

Amendment No. 714

Senate Amendment to Assembly Bill No. 42 Second Reprint (BDR 14-371)
Proposed by: Senator D. Harris
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



ASSEMBLY BILL NO. 42—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE CITY OF HENDERSON)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to criminal law and criminal procedure. (BDR 14-371)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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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 crimes; requiring certain batteries which constitute domestic violence to be charged with certain felonies and gross misdemeanors; expanding the courts that are required to conduct a jury trial under certain circumstances; revising various provisions relating to jury trials; authorizing the use of sound recording equipment under certain circumstances; making various changes regarding the jurisdiction of municipal courts; revising provisions governing the selection of jurors; establishing a right to a jury trial under certain circumstances; prohibiting a person convicted of a battery which constitutes domestic violence or the same or similar conduct in another jurisdiction from owning or having in his or her possession or under his or her custody or control any firearm; revising the circumstances under which a prosecuting attorney is authorized to dismiss a charge of battery which constitutes domestic violence; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 In 1983, the Nevada Supreme Court held that NRS 175.011 does not establish a statutory
2 right to a trial by jury upon demand in every case because: (1) the statute does not expressly
3 state the Legislature’s intent to grant a substantive right to trial by jury, but rather it is only
4 intended to establish procedural requirements; and (2) there is no constitutional right to a jury
5 trial for “petty” offenses. (*State v. Smith*, 99 Nev. 806, 808-810 (1983)). The United States
6 Supreme Court later ruled that an offense with a maximum period of incarceration of 6
7 months or less is presumptively petty and to overcome that presumption a defendant must
8 prove that any additional statutory penalties, together with the maximum period of
9 incarceration, are so severe that they clearly reflect that the offense is serious and thus triggers
10 a right to a jury trial pursuant to the Sixth Amendment to the United States Constitution and
11 Section 3 of Article I of the Nevada Constitution. (*Blanton v. City of N. Las Vegas*, 489 U.S.
12 538, 543 (1989)) In 2019, the Nevada Supreme Court held that a battery which constitutes
13 domestic violence that is punishable as a misdemeanor pursuant to NRS 200.485 is a serious
14 offense, if it imposes a limitation on the possession of a firearm, thereby triggering a

15 constitutional right to a jury trial. The Court reasoned that Legislature elevated the seriousness
16 of the offense when it amended NRS 202.360 in 2015, thereby limiting a person's
17 constitutional right to bear arms by prohibiting the possession or control of any firearm by
18 a person who has been convicted in this State or any other state of a misdemeanor crime of
19 domestic violence as defined in 18 U.S.C. § 921(a)(33). (*Andersen v. Eighth Jud. Dist. Ct.*,
20 135 Nev. 321, 323-324 (2019))

21 Under existing law, a person convicted of a battery which constitutes domestic violence
22 for the first offense within 7 years is guilty of a misdemeanor and shall be punished by: (1)
23 imprisonment in a city or county jail or detention center for not less than 2 days, but not more
24 than 6 months; (2) community service; and (3) a fine of not less than \$200 but not more than
25 \$1,000. (NRS 200.485) **Section 12** of this bill establishes a statutory right to a jury trial for a
26 person charged with a battery which constitutes domestic violence that is punishable as a
27 misdemeanor and may prohibit the person from owning, possessing or having under his or her
28 control or custody any firearm. **Section 12** also requires the provision of a jury trial regardless
29 of whether the person has previously been prohibited from owning, possessing or having
30 under his or her control or custody any firearm.

31 Existing law requires certain misdemeanors which would otherwise be under the
32 jurisdiction of a municipal court to be charged in the same criminal complaint with related
33 felonies and gross misdemeanors in the district court. (NRS 173.115) **Section 1** of this bill
34 additionally requires a battery which constitutes domestic violence that is punishable as a
35 misdemeanor to be charged in the same indictment or information in district court if the
36 battery arises out of the same act as a felony or gross misdemeanor.

37 Existing law requires that certain cases in a district court must be tried by a jury unless
38 the defendant waives such a trial in writing with the approval of the court and the consent of
39 the State. (NRS 175.011) **Section 2** of this bill: (1) expands the courts in which such cases
40 must be tried by a jury, which would necessarily include a justice court and municipal court
41 for certain cases required to be so tried by the United States Constitution, the Nevada
42 Constitution or statute; and (2) accordingly revises the person to whom consent must be given.

43 Existing law requires the trial of a criminal action conducted in: (1) district court to be
44 tried by a jury of 12 jurors unless before verdict the parties stipulate in writing with the
45 approval of the court that the jury consist of any number less than 12 but not less than 6; and
46 (2) justice court to be tried by a jury of 6 jurors. (NRS 175.021) **Section 3** of this bill requires
47 that all criminal actions, whether in district court, justice court or municipal court, must be
48 tried by a jury of 12 jurors unless before jury selection the parties stipulate in writing with the
49 approval of the court that the jury consist of any number less than 12 but not less than 6.

50 Existing law directs, in relation to the procedures for conducting jury trials, the State, as
51 prosecutor, to perform certain duties. (NRS 175.051, 175.141) **Sections 4 and 5** of this bill
52 revise the persons required to perform such duties to include any prosecuting attorney, which
53 may include the city attorney for jury trials conducted in a municipal court. Existing law also
54 directs, in relation to the procedures for conducting jury trials, the sheriff of each county to
55 perform certain duties. (NRS 6.090, 175.421) **Sections 6 and 10** of this bill revise the persons
56 required to perform such duties to include the chief of police or chief marshal, as applicable.

57 Existing law requires proceedings in justice court to be recorded by the use of sound
58 recording equipment under certain circumstances. (NRS 4.390) Existing law also specifies
59 that certain courts are courts of record, including the municipal courts in any case in which a
60 jury trial is required or if designated as courts of record. (NRS 1.020) **Section 7** of this bill
61 authorizes a municipal court to record any proceeding before a jury by the use of sound
62 recording equipment, if the municipal court has been designated as a court of record.

63 Existing law sets forth the powers and jurisdiction of municipal courts and limits such
64 municipal courts in cities incorporated by general law to proceedings and trials that are
65 summary and without a jury. (NRS 5.050, 266.550) **Section 8** of this bill allows municipal
66 courts to conduct jury trials: (1) for a matter within the jurisdiction of the court; and (2) where
67 such a trial is required pursuant to the United States Constitution, the Nevada Constitution or
68 statute. **Section 14** of this bill allows for jury trials under such circumstances in municipal
69 courts within cities incorporated by general law. **Section 15** of this bill similarly allows for
70 jury trials under such circumstances in municipal courts within all incorporated cities,
71 including those cities created pursuant to the enactment of a city charter.

72 Existing law authorizes a district court to assign a jury commissioner to select trial jurors.
73 Existing law also requires a jury commissioner so assigned to select trial jurors from qualified

74 electors of the county not exempt from jury duty, whether registered as voters or not. (NRS
75 6.045) **Section 9** of this bill: (1) extends the courts authorized to assign a jury commissioner
76 to include justice courts and municipal courts, which are located in a city whose population is
77 220,000 or more; and (2) allows a court to contract with another court for the services
78 provided by a jury commissioner. **Section 16** of this bill makes a conforming change related
79 to the selection of jurors in a city.

80 Existing law sets forth certain fees for attendance and travel allowances for jurors
81 summoned or serving on a jury in a district court or justice court. (NRS 6.150) **Section 11** of
82 this bill extends such fees and allowances for jurors summoned to or serving on a jury in a
83 municipal court.

84 Existing law provides that in a county whose population is 700,000 or more (currently
85 Clark County), a justice of the peace must summon a sufficient number of jurors to form a
86 jury from the qualified electors of the county. In all other counties, a justice of the peace may
87 summon jurors from the city, precinct or township. (NRS 67.010) **Section 11.7** of this bill
88 provides that in all counties, jurors must be summoned from the qualified electors of the
89 county. **Section 11.3** of this bill makes a conforming change to reflect the change made in
90 **section 11.7**.

91 If a person is charged with committing a battery which constitutes domestic violence,
92 existing law prohibits a prosecuting attorney from dismissing the charge in exchange for a
93 plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge, or for any other
94 reason, unless the charge is not supported by probable cause or cannot be proved at the time of
95 trial. (NRS 200.485) **Section 12** removes the prohibition, thereby authorizing a prosecuting
96 attorney to dismiss a charge of battery which constitutes domestic violence under such
97 circumstances.

98 Existing law prohibits certain persons from owning or having in their possession or under
99 their custody or control any firearm, including a person who has been convicted in this State
100 or any other state of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §
101 921(a)(33). A person who violates such a provision is guilty of a category B felony. (NRS
102 202.360) **Section 13** of this bill revises the list of persons so prohibited to include a person
103 who has been convicted of the crime of battery which constitutes domestic violence pursuant
104 to NRS 200.485, or the same or substantially similar conduct in another jurisdiction,
105 committed against or upon certain persons, instead of a person who has been convicted of a
106 misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33).

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

1 **Section 1.** NRS 173.115 is hereby amended to read as follows:

2 173.115 1. Two or more offenses may be charged in the same indictment or
3 information in a separate count for each offense if the offenses charged, whether
4 felonies or gross misdemeanors or both, are:

5 (a) Based on the same act or transaction; or

6 (b) Based on two or more acts or transactions connected together or
7 constituting parts of a common scheme or plan.

8 2. Except as otherwise provided in subsection 3 ~~[-a]~~:

9 (a) A misdemeanor which was committed within the boundaries of a city and
10 which would otherwise be within the jurisdiction of the municipal court must be
11 charged in the same criminal complaint as a felony or gross misdemeanor or both if
12 the misdemeanor is based on the same act or transaction as the felony or gross
13 misdemeanor. A charge of a misdemeanor which meets the requirements of this
14 subsection and which is erroneously included in a criminal complaint that is filed in
15 the municipal court shall be deemed to be void ab initio and must be stricken.

16 (b) *A battery which constitutes domestic violence that is punishable as a*
17 *misdemeanor pursuant to NRS 200.485 must be charged in the same indictment*
18 *or information in district court as a felony or gross misdemeanor or both if the*

1 *battery is based on the same act or transaction as the felony or gross*
2 *misdemeanor.*

3 3. The provisions of subsection 2 do not apply:

4 (a) To a misdemeanor based solely upon an alleged violation of a municipal
5 ordinance.

6 (b) If an indictment is brought or an information is filed in the district court for
7 a felony or gross misdemeanor or both after the convening of a grand jury.

8 **Sec. 2.** NRS 175.011 is hereby amended to read as follows:

9 175.011 1. ~~[In a district court, cases]~~ *Cases* required to be tried by jury must
10 be so tried unless the defendant waives a jury trial in writing with the approval of
11 the court and the consent of the ~~[State,]~~ *prosecuting attorney*. A defendant who
12 pleads not guilty to the charge of a capital offense must be tried by jury.

13 2. ~~[In]~~ *Except as otherwise provided in subsection 1,* in a justice court, a case
14 must be tried by jury only if the defendant so demands in writing not less than 30
15 days before trial. Except as otherwise provided in NRS 4.390 and 4.400, if a case is
16 tried by jury, a reporter must be present who is a certified court reporter and shall
17 report the trial.

18 **Sec. 3.** NRS 175.021 is hereby amended to read as follows:

19 175.021 1. Trial juries for criminal actions are formed in the same manner
20 as trial juries in civil actions.

21 2. ~~[Except as provided in subsection 3, juries]~~ *Juries* must consist of 12
22 jurors, but at any time before ~~[verdict,]~~ *jury selection*, the parties may stipulate in
23 writing with the approval of the court that the jury consist of any number less than
24 12 but not less than six.

25 ~~[3. Juries must consist of six jurors for the trial of a criminal action in a~~
26 ~~Justice Court.]~~

27 **Sec. 4.** NRS 175.051 is hereby amended to read as follows:

28 175.051 1. If the offense charged is punishable by death or by imprisonment
29 for life, each side is entitled to eight peremptory challenges.

30 2. If the offense charged is punishable by imprisonment for any other term or
31 by fine or by both fine and imprisonment, each side is entitled to four peremptory
32 challenges.

33 3. The ~~[State]~~ *prosecuting attorney* and the defendant shall exercise their
34 challenges alternately, in that order. Any challenge not exercised in its proper order
35 is waived.

36 **Sec. 5.** NRS 175.141 is hereby amended to read as follows:

37 175.141 The jury having been impaneled and sworn, the trial shall proceed in
38 the following order:

39 1. If the indictment or information be for a felony, the clerk must read it and
40 state the plea of the defendant to the jury. In all other cases this formality may be
41 dispensed with.

42 2. The ~~[district attorney, or other counsel for the State,]~~ *prosecuting attorney*
43 must open the cause. The defendant or the defendant's counsel may then either
44 make the defendant's opening statement or reserve it to be made immediately prior
45 to the presentation of evidence in the defendant's behalf.

46 3. The ~~[State]~~ *prosecuting attorney* must then offer its evidence in support of
47 the charge, and the defendant may then offer evidence in his or her defense.

48 4. The parties may then respectively offer rebutting testimony only, unless the
49 court, for good reasons, in furtherance of justice, permits them to offer evidence
50 upon their original cause.

51 5. When the evidence is concluded, unless the case is submitted to the jury on
52 either side, or on both sides, without argument, the ~~[district attorney, or other~~

1 ~~counsel for the State,} prosecuting attorney~~ must open and must conclude the
2 argument.

3 **Sec. 6.** NRS 175.421 is hereby amended to read as follows:

4 175.421 A room ~~[shall]~~ **must** be provided by the sheriff of each county, **chief**
5 **of police of each city or chief marshal, as applicable**, for the use of the jury upon
6 their retirement for deliberation, with suitable furniture, fuel, lights and stationery,
7 unless such necessities have been already furnished by the county ~~[]~~ **or city**. The
8 court may order the sheriff, **chief of police or chief marshal** to do so, and the
9 expenses incurred by the sheriff, **chief of police or chief marshal** in carrying the
10 order into effect, when certified by the court, ~~[shall be]~~ **are** a county **or city** charge.

11 **Sec. 7.** Chapter 5 of NRS is hereby amended by adding thereto a new section
12 to read as follows:

13 ***If a municipal court has been designated as a court of record pursuant to***
14 ***NRS 5.010, any proceeding before a jury in the municipal court may be recorded***
15 ***by using sound recording equipment.***

16 **Sec. 8.** NRS 5.050 is hereby amended to read as follows:

17 5.050 1. Municipal courts have jurisdiction of civil actions or proceedings:

18 (a) For the violation of any ordinance of their respective cities.

19 (b) To prevent or abate a nuisance within the limits of their respective cities.

20 2. Except as otherwise provided in subsection 2 of NRS 173.115, the
21 municipal courts have jurisdiction of all misdemeanors committed in violation of
22 the ordinances of their respective cities. Upon approval of the district court, a
23 municipal court may transfer original jurisdiction of a misdemeanor to the district
24 court for the purpose of assigning an offender to a program established pursuant to
25 NRS 176A.250 or, if the municipal court has not established a program pursuant to
26 NRS 176A.280, to a program established pursuant to that section.

27 3. The municipal courts have jurisdiction of:

28 (a) Any action for the collection of taxes or assessments levied for city
29 purposes, when the principal sum thereof does not exceed \$2,500.

30 (b) Actions to foreclose liens in the name of the city for the nonpayment of
31 those taxes or assessments when the principal sum claimed does not exceed \$2,500.

32 (c) Actions for the breach of any bond given by any officer or person to or for
33 the use or benefit of the city, and of any action for damages to which the city is a
34 party, and upon all forfeited recognizances given to or for the use or benefit of
35 the city, and upon all bonds given on appeals from the municipal court in any of the
36 cases named in this section, when the principal sum claimed does not exceed
37 \$2,500.

38 (d) Actions for the recovery of personal property belonging to the city, when
39 the value thereof does not exceed \$2,500.

40 (e) Actions by the city for the collection of any damages, debts or other
41 obligations when the amount claimed, exclusive of costs or attorney's fees, or both
42 if allowed, does not exceed \$2,500.

43 (f) Actions seeking an order pursuant to NRS 441A.195.

44 4. Nothing contained in subsection 3 gives the municipal court jurisdiction to
45 determine any such cause when it appears from the pleadings that the validity of
46 any tax, assessment or levy, or title to real property, is necessarily an issue in the
47 cause, in which case the court shall certify the cause to the district court in like
48 manner and with the same effect as provided by law for certification of causes by
49 justice courts.

50 **5. *The municipal courts may hold a jury trial for any matter:***

51 ***(a) Within the jurisdiction of the municipal court; and***

52 ***(b) Required by the United States Constitution, the Nevada Constitution or***
53 ***statute.***

1 **Sec. 9.** NRS 6.045 is hereby amended to read as follows:

2 6.045 1. ~~["The district"]~~ A court may by rule of court designate the clerk of
3 the court, one of the clerk's deputies or another person as a jury commissioner and
4 may assign to the jury commissioner such administrative duties in connection with
5 trial juries and jurors as the court finds desirable for efficient administration.

6 2. If a jury commissioner is so selected, the jury commissioner shall from
7 time to time estimate the number of trial jurors which will be required for
8 attendance on the ~~["district"]~~ *designated* court and shall select that number from the
9 qualified electors of ~~["the"]~~ :

10 (a) *The county ; or*

11 (b) *The city whose population is 220,000 or more, for a municipal court,*

12 ➔ not exempt by law from jury duty, whether registered as voters or not. The jurors
13 may be selected by computer whenever procedures to assure random selection from
14 computerized lists are established by the jury commissioner.

15 3. The jury commissioner shall, for the purpose of selecting trial jurors,
16 compile and maintain a list of qualified electors from information provided by:

17 (a) A list of persons who are registered to vote in the county;

18 (b) The Department of Motor Vehicles pursuant to NRS 482.171 and 483.225;

19 (c) The Employment Security Division of the Department of Employment,
20 Training and Rehabilitation pursuant to NRS 612.265; and

21 (d) A public utility pursuant to NRS 704.206.

22 4. In compiling and maintaining the list of qualified electors, the jury
23 commissioner shall avoid duplication of names.

24 5. The jury commissioner shall:

25 (a) Keep a record of the name, occupation, address and race of each trial juror
26 selected pursuant to subsection 2;

27 (b) Keep a record of the name, occupation, address and race of each trial juror
28 who appears for jury service; and

29 (c) Prepare and submit a report to the Court Administrator which must:

30 (1) Include statistics from the records required to be maintained by the jury
31 commissioner pursuant to this subsection, including, without limitation, the name,
32 occupation, address and race of each trial juror who is selected and of each trial
33 juror who appears for jury service;

34 (2) Be submitted at least once a year; and

35 (3) Be submitted in the time and manner prescribed by the Court
36 Administrator.

37 6. The jury commissioner shall not select the name of any person whose name
38 was selected the previous year, and who actually served on the jury by attending in
39 court in response to the venire from day to day until excused from further
40 attendance by order of the court, unless there are not enough other suitable jurors in
41 the county *or city* to do the required jury duty.

42 7. *A court may contract with another court for the purpose of procuring*
43 *any administrative duties performed by a jury commissioner pursuant to this*
44 *chapter.*

45 **Sec. 10.** NRS 6.090 is hereby amended to read as follows:

46 6.090 1. Whenever trial jurors are selected by a jury commissioner, the
47 ~~["district"]~~ judge may direct the jury commissioner to summon and assign to that
48 court the number of qualified jurors the jury commissioner determines to be
49 necessary for the formation of the petit jury. The jurors may be selected by
50 computer whenever procedures to assure random selection from computerized lists
51 have been established by the jury commissioner.

52 2. Every person named in the venire must be served by the sheriff , *chief of*
53 *police or chief marshal, as applicable,* personally or by the sheriff ~~["or the"]~~ , *chief*

1 *of police, chief marshal or* jury commissioner by mailing a summons to the person,
2 commanding the person to attend as a juror at a time and place designated therein.
3 Mileage is allowed only for personal service. The postage must be paid by the
4 sheriff ~~for the~~, *chief of police, chief marshal or* jury commissioner, as the case
5 may be, and allowed him or her as other claims against the county ~~or~~ *or city*. The
6 sheriff, *chief of police or chief marshal* shall make return of the venire at least the
7 day before the day named for their appearance, after which the venire is subject to
8 inspection by any officer or attorney of the court.

9 **Sec. 11.** NRS 6.150 is hereby amended to read as follows:

10 6.150 1. Each person summoned to attend as a grand juror or a trial juror in
11 the district court or justice court, *or a trial juror in the municipal court*, is entitled
12 to a fee of \$40 for each day after the second day of jury selection that the person is
13 in attendance in response to the venire or summons, including Sundays and
14 holidays.

15 2. Each grand juror and trial juror in the district court or justice court, *or trial*
16 *juror in the municipal court*, actually sworn and serving is entitled to a fee of \$40
17 a day as compensation for each day of service.

18 3. In addition to the fees specified in subsections 1 and 2, a board of county
19 commissioners *or governing body of a city* may provide that, for each day of such
20 attendance or service, each person is entitled to be paid the per diem allowance and
21 travel expenses provided for state officers and employees generally.

22 4. Each person summoned to attend as a grand juror or a trial juror in the
23 district court or justice court, *or a trial juror in the municipal court*, and each
24 grand juror and trial juror in the district court or justice court, *or trial juror in the*
25 *municipal court*, is entitled to receive 36.5 cents a mile for each mile necessarily
26 and actually traveled if the home of the person summoned or serving as a juror is 30
27 miles or more from the place of trial.

28 5. If the home of a person summoned or serving as such a juror is 65 miles or
29 more from the place of trial and the selection, inquiry or trial lasts more than 1 day,
30 the person is entitled to receive an allowance for lodging at the rate established for
31 state employees, in addition to his or her daily compensation for attendance or
32 service, for each day on which the person does not return to his or her home.

33 6. In civil cases, any fee, per diem allowance, travel expense or other
34 compensation due each juror engaged in the trial of the cause must be paid each day
35 in advance to the clerk of the court, or the justice of the peace, by the party who has
36 demanded the jury. If the party paying this money is the prevailing party, the
37 money is recoverable as costs from the losing party. If the jury from any cause is
38 discharged in a civil action without finding a verdict and the party who demands the
39 jury subsequently obtains judgment, the money so paid is recoverable as costs from
40 the losing party.

41 7. The money paid by the clerk of the court to jurors for their services in a
42 civil action or proceeding, which the clerk of the court has received from the party
43 demanding the jury, must be deducted from the total amount due them for
44 attendance as such jurors, and any balance is a charge against the county.

45 **Sec. 11.3.** NRS 66.020 is hereby amended to read as follows:

46 66.020 1. The court may, at any time before the trial, on motion, change the
47 place of trial in the following cases:

48 (a) When it appears to the satisfaction of the justice before whom the action is
49 pending, by affidavit of either party, that the justice is a material witness for either
50 party.

51 (b) When either party makes and files an affidavit that the party believes that
52 he or she cannot have a fair and impartial trial before the justice by reason of the
53 interest, prejudice or bias of the justice.

1 (c) When a jury has been demanded, and either party makes and files an
2 affidavit that he or she cannot have a fair and impartial trial on account of the bias
3 or prejudice against him or her of the citizens of ~~the~~

4 ~~(1) The city, precinct or township, if the jurors are to be summoned~~
5 ~~pursuant to subsection 1 of NRS 67.010; or~~

6 ~~(2) The *the* county . ~~if the jurors are to be summoned pursuant to~~~~
7 ~~subsection 2 of NRS 67.010.]~~

8 (d) When from any cause the justice is disqualified from acting.

9 (e) When the justice is sick or unable to act.

10 2. In lieu of changing the place of trial, the justice before whom the action is
11 pending may for any of the cases mentioned in subsection 1 call another justice of
12 the county to conduct the trial.

13 **Sec. 11.7.** NRS 67.010 is hereby amended to read as follows:

14 67.010 1. The jury must be summoned upon an order of the justice from ~~the~~
15 ~~except as otherwise provided in subsection 2,]~~ the qualified electors ~~of the~~
16 ~~county,~~ whether or not registered as voters, ~~[of the city, precinct or township,]~~ and
17 not from the bystanders.

18 2. ~~[In a county whose population is 700,000 or more, the] *The*~~ justice may
19 summon to the court ~~[, from the qualified electors of the county, whether or not~~
20 ~~registered as voters, and not from the bystanders,]~~ the number of qualified jurors
21 which the justice determines is necessary for the formation of a jury.

22 **Sec. 12.** NRS 200.485 is hereby amended to read as follows:

23 200.485 1. Unless a greater penalty is provided pursuant to subsections 2 to
24 5, inclusive, or NRS 200.481, a person convicted of a battery which constitutes
25 domestic violence pursuant to NRS 33.018:

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

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

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

32 **↪** The person shall be further punished by a fine of not less than \$200, but not
33 more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may
34 be served intermittently at the discretion of the judge or justice of the peace, except
35 that each period of confinement must be not less than 12 consecutive hours and
36 must occur at a time when the person is not required to be at his or her place of
37 employment or on a weekend.

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

40 (1) Imprisonment in the city or county jail or detention facility for not less
41 than 20 days, but not more than 6 months; and

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

44 **↪** The person shall be further punished by a fine of not less than \$500, but not
45 more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may
46 be served intermittently at the discretion of the judge or justice of the peace, except
47 that each period of confinement must not be less than 12 consecutive hours and
48 must occur at a time when the person is not required to be at his or her place of
49 employment or on a weekend.

50 (c) For the third offense within 7 years, is guilty of a category B felony and
51 shall be punished by imprisonment in the state prison for a minimum term of not
52 less than 1 year and a maximum term of not more than 6 years, and may be further
53 punished by a fine of not less than \$1,000, but not more than \$5,000.

1 2. Unless a greater penalty is provided pursuant to subsection 3 or NRS
2 200.481, a person convicted of a battery which constitutes domestic violence
3 pursuant to NRS 33.018, if the battery is committed by strangulation as described in
4 NRS 200.481, is guilty of a category C felony and shall be punished as provided in
5 NRS 193.130.

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

8 (a) A felony that constitutes domestic violence pursuant to NRS 33.018;

9 (b) A battery which constitutes domestic violence pursuant to NRS 33.018, if
10 the battery is committed with the use of a deadly weapon as described in NRS
11 200.481; or

12 (c) A violation of the law of any other jurisdiction that prohibits the same or
13 similar conduct set forth in paragraph (a) or (b),

14 ➤ and who commits a battery which constitutes domestic violence pursuant to NRS
15 33.018 is guilty of a category B felony and shall be punished by imprisonment in
16 the state prison for a minimum term of not less than 2 years and a maximum term
17 of not more than 15 years, and shall be further punished by a fine of not less than
18 \$2,000, but not more than \$5,000.

19 4. Unless a greater penalty is provided pursuant to NRS 200.481, a person
20 convicted of a battery which constitutes domestic violence pursuant to NRS 33.018,
21 if the battery is committed against a victim who was pregnant at the time of the
22 battery and the person knew or should have known that the victim was pregnant:

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

24 (b) For the second or any subsequent offense, is guilty of a category B felony
25 and shall be punished by imprisonment in the state prison of a minimum term of not
26 less than 1 year and a maximum term of not more than 6 years, and may be further
27 punished by a fine of not less than \$1,000, but not more than \$5,000.

28 5. Unless a greater penalty is provided pursuant to NRS 200.481, a person
29 convicted of a battery which constitutes domestic violence pursuant to NRS 33.018,
30 if the battery causes substantial bodily harm, is guilty of a category B felony and
31 shall be punished by imprisonment in the state prison of a minimum term of not
32 less than 1 year and a maximum term of not more than 6 years, and may be further
33 punished by a fine of not less than \$1,000, but not more than \$5,000.

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

36 (a) For the first offense within 7 years, require the person to participate in
37 weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6
38 months, at his or her expense, in a program for the treatment of persons who
39 commit domestic violence that has been certified pursuant to NRS 439.258.

40 (b) For the second offense within 7 years, require the person to participate in
41 weekly counseling sessions of not less than 1 1/2 hours per week for not less than
42 12 months, at his or her expense, in a program for the treatment of persons who
43 commit domestic violence that has been certified pursuant to NRS 439.258.

44 ➤ If the person resides in this State but the nearest location at which counseling
45 services are available is in another state, the court may allow the person to
46 participate in counseling in the other state in a program for the treatment of persons
47 who commit domestic violence that has been certified pursuant to NRS 439.258.

48 7. Except as otherwise provided in this subsection, an offense that occurred
49 within 7 years immediately preceding the date of the principal offense or after the
50 principal offense constitutes a prior offense for the purposes of this section:

51 (a) When evidenced by a conviction; or

1 (b) If the offense is conditionally dismissed pursuant to NRS 176A.290 or
2 dismissed in connection with successful completion of a diversionary program or
3 specialty court program,

4 without regard to the sequence of the offenses and convictions. An offense
5 which is listed in paragraph (a), (b) or (c) of subsection 3 that occurred on any date
6 preceding the date of the principal offense or after the principal offense constitutes
7 a prior offense for the purposes of this section when evidenced by a conviction,
8 without regard to the sequence of the offenses and convictions. The facts
9 concerning a prior offense must be alleged in the complaint, indictment or
10 information, must not be read to the jury or proved at trial but must be proved at the
11 time of sentencing and, if the principal offense is alleged to be a felony, must also
12 be shown at the preliminary examination or presented to the grand jury.

13 8. In addition to any other penalty, the court may require such a person to
14 participate, at his or her expense, in a program of treatment for an alcohol or other
15 substance use disorder that has been certified by the Division of Public and
16 Behavioral Health of the Department of Health and Human Services.

17 9. If it appears from information presented to the court that a child under the
18 age of 18 years may need counseling as a result of the commission of a battery
19 which constitutes domestic violence pursuant to NRS 33.018, the court may refer
20 the child to an agency which provides child welfare services. If the court refers a
21 child to an agency which provides child welfare services, the court shall require the
22 person convicted of a battery which constitutes domestic violence pursuant to NRS
23 33.018 to reimburse the agency for the costs of any services provided, to the extent
24 of the convicted person's ability to pay.

25 10. If a person is charged with committing a battery which constitutes
26 domestic violence pursuant to NRS 33.018 ~~[, a prosecuting attorney shall not
27 dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or
28 nolo contendere to a lesser charge or for any other reason unless the prosecuting
29 attorney knows, or it is obvious, that the charge is not supported by probable cause
30 or cannot be proved at the time of trial. Except as otherwise provided in this
31 subsection, a] that is punishable as a misdemeanor and may prohibit the person
32 from owning, possessing or having under his or her control or custody any
33 firearm pursuant to NRS 202.360, the person is entitled to a trial by jury pursuant
34 to subsection 1 of NRS 175.011, regardless of whether the person was previously
35 prohibited from owning, possessing or having under his or her control or custody
36 any firearm pursuant to NRS 202.360.~~

37 11. A court:

38 (a) ~~Except as otherwise provided in paragraph (b), shall not grant probation to~~
39 ~~or suspend the sentence of [such] a person [,. A court may] described in subsection~~
40 ~~10.~~

41 (b) ~~May grant probation to or suspend the sentence of [such] a person [:~~
42 ~~—(a)] described in subsection 10:~~

43 (1) As set forth in NRS 4.373 and 5.055; or

44 ~~[(b)] (2) To assign the person to a program for the treatment of veterans and~~
45 ~~members of the military pursuant to NRS 176A.290 if the charge is for a first~~
46 ~~offense punishable as a misdemeanor.~~

47 ~~[[1]] 12. In every judgment of conviction or admonishment of rights issued~~
48 ~~pursuant to this section, the court shall:~~

49 (a) Inform the person convicted that he or she is prohibited from owning,
50 possessing or having under his or her custody or control any firearm pursuant to
51 NRS 202.360; and

1 (b) Order the person convicted to permanently surrender, sell or transfer any
2 firearm that he or she owns or that is in his or her possession or under his or her
3 custody or control in the manner set forth in NRS 202.361.

4 ~~13.~~ **13.** A person who violates any provision included in a judgment of
5 conviction or admonishment of rights issued pursuant to this section concerning the
6 surrender, sale, transfer, ownership, possession, custody or control of a firearm is
7 guilty of a category B felony and shall be punished by imprisonment in the state
8 prison for a minimum term of not less than 1 year and a maximum term of not more
9 than 6 years, and may be further punished by a fine of not more than \$5,000. The
10 court must include in the judgment of conviction or admonishment of rights a
11 statement that a violation of such a provision in the judgment or admonishment is a
12 category B felony and shall be punished by imprisonment in the state prison for a
13 minimum term of not less than 1 year and a maximum term of not more than 6
14 years, and may be further punished by a fine of not more than \$5,000.

15 ~~14.~~ **14.** As used in this section:

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

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

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

23 **Sec. 13.** NRS 202.360 is hereby amended to read as follows:

24 202.360 1. A person shall not own or have in his or her possession or under
25 his or her custody or control any firearm if the person:

26 (a) Has been convicted ~~in this State or any other state of a misdemeanor crime~~
27 ~~of domestic violence as defined in 18 U.S.C. § 921(a)(33);~~ *of the crime of battery*
28 *which constitutes domestic violence pursuant to NRS 200.485, or a law of any*
29 *other jurisdiction that prohibits the same or substantially similar conduct,*
30 *committed against or upon:*

31 *(1) The spouse or former spouse of the person;*

32 *(2) Any other person with whom the person has had or is having a dating*
33 *relationship, as defined in NRS 33.018;*

34 *(3) Any other person with whom the person has a child in common;*

35 *(4) The parent ~~or legal guardian~~ of the person; or*

36 *(5) The child of the person or a child for whom the person is the legal*
37 *guardian.*

38 (b) Has been convicted of a felony in this State or any other state, or in any
39 political subdivision thereof, or of a felony in violation of the laws of the United
40 States of America, unless the person has received a pardon and the pardon does not
41 restrict his or her right to bear arms;

42 (c) Has been convicted of a violation of NRS 200.575 or a law of any other
43 state that prohibits the same or substantially similar conduct and the court entered a
44 finding in the judgment of conviction or admonishment of rights pursuant to
45 subsection 7 of NRS 200.575;

46 (d) Except as otherwise provided in NRS 33.031, is currently subject to:

47 (1) An extended order for protection against domestic violence pursuant to
48 NRS 33.017 to 33.100, inclusive, which includes a statement that the adverse party
49 is prohibited from possessing or having under his or her custody or control any
50 firearm while the order is in effect; or

51 (2) An equivalent order in any other state;

52 (e) Is a fugitive from justice;

53 (f) Is an unlawful user of, or addicted to, any controlled substance; or

1 (g) Is otherwise prohibited by federal law from having a firearm in his or her
2 possession or under his or her custody or control.

3 ↪ A person who violates the provisions of this subsection is guilty of a category B
4 felony and shall be punished by imprisonment in the state prison for a minimum
5 term of not less than 1 year and a maximum term of not more than 6 years, and may
6 be further punished by a fine of not more than \$5,000.

7 2. A person shall not own or have in his or her possession or under his or her
8 custody or control any firearm if the person:

9 (a) Has been adjudicated as mentally ill or has been committed to any mental
10 health facility by a court of this State, any other state or the United States;

11 (b) Has entered a plea of guilty but mentally ill in a court of this State, any
12 other state or the United States;

13 (c) Has been found guilty but mentally ill in a court of this State, any other
14 state or the United States;

15 (d) Has been acquitted by reason of insanity in a court of this State, any other
16 state or the United States; or

17 (e) Is illegally or unlawfully in the United States.

18 ↪ A person who violates the provisions of this subsection is guilty of a category D
19 felony and shall be punished as provided in NRS 193.130.

20 3. As used in this section:

21 (a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. §
22 802(6).

23 (b) "Firearm" includes any firearm that is loaded or unloaded and operable or
24 inoperable.

25 **Sec. 14.** NRS 266.550 is hereby amended to read as follows:

26 266.550 1. The municipal court shall have such powers and jurisdiction in
27 the city as are now provided by law for justice courts, wherein any person or
28 persons are charged with the breach or violation of the provisions of any ordinance
29 of such city or of this chapter, of a police or municipal nature. ~~[(The)]~~ *Except as
30 otherwise provided in subsection 5 of NRS 5.050, the* trial and proceedings in such
31 cases must be summary and without a jury.

32 2. The powers of the municipal court include the power to charge and collect
33 those fees authorized pursuant to NRS 5.073.

34 **Sec. 15.** Chapter 268 of NRS is hereby amended by adding thereto a new
35 section to read as follows:

36 *The municipal court of an incorporated city may conduct a jury trial*
37 *pursuant to subsection 5 of NRS 5.050.*

38 **Sec. 16.** NRS 612.265 is hereby amended to read as follows:

39 612.265 1. Except as otherwise provided in this section and NRS 239.0115,
40 607.217 and 612.642, information obtained from any employing unit or person
41 pursuant to the administration of this chapter and any determination as to the
42 benefit rights of any person is confidential and may not be disclosed or be open to
43 public inspection in any manner which would reveal the person's or employing
44 unit's identity.

45 2. Any claimant or a legal representative of a claimant is entitled to
46 information from the records of the Division, to the extent necessary for the proper
47 presentation of the claimant's claim in any proceeding pursuant to this chapter. A
48 claimant or an employing unit is not entitled to information from the records of the
49 Division for any other purpose.

50 3. The Administrator may, in accordance with a cooperative agreement
51 among all participants in the statewide longitudinal data system developed pursuant
52 to NRS 400.037 and administered pursuant to NRS 223.820, make the information
53 obtained by the Division available to:

1 (a) The Board of Regents of the University of Nevada for the purpose of
2 complying with the provisions of subsection 4 of NRS 396.531; and

3 (b) The Director of the Department of Employment, Training and
4 Rehabilitation for the purpose of complying with the provisions of paragraph (d) of
5 subsection 1 of NRS 232.920.

6 4. Subject to such restrictions as the Administrator may by regulation
7 prescribe, the information obtained by the Division may be made available to:

8 (a) Any agency of this or any other state or any federal agency charged with
9 the administration or enforcement of laws relating to unemployment compensation,
10 public assistance, workers' compensation or labor and industrial relations, or the
11 maintenance of a system of public employment offices;

12 (b) Any state or local agency for the enforcement of child support;

13 (c) The Internal Revenue Service of the Department of the Treasury;

14 (d) The Department of Taxation;

15 (e) The State Contractors' Board in the performance of its duties to enforce the
16 provisions of chapter 624 of NRS; and

17 (f) The Secretary of State to operate the state business portal established
18 pursuant to chapter 75A of NRS for the purposes of verifying that data submitted
19 via the portal has satisfied the necessary requirements established by the Division,
20 and as necessary to maintain the technical integrity and functionality of the state
21 business portal established pursuant to chapter 75A of NRS.

22 Information obtained in connection with the administration of the Division may
23 be made available to persons or agencies for purposes appropriate to the operation
24 of a public employment service or a public assistance program.

25 5. Upon written request made by the State Controller or a public officer of a
26 local government, the Administrator shall furnish from the records of the Division
27 the name, address and place of employment of any person listed in the records of
28 employment of the Division. The request may be made electronically and must set
29 forth the social security number of the person about whom the request is made and
30 contain a statement signed by the proper authority of the State Controller or local
31 government certifying that the request is made to allow the proper authority to
32 enforce a law to recover a debt or obligation assigned to the State Controller for
33 collection or owed to the local government, as applicable. Except as otherwise
34 provided in NRS 239.0115, the information obtained by the State Controller or
35 local government is confidential and may not be used or disclosed for any purpose
36 other than the collection of a debt or obligation assigned to the State Controller for
37 collection or owed to that local government. The Administrator may charge a
38 reasonable fee for the cost of providing the requested information.

39 6. The Administrator may publish or otherwise provide information on the
40 names of employers, their addresses, their type or class of business or industry, and
41 the approximate number of employees employed by each such employer, if the
42 information released will assist unemployed persons to obtain employment or will
43 be generally useful in developing and diversifying the economic interests of this
44 State. Upon request by a state agency which is able to demonstrate that its intended
45 use of the information will benefit the residents of this State, the Administrator
46 may, in addition to the information listed in this subsection, disclose the number of
47 employees employed by each employer and the total wages paid by each employer.
48 The Administrator may charge a fee to cover the actual costs of any administrative
49 expenses relating to the disclosure of this information to a state agency. The
50 Administrator may require the state agency to certify in writing that the agency will
51 take all actions necessary to maintain the confidentiality of the information and
52 prevent its unauthorized disclosure.

1 7. Upon request therefor, the Administrator shall furnish to any agency of the
2 United States charged with the administration of public works or assistance through
3 public employment, and may furnish to any state agency similarly charged, the
4 name, address, ordinary occupation and employment status of each recipient of
5 benefits and the recipient's rights to further benefits pursuant to this chapter.

6 8. To further a current criminal investigation, the chief executive officer of
7 any law enforcement agency of this State may submit a written request to the
8 Administrator that the Administrator furnish, from the records of the Division, the
9 name, address and place of employment of any person listed in the records of
10 employment of the Division. The request must set forth the social security number
11 of the person about whom the request is made and contain a statement signed by the
12 chief executive officer certifying that the request is made to further a criminal
13 investigation currently being conducted by the agency. Upon receipt of such a
14 request, the Administrator shall furnish the information requested. The
15 Administrator may charge a fee to cover the actual costs of any related
16 administrative expenses.

17 9. In addition to the provisions of subsection 6, the Administrator shall
18 provide lists containing the names and addresses of employers, and information
19 regarding the wages paid by each employer to the Department of Taxation, upon
20 request, for use in verifying returns for the taxes imposed pursuant to chapters
21 363A, 363B and 363C of NRS. The Administrator may charge a fee to cover the
22 actual costs of any related administrative expenses.

23 10. Upon the request of any ~~district~~ judge or jury commissioner, ~~of the~~
24 ~~judicial district in which the county is located,~~ the Administrator shall, in
25 accordance with other agreements entered into with other ~~district~~ courts and in
26 compliance with 20 C.F.R. Part 603, and any other applicable federal laws and
27 regulations governing the Division, furnish the name, address and date of birth of
28 persons who receive benefits in any county ~~or~~ **or city** for use in the selection of trial
29 jurors pursuant to NRS 6.045. The court or jury commissioner who requests the list
30 of such persons shall reimburse the Division for the reasonable cost of providing
31 the requested information.

32 11. The Division of Industrial Relations of the Department of Business and
33 Industry shall periodically submit to the Administrator, from information in the
34 index of claims established pursuant to NRS 616B.018, a list containing the name
35 of each person who received benefits pursuant to chapters 616A to 616D, inclusive,
36 or chapter 617 of NRS. Upon receipt of that information, the Administrator shall
37 compare the information so provided with the records of the Employment Security
38 Division regarding persons claiming benefits pursuant to this chapter for the same
39 period. The information submitted by the Division of Industrial Relations must be
40 in a form determined by the Administrator and must contain the social security
41 number of each such person. If it appears from the information submitted that a
42 person is simultaneously claiming benefits under this chapter and under chapters
43 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the
44 Attorney General or any other appropriate law enforcement agency.

45 12. The Administrator may request the Comptroller of the Currency of the
46 United States to cause an examination of the correctness of any return or report of
47 any national banking association rendered pursuant to the provisions of this chapter,
48 and may in connection with the request transmit any such report or return to the
49 Comptroller of the Currency of the United States as provided in section 3305(c) of
50 the Internal Revenue Code of 1954.

51 13. The Administrator, any employee or other person acting on behalf of the
52 Administrator, or any employee or other person acting on behalf of an agency or
53 entity allowed to access information obtained from any employing unit or person in

1 the administration of this chapter, or any person who has obtained a list of
2 applicants for work, or of claimants or recipients of benefits pursuant to this
3 chapter, is guilty of a gross misdemeanor if he or she:

4 (a) Uses or permits the use of the list for any political purpose;

5 (b) Uses or permits the use of the list for any purpose other than one authorized
6 by the Administrator or by law; or

7 (c) Fails to protect and prevent the unauthorized use or dissemination of
8 information derived from the list.

9 14. All letters, reports or communications of any kind, oral or written, from
10 the employer or employee to each other or to the Division or any of its agents,
11 representatives or employees are privileged and must not be the subject matter or
12 basis for any lawsuit if the letter, report or communication is written, sent, delivered
13 or prepared pursuant to the requirements of this chapter.

14 **Sec. 17.** The amendatory provisions of this act apply to any offense:

15 1. Committed on or after January 1, 2022; or

16 2. Committed before January 1, 2022, if the underlying judicial proceedings
17 are pending or otherwise unresolved on January 1, 2022.

18 **Sec. 18.** This act becomes effective on January 1, 2022.