



POLICY AND PROGRAM REPORT



Crimes, Punishments, and Aid to Crime Victims

April 2016

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There are many types of crimes involving unlawful acts against people, property, public decency, public health and safety, and the State itself. In Nevada, the most serious crimes for which the courts may impose State prison terms are felonies. Misdemeanors and gross misdemeanors are less serious crimes for which the courts may sentence a defendant to a term in the county jail. This section of the *Policy and Program Report* describes types of crimes and their punishments, and it also explains a variety of programs intended to assist crime victims.

CLASSIFICATION OF CRIMES

Nevada classifies crimes in three main categories: (1) felonies; (2) gross misdemeanors; and (3) misdemeanors. A felony is a crime that is punishable by death or imprisonment in the State prison. A misdemeanor is a crime punishable by a fine of not more than \$1,000 and/or by imprisonment in the county jail for not more than six months. All other crimes are gross misdemeanors, which are punishable by a fine of not more than \$2,000 and/or by imprisonment in the county jail for not more than 364 days.

Nevada law further classifies felonies in categories A through E, as follows:

- Category A, for which a sentence of death or imprisonment for life, with or without the possibility of parole, may be imposed;
- Category B, for which a sentence of imprisonment in the State prison for not less than 1 year and not more than 20 years may be imposed;
- Category C, for which a sentence of imprisonment in the State prison for not less than 1 year and not more than 5 years may be imposed, plus a fine of not more than \$10,000, unless a greater fine is authorized or required by law;
- Category D, for which a sentence of imprisonment in the State prison for not less than 1 year and not more than 4 years may be imposed, plus a fine of not more than \$5,000, unless a greater fine is authorized or required by law; and
- Category E, for which a sentence of imprisonment in the State prison for not less than 1 year and not more than 4 years may be imposed, plus a fine of not more than \$5,000 and, with some exceptions, the court must suspend the sentence and grant probation with appropriate conditions, which may include a term of confinement in the county jail.

If *Nevada Revised Statutes* (NRS) does not specify the penalty for a particular offense, the offense is a misdemeanor.

TYPES OF CRIMES

Nevada's laws relating to crimes and punishments identify a number of different types of criminal offenses, which generally fall into the following subject areas.

Crimes Against Public Justice

Crimes against public justice include bribery, conspiracy, corruption, falsifying evidence, impersonating an officer, malicious prosecution, perjury, resisting a public officer, and other similar offenses.

Crimes Against Persons

Crimes against persons include abuse, neglect, or exploitation of older or vulnerable persons; assault; battery; bodily injury; child abuse and neglect; child pornography; homicide; false imprisonment; kidnapping; mayhem; robbery; sexual assault; stalking; and related offenses.

The 2015 Legislature passed several bills addressing crimes against persons. Assembly Bill 212 (Chapter 150, *Statutes of Nevada*) provided that prosecution for sexual assault must be commenced within 20 years after the commission of the offense, instead of within 4 years, as was the law previously. Assembly Bill 214 (Chapter 212, *Statutes of Nevada*), increased the penalty for soliciting a child for prostitution from a category E felony to a category E felony for a first offense, a category D felony for a second offense, and a category C felony for a third and subsequent offense. In addition, A.B. 214 prohibited the court from granting probation to, or suspending the sentence of, a person convicted of a third or subsequent offense of soliciting a child for prostitution. Assembly Bill 223 (Chapter 174, *Statutes of Nevada*) revised provisions concerning the abuse, neglect, exploitation, and isolation of older and vulnerable persons by adding “abandonment” to the law.

Crimes Against Public Decency

Crimes against public decency include criminal gang recruitment; incest; indecent exposure; nonsupport of a child, former spouse, or spouse; obscenity; pandering; paternity fraud; prostitution; and similar offenses.

The passage of A.B. 49 (Chapter 399, *Statutes of Nevada 2015*), established the crime of unlawful dissemination of an intimate image of a person and provided penalties for the crime. The bill revised the definition of “sexual assault” to include several new acts but provided that the definition does not apply to a person who is under 18 years of age and is not more than 2 years older than the person upon whom the act is committed.

The bill also provided that a person who commits lewdness with a child under the age of 16 is guilty of a category A felony. If a person under the age of 18 commits lewdness with a child under 14, the offender is also guilty of a category A felony, and if the child is 14 or 15 years of age, the offender is guilty of a category B felony.

Crimes Against Public Health and Safety

Crimes against public health and safety include offenses related to acts of terrorism; dangerous and vicious dogs; the possession, manufacture, or use of firearms and other weapons; the sale of alcoholic beverages; the sale or use of tobacco; the transportation of explosives; and other similar offenses.

In 2015, the Legislature considered many firearms-related issues and struggled with the difficult balance among public safety, personal security, and personal rights. Senate Bill 175 (Chapter 328, *Statutes of Nevada*) amended the definition of “justifiable homicide” and created a rebuttable presumption if a person knew or reasonably believed that the person killed was: (1) entering or

attempting to enter the occupied house or vehicle unlawfully and with force; (2) committing, or attempting to commit, a crime of violence; and (3) was not provoked.

The Legislature also passed A.B. 239 (Chapter 327, *Statutes of Nevada 2015*), which regulated the operators of unmanned aerial vehicles, also commonly referred to as drones, and provided criminal and civil penalties for their unlawful operation. The bill prohibits weaponizing a drone. One who does so is guilty of a category D felony, and one who both weaponizes and discharges a weaponized drone is guilty of a category C felony.

Crimes Against Property

Crimes against property include arson, burglary, counterfeiting, embezzlement, extortion, forgery, fraud, home invasion, identity theft, larceny, offenses relating to credit and debit cards, receiving stolen goods, theft, and related crimes.

The Legislature addressed the issue of “squatting” through the passage of A.B. 386 (Chapter 507, *Statutes of Nevada 2015*). The bill created and defined crimes and associated penalties for “housebreaking,” “unlawful occupancy,” and “unlawful reentry” and addressed summary procedures to obtain possession of real property.

Malicious Mischief

Malicious mischief includes offenses related to defacing notices or proclamations, destruction of property, destruction or removal of boundary markers, graffiti, killing or maiming animals or livestock, trespass, and other similar offenses.

Through the passage of S.B. 56 (Chapter 372, *Statutes of Nevada 2015*), the Legislature granted the governing body of a city the authority to adopt ordinances and allow officers and employees of the city to cover or remove graffiti placed on certain portions of residential property with the property owner’s consent. Assembly Bill 244 (Chapter 215, *Statutes of Nevada 2015*) provided that a person is guilty of a category D felony, regardless of the value of the loss, if the person has been previously convicted of two or more graffiti offenses or otherwise defacing public or private property.

Other Types of Crimes

Other types of crimes include crimes against the legislative power, crimes by and against the executive power of the State, crimes against the public peace, crimes against the revenue and property of the State, and miscellaneous crimes.

PUNISHMENTS

Probation and Alternative Sentencing

Except in cases of such serious crimes as murder and sexual assault, or where a court has found a convicted person to be a habitual criminal, a court may place a person convicted of a felony,

gross misdemeanor, or misdemeanor on probation and suspend the person's sentence. For most category E felony convictions, the district court must grant probation. If the court determines that a person convicted of a category C, D, or E felony has the financial ability to post a bond to ensure compliance with the conditions of probation, the court must order the person to execute a surety bond.

When a person is granted probation, the defendant is placed under the supervision of the Division of Parole and Probation, Department of Public Safety. The period of probation is normally limited to three years for a gross misdemeanor and five years for a felony. The court may impose reasonable conditions on a probation order relating to conduct, contacts with other persons, restitution, residency, weapons, and other matters. If a probationer violates the conditions of probation, the court may issue a warrant for his or her arrest or, if the person agrees, order the person to a term of residential confinement.

Punishment for Misdemeanors

A person convicted of a misdemeanor in Nevada must be punished by imprisonment in the county jail for not more than six months, by a fine of not more than \$1,000, or both, unless the applicable statute prescribes a different penalty. In lieu of all or part of the punishment, the court may sentence the convicted person to perform a fixed period of community service.

If a corporation is convicted of an offense that, for a natural person, would be punishable as a misdemeanor, the punishment is a fine of not more than \$1,000, unless a different penalty is prescribed by law.

Punishment for Gross Misdemeanors

A person convicted in Nevada of a gross misdemeanor must be punished by imprisonment in the county jail for not more than 364 days, by a fine of not more than \$2,000, or both, unless the applicable statute prescribes a different penalty. The court may order the person to perform a fixed period of community service as a condition of probation.

Punishment for Felonies

A person convicted of a felony in Nevada must be punished as set forth in the penalties for felonies charts listed on the Legislative Counsel Bureau (LCB) website at: <http://www.leg.state.nv.us/Division/Research/Publications/Factsheets/CrimeCharts/index.html>.

Death Penalty

A person convicted of first-degree murder must be punished by death, only if one or more aggravating circumstances are found that are not outweighed by any mitigating circumstance. Nevada's laws identify the only aggravating circumstances, which include, among others:

- Murder committed by a person already under a sentence of imprisonment;

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- Murder by a person who knowingly created a great risk of death to more than one person;
- Murder committed while engaged in or attempting to engage in arson, burglary, home invasion, kidnapping, or robbery;
- Murder for hire;
- Murder of a firefighter or peace officer engaged in the performance of official duty;
- Murder involving mutilation or torture;
- Murder committed at random;
- Murder of a person under the age of 14; and
- Murder committed as a hate crime.

Mitigating circumstances may include a defendant with no significant history of prior criminal activity; murder committed under the influence of extreme emotional or mental disturbance; a victim who was a participant in the defendant's criminal act or who consented to the act; a murder in which the defendant was a relatively minor accomplice; a defendant who was under duress or domination of another person; a youthful defendant; and other circumstances.

Fines

All fines imposed and collected for violations of Nevada's criminal laws must be paid into the State Treasury. A judgment that imposes a fine constitutes a lien like a money judgment in a civil action. The *Nevada Constitution* pledges all fines collected under the penal laws of the State for educational purposes and provides that the money from fines must not be transferred to other funds for other purposes.

AID TO VICTIMS OF CRIME

Nevada Revised Statutes includes a variety of provisions designed to assist victims of crime. In addition to providing direct financial or other assistance to victims, these laws address confidentiality; disclosures and notices to victims; fictitious addresses; mandatory conditions of parole and probation; mandatory reporting of certain crimes; procedural consideration; protection of victims from intimidation and threats; restitution; victims' attendance at school; victims' recovery of damages; and related subjects.

Fund for Compensation of Victims of Crime

An eligible person may apply to the State Board of Examiners for compensation from the Fund for Compensation of Victims of Crime (NRS 217.260). The Board may pay compensation to or for the

benefit of victims, to a victim's caregivers for their expenses or losses, to a victim's dependents if the victim dies, and to members of the victim's immediate family or household for psychological counseling. With the passage of S.B. 230 (Chapter 421, *Statutes of Nevada 2015*) the statutory cap was removed on the total amount of compensation the State Board of Examiners may award from the Fund to a victim, members of the victim's household, or the victim's dependents for expenses and losses.

Account for Aid for Victims of Domestic Violence

The Division of Child and Family Services, Department of Health and Human Services, administers the Account for Aid for Victims of Domestic Violence (NRS 217.440). Eligible nonprofit entities may apply to the Division for grants to provide services to victims.

Assistance to Victims of Sexual Assault

Each county in Nevada must provide, by ordinance, a program for counseling and medical treatment of victims of sexual assault, and it must pay for any medical care for injuries resulting from the assault provided to the victim within 72 hours after the victim arrives for treatment. In addition, the victim or the victim's spouse may apply to the board of county commissioners for treatment of emotional trauma at the county's expense.

Contingency Account for Victims of Human Trafficking

The money in the Contingency Account may be expended for the purpose of establishing or providing programs or services to victims of human trafficking (NRS 217.530). Through this Account, a nonprofit agency or State or local government agency is authorized to apply for money to assist victims of human trafficking with needed services. A limited portion of the money in the Contingency Account can be used for fundraising for the direct benefit of the Contingency Account.

Confidentiality

Information related to victims of abuse of older or vulnerable persons, domestic violence, sexual assault, and other sexual offenses is confidential and may be disseminated only to the court, law enforcement agencies, parole and probation officers, and other persons who need the information for official purposes. Information on individual victims of sex offenders must not be disclosed on the community notification website, from a record of registration, or from the Statewide registry.

Disclosure and Notice

Nevada's laws require disclosure or notification to victims of a variety of events that may affect them. In the juvenile system, victims must be notified of the disposition of the cases involving them and of petitions alleging that a juvenile is delinquent for committing a sexual offense against them.

In the adult justice system, victims must be notified of the following types of events if those events might affect them or their cases: an application for a pardon; an application for a concealed weapon permit; the discharge, escape, or release of an offender; the disposition of a harassment, sexual assault, stalking, or theft case; a meeting to consider clemency; a meeting to consider parole; a postconviction petition for genetic marker analysis; a recommendation for a modified sentence of probation; a request to serve a term of residential confinement; the results of a test for HIV or sexually transmitted disease on a person arrested for a crime; and other events.

Fictitious Address Program

An adult, a parent or guardian for a child, or a guardian acting on behalf of an incompetent person may apply to the Secretary of State for designation of a fictitious address if the subject of the application has been a victim of domestic violence, sexual assault, or stalking. The Secretary of State must approve the application if it is accompanied by specific evidence demonstrating that the person has been a victim, and he or she may make records pertaining to the fictitious address available for inspection only upon the request of a law enforcement agency or by court order.

Intimidation of Victims

A person who, by intimidation or threat, discourages, hinders, or prevents a crime victim or witness from causing an arrest, commencing a prosecution, or reporting a crime is guilty of a category D felony. A court may issue an injunction restraining a defendant or other person from such conduct.

Procedural Considerations for Victims

In consideration of victims of acts against older or vulnerable persons, acts committed against a child, domestic violence, and sexual assault and other sex offenses, the courts may adjust trial dates and must in many cases provide an attendant to support the victim during proceedings.

Assembly Bill 193 (Chapter 148, *Statutes of Nevada 2015*) allows hearsay evidence in preliminary examinations and grand jury proceedings, but only in cases involving sexual offenses committed against children under the age of 16; felony child abuse; and felony domestic violence involving substantial bodily harm to the victim.

Restitution

In many circumstances, persons convicted of a crime or falling within the jurisdiction of the juvenile court must provide restitution to their victims. A juvenile court may include restitution in an agreement for informal supervision and may order restitution from a child adjudicated delinquent or the child's parent or guardian.

In the adult system, the court may require restitution as a condition of parole or probation, and the order of restitution is deemed a money judgment against the offender. The Department of Corrections may deduct amounts required to pay restitution from an offender's personal account and wages. For

crimes of theft and similar crimes, a district attorney may require restitution and suspend prosecution under certain conditions.

Victims' Attendance at School

Unless the juvenile court has terminated the requirement or approved an alternative plan of supervision as provided for in NRS, the court must prohibit a child adjudicated delinquent for a sexual offense or sexually motivated act from attending the same school the victim is attending, and it must order the parent or guardian of the delinquent child to inform the parole or probation officer each time the child expects to change schools. The parole or probation officer must notify the school district in which the delinquent child resides, or the private school if the child attends private school, and the notice must include the name of the victim if the victim's parent or guardian consents.

In addition, a child covered by the fictitious address program may attend school outside a normal zone of attendance established by the board of trustees of the school district or attend in another school district.

Other Considerations for Victims of Crime

Among the numerous statutes that consider the needs and rights of crime victims, the Legislature has authorized crime victims to seek recovery of damages for their injuries and to appear at sentencing hearings. The family of a victim of a capital offense may request notice of execution of the death penalty against the offender and must be given preference in attending the execution. As a condition of lifetime supervision imposed on a sex offender and as a condition of parole or probation for a person convicted of a sexual offense, the offender must not have any contact with the crime victim except as authorized by the court.

For more information, see the April 2016 *Policy and Program Report* chapters titled, "Justice System: Focus on Domestic Violence," and "Justice System: Focus on Sex Offenders."

Other 2015 Legislation

Senate Joint Resolution No. 17 (File No. 37, *Statutes of Nevada*) proposes to amend the *Nevada Constitution* by eliminating existing victims' rights provisions found in Article 1, Section 8, and replacing them with an expanded set of provisions in the form of a victims' bill of rights.

ACTIVITIES DURING THE 2015-2016 INTERIM

The Advisory Commission on the Administration of Justice will meet during the 2015-2016 Interim to discuss activities related to crimes and punishments.

SOURCES OF ADDITIONAL INFORMATION

Advisory Commission on the Administration of Justice: <http://www.leg.state.nv.us/Interim/78th2015/Committee/StatCom/ACAJ/?ID=18>.

Justice System

State Bar of Nevada: <http://www.nvbar.org/>.

Self Help Resources, Nevada Supreme Court: <http://www.civillawselfhelpcenter.org/courts-and-case-lookup/nevada-supreme-court>.

STATE CONTACT INFORMATION

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Department of Public Safety

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