



POLICY AND PROGRAM REPORT



Justice System: Focus on Domestic Violence

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The topic of domestic violence cuts across many aspects of the justice system in Nevada. The need to address crimes that constitute domestic violence influences the laws on aid to victims, corrections, court administration, criminal procedure, juvenile justice, and domestic relations, among others. This section of the *Policy and Program Report* focuses on domestic violence and related definitions, penalties, procedures, and programs.

ACTS THAT CONSTITUTE DOMESTIC VIOLENCE

The definition of domestic violence involves an act of violence against a spouse, family member, or other person who has a close relationship with the perpetrator. The act constitutes domestic violence if it is committed against:

- A relative by blood or marriage;
- Someone with whom the perpetrator has a child in common or a dating relationship, or with whom he or she is residing;
- A spouse or former spouse;
- A child of any of these persons; or
- The perpetrator’s minor child.

JURISDICTION

Nevada’s district courts, family courts, and justice courts share jurisdiction over domestic violence matters. The family court, where established, and the justice court have concurrent jurisdiction over the issuance of protective orders against domestic violence. The family court, where established, and the district court have concurrent jurisdiction over actions for damages brought by a person who was injured by an act of domestic violence.

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PROCEDURE

The courts and peace officers must follow special procedures in cases that involve battery constituting domestic violence.

A peace officer must arrest a person, with or without a warrant, if the officer has probable cause to believe the person has committed battery within the preceding 24 hours against a relative, spouse, former spouse, or one of the other persons listed earlier.

A person arrested for battery that constitutes domestic violence must not be admitted to bail sooner than 12 hours after arrest. If the person is released on bail without appearing before a magistrate, *Nevada Revised Statutes* (NRS) specify minimum bail amounts. If the person is a juvenile and does not meet the criteria for secure detention, and if other appropriate arrangements can be made, the person may be released before 12 hours have passed.

During an investigation of domestic violence, an officer must make a good faith effort to explain the mandatory arrest procedures and to advise victims of all reasonable means to prevent further abuse. The officer must also provide information to the victim in writing covering the victim’s right to file a criminal complaint, the procedures for seeking a protective order, and where to go for emergency assistance and shelter.

If an officer detains a person for a misdemeanor offense that constitutes domestic violence and issues a citation instead of taking the person before a magistrate, the officer must obtain at least one fingerprint and forward the print and the incident report to the Central Repository for Nevada Records of Criminal History.

PENALTIES

Nevada imposes enhanced, mandatory penalties upon persons convicted of battery constituting domestic violence. Unless the court must sentence an offender to a greater penalty under the general battery statute (for battery committed with the use of a deadly weapon, for example), the penalties are as shown in the following table:

	Type of Crime	Imprisonment (Jail or Prison)	Community Service	Fine	Participation in Domestic Violence Treatment Program	Assessment*
First Offense Within 7 Years	Misdemeanor	Jail—2 days to 6 months	48 to 120 hours	\$200 to \$1,000	At least 1.5 hours per week for 6 to 12 months	\$35

	Type of Crime	Imprisonment (Jail or Prison)	Community Service	Fine	Participation in Domestic Violence Treatment Program	Assessment*
Second Offense Within 7 Years	Misdemeanor	Jail—10 days to 6 months	100 to 200 hours	\$500 to \$1,000	At least 1.5 hours per week for 12 months	\$35
Third or Subsequent Offense Within 7 Years	Category C Felony	Prison—1-year minimum and 5-year maximum		Optional Not more than \$10,000		\$35

*Administrative assessment for domestic violence programs (NRS 228.460).

In addition, the court may require convicted persons to participate, at their own expense, in a certified alcohol or drug abuse treatment program and, if it appears that a child may need counseling as the result of a battery constituting domestic violence, the court may refer the child to a child welfare agency for counseling and order the offender to reimburse the agency for its costs.

A prosecuting attorney may not dismiss a charge of battery constituting domestic violence in exchange for a guilty plea to a lesser charge if the prosecuting attorney knows the charge is supported by probable cause or can be proven at trial.

If a person is convicted of a misdemeanor that constitutes domestic battery, the justice of the peace or municipal judge may suspend the remainder of the sentence after the person has served a mandatory minimum period of confinement, on the condition that the person actively participates in a certified alcohol or drug abuse treatment program, a certified program for treatment of those who commit domestic violence, or both. A court must not grant probation or suspend the sentence of a person charged with battery constituting domestic violence.

PROTECTIVE ORDERS

Upon request, a court may grant a temporary or extended order for protection against domestic violence if the court is satisfied that domestic violence has occurred or there is a threat of domestic violence. The court may require the adverse party, the applicant, or both to appear before deciding whether to grant the order. A temporary order does not require notice to the adverse party, and it must be decided upon within one judicial day of the application. However, an extended order may be granted only after notice to the adverse party and a hearing.

In Carson City, Clark County, and Washoe County, the court must be available 24 hours a day, 7 days a week, including weekends and holidays, to receive telephone communications from alleged victims of domestic violence and to issue temporary protective orders, as provided for in NRS.

The payment of costs and fees for a protective order must be deferred for any applicant. The court may assess the costs and fees against the adverse party, or reduce or waive them. The clerk of the court, or other person designated by the court, must assist any applicant with completing the application and any necessary papers related to a protective order but must not offer legal advice.

A temporary protective order expires after 30 days or a shorter time fixed by the court, unless an application for an extended order has been filed. An extended order expires after the period fixed by the court, not to exceed one year.

Before the end of the next business day after an order is issued, the court must transmit the order to the appropriate law enforcement agency with jurisdiction over the child care facility, place of employment, residence, or school of the applicant or minor child, and it must serve the adverse party with the order as set forth in NRS. The court must also transmit information about the order to the Central Repository, for receipt by the end of the next business day.

Every protective order must include an order to any law enforcement officer to arrest an adverse party if the officer has probable cause to believe there has been a violation. After an arrest, the adverse party must not be admitted to bail until 12 hours have passed if the arresting officer determines there is a threat of harm, there was a previous violation, or the party is intoxicated.

A violation of a protective order against domestic violence is a misdemeanor, unless a more severe penalty is prescribed for the act that constituted the violation. A person who commits a felony in the course of violating a protective order is subject to an additional enhanced penalty of imprisonment in the State prison for not less than 1 year and not more than 20 years (or not more than 5 years if the felony was a category A or B felony). The additional sentence must not exceed the sentence for the underlying crime and may run either concurrently or consecutively.

A person may register a protective order against domestic violence issued in another jurisdiction. Such an order must be given full faith and credit and must be enforced by the Nevada courts if the issuing court had jurisdiction and the adverse party had notice and an opportunity to be heard.

HARASSMENT AND STALKING

The crimes of harassment and stalking are frequently associated with domestic violence. They include the act of stalking by e-mail, over the Internet, or using similar means of communication. The penalties range from a misdemeanor for a first offense to a category B felony for aggravated stalking. A court may grant a protective order against harassment or stalking under rules similar to those that apply to domestic violence.

The Peace Officers' Standards and Training (POST) Commission must require each peace officer to be trained concerning stalking crimes.

CHILD CUSTODY AND DOMESTIC VIOLENCE

In addition to Nevada's general laws for the protection of children, discussed elsewhere in this *Policy and Program Report*, the Legislature has enacted laws designed specifically to protect a child when a parent or guardian is a perpetrator or victim of domestic violence. In a divorce involving acts of domestic violence, there is a rebuttable presumption that joint or sole custody of the child by the perpetrator is not in the child's best interest. There are similar laws regarding visitation orders.

Child welfare agencies must provide protective custody of a child upon the death of a parent that is or may be the result of domestic violence. The appropriate court must hold a protective custody hearing within 72 hours after the child is placed in custody, and the agency must file a petition within ten days of the hearing for a judicial determination of whether the child is in need of protection.

RENTAL AGREEMENTS AND DOMESTIC VIOLENCE

In some cases of domestic violence, there may be a need to terminate rental agreements. The 2013 Legislature, through the passage of Assembly Bill 284 (Chapter 301, *Statutes of Nevada*), provided for the early termination of a rental agreement if a tenant, cotenant, or household member is a victim of domestic violence. In addition, the measure prohibited a landlord from taking retaliatory action against a tenant who terminates an agreement because he or she is a victim of domestic violence.

ASSISTANCE FOR VICTIMS OF DOMESTIC VIOLENCE

Types of Assistance

The Legislature has made significant assistance available to victims of domestic violence. The Account for Aid for Victims of Domestic Violence, with revenues from justice court fees, marriage license fees, and other sources, provides grants to nonprofit agencies to provide services to victims. Victims may participate in the fictitious address program, receive restitution payments, and take advantage of other types of assistance available to crime victims in Nevada. For more details, see the *Policy and Program Report* titled, "Crimes, Punishments, and Aid to Crime Victims."

Ombudsman

The Office of Ombudsman for Victims of Domestic Violence, within the Office of the Attorney General, provides assistance to victims, prepares reports from information contained in the Central Repository, and provides education on domestic violence, available assistance, available treatment, and prevention.

Committee on Domestic Violence

The Attorney General also appoints the Committee on Domestic Violence, which includes judges, justices of the peace, law enforcement officers, prosecuting attorneys, representatives of victims, treatment providers, and victims. The Committee must:

Justice System

- Adopt regulations for certifying, evaluating, and monitoring programs for the treatment of persons who commit domestic violence;
- Certify, monitor, and review such programs;
- Review and evaluate training programs provided to peace officers and related to domestic violence and make recommendations to the POST Commission concerning such training;
- To the extent money is available, arrange for the provision of legal services, including assisting a person in an action for divorce; and
- Submit a biennial report to the Legislature summarizing its work and recommending any necessary legislation.

Nevada Council for the Prevention of Domestic Violence

The Nevada Council for the Prevention of Domestic Violence, also within the Office of the Attorney General, is responsible for increasing awareness regarding domestic violence in Nevada, recommending any necessary legislation, and providing financial support for prevention programs. The Council consists of up to 30 members appointed by the Attorney General.

The Council also must study and review the criminal justice system in rural Nevada as it relates to domestic violence and the availability of counseling services; solicit comments and recommendations from district judges, justices of the peace, and municipal judges in rural Nevada; and submit a biennial report to the Legislature summarizing its work, recommending any necessary legislation on domestic violence, and including all comments and recommendations received.

2015 LEGISLATION

Assembly Bill 193 (Chapter 148, *Statutes of Nevada*) allowed 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.

Senate Bill 175 (Chapter 328, *Statutes of Nevada*) prohibited a person who has been convicted in this State or any other state of a misdemeanor crime of domestic violence from owning or having in their possession or under their custody or control any firearm. A person who violates such a provision is guilty of a category B felony.

Senate Bill 362 (Chapter 40, *Statutes of Nevada*) authorized the Director of the Department of Health and Human Services to establish, within the limits of available funding, an educational program within the Division of Public and Behavioral Health regarding the prevention of domestic violence and any medical, mental health, or social services available to victims of domestic violence.

SOURCES OF ADDITIONAL INFORMATION

Committee on Domestic Violence, Office of the Attorney General: http://ag.nv.gov/Hot_Topics/Government/CDV/.

Nevada Council for the Prevention of Domestic Violence, Office of the Attorney General: <http://ag.nv.gov/NCPDV/>.

Office of the Ombudsman for Victims of Domestic Violence, Office of the Attorney General: http://ag.nv.gov/Hot_Topics/Victims/DV_Ombudsman/.

Nevada Legal Resources Directory: <http://www.nvlawdirectory.org/bysubfamily.html>.

Nevada Network Against Domestic Violence: <http://www.nnadv.org/>.

Clark County Family Law Self-Help Center: <http://www.familylawselfhelpcenter.org/>.

Family Self Help Court Center, Washoe County, Second Judicial District Court, State of Nevada: <http://www.washoecourts.com/index.cfm?page=selfhelp>.

STATE CONTACT INFORMATION

Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
Telephone: (775) 684-1100
Statewide Domestic Violence Toll-free Telephone: (800) 500-1556
Website: <http://ag.nv.gov/>

Department of Public Safety
Website: <http://dps.nv.gov/>

Division of Parole and Probation
1445 Old Hot Springs Road, Suite 104
Carson City, Nevada 89706
Telephone: (775) 684-2600

General Services Division
333 West Nye Lane, Suite 100
Carson City, Nevada 89706
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