

Attachment Four (4)

Nevada Revised Statute (NRS) 200.485

Nevada Revised Statute (NRS) 33.018

**Nevada Revised Statute (NRS) 200.485 & 33.018 revision
suggestions from Michael Sherlock - Executive Director of Nevada
Commission on Peace Officer Standards and Training (POST)**

Nevada Council for Prevention of Domestic Violence

March 16, 2016

NRS 200.485 Battery which constitutes domestic violence: Penalties; referring child for counseling; restriction against dismissal, probation and suspension; definitions.

1. Unless a greater penalty is provided pursuant to subsection 2 or [NRS 200.481](#), a person convicted of a battery which constitutes domestic violence pursuant to [NRS 33.018](#):

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

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

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

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

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

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

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

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

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

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

3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to [NRS 33.018](#), the court shall:

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

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to [NRS 228.470](#).

↪ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to [NRS 228.470](#).

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

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

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

7. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to [NRS 33.018](#), the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which

constitutes domestic violence pursuant to [NRS 33.018](#) to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

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

9. As used in this section:

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

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

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

(Added to NRS by [1997, 1811](#); A [1999, 1880](#); [2001, 11, 432, 2485, 2922, 2932](#); [2003, 1481](#); [2005, 29, 533](#); [2007, 1436, 1438](#); [2009, 89, 91](#))

NRS 33.018 Acts which constitute domestic violence.

1. Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(7) Injuring or killing an animal.

(f) A false imprisonment.

(g) Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.

2. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

(Added to NRS by [1985, 2283](#); A [1995, 902](#); [1997, 1808](#); [2007, 82, 1275](#))

NRS 200.485 Battery which constitutes domestic violence: Penalties; referring child for counseling; restriction against dismissal, probation and suspension; definitions.

1. Unless a greater penalty is provided pursuant to subsection 2 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 [subsection 2](#):

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

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

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

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

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

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months state prison for not less than 1 year but not more than 4 years; and

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

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

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

2. Unless a greater penalty is provided pursuant to subsection 2 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 [subsection 1](#):

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

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

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

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

(b) For the second offense within 7 years, is guilty of a ~~misdemeanor~~ category D felony and shall be sentenced to:

~~(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months~~ state prison for not less than 1 year but not more than 4 years; and

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

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

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

~~2.3.~~ Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than \$15,000.

~~3.4.~~ In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

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

(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

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

~~4.~~ 5. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

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

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

—7. 8. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

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

~~9.~~ 10. As used in this section:

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

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

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

NRS 33.018 Acts which constitute domestic violence.

1. Any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim described in subdivision (b) is guilty of a felony.

(b) Subdivision (a) shall apply if the victim is or was one or more of the following:

(1) The offender's spouse or former spouse.

(2) The offender's cohabitant or former cohabitant.

(3) The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

(4) The mother or father of the offender's child.

(c) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(d) As used in this section, "traumatic condition" means a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a physical force. For purposes of this section,

"strangulation" and "suffocation" include impeding the normal breathing or circulation of the blood of a person by applying pressure on the throat or neck.

(e) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father.

~~1.— Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person is or was actually residing, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:~~

~~(a) A battery.~~

~~—(b) An assault.~~

~~—(c) Compelling the other person by force or threat of force to perform an act from which the other person has the right to refrain or to refrain from an act which the other person has the right to perform.~~

~~—(d) A sexual assault.~~

~~—(e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:~~

~~——(1) Stalking.~~

~~——(2) Arson.~~

~~——(3) Trespassing.~~

~~——(4) Larceny.~~

~~——(5) Destruction of private property.~~

~~——(6) Carrying a concealed weapon without a permit.~~

~~——(7) Injuring or killing an animal.~~

~~—(f) A false imprisonment.~~

~~—(g) Unlawful entry of the other person's residence, or forcible entry against the other person's will if there is a reasonably foreseeable risk of harm to the other person from the entry.~~

2. When a battery is committed against a spouse, a person with whom the defendant is cohabiting, a person who is the parent of the defendant's child, former spouse, fiancé, or fiancée, or a person with whom the defendant currently has, or has previously had, a dating or engagement relationship.

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