment in the state prison for a  
29 minimum term of not less than 2 years and a maximum term of not  
30 more than 10 years, or by a fine of not more than \$10,000, or by  
31 both fine and imprisonment.

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

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

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



1 more than 10 years, and may be further punished by a fine of not  
2 more than \$10,000.

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

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

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

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

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

26 **Sec. 4.** NRS 200.485 is hereby amended to read as follows:

27 200.485 1. Unless a greater penalty is provided pursuant to  
28 ***subsection 2 or*** NRS 200.481, a person convicted of a battery which  
29 constitutes domestic violence pursuant to NRS 33.018:

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

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

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

36 ➤ The person shall be further punished by a fine of not less than  
37 \$200, but not more than \$1,000. A term of imprisonment imposed  
38 pursuant to this paragraph may be served intermittently at the  
39 discretion of the judge or justice of the peace, except that each  
40 period of confinement must be not less than 4 consecutive hours and  
41 must occur at a time when the person is not required to be at his  
42 place of employment or on a weekend.

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



1 (1) Imprisonment in the city or county jail or detention  
2 facility for not less than 10 days, but not more than 6 months; and

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

5 ➔ The person shall be further punished by a fine of not less than  
6 \$500, but not more than \$1,000.

7 (c) For the third and any subsequent offense within 7 years, is  
8 guilty of a category C felony and shall be punished as provided in  
9 NRS 193.130.

10 2. *Unless a greater penalty is provided pursuant to NRS*  
11 *200.481, a person convicted of a battery which constitutes*  
12 *domestic violence pursuant to NRS 33.018, if the battery is*  
13 *committed by strangulation as described in NRS 200.481, is guilty*  
14 *of a category C felony and shall be punished as provided in NRS*  
15 *193.130 and by a fine of not more than \$15,000.*

16 3. In addition to any other penalty, if a person is convicted of a  
17 battery which constitutes domestic violence pursuant to NRS  
18 33.018, the court shall:

19 (a) Except as otherwise provided in this subsection, for the first  
20 offense within 7 years, require him to participate in weekly  
21 counseling sessions of not less than 1 1/2 hours per week for not  
22 less than 6 months, but not more than 12 months, at his expense, in  
23 a program for the treatment of persons who commit domestic  
24 violence that has been certified pursuant to NRS 228.470.

25 (b) Except as otherwise provided in this subsection, for the  
26 second offense within 7 years, require him to participate in weekly  
27 counseling sessions of not less than 1 1/2 hours per week for 12  
28 months, at his expense, in a program for the treatment of persons  
29 who commit domestic violence that has been certified pursuant to  
30 NRS 228.470.

31 ➔ If the person resides more than 70 miles from the nearest location  
32 at which counseling services are available, the court may allow the  
33 person to participate in counseling sessions in a program for the  
34 treatment of persons who commit domestic violence that has been  
35 certified pursuant to NRS 228.470 every other week for the number  
36 of months required pursuant to paragraph (a) or (b) so long as the  
37 number of hours of counseling is not less than 6 hours per month. If  
38 the person resides in this State but the nearest location at which  
39 counseling services are available is in another state, the court may  
40 allow the person to participate in counseling in the other state in a  
41 program for the treatment of persons who commit domestic violence  
42 that has been certified pursuant to NRS 228.470.

43 ~~3.~~ 4. An offense that occurred within 7 years immediately  
44 preceding the date of the principal offense or after the principal  
45 offense constitutes a prior offense for the purposes of this section



1 when evidenced by a conviction, without regard to the sequence of  
2 the offenses and convictions. The facts concerning a prior offense  
3 must be alleged in the complaint, indictment or information, must  
4 not be read to the jury or proved at trial but must be proved at the  
5 time of sentencing and, if the principal offense is alleged to be a  
6 felony, must also be shown at the preliminary examination or  
7 presented to the grand jury.

8 ~~[4-]~~ 5. In addition to any other fine or penalty, the court shall  
9 order such a person to pay an administrative assessment of \$35. Any  
10 money so collected must be paid by the clerk of the court to the  
11 State Controller on or before the fifth day of each month for the  
12 preceding month for credit to the Account for Programs Related to  
13 Domestic Violence established pursuant to NRS 228.460.

14 ~~[5-]~~ 6. In addition to any other penalty, the court may require  
15 such a person to participate, at his expense, in a program of  
16 treatment for the abuse of alcohol or drugs that has been certified by  
17 the Health Division of the Department of Health and Human  
18 Services.

19 ~~[6-]~~ 7. If it appears from information presented to the court  
20 that a child under the age of 18 years may need counseling as a  
21 result of the commission of a battery which constitutes domestic  
22 violence pursuant to NRS 33.018, the court may refer the child to an  
23 agency which provides child welfare services. If the court refers a  
24 child to an agency which provides child welfare services, the court  
25 shall require the person convicted of a battery which constitutes  
26 domestic violence pursuant to NRS 33.018 to reimburse the agency  
27 for the costs of any services provided, to the extent of his ability to  
28 pay.

29 ~~[7-]~~ 8. If a person is charged with committing a battery which  
30 constitutes domestic violence pursuant to NRS 33.018, a  
31 prosecuting attorney shall not dismiss such a charge in exchange for  
32 a plea of guilty, guilty but mentally ill or nolo contendere to a lesser  
33 charge or for any other reason unless he knows, or it is obvious, that  
34 the charge is not supported by probable cause or cannot be proved at  
35 the time of trial. A court shall not grant probation to and, except as  
36 otherwise provided in NRS 4.373 and 5.055, a court shall not  
37 suspend the sentence of such a person.

38 ~~[8-]~~ 9. As used in this section:

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

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

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





1     **Sec. 5.** NRS 200.485 is hereby amended to read as follows:

2     200.485 1. Unless a greater penalty is provided pursuant to  
3 *subsection 2 or* NRS 200.481, a person convicted of a battery which  
4 constitutes domestic violence pursuant to NRS 33.018:

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

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

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

11     ➔ The person shall be further punished by a fine of not less than  
12 \$200, but not more than \$1,000. A term of imprisonment imposed  
13 pursuant to this paragraph may be served intermittently at the  
14 discretion of the judge or justice of the peace, except that each  
15 period of confinement must be not less than 4 consecutive hours and  
16 must occur at a time when the person is not required to be at his  
17 place of employment or on a weekend.

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

20         (1) Imprisonment in the city or county jail or detention  
21 facility for not less than 10 days, but not more than 6 months; and

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

24     ➔ The person shall be further punished by a fine of not less than  
25 \$500, but not more than \$1,000.

26     (c) For the third and any subsequent offense within 7 years, is  
27 guilty of a category C felony and shall be punished as provided in  
28 NRS 193.130.

29     2. *Unless a greater penalty is provided pursuant to NRS*  
30 *200.481, a person convicted of a battery which constitutes*  
31 *domestic violence pursuant to NRS 33.018, if the battery is*  
32 *committed by strangulation as described in NRS 200.481, is guilty*  
33 *of a category C felony and shall be punished as provided in NRS*  
34 *193.130 and by a fine of not more than \$15,000.*

35     3. In addition to any other penalty, if a person is convicted of a  
36 battery which constitutes domestic violence pursuant to NRS  
37 33.018, the court shall:

38     (a) For the first offense within 7 years, require him to participate  
39 in weekly counseling sessions of not less than 1 1/2 hours per week  
40 for not less than 6 months, but not more than 12 months, at his  
41 expense, in a program for the treatment of persons who commit  
42 domestic violence that has been certified pursuant to NRS 228.470.

43     (b) For the second offense within 7 years, require him to  
44 participate in weekly counseling sessions of not less than 1 1/2  
45 hours per week for 12 months, at his expense, in a program for the



1 treatment of persons who commit domestic violence that has been  
2 certified pursuant to NRS 228.470.

3 ➔ If the person resides in this State but the nearest location at which  
4 counseling services are available is in another state, the court may  
5 allow the person to participate in counseling in the other state in a  
6 program for the treatment of persons who commit domestic violence  
7 that has been certified pursuant to NRS 228.470.

8 ~~[3-]~~ 4. An offense that occurred within 7 years immediately  
9 preceding the date of the principal offense or after the principal  
10 offense constitutes a prior offense for the purposes of this section  
11 when evidenced by a conviction, without regard to the sequence of  
12 the offenses and convictions. The facts concerning a prior offense  
13 must be alleged in the complaint, indictment or information, must  
14 not be read to the jury or proved at trial but must be proved at the  
15 time of sentencing and, if the principal offense is alleged to be a  
16 felony, must also be shown at the preliminary examination or  
17 presented to the grand jury.

18 ~~[4-]~~ 5. In addition to any other fine or penalty, the court shall  
19 order such a person to pay an administrative assessment of \$35. Any  
20 money so collected must be paid by the clerk of the court to the  
21 State Controller on or before the fifth day of each month for the  
22 preceding month for credit to the Account for Programs Related to  
23 Domestic Violence established pursuant to NRS 228.460.

24 ~~[5-]~~ 6. In addition to any other penalty, the court may require  
25 such a person to participate, at his expense, in a program of  
26 treatment for the abuse of alcohol or drugs that has been certified by  
27 the Health Division of the Department of Health and Human  
28 Services.

29 ~~[6-]~~ 7. If it appears from information presented to the court  
30 that a child under the age of 18 years may need counseling as a  
31 result of the commission of a battery which constitutes domestic  
32 violence pursuant to NRS 33.018, the court may refer the child to an  
33 agency which provides child welfare services. If the court refers a  
34 child to an agency which provides child welfare services, the court  
35 shall require the person convicted of a battery which constitutes  
36 domestic violence pursuant to NRS 33.018 to reimburse the agency  
37 for the costs of any services provided, to the extent of his ability to  
38 pay.

39 ~~[7-]~~ 8. If a person is charged with committing a battery which  
40 constitutes domestic violence pursuant to NRS 33.018, a  
41 prosecuting attorney shall not dismiss such a charge in exchange for  
42 a plea of guilty, guilty but mentally ill or nolo contendere to a lesser  
43 charge or for any other reason unless he knows, or it is obvious, that  
44 the charge is not supported by probable cause or cannot be proved at  
45 the time of trial. A court shall not grant probation to and, except as



1 otherwise provided in NRS 4.373 and 5.055, a court shall not  
2 suspend the sentence of such a person.

3 ~~[8.]~~ 9. As used in this section:

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

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

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

11 **Sec. 6.** NRS 202.876 is hereby amended to read as follows:

12 202.876 "Violent or sexual offense" means any act that, if  
13 prosecuted in this State, would constitute any of the following  
14 offenses:

15 1. Murder or voluntary manslaughter pursuant to NRS 200.010  
16 to 200.260, inclusive.

17 2. Mayhem pursuant to NRS 200.280.

18 3. Kidnapping pursuant to NRS 200.310 to 200.340, inclusive.

19 4. Sexual assault pursuant to NRS 200.366.

20 5. Robbery pursuant to NRS 200.380.

21 6. Administering poison or another noxious or destructive  
22 substance or liquid with intent to cause death pursuant to  
23 NRS 200.390.

24 7. Battery with intent to commit a crime pursuant to  
25 NRS 200.400.

26 8. Administering a drug or controlled substance to another  
27 person with the intent to enable or assist the commission of a felony  
28 or crime of violence pursuant to NRS 200.405 or 200.408.

29 9. False imprisonment pursuant to NRS 200.460 ~~[.]~~ if the false  
30 imprisonment involves the use or threatened use of force or violence  
31 against the victim or the use or threatened use of a firearm or a  
32 deadly weapon.

33 10. Assault with a deadly weapon pursuant to NRS 200.471.

34 11. Battery which is committed with the use of a deadly  
35 weapon or which results in substantial bodily harm ~~[pursuant to]~~ *as*  
36 *described in NRS 200.481 or battery which is committed by*  
37 *strangulation as described in NRS 200.481 ~~[.]~~ or 200.485.*

38 12. An offense involving pornography and a minor pursuant to  
39 NRS 200.710 or 200.720.

40 13. Solicitation of a minor to engage in acts constituting the  
41 infamous crime against nature pursuant to NRS 201.195.

42 14. Intentional transmission of the human immunodeficiency  
43 virus pursuant to NRS 201.205.

44 15. Open or gross lewdness pursuant to NRS 201.210.

45 16. Lewdness with a child pursuant to NRS 201.230.



1 17. An offense involving pandering or prostitution in violation  
2 of NRS 201.300, 201.320 or 201.340.

3 18. Coercion pursuant to NRS 207.190, if the coercion  
4 involves the use or threatened use of force or violence against the  
5 victim or the use or threatened use of a firearm or a deadly weapon.

6 19. An attempt, conspiracy or solicitation to commit an offense  
7 listed in subsections 1 to 18, inclusive.

8 **Sec. 7.** NRS 178.484 is hereby amended to read as follows:

9 178.484 1. Except as otherwise provided in this section, a  
10 person arrested for an offense other than murder of the first degree  
11 must be admitted to bail.

12 2. A person arrested for a felony who has been released on  
13 probation or parole for a different offense must not be admitted to  
14 bail unless:

15 (a) A court issues an order directing that the person be admitted  
16 to bail;

17 (b) The State Board of Parole Commissioners directs the  
18 detention facility to admit the person to bail; or

19 (c) The Division of Parole and Probation of the Department of  
20 Public Safety directs the detention facility to admit the person to  
21 bail.

22 3. A person arrested for a felony whose sentence has been  
23 suspended pursuant to NRS 4.373 or 5.055 for a different offense or  
24 who has been sentenced to a term of residential confinement  
25 pursuant to NRS 4.3762 or 5.076 for a different offense must not be  
26 admitted to bail unless:

27 (a) A court issues an order directing that the person be admitted  
28 to bail; or

29 (b) A department of alternative sentencing directs the detention  
30 facility to admit the person to bail.

31 4. A person arrested for murder of the first degree may be  
32 admitted to bail unless the proof is evident or the presumption great  
33 by any competent court or magistrate authorized by law to do so in  
34 the exercise of discretion, giving due weight to the evidence and to  
35 the nature and circumstances of the offense.

36 5. A person arrested for a violation of NRS 484.379, 484.3795,  
37 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under  
38 the influence of intoxicating liquor must not be admitted to bail or  
39 released on his own recognizance unless he has a concentration of  
40 alcohol of less than 0.04 in his breath. A test of the person's breath  
41 pursuant to this subsection to determine the concentration of alcohol  
42 in his breath as a condition of admission to bail or release is not  
43 admissible as evidence against the person.

44 6. A person arrested for a violation of NRS 484.379, 484.3795,  
45 484.37955, 484.379778, 488.410, 488.420 or 488.425 who is under



1 the influence of a controlled substance, is under the combined  
2 influence of intoxicating liquor and a controlled substance, or  
3 inhales, ingests, applies or otherwise uses any chemical, poison or  
4 organic solvent, or any compound or combination of any of these, to  
5 a degree which renders him incapable of safely driving or exercising  
6 actual physical control of a vehicle or vessel under power or sail  
7 must not be admitted to bail or released on his own recognizance  
8 sooner than 12 hours after his arrest.

9 7. A person arrested for a battery that constitutes domestic  
10 violence pursuant to NRS 33.018 must not be admitted to bail  
11 sooner than 12 hours after his arrest. If the person is admitted to bail  
12 more than 12 hours after his arrest, without appearing personally  
13 before a magistrate ~~and~~ or without the amount of bail having been  
14 otherwise set by a magistrate or a court, the amount of bail must be:

15 (a) Three thousand dollars, if the person has no previous  
16 convictions of battery that constitute domestic violence pursuant to  
17 NRS 33.018 and there is no reason to believe that the battery for  
18 which he has been arrested resulted in substantial bodily harm ~~and~~ **or**  
19 ***was committed by strangulation;***

20 (b) Five thousand dollars, if the person has:

21 (1) No previous convictions of battery that constitute  
22 domestic violence pursuant to NRS 33.018, but there is reason to  
23 believe that the battery for which he has been arrested resulted in  
24 substantial bodily harm ~~and~~ **or was committed by strangulation;** or

25 (2) One previous conviction of battery that constitutes  
26 domestic violence pursuant to NRS 33.018, but there is no reason to  
27 believe that the battery for which he has been arrested resulted in  
28 substantial bodily harm ~~and~~ **or was committed by strangulation;** or

29 (c) Fifteen thousand dollars, if the person has:

30 (1) One previous conviction of battery that constitutes  
31 domestic violence pursuant to NRS 33.018 and there is reason to  
32 believe that the battery for which he has been arrested resulted in  
33 substantial bodily harm ~~and~~ **or was committed by strangulation;** or

34 (2) Two or more previous convictions of battery that  
35 constitute domestic violence pursuant to NRS 33.018.

36 ➔ The provisions of this subsection do not affect the authority of a  
37 magistrate or a court to set the amount of bail when the person  
38 personally appears before the magistrate or the court, or when a  
39 magistrate or a court has otherwise been contacted to set the amount  
40 of bail. For the purposes of this subsection, a person shall be  
41 deemed to have a previous conviction of battery that constitutes  
42 domestic violence pursuant to NRS 33.018 if the person has been  
43 convicted of such an offense in this State or has been convicted of  
44 violating a law of any other jurisdiction that prohibits the same or  
45 similar conduct.



1 8. A person arrested for violating a temporary or extended  
2 order for protection against domestic violence issued pursuant to  
3 NRS 33.017 to 33.100, inclusive, or for violating a restraining order  
4 or injunction that is in the nature of a temporary or extended order  
5 for protection against domestic violence issued in an action or  
6 proceeding brought pursuant to title 11 of NRS, or for violating a  
7 temporary or extended order for protection against stalking,  
8 aggravated stalking or harassment issued pursuant to NRS 200.591  
9 must not be admitted to bail sooner than 12 hours after his arrest if:

10 (a) The arresting officer determines that such a violation is  
11 accompanied by a direct or indirect threat of harm;

12 (b) The person has previously violated a temporary or extended  
13 order for protection of the type for which he has been arrested; or

14 (c) At the time of the violation or within 2 hours after the  
15 violation, the person has:

16 (1) A concentration of alcohol of 0.08 or more in his blood or  
17 breath; or

18 (2) An amount of a prohibited substance in his blood or urine  
19 that is equal to or greater than the amount set forth in subsection 3  
20 of NRS 484.379.

21 9. If a person is admitted to bail more than 12 hours after his  
22 arrest, pursuant to subsection 8, without appearing personally before  
23 a magistrate  or without the amount of bail having been otherwise  
24 set by a magistrate or a court, the amount of bail must be:


25 (a) Three thousand dollars, if the person has no previous  
26 convictions of violating a temporary or extended order for  
27 protection against domestic violence issued pursuant to NRS 33.017  
28 to 33.100, inclusive, or of violating a restraining order or injunction  
29 that is in the nature of a temporary or extended order for protection  
30 against domestic violence issued in an action or proceeding brought  
31 pursuant to title 11 of NRS, or of violating a temporary or extended  
32 order for protection against stalking, aggravated stalking or  
33 harassment issued pursuant to NRS 200.591;

34 (b) Five thousand dollars, if the person has one previous  
35 conviction of violating a temporary or extended order for protection  
36 against domestic violence issued pursuant to NRS 33.017 to 33.100,  
37 inclusive, or of violating a restraining order or injunction that is in  
38 the nature of a temporary or extended order for protection against  
39 domestic violence issued in an action or proceeding brought  
40 pursuant to title 11 of NRS, or of violating a temporary or extended  
41 order for protection against stalking, aggravated stalking or  
42 harassment issued pursuant to NRS 200.591; or

43 (c) Fifteen thousand dollars, if the person has two or more  
44 previous convictions of violating a temporary or extended order for  
45 protection against domestic violence issued pursuant to NRS 33.017



1 to 33.100, inclusive, or of violating a restraining order or injunction  
2 that is in the nature of a temporary or extended order for protection  
3 against domestic violence issued in an action or proceeding brought  
4 pursuant to title 11 of NRS, or of violating a temporary or extended  
5 order for protection against stalking, aggravated stalking or  
6 harassment issued pursuant to NRS 200.591.

7 ➤ The provisions of this subsection do not affect the authority of a  
8 magistrate or a court to set the amount of bail when the person  
9 personally appears before the magistrate or the court  or when a  
10 magistrate or a court has otherwise been contacted to set the amount  
11 of bail. For the purposes of this subsection, a person shall be  
12 deemed to have a previous conviction of violating a temporary or  
13 extended order for protection against domestic violence issued  
14 pursuant to NRS 33.017 to 33.100, inclusive, or of violating a  
15 restraining order or injunction that is in the nature of a temporary or  
16 extended order for protection against domestic violence issued in an  
17 action or proceeding brought pursuant to title 11 of NRS, or of  
18 violating a temporary or extended order for protection against  
19 stalking, aggravated stalking or harassment issued pursuant to NRS  
20 200.591 if the person has been convicted of such an offense in this  
21 State or has been convicted of violating a law of any other  
22 jurisdiction that prohibits the same or similar conduct.

23 10. The court may, before releasing a person arrested for an  
24 offense punishable as a felony, require the surrender to the court of  
25 any passport the person possesses.

26 11. Before releasing a person arrested for any crime, the court  
27 may impose such reasonable conditions on the person as it deems  
28 necessary to protect the health, safety and welfare of the community  
29 and to ensure that the person will appear at all times and places  
30 ordered by the court, including, without limitation:

31 (a) Requiring the person to remain in this State or a certain  
32 county within this State;

33 (b) Prohibiting the person from contacting or attempting to  
34 contact a specific person or from causing or attempting to cause  
35 another person to contact that person on his behalf;

36 (c) Prohibiting the person from entering a certain geographic  
37 area; or

38 (d) Prohibiting the person from engaging in specific conduct  
39 that may be harmful to his own health, safety or welfare, or the  
40 health, safety or welfare of another person.

41 ➤ In determining whether a condition is reasonable, the court shall  
42 consider the factors listed in NRS 178.4853.

43 12. If a person fails to comply with a condition imposed  
44 pursuant to subsection 11, the court may, after providing the person  
45 with reasonable notice and an opportunity for a hearing:





- 1 (a) Deem such conduct a contempt pursuant to NRS 22.010; or
- 2 (b) Increase the amount of bail pursuant to NRS 178.499.

3 13. An order issued pursuant to this section that imposes a  
4 condition on a person admitted to bail must include a provision  
5 ordering any law enforcement officer to arrest the person if he has  
6 probable cause to believe that the person has violated a condition of  
7 his bail.

8 14. Before a person may be admitted to bail, he must sign a  
9 document stating that:

10 (a) He will appear at all times and places as ordered by the court  
11 releasing him and as ordered by any court before which the charge  
12 is subsequently heard;

13 (b) He will comply with the other conditions which have been  
14 imposed by the court and are stated in the document; and

15 (c) If he fails to appear when so ordered and is taken into  
16 custody outside of this State, he waives all his rights relating to  
17 extradition proceedings.

18 ➤ The signed document must be filed with the clerk of the court of  
19 competent jurisdiction as soon as practicable, but in no event later  
20 than the next business day.

21 15. If a person admitted to bail fails to appear as ordered by a  
22 court and the jurisdiction incurs any cost in returning the person to  
23 the jurisdiction to stand trial, the person who failed to appear is  
24 responsible for paying those costs as restitution.

25 16. For the purposes of subsections 8 and 9, an order or  
26 injunction is in the nature of a temporary or extended order for  
27 protection against domestic violence if it grants relief that might be  
28 given in a temporary or extended order issued pursuant to NRS  
29 33.017 to 33.100, inclusive.

30 ***17. As used in this section, "strangulation" has the meaning***  
31 ***ascribed to it in NRS 200.481.***

32 **Sec. 8.** NRS 432B.640 is hereby amended to read as follows:

33 432B.640 1. Upon receiving a referral from a court pursuant  
34 to subsection ~~6~~ 7 of NRS 200.485, an agency which provides child  
35 welfare services may, as appropriate, conduct an assessment to  
36 determine whether a psychological evaluation or counseling is  
37 needed by a child.

38 2. If an agency which provides child welfare services conducts  
39 an assessment pursuant to subsection 1 and determines that a  
40 psychological evaluation or counseling would benefit the child, the  
41 agency may, with the approval of the parent or legal guardian of the  
42 child:

43 (a) Conduct the evaluation or counseling; or

44 (b) Refer the child to a person that has entered into an agreement  
45 with the agency to provide those services.





- 1     **Sec. 9.** 1. This section and sections 1 to 4, inclusive, 6, 7 and  
2 8 of this act become effective upon passage and approval.  
3     2. Section 4 of this act expires by limitation on June 30, 2009.  
4     3. Section 5 of this act becomes effective on July 1, 2009.

