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Crimes; Punishment for Assault with a Deadly Weapon and Attempts

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tial bodily or mental harm results to the older person, the person responsible for the harm is to be imprisoned in state prison for not less than one year nor more than six years.⁴⁰

40. *Id.* §200.— 2.

Crimes; punishment for assault with a deadly weapon and attempts

N.R.S. §§200.400, 200.471, 208.070 (amended).
 AB 202 (Committee on Judiciary); STATS 1981, Ch 464
 AB 203 (Committee on Judiciary); STATS 1981, Ch 64

Prior to the enactment of Chapter 64 a person convicted of an attempt¹ to commit a crime punishable by death or life imprisonment was subject to imprisonment for up to twenty years in the state prison.² No *minimum* sentence was specified, however, for the attempt of these crimes.³ Chapter 64 provides that the sentence for the attempt of crimes punishable by death or life imprisonment, including attempted murder, shall not be less than one nor more than twenty years imprisonment in the state prison.⁴ The specific inclusion of attempted murder codifies prior holdings of the Supreme Court of Nevada interpreting prior statutory law to include attempted murder.⁵

The legislature also enacted Chapter 464 which increases the penalty for assaults⁶ committed with a deadly weapon.⁷ Prior law treated assault with a deadly weapon as a gross misdemeanor,⁸ thus mandating imprisonment in the county jail for not more than one year, or a fine not exceeding \$1,000, or both.⁹ This crime is now punishable by imprisonment in the state prison for not less than one nor more than six years or by a fine not exceeding \$5,000, or both.¹⁰ Chapter 464, how-

1. N.R.S. §208.070 (an act done with intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime).

2. *See* REVISED LAWS OF NEVADA 1912, §6291, at 1811.

3. *Compare* N.R.S. §208.070 1 *with* REVISED LAWS OF NEVADA 1912, §6291, at 1811.

4. N.R.S. §208.070 1.

5. *See* *Graves v. Young*, 82 Nev. 433, 436, 420 P.2d 618, 620 (1966). *But see* *Ramos v. State*, 95 Nev. 251, 252, 592 P.2d 950, 951 (1979) (an individual cannot be convicted of attempted murder unless intent to kill is proven). *Cf.* N.R.S. §§200.010, 200.020 1, 200.020 2 (definition of murder and its elements).

6. *See* N.R.S. §200.400 1(a) (definition of assault).

7. *Compare* N.R.S. §200.471 2(b) *with* STATUTES OF NEVADA 1971, c. 612, §2, at 1384.

8. *See* STATUTES OF NEVADA 1971, c. 612, §2, at 1384 (enacting N.R.S. §200.471 2(b)).

9. *See* N.R.S. §193.140.

10. *Id.* §200.471 2(b).

ever, specifies that the new penalty is not applicable when the conviction is for assault with intent to kill or with intent to commit sexual assault, mayhem, robbery, or grand larceny.¹¹ These crimes continue to be punishable as gross misdemeanors,¹² thus reserving the harsher penalty for assault with a deadly weapon.¹³

11. *Id.* §200.471 2. *See also id.* §200.400 (definitions and penalties for assault and battery with intent to commit a crime).

12. *Id.* §200.400 2.

13. *Compare id.* §200.471 with *id.* §200.400.

Crimes; prisoners—penalties for battery and false imprisonment, prohibition of sexual activity

N.R.S. §212.— (new); §§200.460, 200.481 (amended).
AB 87 (Committee on Judiciary); STATS 1981, Ch 334

Under existing law, persons convicted of false imprisonment¹ are liable for all damages sustained by the person imprisoned and are guilty of a gross misdemeanor² punishable by not more than one year in a county jail, or a \$1,000 fine, or both.³ Chapter 334 requires imprisonment in the state prison for one to six years if the false imprisonment is committed with the use of a deadly weapon⁴ or by a prisoner in a penal institution without the use of a deadly weapon.⁵ A prisoner in lawful confinement or custody who is convicted of false imprisonment committed with the use of a deadly weapon will be punished by imprisonment in state prison for not less than two but no more than twenty years.⁶

Under existing law, the punishment for a conviction of battery⁷ ranges from a misdemeanor,⁸ if the battery is not committed with a deadly weapon and no substantial injury results to the adult victim,⁹ to a felony if a deadly weapon is used.¹⁰ Imprisonment in state prison for one to six years is required under Chapter 334 if the battery is committed by a prisoner in lawful custody without the use of a deadly weapon

1. *See* N.R.S. §200.460 1 (definition of false imprisonment).

2. *See id.* §193.120 (definition of a gross misdemeanor).

3. *See id.* §§193.140, 200.460 2.

4. *See id.* §200.460 3(b).

5. *See id.* §200.460 3(a).

6. *See id.* §200.460 4.

7. *See id.* §200.481 1(a) (definition of battery).

8. *See id.* §193.150.

9. *See id.* §200.481 2(a).

10. *Id.* §200.481 2(d). *See id.* §193.120 (definition of a felony).