

# Attachment Four (4)

Committee on Domestic Violence Agenda  
August 22, 2018

Contents: Nevada Office of the Attorney General  
Proposed DV & CAP BDR's

BILL DRAFT REQUEST FROM ATTORNEY GENERAL

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # \_\_\_\_\_

FROM: Attorney General

TO: Legislative Counsel

I. Intent of Proposed Bill: (Brief summary of intended effect)

Provide updates to NRS Chapters 33 and 200 as related to domestic violence in order to increase protections for victims and penalties for offenders. Update NRS 228.470 after the revisions contained in SB 25 from the 2017 Legislative Session to provide the Committee on Domestic Violence (CDV) general regulation-making authority, remove review of batterers' treatment programs from the purview of the CDV, and make other minor changes as included.

II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)

Domestic violence is a serious problem in Nevada. This bill updates various provisions in NRS Chapter 33 and NRS Chapter 200 in order to better address domestic violence and related issues in Nevada. The \$35 fee assessed to perpetrators of domestic violence is being moved to NRS 33.018 from NRS 200.485 in order to require that this fee be charged for all domestic violence crimes, not just domestic violence battery. This recognizes the multiple ways that perpetrators abuse their victims, in addition to domestic violence battery. The bill also makes minor changes to NRS 228.470 as needed to ensure that the Committee on Domestic Violence (CDV) is able to fulfill its mission.

III. NRS Title, Chapter and Section affected: (If applicable)

NRS 33.018; NRS 200.033; NRS 200.485; NRS Chapter 200 New Section; NRS 200.575; NRS 228.470.

IV. Effective Date:

↑  
Default (October 1, 2019)

↑  
July 1, 2019

Upon Passage and Approval

Other \_\_\_\_\_

V. Suggested language: (Optional) (Use continuation sheet if necessary)

Please see attached.

VI. FISCAL NOTE:

Effect on the State

Yes \_\_\_\_\_ No  Contains Appropriation \_\_\_\_\_

Executive Budget \_\_\_\_\_ Effect Less Than \$2,000 \_\_\_\_\_

Effect on Local Government

Yes \_\_\_\_\_ No \_\_\_\_\_ Contains Appropriation \_\_\_\_\_

VII. Name of person to be consulted if more information is needed:

Name: Nicole O'Banion and Sarah Bradley

Telephone No. 775-684-1201 and 775-684-1213

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request should be mailed:

James M. Humm  
Deputy Chief of Staff  
Office of the Attorney General  
555 E. Washington Ave., Suite 3900  
Las Vegas, NV 89101

Approved for preparation of bill draft.

\_\_\_\_\_  
Signature, Office of the Attorney General

\_\_\_\_\_  
Date

**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 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) *Coercion, which includes but is not limited to* 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 *as defined by NRS 207.200.*

(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~~ *A burglary as defined by NRS 205.060.*

*(h) A home invasion as defined by NRS 205.067.*

*(i) Pandering.*

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.

*3. In addition to any other fine or penalty for a conviction of a crime constituting domestic violence as described above in subsection 1, 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.*

**NRS 200.033 Circumstances aggravating first degree murder.** The only circumstances by which murder of the first degree may be aggravated are:

1. The murder was committed by a person under sentence of imprisonment.  
2. The murder was committed by a person who, at any time before a penalty hearing is conducted for the murder pursuant to [NRS 175.552](#), is or has been convicted of:

(a) Another murder and the provisions of subsection 12 do not otherwise apply to that other murder; or

(b) A felony involving the use or threat of violence to the person of another and the provisions of subsection 4 do not otherwise apply to that felony.

⇒ For the purposes of this subsection, a person shall be deemed to have been convicted at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.

3. The murder was committed by a person who knowingly created a great risk of death to more than one person by means of a weapon, device or course of action which would normally be hazardous to the lives of more than one person.

4. The murder was committed while the person was engaged, alone or with others, in the commission of, or an attempt to commit or flight after committing or attempting to commit, any robbery, arson in the first degree, burglary, invasion of the home or kidnapping in the first degree, and the person charged:

(a) Killed or attempted to kill the person murdered; or

(b) Knew or had reason to know that life would be taken or lethal force used.

5. The murder was committed to avoid or prevent a lawful arrest or to effect an escape from custody.

6. The murder was committed by a person, for himself or herself or another, to receive money or any other thing of monetary value.

7. The murder was committed upon a peace officer or firefighter who was killed while engaged in the performance of his or her official duty or because of an act performed in his or her official capacity, and the defendant knew or reasonably should have known that the victim was a peace officer or firefighter. For the purposes of this subsection, “peace officer” means:

(a) An employee of the Department of Corrections who does not exercise general control over offenders imprisoned within the institutions and facilities of the Department, but whose normal duties require the employee to come into contact with those offenders when carrying out the duties prescribed by the Director of the Department.

(b) Any person upon whom some or all of the powers of a peace officer are conferred pursuant to [NRS 289.150](#) to [289.360](#), inclusive, when carrying out those powers.

8. The murder involved torture or the mutilation of the victim.

9. The murder was committed upon one or more persons at random and without apparent motive.

10. The murder was committed upon a person less than 14 years of age.

11. The murder was committed upon a person because of the actual or perceived race, color, religion, national origin, physical or mental disability or sexual orientation of that person.

12. The defendant has, in the immediate proceeding, been convicted of more than one offense of murder in the first or second degree. For the purposes of this subsection, a person shall be deemed to have been convicted of a murder at the time the jury verdict of guilt is rendered or upon pronouncement of guilt by a judge or judges sitting without a jury.

13. The person, alone or with others, subjected or attempted to subject the victim of the murder to nonconsensual sexual penetration immediately before, during or immediately after the commission of the murder. For the purposes of this subsection:

(a) “Nonconsensual” means against the victim’s will or under conditions in which the person knows or reasonably should know that the victim is mentally or physically incapable of resisting, consenting or understanding the nature of his or her conduct, including, but not limited to, conditions in which the person knows or reasonably should know that the victim is dead.

(b) “Sexual penetration” means cunnilingus, fellatio or any intrusion, however slight, of any part of the victim’s body or any object manipulated or inserted by a person, alone or with others, into the genital or anal openings of the body of the victim, whether or not the victim is alive. The term includes, but is not limited to, anal intercourse and sexual intercourse in what would be its ordinary meaning.

14. The murder was committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person. For the purposes of this subsection, “school bus” has the meaning ascribed to it in [NRS 483.160](#).

15. The murder was committed with the intent to commit, cause, aid, further or conceal an act of terrorism. For the purposes of this subsection, “act of terrorism” has the meaning ascribed to it in [NRS 202.4415](#).

***16. The murder was committed during an act which constitutes domestic violence pursuant to NRS 33.018 and the victim was pregnant.***

**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 ***through 7*** ~~or~~ ~~3~~ 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 \$~~24~~00, 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.~~ **2 consecutive days.**

(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 ~~130~~ 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 \$~~50~~750, but not more than \$1,000.

(c) For the third offense within 7 years, is guilty of a category ~~C~~ **B** felony and shall be ~~punished as provided in NRS 193.130~~ **sentenced to imprisonment in the state prison for a minimum term of not less than 1 years and a maximum term of not more than 10 years. In addition to the term of imprisonment, the court may impose a fine of not less than \$1,000 and not more than \$15,000.**

**(d) Unless as otherwise provided by subsection 12, a prosecuting attorney may not charge or allow a person to plead to a lower level of offense as specified above in subsections (a) –(c).**

**2. In addition to the sentence allowed under NRS 200.210, if applicable, and unless a greater penalty is provided pursuant to NRS 200.481, the person convicted of a first or second offense battery which constitutes domestic violence shall be convicted and sentenced for the next level of offense as specified above in subsection 1 if the victim is pregnant at the time of the battery and the person knows or should have known that the victim is pregnant at the time of the battery.**

**3. In addition to the sentence allowed under NRS 200.210, if applicable, and unless a greater penalty is provided pursuant to NRS 200.481, any person who commits a third or subsequent offense of battery constituting domestic violence and the victim is pregnant at the time of the battery and the person knows or should have known that the victim is pregnant at the time of the battery, in addition to the term of imprisonment**

*prescribed by statute for the crime above in subsection 1(c) and consecutive to that punishment, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and not more than 10 years. In determining the length of the additional penalty imposed, the court shall consider the following information:*

- (a) The facts and circumstances of the crime;*
- (b) The criminal history of the person;*
- (c) The impact of the crime on the victim; and*
- (d) Any other relevant information.*

~~2.4.~~ Unless a greater penalty is provided pursuant to subsection ~~3 6~~ or 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~~ *defined* in NRS 200.481(1)(h), is guilty of a category ~~C B~~ felony and shall be *sentenced to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years.* ~~punished as provided in NRS 193.130~~ *In addition to the term of imprisonment, the court may impose a fine of not less than \$1,000 and by a fine of not more than \$15,000. If substantial bodily harm as defined in NRS 0.060 results due to this battery by strangulation to the victim or the unborn child if the victim is pregnant, the court shall consider that fact as an aggravating factor in determining the sentence of the person convicted of the battery under this subsection.*

*5. Unless a greater penalty is provided pursuant to subsection 4, 6 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery causes substantial bodily harm as defined by NRS 0.060, is guilty of a category B felony and shall be sentenced to imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years. In addition to the term of imprisonment, the court may impose a fine of not less than \$1,000 and by a fine of not more than \$15,000.*

~~3.6.~~ Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of:

- (a) A battery which constitutes domestic violence pursuant to NRS 33.018 that is punishable as a felony pursuant to paragraph (c) of subsection 1 or subsection ~~24 or 5~~; or*
- (b) A violation of the law of any other jurisdiction that prohibits the same or similar conduct set forth in paragraph (a),*

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



*7. If the battery which constitutes domestic violence pursuant to NRS 33.018 is determined to have been committed in the presence of a child as defined in NRS 200.481(1)(b), the court shall consider that fact as an aggravating factor in determining the sentence of the person convicted of the battery.*

**4.8.** 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](#).

**5.9.** Except as otherwise provided in this subsection, 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. An offense which is listed in paragraph (a) or (b) of subsection ~~3~~ **5** that occurred on any date preceding the date of the principal 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.

~~— 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](#).~~

**7.10.** 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.

~~8.11.~~ 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.

~~9.12.~~ 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.

~~10.13.~~ 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.

**New Provision to add to NRS Chapter 200:**

*The Legislature finds that stalking is a serious problem in this State and nationwide. Stalking involves severe intrusions on the victim's personal privacy and autonomy. It is a crime that causes a long-lasting impact on the victim's quality of life, and creates risks to the security and safety of the victim and others, even in the absence of express threats of physical harm. Stalking conduct often becomes increasingly violent over time. The Legislature recognizes the dangerous nature of stalking as well as the strong connections between stalking and domestic violence and between stalking and sexual assault. Therefore, the Legislature enacts this law to encourage effective intervention by the criminal justice system before stalking escalates into behavior that has serious or lethal consequences. The Legislature intends to enact a stalking statute that permits the criminal justice system to hold stalkers accountable for a wide range of acts, communications, and conduct. The Legislature recognizes that stalking includes, but is not limited to, a pattern of following, observing, or*

*monitoring the victim, or committing violent or intimidating acts against the victim, regardless of the means.*

**NRS 200.575 Stalking: Definitions; penalties.**

1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct *directed at a victim* that would cause a reasonable person to feel terrorized, frightened, intimidated, harassed or fearful for *his or her* immediate safety *or the immediate safety* of a family or household member, and that actually causes the victim to feel terrorized, frightened, intimidated, harassed or fearful for ~~the~~ *his or her* immediate safety *or the immediate safety* of a family or household member, commits the crime of stalking. Except where the provisions of subsection 2, ~~or 3~~, *or 4* are applicable, a person who commits the crime of stalking:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, ~~any subsequent offense~~, is guilty of a gross misdemeanor.

*(c) For the third and any subsequent offense, is guilty of a category C felony and shall be sentenced to imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 5 years. In addition to a term of imprisonment, the court may impose a fine of not more than \$5,000.*

2. *Except where the provisions of subsection 3 or 4 are applicable or where another provision of law provides a greater penalty, a person who commits the crime of stalking where the victim is under the age of 16:*

*(a) For the first offense, is guilty of a gross misdemeanor and shall be punished as prescribed by NRS 193.140.*

*(b) For the second offense, is guilty of category C felony and shall be sentenced to imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 5 years. In addition to a term of imprisonment, the court may impose a fine of not more than \$5,000.*

*(c) For the third or subsequent offense, is guilty of aggravated stalking and shall be punished as provided in subsection 3.*

~~2.3.~~ A person who commits the crime of stalking and in conjunction therewith threatens the person with the intent to cause the person to be placed in reasonable fear of death or substantial bodily harm commits the crime of aggravated stalking. A person who commits the crime of aggravated stalking shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$5,000.

~~3.4.~~ A person who commits the crime of stalking with the use of an Internet or network site, electronic mail, text messaging or any other similar means of communication to publish, display or distribute information in a manner that

substantially increases the risk of harm or violence to the victim shall be punished for a category C felony as provided in [NRS 193.130](#).

~~4.5.~~ Except as otherwise provided in subsection 2 of [NRS 200.571](#), a criminal penalty provided for in this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

~~5.6.~~ The penalties provided in this section do not preclude the victim from seeking any other legal remedy available.

~~6.7.~~ As used in this section:

(a) “Course of conduct” means a pattern of conduct which consists of *two or more* ~~a series of~~ acts over *a period of* time, *however short*, that evidences a continuity of purpose directed at a specific person.

(b) “Family or household member” means a spouse, a former spouse, a parent or other person who is related by blood or marriage or is or was actually residing with the person.

(c) “Internet or network site” has the meaning ascribed to it in [NRS 205.4744](#).

(d) “Network” has the meaning ascribed to it in [NRS 205.4745](#).

(e) “Provider of Internet service” has the meaning ascribed to it in [NRS 205.4758](#).

(f) *“Reasonable person” means a reasonable person in the victim’s circumstances.*

~~(g)~~ (g) “Text messaging” means a communication in the form of electronic text or one or more electronic images sent from a telephone or computer to another person’s telephone or computer by addressing the communication to the recipient’s telephone number.

~~(g)~~ (h) “Without lawful authority” includes acts which are initiated or continued without the victim’s consent. The term does not include acts which are otherwise protected or authorized by constitutional or statutory law, regulation or order of a court of competent jurisdiction, including, but not limited to:

(1) Picketing which occurs during a strike, work stoppage or any other labor dispute.

(2) The activities of a reporter, photographer, camera operator or other person while gathering information for communication to the public if that person is employed or engaged by or has contracted with a newspaper, periodical, press association or radio or television station and is acting solely within that professional capacity.

(3) The activities of a person that are carried out in the normal course of his or her lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

*8. In any prosecution under this provision, it shall not be a defense that:*

*(a) The actor was not given actual notice that the course of conduct was unwanted; or*

*(b) The actor did not intend to cause the victim to feel terrorized, frightened, intimidated, harassed or fearful for his or her immediate safety or the immediate safety of a family or household member.*

*9. As long as one of the acts that is part of the course of conduct was initiated in or had an effect on the victim in this State, the actor may be prosecuted in this State.*

**NRS 228.470 Appointment of members; duties; regulations; Chair; meetings; quorum; voting; staff; allowances and expenses.**

1. 1. The Attorney General shall appoint a Committee on Domestic Violence comprised of the Attorney General or a designee of the Attorney General and:

(a) One staff member of a program for victims of domestic violence;

(b) One staff member of a program for the treatment of persons who commit domestic violence;

(c) One representative from an office of the district attorney with experience in prosecuting criminal offenses;

(d) One representative from an office of the city attorney with experience in prosecuting criminal offenses;

(e) One law enforcement officer;

(f) One provider of mental health care;

(g) Two victims of domestic violence;

(h) One justice of the peace or municipal judge; and

(i) Any other persons appointed by the Attorney General.

⇒ Each appointed member serves a term of 2 years. Members may be reappointed for additional terms of 2 years. At least two members of the Committee must be residents of a county whose population is less than 100,000.

2. The Committee shall:

(a) Increase awareness of the existence and-unacceptability of domestic violence in this State;

~~(b) Review programs for the treatment of persons who commit domestic violence and make recommendations to the Division of Public and Behavioral Health of the Department of Health and Human Services for the certification of such programs pursuant to section 22.5 of this act;~~

~~—(e) Review and evaluate existing programs provided to peace officers for training related to domestic violence and make recommendations to the Peace Officers' Standards and Training Commission regarding such training;~~

~~(d c)~~ To the extent that money is available, provide financial support to programs for the prevention of domestic violence in this State;

(e d) Study and review all appropriate issues related to the administration of the criminal justice system in rural Nevada with respect to offenses involving domestic violence, including, without limitation, the availability of counseling services; and

(f e) Submit on or before March 1 of each odd-numbered year a report to the Director of the Legislative Counsel Bureau for distribution to the regular session of the Legislature. In preparing the report, the Committee shall solicit comments and recommendations from district judges, municipal judges and justices of the peace in rural Nevada. The report must include, without limitation:

(1) A summary of the work of the Committee and recommendations for any necessary legislation concerning domestic violence; and

(2) All comments and recommendations received by the Committee.

The Attorney General or the designee of the Attorney General is the Chair of the Committee.

4. The Committee shall annually elect a Vice Chair, Secretary and Treasurer from among its members.

5. The Committee shall meet regularly at least three times in each calendar year and may meet at other times upon the call of the Chair. Any six members of the Committee constitute a quorum ~~for the purpose of voting~~ *pursuant to NRS 241.015(5)*. A majority vote of the quorum is required to take action with respect to any matter.

6. At least one meeting in each calendar year must be held at a location within the Fourth Judicial District, Fifth Judicial District, Sixth Judicial District, Seventh Judicial District or Eleventh Judicial District.

7. The Attorney General shall provide the Committee with such staff as is necessary to carry out the duties of the Committee.

8. While engaged in the business of the Committee, each member and employee of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

*9. The Committee may adopt such regulations as it determines are necessary in order to carry out its duties specified in this Chapter.*

BILL DRAFT REQUEST FROM ATTORNEY GENERAL

REQUEST LIMITED TO

FOR LCB USE ONLY

ONE SUBJECT ONLY

BDR # \_\_\_\_\_

FROM: Attorney General

TO: Legislative Counsel

I. Intent of Proposed Bill: (Brief summary of intended effect)

Provides updates NRS Chapters 33 and 200 regarding temporary and extended protection orders issued to protect victims of domestic violence and stalking. Increase penalties for violating protection orders as specified. Creates a Statewide Protection Order Registry in the Central Repository for Nevada Records of Criminal History in order to aid victims, prosecution, and law enforcement by providing history regarding the issuance of temporary and extended protection orders.

II. Justification or Purpose: (Brief narrative of requirement. Use continuation sheet if necessary)

Domestic violence is a serious problem in Nevada. Many states already have a statewide protection order registry. The changes proposed in this bill create this registry in Nevada by utilizing existing information provided to the Central Repository for Nevada Records of Criminal History and saving that information the Statewide Protection Order Registry. This Registry will provide greater protection for victims and law enforcement when responding to domestic violence calls. This Registry will also aid prosecutors in prosecuting domestic violence and stalking cases.

III. NRS Title, Chapter and Section affected: (If applicable)

NRS 33.060; NRS 33.080; NRS 33.095; NRS 33.100; NRS 179A.350; NRS 200.591; NRS 200.592; NRS 200.594.

IV. Effective Date:

⌋ Default (October 1, 2019)

⌋ July 1, 2019

⌋ Upon Passage and Approval

Other \_\_\_\_\_

V. Suggested language: (Optional) (Use continuation sheet if necessary)

Please see attached.

VI. FISCAL NOTE:

Effect on the State

Yes \_\_\_\_\_ No  Contains Appropriation \_\_\_\_\_

Executive Budget \_\_\_\_\_ Effect Less Than \$2,000 \_\_\_\_\_

Effect on Local Government

Yes \_\_\_\_\_ No \_\_\_\_\_ Contains Appropriation \_\_\_\_\_

VII. Name of person to be consulted if more information is needed:

Name: Nicole O'Banion and Sarah Bradley

Telephone No. 775-684-1201 and 775-684-1213

VIII. Name, title and mailing address of person to whom a copy of the drafted bill request should be mailed:

James M. Humm  
Deputy Chief of Staff  
Office of the Attorney General  
555 E. Washington Ave., Suite 3900  
Las Vegas, NV 89101

Approved for preparation of bill draft.

\_\_\_\_\_  
Signature, Office of the Attorney General

\_\_\_\_\_  
Date



**NRS 33.060 Notice of order to law enforcement agency; duty to serve and enforce order without charge; no charge for copy of order for applicant and adverse party.**

1. The court shall transmit, by the end of the next business day after the order is issued, a copy of the temporary or extended order to the appropriate law enforcement agency which has jurisdiction over the residence, school, child care facility or other provider of child care, or place of employment of the applicant or the minor child.

2. The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally with the temporary order. *Service of the order on the adverse party shall be given priority over other service to which priority is not given by other statutes.* ~~and to~~ *The law enforcement agency shall also* file with or mail to the clerk of the court proof of service by the end of the next business day after service is made. Service of an application for an extended order and the notice of hearing thereon must be served upon the adverse party:

- (a) Pursuant to the Nevada Rules of Civil Procedure; or
- (b) In the manner provided in [NRS 33.065](#).

3. A law enforcement agency shall enforce a temporary or extended order without regard to the county in which the order was issued.

4. The clerk of the court shall issue, without fee, a copy of the temporary or extended order to the applicant and the adverse party.

**NRS 33.080 Expiration, conversion, modification and dissolution of order; hearing.**

1. A temporary order expires within such time, not to exceed ~~30~~ **45** days, as the court fixes. If an application for an extended order is filed within the period of a temporary order or at the same time that an application for a temporary order is filed, the temporary order remains in effect until the hearing on the extended order is held.

2. On 2 days' notice to the party who obtained the temporary order, the adverse party may appear and move its dissolution or modification, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

3. An extended order expires within such time, not to exceed ~~1~~ **5** years, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than ~~1~~ **5** years.

**NRS 33.095 Duty to transmit information concerning temporary or extended order to Central Repository.**

Any time that a court issues a temporary or extended order and any time that a person serves such an order, registers such an order or receives any information or takes any other action pursuant to [NRS 33.017](#) to [33.100](#), inclusive, the person shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day. *The Central Repository shall cause this information to be transmitted to the Statewide Protection Order Registry.*

**NRS 33.100 Penalty for intentional violation of order.**

1. A person who intentionally violates a temporary ~~or extended~~ order is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.

2. *If a person has not been previously convicted of intentionally violating an extended order of protection, the person is guilty of a gross misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.*

3. *If a person has been previously convicted of intentionally violating an extended order of protection, the person is guilty of a category D felony, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.*

**NRS 179A.350 Creation; contents; prompt entry of information; accessibility; submission of report to Legislature.**

1. The Repository for Information Concerning Orders for Protection Against Domestic Violence is hereby created within the Central Repository.

2. Except as otherwise provided in subsection ~~67~~, the Repository for Information Concerning Orders for Protection Against Domestic Violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada and all Canadian domestic-violence protection orders registered in the State of Nevada, in accordance with regulations adopted by the Director of the Department, including, without limitation, any information received pursuant to [NRS 33.095](#). Information received by the Central Repository pursuant to [NRS 33.095](#) must be entered in the Repository for Information Concerning Orders for Protection Against Domestic Violence not later than 8 hours after it is received by the Central Repository.

3. The information in the Repository for Information Concerning Orders for Protection Against Domestic Violence must be accessible by computer at all times to each agency of criminal justice.

4. *The Statewide Protection Order Registry is hereby created within the Central Repository for Nevada Records of Criminal History. All*

*information in the Repository for Information Concerning Temporary Orders for Protection and Extended Orders for Protection shall be copied electronically into the Statewide Protection Order Registry and made available as provided in this Chapter.*

45. On or before July 1 of each year, the Director of the Department shall submit to the Director of the Legislative Counsel Bureau a written report concerning all temporary and extended orders for protection against domestic violence issued pursuant to [NRS 33.020](#) during the previous calendar year that were transmitted to the Repository for Information Concerning Orders for Protection Against Domestic Violence. The report must include, without limitation, information for each court that issues temporary or extended orders for protection against domestic violence concerning:

(a) The total number of temporary and extended orders that were granted by the court pursuant to [NRS 33.020](#) during the calendar year to which the report pertains;

(b) The number of temporary and extended orders that were granted to women;

(c) The number of temporary and extended orders that were granted to men;

(d) The number of temporary and extended orders that were vacated or expired;

(e) The number of temporary orders that included a grant of temporary custody of a minor child; and

(f) The number of temporary and extended orders that were served on the adverse party.

56. The information provided pursuant to subsection 4 must include only aggregate information for statistical purposes and must exclude any identifying information relating to a particular person.

67. The Repository for Information Concerning Orders for Protection Against Domestic Violence must not contain any information concerning an event that occurred before October 1, 1998.

78. As used in this section, “Canadian domestic-violence protection order” has the meaning ascribed to it in [NRS 33.119](#).

***Provision #1:***

***Information contained in the Statewide Protection Order Registry is public and subject to records requests submitted pursuant to NRS Chapter 239, with the exception of personally identifying information and last known address of the perpetrator as described by NRS 603A.040 and all information concerning the victims, including names, all identifying information, and last known address.***

***Provision #2:***

***Information contained in the Statewide Protection Order Registry may be provided to any federal, state, or local government entity upon request.***

***Provision #3:***

***Existence of a record of an expired extended order of protection issued pursuant to NRS 33.020 and/or NRS 200.591 in the Statewide Protection Order Registry does not bar a person from obtaining a firearm or concealed carry permit as long as there is not an active extended order of protection nor any federal or state statute that prohibits the person from such conduct.***

**NRS 200.591 Court may impose temporary or extended order to restrict conduct of alleged perpetrator, defendant or convicted person; penalty for violation of order; dissemination of order; notice provided in order.**

1. In addition to any other remedy provided by law, a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him or her by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

(c) Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party pursuant to the Nevada Rules of Civil Procedure; and

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice court, an interlocutory appeal lies to the district court, which may affirm, modify or vacate the order in question. The appeal may be taken without bond, but its taking does not stay the effect or enforcement of the order.

5. Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor ***and shall be punished as prescribed by NRS 193.140.***

(b) An extended order is guilty of a category C felony and shall be punished as provided in [NRS 193.130](#).

6. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after the person's arrest if:

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

(b) The person has previously violated a temporary or extended order for protection; or

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

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

or

(2) An amount of a prohibited substance in his or her blood or urine that is equal to or greater than the amount set forth in subsection 3 of [NRS 484C.110](#).

***8. In a hearing under this provision, neither opinion evidence of nor evidence of the reputation of the petitioner's sexual conduct shall be admitted. Evidence of prior sexual conduct of the petitioner shall not be admitted; provided, however where it bears on the credibility of the petitioner or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:***

***(a) evidence of the petitioner's past sexual conduct with the adverse party;***

***(b) evidence of specific instances of the petitioner's sexual conduct showing the source of origin of semen, pregnancy, or disease; or***

*(c) evidence of specific instances of the petitioner's past false allegations in support of orders requested under this provision.*

**NRS 200.592 Petitioner for order: Deferment of costs and fees; free information concerning order; no fee for serving order.**

1. The payment of all costs and official fees must be deferred for any person who petitions a court for a temporary or extended order pursuant to [NRS 200.591](#). After any hearing and not later than final disposition of such an application or order, the court shall assess the costs and fees against the adverse party, except that the court may reduce them or waive them, as justice may require.

2. The clerk of the court shall provide a person who petitions the court for a temporary or extended order pursuant to [NRS 200.591](#) and the adverse party, free of cost, with information about the:

- (a) Availability of temporary and extended orders pursuant to [NRS 200.591](#);
- (b) Procedure for filing an application for such an order; and
- (c) Right to proceed without legal counsel.

3. A person who obtains an order pursuant to [NRS 200.591](#) must not be charged any fee to have the order served in this State.

*4. If a law enforcement agency is designated to serve an order issued pursuant to NRS 200.591, service of the order shall be given priority over other service to which priority is not given by other statutes.*

**NRS 200.594 Duration of orders; dissolution or modification of temporary order.**

1. A temporary order issued pursuant to [NRS 200.591](#) expires within such time, not to exceed ~~30~~ **45** days, as the court fixes. If a petition for an extended order is filed within the period of a temporary order, the temporary order remains in effect until the hearing on the extended order is held.

2. On 2 days' notice to the party who obtained the temporary order, the adverse party may appear and move its dissolution or modification, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

3. An extended order expires within such time, not to exceed ~~1~~ **5** years, as the court fixes. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for no more than ~~1~~ **5** years.

New provision for NRS Chapter 217:

1. *All persons, businesses, and associations must take reasonable efforts to protect the confidentiality of all information related to fictitious address participants.*
2. *All persons, businesses, and associations must allow fictitious address participants to make a written request that the person, business, or association not disclose his or her home address, home telephone number, or image because he or she is a participant in the fictitious address program.*
3. *No person, business, or association shall knowingly disclose information related to fictitious address participants.*
4. *For purposes of this section information related to fictitious address participants includes, but is not limited to, the person's home address, home telephone number, or image.*
  - a. *“Image” includes, but is not limited to, any photograph, video, sketch, or computer-generated image that provides a means to visually identify the person depicted.*
  - b. *“Home address” is the fictitious address participant's actual home address and not the person's fictitious address.*
5. *A fictitious address participant whose home address, home telephone number, or image is disclosed in violation of subsection 3 may do either or both of the following:*
  - a. *Bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.*
  - b. *Bring an action for money damages in any court of competent jurisdiction. In addition to any other legal rights or remedies, if a jury or court finds that a violation has occurred, it shall award damages to that individual in an amount up to a maximum of three times the actual damages, but in no case less than four thousand dollars.*