

SENATE BILL NO. 361—SENATORS CANNIZZARO, SEGERBLOM,
MANENDO, RATTI, FARLEY; ATKINSON, CANCELA, DENIS,
PARKS, SPEARMAN AND WOODHOUSE

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions related to domestic violence.
(BDR 53-775)

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.

AN ACT relating to domestic violence; providing for days of leave if an employee is a victim of an act which constitutes domestic violence; prohibiting the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation from disqualifying certain persons from receiving unemployment benefits under certain circumstances; prohibiting employers from conditioning employment in certain circumstances; increasing the penalty for violating certain orders for protection; increasing the penalty for a battery which constitutes domestic violence in certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law sets forth certain unlawful acts which constitute domestic violence
2 when committed against certain specified persons. (NRS 33.018) **Section 1** of this
3 bill requires an employer to provide certain days of leave to an employee who is a
4 victim of an act which constitutes domestic violence, or an employee whose family
5 or household member is a victim of an act which constitutes domestic violence.
6 **Section 1** specifically requires that: (1) such an employee is entitled to 30 days of
7 leave during a 12-month period; and (2) 7 of the 30 days of leave are to be paid
8 days of leave earned at a rate of 1 hour per 30 hours worked. **Section 1** authorizes
9 an employee to use the leave: (1) beginning on the 60th calendar day of
10 employment; and (2) for purposes related to a person who is a victim of an act



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11 which constitutes domestic violence. **Section 1** additionally requires an employer to
12 maintain a record of the use of the days of leave for each employee for a 3-year
13 period and to make those records available for inspection by the Labor
14 Commissioner. Finally, **section 1** requires the Labor Commissioner to prepare a
15 bulletin setting forth these benefits and requires employers to post the bulletin in
16 the workplace.

17 **Section 4** of this bill prohibits the Administrator of the Employment Security
18 Division of the Department of Employment, Training and Rehabilitation from
19 disqualifying a person from receiving unemployment compensation benefits if: (1)
20 the person left employment to protect himself or herself, or his or her family or
21 household member, from an act which constitutes domestic violence; and (2) the
22 person actively engaged in an effort to preserve employment. **Section 4** also
23 authorizes the Administrator to request evidence from the person to support a claim
24 for benefits.

25 **Section 6** of this bill requires an employer to provide reasonable
26 accommodations for an employee who is a victim of an act which constitutes
27 domestic violence or whose family or household member is a victim of an act
28 which constitutes domestic violence.

29 **Section 7** of this bill prohibits an employer from conditioning the employment
30 of an employee or prospective employee or taking certain employment actions
31 because: (1) the employee is a victim of an act which constitutes domestic violence;
32 (2) the employee's family or household member is a victim of an act which
33 constitutes domestic violence; or (3) of other circumstances related to being a
34 victim of an act which constitutes domestic violence.

35 Existing law authorizes a court to issue a temporary or extended order for
36 protection to protect a person from domestic violence. (NRS 33.020, 33.030)
37 Further, existing law provides that a person who intentionally violates a temporary
38 or extended order for protection against domestic violence is guilty of a
39 misdemeanor unless a more severe penalty is prescribed for the act. **Section 8** of
40 this bill instead makes the intentional violation of: (1) a temporary order a gross
41 misdemeanor; and (2) an extended order a category C felony punishable by the
42 penalties applicable to other category C felonies.

43 Existing law establishes the acts which constitute domestic violence, including
44 committing a battery against a person with whom the aggressor has a certain
45 relationship. (NRS 33.018) Under existing law, a person who is convicted of a third
46 or subsequent offense of battery which constitutes domestic violence within 7 years
47 is guilty of a category C felony. Additionally, if a person is convicted of a battery
48 which constitutes domestic violence that is committed by strangulation, the person
49 is guilty of a category C felony. (NRS 200.485) **Section 9** of this bill makes it a
50 category B felony punishable by a minimum term of imprisonment of 2 years and a
51 maximum term of 15 years, and a fine of not less than \$2,000 but not more than
52 \$5,000, to commit a battery which constitutes domestic violence if the person has
53 previously been convicted of: (1) a felony in this State for committing battery
54 which constitutes domestic violence; or (2) a violation of the law of any other
55 jurisdiction that prohibits conduct that is the same or similar to a felony in this State
56 for committing a battery which constitutes domestic violence.

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

1 **Section 1.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. Every employer shall provide days of leave as follows:***



1 (a) *An employee who is a victim of an act which constitutes*
2 *domestic violence, or whose family or household member is a*
3 *victim of an act which constitutes domestic violence, is entitled to*
4 *not less than 30 days of leave in one 12-month period. Seven of the*
5 *30 days of leave must accrue and be paid pursuant to paragraphs*
6 *(b) and (c).*

7 (b) *Paid days of leave must accrue at a rate of not less than 1*
8 *hour for every 30 hours worked by the employee. For the purpose*
9 *of this calculation, a salaried employee shall be deemed to work 40*
10 *hours per week, unless the employee's normal week of work is less*
11 *than 40 hours, in which case paid days of leave must accrue based*
12 *on hours worked in the employee's normal week of work.*

13 (c) *Paid days of leave must be compensated at the rate of pay*
14 *at which the employee is compensated at the time such leave is*
15 *taken, and paid on the same payday as the days taken are*
16 *normally paid. For the purposes of this calculation, the*
17 *compensation rate for an employee who is paid by salary,*
18 *commission, piece rate or a method other than an hourly wage*
19 *must be calculated by dividing the employee's total wages paid for*
20 *the immediately preceding 90 days by the number of hours worked*
21 *during the period.*

22 (d) *An employer is not required to compensate an employee for*
23 *any days of leave upon separation from employment, except that if*
24 *an employee is rehired by the employer within 1 year after*
25 *separation from that employer, any previously accrued unused*
26 *days of leave must be reinstated.*

27 2. *An employee may use days of leave as follows:*

28 (a) *An employee must be allowed to use days of leave*
29 *beginning the 60th calendar day of his or employment.*

30 (b) *An employee may use days of leave:*

31 (1) *For the diagnosis, care or treatment of a health*
32 *condition related to an act which constitutes domestic violence*
33 *committed against the employee or family or household member of*
34 *the employee;*

35 (2) *To obtain counseling or assistance related to an act*
36 *which constitutes domestic violence committed against the*
37 *employee or family or household member of the employee;*

38 (3) *To participate in any court proceedings related to an act*
39 *which constitutes domestic violence committed against the*
40 *employee or family or household member of the employee; or*

41 (4) *To establish a safety plan, including, without limitation,*
42 *any action to increase the safety of the employee or the family or*
43 *household member of the employee from a future act which*
44 *constitutes domestic violence.*



1 (c) *To the extent possible, an employee shall give reasonable*
2 *advance notice to his or her employer of the need to use days of*
3 *leave.*

4 (d) *An employer shall not:*

5 (1) *Deny an employee the right to use days of leave in*
6 *accordance with the conditions of this section;*

7 (2) *Require an employee to find a replacement worker as a*
8 *condition of using days of leave; or*

9 (3) *Retaliate against an employee for using days of leave.*

10 3. *The employer may require an employee to provide to the*
11 *employer documentation that confirms or supports the reason the*
12 *employee provided for requesting leave.*

13 4. *The Labor Commissioner shall prepare a bulletin which*
14 *clearly sets forth the benefits created by this section. The Labor*
15 *Commissioner shall post the bulletin on the Internet website*
16 *maintained by the Office of Labor Commissioner, if any, and shall*
17 *require all employers to post the bulletin in a conspicuous location*
18 *in each workplace maintained by the employer. The bulletin may*
19 *be included in any printed abstract posted by the employer*
20 *pursuant to NRS 608.013.*

21 5. *An employer shall maintain a record of the use of days of*
22 *leave for each employee for a 3-year period following the entry of*
23 *such information in the record and, upon request, shall make*
24 *those records available for inspection by the Labor Commissioner.*

25 6. *The provisions of this section do not:*

26 (a) *Limit or abridge any other rights, remedies or procedures*
27 *available under the law.*

28 (b) *Negate any other rights, remedies or procedures available*
29 *to an aggrieved party.*

30 (c) *Prohibit, preempt or discourage any contract or other*
31 *agreement that provides a more generous leave benefit or paid*
32 *leave benefit.*

33 7. *As used in this section:*

34 (a) *“Domestic violence” has the meaning ascribed to it in*
35 *NRS 33.018.*

36 (b) *“Family or household member” means a spouse, a former*
37 *spouse, a parent or other adult person who is related by blood or is*
38 *or was actually residing with a person.*

39 **Sec. 2.** NRS 608.180 is hereby amended to read as follows:

40 608.180 The Labor Commissioner or the representative of the
41 Labor Commissioner shall cause the provisions of NRS 608.005 to
42 608.195, inclusive, *and section 1 of this act* to be enforced, and
43 upon notice from the Labor Commissioner or the representative:

44 1. The district attorney of any county in which a violation of
45 those sections has occurred;



1 2. The Deputy Labor Commissioner, as provided in
2 NRS 607.050;

3 3. The Attorney General, as provided in NRS 607.160 or
4 607.220; or

5 4. The special counsel, as provided in NRS 607.065,
6 shall prosecute the action for enforcement according to law.

7 **Sec. 3.** NRS 608.195 is hereby amended to read as follows:

8 608.195 1. Except as otherwise provided in NRS 608.0165,
9 any person who violates any provision of NRS 608.005 to 608.195,
10 inclusive, *and section 1 of this act*, or any regulation adopted
11 pursuant thereto, is guilty of a misdemeanor.

12 2. In addition to any other remedy or penalty, the Labor
13 Commissioner may impose against the person an administrative
14 penalty of not more than \$5,000 for each such violation.

15 **Sec. 4.** Chapter 612 of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 *1. The Administrator shall not deny any otherwise eligible
18 person benefits if the Administrator finds that:*

19 *(a) The person left employment to protect himself or herself, or
20 a family or household member, from an act which constitutes
21 domestic violence; and*

22 *(b) The person actively engaged in an effort to preserve
23 employment.*

24 *2. The Administrator may request the person to furnish
25 evidence satisfactory to support the person's claim for benefits.*

26 *3. As used in this section:*

27 *(a) "Domestic violence" has the meaning ascribed to it in
28 NRS 33.018.*

29 *(b) "Family or household member" means a spouse, a former
30 spouse, a parent or other adult person who is related by blood or is
31 or was actually residing with a person.*

32 **Sec. 5.** Chapter 613 of NRS is hereby amended by adding
33 thereto the provisions set forth as sections 6 and 7 of this act.

34 **Sec. 6. 1.** *An employer must make reasonable
35 accommodations for an employee who is a victim of an act which
36 constitutes domestic violence or whose family or household
37 member is a victim of an act which constitutes domestic violence.
38 The employer may provide such accommodations, including,
39 without limitation, as:*

40 *(a) A transfer or reassignment;*

41 *(b) A modified schedule;*

42 *(c) A new telephone number for work; or*

43 *(d) Any other reasonable accommodations deemed necessary
44 to ensure the safety of the employee, the workplace, the employer or
45 other employees.*



1 2. *An employer may require an employee to provide to the*
2 *employer documentation that confirms or supports the reason the*
3 *employee requires the reasonable accommodations.*

4 3. *As used in this section:*

5 (a) *“Domestic violence” has the meaning ascribed to it in*
6 *NRS 33.018.*

7 (b) *“Family or household member” has the meaning ascribed*
8 *to it in section 4 of this act.*

9 **Sec. 7. 1.** *It is unlawful for any employer in this State to*
10 *discharge, discipline, discriminate against in any manner or deny*
11 *employment or promotion to, or threaten to take any such action*
12 *against, an employee because:*

13 (a) *The employee requested to use days of leave pursuant to*
14 *section 1 of this act;*

15 (b) *The employee participated in court proceedings related to*
16 *an act which constitutes domestic violence;*

17 (c) *The employee requested an accommodation pursuant to*
18 *section 6 of this act; or*

19 (d) *A person who allegedly committed an act which constitutes*
20 *domestic violence commits an act which constitutes domestic*
21 *violence in the workplace of the employee.*

22 2. *As used in this section, “domestic violence” has the*
23 *meaning ascribed to it in NRS 33.018.*

24 **Sec. 8.** NRS 33.100 is hereby amended to read as follows:

25 33.100 ~~†A†~~ *Unless a more severe penalty is prescribed by law*
26 *for the act that constitutes the violation of the order, any person*
27 *who intentionally violates †a† :*

28 1. *A temporary †or† order is guilty of a gross misdemeanor;*

29 2. *An extended order is guilty of a †misdemeanor, unless a*
30 *more severe penalty is prescribed by law for the act that constitutes*
31 *the violation of the order.† category C felony and shall be punished*
32 *as provided in NRS 193.130.*

33 **Sec. 9.** NRS 200.485 is hereby amended to read as follows:

34 200.485 1. Unless a greater penalty is provided pursuant to
35 subsection 2 or 3 or NRS 200.481, a person convicted of a battery
36 which constitutes domestic violence pursuant to NRS 33.018:

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

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

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

43 ➔ The person shall be further punished by a fine of not less than
44 \$200, but not more than \$1,000. A term of imprisonment imposed
45 pursuant to this paragraph may be served intermittently at the



1 discretion of the judge or justice of the peace, except that each
2 period of confinement must be not less than 4 consecutive hours and
3 must occur at a time when the person is not required to be at his or
4 her place of employment or on a weekend.

5 (b) For the second 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 10 days, but not more than 6 months; and

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

11 ➔ The person shall be further punished by a fine of not less than
12 \$500, but not more than \$1,000.

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

16 2. Unless a greater penalty is provided pursuant to **subsection 3**
17 **or** NRS 200.481, a person convicted of a battery which constitutes
18 domestic violence pursuant to NRS 33.018, if the battery is
19 committed by strangulation as described in NRS 200.481, is guilty
20 of a category C felony and shall be punished as provided in NRS
21 193.130 and by a fine of not more than \$15,000.

22 3. *Unless a greater penalty is provided pursuant to NRS*
23 *200.481, a person who has been previously convicted of:*

24 *(a) A battery which constitutes domestic violence pursuant to*
25 *NRS 33.018 that is punishable as a felony pursuant to paragraph*
26 *(c) of subsection 1 or subsection 2; or*

27 *(b) A violation of the law of any other jurisdiction that*
28 *prohibits the same or similar conduct set forth in paragraph (a),*

29 *➔ and who commits a battery which constitutes domestic violence*
30 *pursuant to NRS 33.018 is guilty of a category B felony and shall*
31 *be punished by imprisonment in the state prison for a minimum*
32 *term of not less than 2 years and a maximum term of not more*
33 *than 15 years, and shall be further punished by a fine of not less*
34 *than \$2,000 but more than \$5,000.*

35 4. 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 the person to
39 participate in weekly counseling sessions of not less than 1 1/2
40 hours per week for not less than 6 months, but not more than 12
41 months, at his or her expense, in a program for the treatment of
42 persons who commit domestic violence that has been certified
43 pursuant to NRS 228.470.

44 (b) For the second offense within 7 years, require the person to
45 participate in weekly counseling sessions of not less than 1 1/2



1 hours per week for 12 months, at his or her expense, in a program
2 for the treatment of persons who commit domestic violence that has
3 been certified pursuant to NRS 228.470.

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

9 ~~4. An~~

10 **5. Except as otherwise provided in this subsection, an** offense
11 that occurred within 7 years immediately preceding the date of the
12 principal offense or after the principal offense constitutes a prior
13 offense for the purposes of this section when evidenced by a
14 conviction, without regard to the sequence of the offenses and
15 convictions. **An offense which is listed in paragraph (a) or (b) of**
16 **subsection 3 that occurred on any date preceding the date of the**
17 **principal offense or after the principal offense constitutes a prior**
18 **offense for the purposes of this section when evidenced by a**
19 **conviction, without regard to the sequence of the offenses and**
20 **convictions.** The facts concerning a prior offense must be alleged in
21 the complaint, indictment or information, must not be read to the
22 jury or proved at trial but must be proved at the time of sentencing
23 and, if the principal offense is alleged to be a felony, must also be
24 shown at the preliminary examination or presented to the grand jury.

25 ~~5-1~~ **6.** In addition to any other fine or penalty, the court shall
26 order such a person to pay an administrative assessment of \$35. Any
27 money so collected must be paid by the clerk of the court to the
28 State Controller on or before the fifth day of each month for the
29 preceding month for credit to the Account for Programs Related to
30 Domestic Violence established pursuant to NRS 228.460.

31 ~~6-1~~ **7.** In addition to any other penalty, the court may require
32 such a person to participate, at his or her expense, in a program of
33 treatment for the abuse of alcohol or drugs that has been certified by
34 the Division of Public and Behavioral Health of the Department of
35 Health and Human Services.

36 ~~7-1~~ **8.** If it appears from information presented to the court
37 that a child under the age of 18 years may need counseling as a
38 result of the commission of a battery which constitutes domestic
39 violence pursuant to NRS 33.018, the court may refer the child to an
40 agency which provides child welfare services. If the court refers a
41 child to an agency which provides child welfare services, the court
42 shall require the person convicted of a battery which constitutes
43 domestic violence pursuant to NRS 33.018 to reimburse the agency
44 for the costs of any services provided, to the extent of the convicted
45 person's ability to pay.



1 ~~18~~ 9. If a person is charged with committing a battery which
2 constitutes domestic violence pursuant to NRS 33.018, a
3 prosecuting attorney shall not dismiss such a charge in exchange for
4 a plea of guilty, guilty but mentally ill or nolo contendere to a lesser
5 charge or for any other reason unless the prosecuting attorney
6 knows, or it is obvious, that the charge is not supported by probable
7 cause or cannot be proved at the time of trial. A court shall not grant
8 probation to and, except as otherwise provided in NRS 4.373 and
9 5.055, a court shall not suspend the sentence of such a person.

10 ~~19~~ 10. As used in this section:

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

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

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

18 **Sec. 10.** NRS 432B.640 is hereby amended to read as follows:

19 432B.640 1. Upon receiving a referral from a court pursuant
20 to subsection ~~17~~ 8 of NRS 200.485, an agency which provides child
21 welfare services may, as appropriate, conduct an assessment to
22 determine whether a psychological evaluation or counseling is
23 needed by a child.

24 2. If an agency which provides child welfare services conducts
25 an assessment pursuant to subsection 1 and determines that a
26 psychological evaluation or counseling would benefit the child, the
27 agency may, with the approval of the parent or legal guardian of the
28 child:

29 (a) Conduct the evaluation or counseling; or

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

32 **Sec. 11.** This act becomes effective;

33 1. Upon passage and approval for the purpose of adopting any
34 regulations and performing any other preparatory administrative
35 tasks necessary to carry out the provisions of this act; and

36 2. On October 1, 2017, for all other purposes.

