

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

CHAPTER.....

AN ACT relating to injunctions; authorizing employers to obtain temporary and extended orders for protection against harassment in the workplace to protect employers, employees and persons at the workplace from harassment by other persons; establishing the procedures for obtaining such orders; 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:

Section 1. Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this act.

Sec. 2. *As used in sections 2 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Employee” means a person who is employed by an employer, including, without limitation, an independent contractor.*

Sec. 4. *“Employer” means a public or private employer in this state, including, without limitation, the State of Nevada, an agency of this state and a political subdivision of this state.*

Sec. 5. *“Order for protection against harassment in the workplace” means an order issued pursuant to section 8 of this act.*

Sec. 6. *Harassment in the workplace occurs when:*

1. A person knowingly threatens to cause or commits an act that causes:

(a) Bodily injury to himself or another person;

(b) Damage to the property of another person; or

(c) Substantial harm to the physical or mental health or safety of a person;

2. The threat is made or the act is committed against an employer, an employee of the employer while the employee performs his duties of employment or a person present at the workplace of the employer; and

3. The threat would cause a reasonable person to fear that the threat will be carried out or the act would cause a reasonable person to feel terrorized, frightened, intimidated or harassed.

Sec. 7. *1. An employer or an authorized agent of an employer who reasonably believes that harassment in the workplace has occurred may file a verified application for a temporary order for protection against harassment in the workplace against the person who allegedly committed the harassment.*

2. The verified application must include, without limitation:

(a) The name of the employer seeking the order;

(b) The name and address, if known, of the person who allegedly committed the harassment in the workplace; and

(c) A detailed description of the events that allegedly constituted harassment in the workplace and the dates on which these events occurred.

Sec. 8. 1. The court may issue a temporary order for protection against harassment in the workplace if it appears to the satisfaction of the court from specific facts shown by a verified application filed pursuant to section 7 of this act that harassment in the workplace has occurred.

2. Except as otherwise provided in subsection 4, a temporary order for protection against harassment in the workplace must not be issued without notice to the person who allegedly committed the harassment. A temporary order for protection against harassment in the workplace must not be issued without the giving of security by the employer in an amount determined by the court to be sufficient to pay for such costs and damages as may be incurred or suffered by the person who allegedly committed the harassment if the person who allegedly committed the harassment is found to have been wrongfully enjoined or restrained.

3. The court may require the employer or the person who allegedly committed the harassment, or both, to appear before the court before determining whether to issue the temporary order for protection against harassment in the workplace.

4. A court may issue a temporary order for protection against harassment in the workplace without written or oral notice to the person who allegedly committed the harassment or his attorney only if:

(a) A verified application is accompanied by an affidavit that contains specific facts which clearly show that immediate and irreparable injury, loss or damage will result to the employer, an employee of the employer while the employee performs the duties of his employment or a person who is present at the workplace of the employer before the person who allegedly committed the harassment or his attorney can be heard in opposition; and

(b) The employer and the employer's attorney, if any, set forth in the affidavit:

(1) The efforts, if any, that have been made to give notice to the person who allegedly committed the harassment; and

(2) The facts supporting waiver of notice requirements.

5. A temporary order for protection against harassment in the workplace that is granted, with or without notice, must expire not later than 15 days after the date on which the order is issued, unless extended pursuant to subsections 6 and 7.

6. If a temporary order for protection against harassment in the workplace is granted, with or without notice, the employer or his authorized agent may apply for an extended order for protection against harassment in the workplace by filing a verified application for an extended order for protection against harassment in the workplace. Such an application must:

(a) In addition to the information required by subsection 2 of section 7 of this act, set forth the facts that provide the basis for granting an extended order for protection against harassment in the workplace;

(b) Be filed before the expiration of the temporary order for protection against harassment in the workplace;

(c) Be heard as soon as reasonably possible and not later than 10 days after the date on which the application is filed with the court unless the

court determines that there are compelling reasons to hold the hearing at a later date; and

(d) Be dismissed if the court finds that the temporary order for protection against harassment in the workplace which is the basis of the application has been dissolved or has expired.

7. At the hearing on an application filed pursuant to subsection 6, the employer must present evidence sufficient to support the granting of the application for an extended order for protection against harassment in the workplace. At the hearing, the court may:

(a) Dissolve or modify the temporary order for protection against harassment in the workplace; or

(b) Grant an extended order for protection against harassment in the workplace.

8. If granted, an extended order for protection against harassment in the workplace expires within such time, not to exceed 1 year, as the court fixes.

9. Upon 2 days' notice to an employer who obtained a temporary order for protection against harassment in the workplace without notice or on such shorter notice to the employer as the court may prescribe, the person who allegedly committed the harassment may appear and move the dissolution or modification of the temporary order for protection against harassment in the workplace. Upon the filing of such a motion, the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require. At the hearing, the court may dissolve, modify or extend the order.

10. The court may award costs and reasonable attorney's fees to the prevailing party in a matter brought pursuant to this section.

11. If a court issues an extended 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. 9. 1. *A temporary or extended order for protection against harassment in the workplace may:*

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

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

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

2. A court may not issue a temporary or extended order for protection against harassment in the workplace that is against more than one person.

3. A temporary or extended order for protection against harassment in the workplace must:

- (a) Specify, as applicable, the county and city, if any, in which the workplace of the employer is located and in which the employees of the employer perform their duties of employment;*
- (b) Include a provision ordering any law enforcement officer to arrest the person who allegedly committed the harassment, with or without a warrant, if the officer has probable cause to believe that the person has been served with a copy of the order and has violated a provision of the order;*
- (c) State the reasons for granting the order; and*
- (d) Include the following statement:*

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. In addition to the requirements of subsection 3, if the court granted a temporary order for protection against harassment in the workplace without notice, the order must:

- (a) Include a statement that the person who allegedly committed the harassment is entitled to a hearing on the order pursuant to section 8 of this act;*
- (b) Include the name and address of the court in which the petition for a hearing may be filed;*
- (c) Contain the date and hour of issuance;*
- (d) Be immediately filed with the clerk of the court;*
- (e) Define the irreparable injury, loss or damage resulting from the harassment and state why it is irreparable; and*
- (f) Set forth the reasons for granting the order without notice.*

Sec. 10. *A temporary or extended 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 a temporary or extended 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 a temporary or extended 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 a temporary or extended 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 been served with 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 and the officer is at the workplace of the employer, the officer shall serve the person with a copy of the order if a copy is available.*

3. *A law enforcement officer who serves a person with a copy of an order pursuant to subsection 2 shall note the date and time of such service on the copy of the order that was issued to the employer.*

Sec. 13. 1. *An employer or an authorized agent of an employer may register a temporary or extended order for protection against harassment in the workplace issued by the court of another state by presenting a certified copy of the order to the clerk of the court in a judicial district in which the employer believes that enforcement may be necessary.*

2. *A temporary or extended order for protection against harassment in the workplace that is registered has the same effect and must be enforced in like manner as such an order issued by a court of this state.*

3. *The clerk of the court shall maintain a record of each order registered pursuant to this section.*

Sec. 14. 1. *A court, a law enforcement officer or any other person who enforces a temporary or extended order for protection against harassment in the workplace based upon a reasonable belief that the order is valid is immune from civil and criminal liability for any action taken based upon that belief.*

2. *A court, a law enforcement officer or any other person who refuses to enforce a temporary or extended order for protection against harassment in the workplace based upon a reasonable belief that the order is not valid is immune from civil and criminal liability for any action taken or not taken based upon that belief.*

3. *The employer of a law enforcement officer who enforces a temporary or extended order for protection against harassment in the workplace based upon a reasonable belief that the order is valid or who refuses to enforce such an order based upon a reasonable belief that the order is not valid is immune from civil and criminal liability for any action taken or not taken by the law enforcement officer based upon that belief.*

Sec. 15. (Deleted by amendment.)

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

Sec. 17. 1. *An employer is immune from civil liability for:*

(a) Seeking a temporary or extended order for protection against harassment in the workplace, if the employer acts in good faith in seeking the order; or

(b) Failing to seek a temporary or extended order for protection against harassment in the workplace.

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

(a) Shall not be deemed an admission by the employer of any fact; and

(b) May be used for the purposes of impeachment.

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

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

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

3. *Prohibit a person from engaging in any activity which is part of a labor dispute.*

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The referee:

(a) Shall take testimony;

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

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

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

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

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

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

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

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

(b) In actions for damages for injury to the person, or for taking, detaining or injuring personal property, or for injury to real property where no issue is raised by the verified answer of the defendant involving the title to or boundaries of the real property, if the damage claimed does not exceed \$7,500.

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

(d) In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not exceed \$7,500, though the penalty

may exceed that sum. Bail bonds and other undertakings posted in criminal matters may be forfeited regardless of amount.

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

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

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

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

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

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

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

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

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

(n) *In an action for the issuance of a temporary or extended order for protection against harassment in the workplace pursuant to sections 2 to 19, inclusive, of this act.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 23. The amendatory provisions of this act do not apply to offenses committed before October 1, 2001.