

ASSEMBLY BILL NO. 370—ASSEMBLYMEN LESLIE, BACHE, PARKS, PRICE,
MCCLAIN, ANDERSON, ARBERRY, CHOWNING, CLABORN,
DE BRAGA, DINI, FREEMAN, GIUNCHIGLIANI, HUMKE, KOIVISTO,
MANENDO, MORTENSON, NEIGHBORS, PARNELL, SMITH AND
TIFFANY

MARCH 15, 2001

Referred to Committee on Judiciary

SUMMARY—Authorizes employers to obtain orders for protection against harassment in workplace and establishes procedures for obtaining such orders. (BDR 3-720)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to injunctions; authorizing employers to obtain orders for protection against harassment in the workplace to protect employers, employees and persons at the workplace from harassment by other persons; establishing the procedure for obtaining such an order; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 33 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 19, inclusive, of this act.
3 **Sec. 2.** *As used in sections 2 to 19, inclusive, of this act, unless the*
4 *context otherwise requires, the words and terms defined in sections 3, 4*
5 *and 5 of this act have the meanings ascribed to them in those sections.*
6 **Sec. 3.** *“Employee” means a person who is employed by an*
7 *employer, including, without limitation, an independent contractor.*
8 **Sec. 4.** *“Employer” means a public or private employer in this state,*
9 *including, without limitation, the State of Nevada, an agency of this state*
10 *and a political subdivision of this state.*
11 **Sec. 5.** *“Order for protection against harassment in the workplace”*
12 *means an order issued pursuant to section 8 of this act.*
13 **Sec. 6.** *Harassment in the workplace occurs when:*
14 1. *A person knowingly threatens to cause or commits an act that*
15 *causes:*



- 1 (a) Bodily injury to himself or another person;
- 2 (b) Damage to the property of another person; or
- 3 (c) Substantial harm to the physical or mental health or safety of a
- 4 person;

5 2. The threat is made or the act is committed against an employer, an

6 employee of the employer while the employee performs his duties of

7 employment or a person present at the workplace of the employer; and

8 3. The threat or act would cause a reasonable person to be seriously

9 alarmed or annoyed.

10 **Sec. 7.** 1. An employer or an authorized agent of an employer who

11 reasonably believes that harassment in the workplace has occurred may

12 file a verified application for an order for protection against harassment

13 in the workplace against the person who allegedly committed the

14 harassment.

15 2. The verified application must include, without limitation:

- 16 (a) The name of the employer seeking the order;
- 17 (b) The name and address, if known, of the person who allegedly
- 18 committed the harassment in the workplace; and
- 19 (c) A detailed description of the events that allegedly constituted
- 20 harassment in the workplace and the dates on which these events
- 21 occurred.

22 **Sec. 8.** 1. If it appears to the satisfaction of the court from specific

23 facts shown by a verified application filed pursuant to section 7 of this

24 act, after reviewing the application, that harassment in the workplace has

25 occurred, the court may issue an order for protection against such

26 harassment.

27 2. The court may require the employer or the person who allegedly

28 committed the harassment, or both, to appear before it before

29 determining whether to issue the order for protection against harassment

30 in the workplace.

31 3. The court may issue an order for protection against harassment in

32 the workplace without notice to the person who allegedly committed the

33 harassment if the court finds that:

34 (a) There is reasonable evidence that the person committed

35 harassment in the workplace or that good cause exists to believe that

36 great or irreparable harm would result to the employer, an employee of

37 the employer while the employee performs his duties of employment or a

38 person who is present at the workplace of the employer; and

39 (b) There are specific facts that attest to the efforts of the employer to

40 provide notice of the application and hearing to the person who allegedly

41 committed the harassment in the workplace or there are reasons

42 supporting the claim of the employer that notice should not be given to

43 the person.

44 4. If an order for protection against harassment in the workplace is

45 issued without notice to the person who allegedly committed the

46 harassment and without a hearing, the person may, at any time during

47 the period that the order is in effect, petition the court for a hearing on

48 the order. The hearing must be held as soon as reasonably possible and

49 not later than 10 days after the date on which the petition for a hearing is



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1 *filed with the court unless the court determines that there are compelling*
2 *reasons to hold the hearing at a later date. At the hearing, the court may*
3 *dissolve, modify or continue the order.*

4 *5. If the court denies a verified application for an order for*
5 *protection against harassment in the workplace, the court may schedule*
6 *a further hearing within 10 days after the denial if the notice of the*
7 *hearing is provided to the person who allegedly committed the*
8 *harassment.*

9 *6. An order for protection against harassment in the workplace*
10 *expires within such time, not to exceed 1 year, as the court fixes.*

11 *7. The clerk of the court shall inform the employer seeking the order*
12 *upon the successful transfer of information concerning the registration*
13 *to the central repository for Nevada records of criminal history as*
14 *required pursuant to section 15 of this act.*

15 **Sec. 9. 1. An order for protection against harassment in the**
16 **workplace may:**

17 *(a) Enjoin the person who allegedly committed the harassment from*
18 *contacting the employer, an employee of the employer while the employee*
19 *is performing his duties of employment and any person while the person*
20 *is present at the workplace of the employer;*

21 *(b) Order the person who allegedly committed the harassment to stay*
22 *away from the workplace of the employer;*

23 *(c) Order the person who allegedly committed the harassment to pay*
24 *all costs and fees incurred by the employer in bringing the action for the*
25 *order; and*

26 *(d) Order such other relief as the court deems necessary to protect the*
27 *employer, the workplace of the employer, the employees of the employer*
28 *while performing their duties of employment and any other persons who*
29 *are present at the workplace.*

30 *2. A court may not issue an order for protection against harassment*
31 *in the workplace against more than one person.*

32 *3. An order for protection against harassment in the workplace*
33 *must:*

34 *(a) Specify, as applicable, the county and city, if any, in which the*
35 *workplace of the employer is located and in which the employees of the*
36 *employer perform their duties of employment;*

37 *(b) If the court granted the order pursuant to an ex parte hearing:*

38 *(1) Include a statement that the person who allegedly committed the*
39 *harassment is entitled to a hearing on the order if he files a petition for a*
40 *hearing pursuant to section 8 of this act; and*

41 *(2) Include the name and address of the court in which the petition*
42 *for a hearing may be filed;*

43 *(c) Include a provision ordering any law enforcement officer to arrest*
44 *a person who allegedly committed the harassment, with or without a*
45 *warrant, if the officer has probable cause to believe that the person has*
46 *received a copy of the order and has violated a provision of the order;*
47 *and*

48 *(d) Include the following statement:*



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WARNING

This is an official court order. If you disobey this order, you may be arrested and prosecuted for the crime of violating an order for protection against harassment in the workplace and any other crime that you may have committed in disobeying this order.

4. If a court issues an order for protection against harassment in the workplace, 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.

Sec. 10. *An order for protection against harassment in the workplace is in addition to and not in lieu of any other available civil or criminal action. An employer is not barred from seeking an order because of other pending proceedings.*

Sec. 11. *1. A court shall transmit, by the end of the next business day after an order for protection against harassment in the workplace is issued, a copy of the order to the appropriate law enforcement agency that has jurisdiction over the workplace of the employer or the areas in which the employees of the employer perform their duties of employment.*

2. The court may order the appropriate law enforcement agency to serve the person who allegedly committed the harassment personally with the order if it finds that such service is necessary to avoid an act of violence and to 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 order, the notice of hearing thereon and the order must be served upon the person who allegedly committed the harassment pursuant to the Nevada Rules of Civil Procedure.

3. A law enforcement agency shall enforce an order for protection against harassment in the workplace without regard to the county in which the order was issued.

4. The clerk of the court that issued an order for protection against harassment in the workplace shall issue a copy of the order to the employer who requested the order and the person who allegedly committed the harassment.

Sec. 12. *1. Whether or not a violation occurs in the presence of a law enforcement officer, the officer may, with or without a warrant, arrest and take into custody a person if the officer has probable cause to believe that:*

(a) An order has been issued pursuant to section 8 of this act against the person;

(b) The person has received a copy of the order; and

(c) The person is acting in violation of the order.

2. If a law enforcement officer cannot verify that the person was served with a copy of the order, the officer shall:

(a) Inform the person of the specific terms and conditions of the order;

(b) Inform the person that he now has notice of the provisions of the order and that a violation of the order will result in his arrest; and



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1 (c) Inform the person of the location of the court that issued the
2 original order and the hours during which the person may obtain a copy
3 of the order.

4 3. Information concerning the terms and conditions of the order, the
5 date and time of the notice provided to the person and the name and
6 identifying number of the officer who gave the notice must be provided in
7 writing to the employer and the court that issued the order and noted in
8 the records of the law enforcement agency and the court.

9 **Sec. 13.** 1. A valid order for protection against harassment in the
10 workplace issued by a court of another state, territory or Indian tribe
11 within the United States must be accorded full faith and credit by the
12 courts of this state and enforced as if it were issued by a court in this
13 state, regardless of whether the order has been registered in this state.

14 2. An employer or an authorized agent of an employer may apply to a
15 court of this state to register an order for protection against harassment
16 in the workplace issued by the court of another state, territory or Indian
17 tribe within the United States by presenting a certified copy of the order
18 to the clerk of the court in a judicial district in which the employer
19 believes that enforcement may be necessary.

20 3. Upon application by the employer or an authorized agent of an
21 employer pursuant to subsection 2, a court of competent jurisdiction in
22 this state shall register such an order if:

23 (a) The court determines that the issuing court had proper jurisdiction
24 over the parties and the subject matter under the laws of the state,
25 territory or tribe; and

26 (b) The court determines that the person who allegedly committed the
27 harassment was given reasonable notice and an opportunity to be heard
28 before the order was issued or, in the case of an ex parte order, the
29 person was given reasonable notice and an opportunity to petition the
30 court for a hearing on the order after the order was issued.

31 4. An order for protection against harassment in the workplace that
32 is registered has the same effect and must be enforced in like manner as
33 such an order issued by a court of this state.

34 5. The clerk of the court shall maintain a record of each order
35 registered pursuant to this section.

36 6. The clerk shall inform the employer upon the successful transfer
37 of information concerning the registration to the central repository for
38 Nevada records of criminal history as required pursuant to section 15 of
39 this act.

40 **Sec. 14.** 1. An order for protection against harassment in the
41 workplace must be presumed valid if the order appears authentic and:

42 (a) Is issued by a court of this state; or

43 (b) Is issued by a court of another state, territory or Indian tribe
44 within the United States and presented pursuant to section 13 of this act.

45 2. A court, law enforcement officer or any other person who enforces
46 an order for protection against harassment in the workplace based upon
47 a reasonable belief that the order is valid is immune from civil and
48 criminal liability for any action taken based on that belief.



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1 **Sec. 15.** *Any time that a court issues an order for protection against*
2 *harassment in the workplace and any time that a person serves such an*
3 *order, registers such an order or receives any information or takes any*
4 *other action pursuant to sections 2 to 19, inclusive, of this act, he shall*
5 *cause to be transmitted, in the manner prescribed by the central*
6 *repository for Nevada records of criminal history, any information*
7 *required by the central repository in a manner which ensures that the*
8 *information is received by the central repository by the end of the next*
9 *business day.*

10 **Sec. 16.** *If an employer has knowledge that a specific person is the*
11 *target of harassment in the workplace and the employer intends to seek*
12 *an order for protection against such harassment, the employer shall*
13 *make a good faith effort to notify the person who is the target of the*
14 *harassment that the employer intends to seek the order for protection*
15 *against harassment in the workplace.*

16 **Sec. 17.** 1. *An employer is immune from civil liability for:*
17 *(a) Seeking an order for protection against harassment in the*
18 *workplace, if the employer acts in good faith in seeking the order; and*
19 *(b) Failing to seek an order for protection against harassment in the*
20 *workplace.*

21 2. *An action taken or a statement made by an employer pursuant to*
22 *sections 2 to 19, inclusive, of this act:*

23 *(a) Shall not be deemed an admission by the employer of any fact; and*
24 *(b) May be used for the purposes of impeachment.*

25 **Sec. 18.** *The provisions of sections 2 to 19, inclusive, of this act do*
26 *not:*

27 1. *Modify the duty of an employer to provide a safe workplace for the*
28 *employees of the employer and other persons present at the workplace of*
29 *the employer; and*

30 2. *Prohibit a person from engaging in any constitutionally protected*
31 *exercise of free speech, including, without limitation, speech involving*
32 *labor disputes concerning organized labor.*

33 **Sec. 19.** 1. *A person who violates an order for protection against*
34 *harassment in the workplace is guilty of a misdemeanor, unless a more*
35 *severe penalty is prescribed by law for the act that constitutes the*
36 *violation of the order. If the violation is accompanied by a violent*
37 *physical act by that person against a person protected by the order, the*
38 *court shall:*

39 *(a) Impose upon the person who violated the order a fine of \$1,000 or*
40 *require him to perform a minimum of 200 hours of work for the*
41 *community;*

42 *(b) Sentence the person who violated the order to imprisonment for*
43 *not fewer than 5 days nor more than 6 months;*

44 *(c) Order the person who violated the order to reimburse the*
45 *employer, in an amount determined by the court, for all costs and*
46 *attorney's fees incurred by the employer in seeking to enforce the order,*
47 *and for all medical expenses of the employer and any person protected by*
48 *the order that were incurred as a result of the violent physical act; and*



1 *(d) Order the person who violated the order to participate in and*
2 *complete a program of professional counseling, at his own expense, if*
3 *such counseling is available.*

4 *2. The person who violates an order for protection against*
5 *harassment in the workplace shall comply with the order for*
6 *reimbursement of the employer or any other person protected by the*
7 *order before paying a fine imposed pursuant to this section.*

8 **Sec. 20.** NRS 4.355 is hereby amended to read as follows:

9 4.355 1. A justice of the peace in a township whose population is
10 40,000 or more may appoint a referee to take testimony and recommend
11 orders and a judgment:

12 (a) In any action filed pursuant to NRS 73.010;

13 (b) *In any action filed pursuant to sections 2 to 19, inclusive, of this*
14 *act;*

15 (c) In any action for a misdemeanor constituting a violation of chapter
16 484 of NRS, except NRS 484.379 and 484.3795; or

17 ~~(e)~~ (d) In any action for a misdemeanor constituting a violation of a
18 county traffic ordinance.

19 2. The referee must meet the qualifications of a justice of the peace as
20 set forth in subsections 1 and 2 of NRS 4.010.

21 3. The referee:

22 (a) Shall take testimony;

23 (b) Shall make findings of fact, conclusions of law and
24 recommendations for an order or judgment;

25 (c) May, subject to confirmation by the justice of the peace, enter an
26 order or judgment; and

27 (d) Has any other power or duty contained in the order of reference
28 issued by the justice of the peace.

29 4. The findings of fact, conclusions of law and recommendations of
30 the referee must be furnished to each party or his attorney at the conclusion
31 of the proceeding or as soon thereafter as possible. Within 5 days after
32 receipt of the findings of fact, conclusions of law and recommendations, a
33 party may file a written objection. If no objection is filed, the court shall
34 accept the findings, unless clearly erroneous, and the judgment may be
35 entered thereon. If an objection is filed within the 5-day period, the justice
36 of the peace shall review the matter by trial de novo, except that if all of
37 the parties so stipulate, the review must be confined to the record.

38 5. A referee must be paid one-half of the hourly compensation of a
39 justice of the peace.

40 **Sec. 21.** NRS 4.370 is hereby amended to read as follows:

41 4.370 1. Except as limited by subsection 2, justices' courts have
42 jurisdiction of the following civil actions and proceedings and no others
43 except as *otherwise* provided by specific statute:

44 (a) In actions arising on contract for the recovery of money only, if the
45 sum claimed, exclusive of interest, does not exceed \$7,500.

46 (b) In actions for damages for injury to the person, or for taking,
47 detaining or injuring personal property, or for injury to real property where
48 no issue is raised by the verified answer of the defendant involving the title



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1 to or boundaries of the real property, if the damage claimed does not
2 exceed \$7,500.

3 (c) Except as otherwise provided in paragraph (l) in actions for a fine,
4 penalty or forfeiture not exceeding \$7,500, given by statute or the
5 ordinance of a county, city or town, where no issue is raised by the answer
6 involving the legality of any tax, impost, assessment, toll or municipal fine.

7 (d) In actions upon bonds or undertakings conditioned for the payment
8 of money, if the sum claimed does not exceed \$7,500, though the penalty
9 may exceed that sum. Bail bonds and other undertakings posted in criminal
10 matters may be forfeited regardless of amount.

11 (e) In actions to recover the possession of personal property, if the value
12 of the property does not exceed \$7,500.

13 (f) To take and enter judgment on the confession of a defendant, when
14 the amount confessed, exclusive of interest, does not exceed \$7,500.

15 (g) Of actions for the possession of lands and tenements where the
16 relation of landlord and tenant exists, when damages claimed do not exceed
17 \$7,500 or when no damages are claimed.

18 (h) Of actions when the possession of lands and tenements has been
19 unlawfully or fraudulently obtained or withheld, when damages claimed do
20 not exceed \$7,500 or when no damages are claimed.

21 (i) Of suits for the collection of taxes, where the amount of the tax sued
22 for does not exceed \$7,500.

23 (j) Of actions for the enforcement of mechanics' liens, where the
24 amount of the lien sought to be enforced, exclusive of interest, does not
25 exceed \$7,500.

26 (k) Of actions for the enforcement of liens of owners of facilities for
27 storage, where the amount of the lien sought to be enforced, exclusive of
28 interest, does not exceed \$7,500.

29 (l) In actions for a fine imposed for a violation of NRS 484.757.

30 (m) Except in a judicial district that includes a county whose population
31 is 100,000 or more, in any action for the issuance of a temporary or
32 extended order for protection against domestic violence.

33 (n) *In an action for the issuance of an order for protection against*
34 *harassment in the workplace pursuant to sections 2 to 19, inclusive, of*
35 *this act.*

36 (o) In small claims actions under the provisions of chapter 73 of NRS.

37 ~~(p)~~ (p) In actions to contest the validity of liens on mobile homes or
38 manufactured homes.

39 ~~(q)~~ (q) In any action pursuant to NRS 200.591 for the issuance of a
40 protective order against a person alleged to be committing the crime of
41 stalking, aggravated stalking or harassment.

42 2. The jurisdiction conferred by this section does not extend to civil
43 actions, other than for forcible entry or detainer, in which the title of real
44 property or mining claims or questions affecting the boundaries of land are
45 involved.

46 3. Justices' courts have jurisdiction of all misdemeanors and no other
47 criminal offenses except as otherwise provided by specific statute.



1 4. Except as otherwise provided in subsections 5 and 6, in criminal
2 cases the jurisdiction of justices of the peace extends to the limits of their
3 respective counties.

4 5. In the case of any arrest made by a member of the Nevada highway
5 patrol, the jurisdiction of the justices of the peace extends to the limits of
6 their respective counties and to the limits of all counties which have
7 common boundaries with their respective counties.

8 6. Each justice's court has jurisdiction of any violation of a regulation
9 governing vehicular traffic on an airport within the township in which the
10 court is established.

11 **Sec. 22.** NRS 171.124 is hereby amended to read as follows:

12 171.124 1. Except as otherwise provided in subsection 3 ~~H~~ *and*
13 *section 12 of this act*, a peace officer or an officer of the Drug
14 Enforcement Administration designated by the Attorney General of the
15 United States for that purpose may make an arrest in obedience to a
16 warrant delivered to him, or may, without a warrant, arrest a person:

17 (a) For a public offense committed or attempted in his presence.

18 (b) When a person arrested has committed a felony or gross
19 misdemeanor, although not in his presence.

20 (c) When a felony or gross misdemeanor has in fact been committed,
21 and he has reasonable cause for believing the person arrested to have
22 committed it.

23 (d) On a charge made, upon a reasonable cause, of the commission of a
24 felony or gross misdemeanor by the person arrested.

25 (e) When a warrant has in fact been issued in this state for the arrest of a
26 named or described person for a public offense, and he has reasonable
27 cause to believe that the person arrested is the person so named or
28 described.

29 2. He may also, at night, without a warrant, arrest any person whom he
30 has reasonable cause for believing to have committed a felony or gross
31 misdemeanor, and is justified in making the arrest, though it afterward
32 appear that a felony or gross misdemeanor has not been committed.

33 3. An officer of the Drug Enforcement Administration may only make
34 an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of
35 NRS.

36 **Sec. 23.** Chapter 179A of NRS is hereby amended by adding thereto a
37 new section to read as follows:

38 *1. The repository for information concerning orders for protection*
39 *against harassment in the workplace is hereby created within the central*
40 *repository.*

41 *2. Except as otherwise provided in subsection 4, the repository for*
42 *information concerning orders for protection against harassment in the*
43 *workplace must contain a complete and systematic record of all orders*
44 *for protection against harassment in the workplace issued or registered*
45 *in this state, in accordance with regulations adopted by the director of the*
46 *department, including, without limitation, any information received*
47 *pursuant to section 15 of this act. Information received by the central*
48 *repository pursuant to section 15 of this act must be entered in the*
49 *repository for information concerning orders for protection against*



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1 *harassment in the workplace not later than 8 hours after it is received by*
2 *the central repository.*

3 *3. The information in the repository for information concerning*
4 *orders for protection against harassment in the workplace must be*
5 *accessible by computer at all times to each agency of criminal justice.*

6 *4. The repository for information concerning orders for protection*
7 *against harassment in the workplace must not contain any information*
8 *concerning an event that occurred before October 1, 2001.*

9 **Sec. 24.** The amendatory provisions of this act do not apply to
10 offenses committed before October 1, 2001.

