

ASSEMBLY BILL NO. 377—ASSEMBLYMEN PARNELL, GIBBONS, MCCLAIN,
BACHE, BROWER, CARPENTER, DE BRAGA, FREEMAN,
GOLDWATER, KOIVISTO, LEE, LESLIE, SMITH AND VON TOBEL

MARCH 15, 2001

JOINT SPONSOR: SENATOR AMODEI

Referred to Committee on Judiciary

SUMMARY—Makes various changes regarding orders for protection against domestic violence. (BDR 3-978)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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

AN ACT relating to domestic violence; requiring courts in certain smaller counties to be available at all times to issue temporary and extended orders for protection against domestic violence; providing that a person who violates a temporary or extended order must not be released from custody sooner than 12 hours after being taken into custody if the violation is accompanied by a direct or indirect threat of harm; 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.** NRS 33.020 is hereby amended to read as follows:
2 33.020 1. If it appears to the satisfaction of the court from specific
3 facts shown by a verified application that an act of domestic violence has
4 occurred or there exists a threat of domestic violence, the court may grant a
5 temporary or extended order . ~~{for protection against domestic violence.}~~ A
6 temporary or extended order ~~{for protection against domestic violence}~~
7 must not be granted to the applicant or the adverse party unless he has
8 requested the order and has filed a verified application that an act of
9 domestic violence has occurred or there exists a threat of domestic
10 violence.



1 2. The court may require the applicant or the adverse party, or both, to
2 appear before ~~the~~ *the court* before determining whether to grant the
3 temporary or extended order.

4 3. A temporary order may be granted with or without notice to the
5 adverse party. An extended order may only be granted after notice to the
6 adverse party and a hearing on the application. A hearing on an application
7 for an extended order must be held within 45 days after the date on which
8 the application for the extended order is filed.

9 4. The court shall rule upon an application for a temporary order
10 within 1 judicial day after it is filed.

11 5. If it appears to the satisfaction of the court from specific facts
12 communicated by telephone to the court by an alleged victim that an act of
13 domestic violence has occurred and the alleged perpetrator of the domestic
14 violence has been arrested and is presently in custody pursuant to NRS
15 171.137, the court may grant a temporary order . ~~for protection against~~
16 ~~domestic violence.~~ Before approving an order under such circumstances,
17 the court shall confirm with the appropriate law enforcement agency that
18 the applicant is an alleged victim and that the alleged perpetrator is in
19 custody. Upon approval by the court, the signed order may be transmitted
20 to the facility where the alleged perpetrator is in custody by electronic or
21 telephonic transmission to a facsimile machine. If such an order is received
22 by the facility holding the alleged perpetrator while he is still in custody,
23 the order must be personally served by an authorized employee of the
24 facility before the alleged perpetrator is released. The court shall mail a
25 copy of each order issued pursuant to this subsection to the alleged victim
26 named in the order and cause the original order to be filed with the court
27 clerk on the first judicial day after it is issued.

28 6. In a county whose population is ~~400,000~~ *47,000* or more, the court
29 shall be available 24 hours a day, 7 days a week, including nonjudicial
30 days and holidays, to receive communications by telephone and for the
31 issuance of a temporary order ~~for protection against domestic violence~~
32 pursuant to subsection 5.

33 7. In a county whose population is less than ~~400,000~~ *47,000*, the
34 court may be available 24 hours a day, 7 days a week, including
35 nonjudicial days and holidays, to receive communications by telephone and
36 for the issuance of a temporary order ~~for protection against domestic~~
37 ~~violence~~ pursuant to subsection 5.

38 8. The clerk of the court shall inform the protected party upon the
39 successful transfer of information concerning the registration to the central
40 repository for Nevada records of criminal history as required pursuant to
41 NRS 33.095.

42 **Sec. 2.** NRS 33.030 is hereby amended to read as follows:

43 33.030 1. The court by a temporary order may:

44 (a) Enjoin the adverse party from threatening, physically injuring or
45 harassing the applicant or minor child, either directly or through an agent;

46 (b) Exclude the adverse party from the applicant's place of residence;

47 (c) Prohibit the adverse party from entering the residence, school or
48 place of employment of the applicant or minor child and order him to stay
49 away from any specified place frequented regularly by them;



* A B 3 7 7 *

1 (d) If it has jurisdiction under chapter 125A of NRS, grant temporary
2 custody of the minor child to the applicant; and

3 (e) Order such other relief as it deems necessary in an emergency
4 situation.

5 2. The court by an extended order may grant any relief enumerated in
6 subsection 1 and:

7 (a) Specify arrangements for visitation of the minor child by the adverse
8 party and require supervision of that visitation by a third party if necessary;
9 and

10 (b) Order the adverse party to:

11 (1) Avoid or limit communication with the applicant or minor child;

12 (2) Pay rent or make payments on a mortgage on the applicant's place
13 of residence or pay for the support of the applicant or minor child if he is
14 found to have a duty to support the applicant or minor child; and

15 (3) Pay all costs and fees incurred by the applicant in bringing the
16 action.

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

21 4. A temporary or extended order must specify, as applicable, the
22 county and city, if any, in which the residence, school, child care facility or
23 other provider of child care, and place of employment of the applicant or
24 minor child are located.

25 *5. A temporary or extended order must provide notice that a person*
26 *who is arrested for violating the order will not be admitted to bail sooner*
27 *than 12 hours after his arrest if such a violation is accompanied by a*
28 *direct or indirect threat of harm.*

29 **Sec. 3.** NRS 62.040 is hereby amended to read as follows:

30 62.040 1. Except if the child involved is subject to the exclusive
31 jurisdiction of an Indian tribe, and except as otherwise provided in this
32 chapter, the court has exclusive original jurisdiction in proceedings:

33 (a) Concerning any child living or found within the county who is in
34 need of supervision because he:

35 (1) Is a child who is subject to compulsory school attendance and is a
36 habitual truant from school;

37 (2) Habitually disobeys the reasonable and lawful demands of his
38 parents, guardian or other custodian, and is unmanageable; or

39 (3) Deserts, abandons or runs away from his home or usual place of
40 abode, and is in need of care or rehabilitation. The child must not be
41 considered a delinquent.

42 (b) Concerning any child living or found within the county who has
43 committed a delinquent act. A child commits a delinquent act if he violates
44 a county or municipal ordinance or any rule or regulation having the force
45 of law, or he commits an act designated a crime under the law of the State
46 of Nevada.

47 (c) Concerning any child in need of commitment to an institution for the
48 mentally retarded.



1 2. For the purposes of subsection 1, each of the following acts shall be
2 deemed not to be a delinquent act, and the court does not have jurisdiction
3 of a person who is charged with committing such an act:

4 (a) Murder or attempted murder and any other related offense arising
5 out of the same facts as the murder or attempted murder, regardless of the
6 nature of the related offense.

7 (b) Sexual assault or attempted sexual assault involving the use or
8 threatened use of force or violence against the victim and any other related
9 offense arising out of the same facts as the sexual assault or attempted
10 sexual assault, regardless of the nature of the related offense, if:

11 (1) The person was 16 years of age or older when the sexual assault
12 or attempted sexual assault was committed; and

13 (2) Before the sexual assault or attempted sexual assault was
14 committed, the person previously had been adjudicated delinquent for an
15 act that would have been a felony if committed by an adult.

16 (c) An offense or attempted offense involving the use or threatened use
17 of a firearm and any other related offense arising out of the same facts as
18 the offense or attempted offense involving the use or threatened use of a
19 firearm, regardless of the nature of the related offense, if:

20 (1) The person was 16 years of age or older when the offense or
21 attempted offense involving the use or threatened use of a firearm was
22 committed; and

23 (2) Before the offense or attempted offense involving the use or
24 threatened use of a firearm was committed, the person previously had been
25 adjudicated delinquent for an act that would have been a felony if
26 committed by an adult.

27 (d) A felony resulting in death or substantial bodily harm to the victim
28 and any other related offense arising out of the same facts as the felony,
29 regardless of the nature of the related offense, if:

30 (1) The felony was committed on the property of a public or private
31 school when pupils or employees of the school were present or may have
32 been present, at an activity sponsored by a public or private school or on a
33 school bus while the bus was engaged in its official duties; and

34 (2) The person intended to create a great risk of death or substantial
35 bodily harm to more than one person by means of a weapon, device or
36 course of action that would normally be hazardous to the lives of more than
37 one person.

38 (e) Any other offense if, before the offense was committed, the person
39 previously had been convicted of a criminal offense.

40 3. If a child is charged with a minor traffic offense, the court may
41 transfer the case and record to a justice's or municipal court if the judge
42 determines that it is in the best interest of the child. If a case is so
43 transferred:

44 (a) The restrictions set forth in subsection ~~6~~ 7 of NRS 62.170 are
45 applicable in those proceedings; and

46 (b) The child must be accompanied at all proceedings by a parent or
47 legal guardian.

48 With the consent of the judge of the juvenile division, the case may be
49 transferred back to the juvenile court.



1 4. As used in this section, "school bus" has the meaning ascribed to it
2 in NRS 483.160.

3 **Sec. 4.** NRS 62.170 is hereby amended to read as follows:

4 62.170 1. Except as otherwise provided in NRS 62.172 and 62.175, a
5 peace officer or probation officer may take into custody any child:

6 (a) Who the officer has probable cause to believe is violating or has
7 violated any law, ordinance or rule or regulation having the force of law; or
8 (b) Whose conduct indicates that he is a child in need of supervision.

9 2. Except as otherwise provided in this section and NRS 62.172 and
10 484.383, if a child is taken into custody:

11 (a) The officer shall, without undue delay, attempt to notify, if known,
12 the parent, guardian or custodian of the child;

13 (b) The facility in which the child is detained shall, without undue
14 delay:

15 (1) Notify a probation officer; and

16 (2) Attempt to notify, if known, the parent, guardian or custodian of
17 the child if such notification was not accomplished pursuant to paragraph
18 (a); and

19 (c) Unless it is impracticable or inadvisable or has been otherwise
20 ordered by the court, the child must be released to the custody of his parent
21 or other responsible adult who has signed a written agreement to bring the
22 child to the court at a stated time or at such time as the court may direct.
23 The written agreement must be submitted to the court as soon as possible.
24 If this person fails to produce the child as agreed or upon notice from the
25 court, a writ may be issued for the attachment of the person or of the child
26 requiring that the person or child, or both of them, be brought into the court
27 at a time stated in the writ.

28 3. Except as otherwise provided in this section and NRS 62.172, if a
29 child who is taken into custody is not released pursuant to subsection 2:

30 (a) The child must be taken without unnecessary delay to:

31 (1) The court; or

32 (2) The place of detention designated by the court and, as soon as
33 possible thereafter, the fact of detention must be reported to the court; and

34 (b) Pending further disposition of the case, the court may order that the
35 child be:

36 (1) Released to the custody of the parent or other person appointed by
37 the court;

38 (2) Detained in such place as is designated by the court, subject to
39 further order of the court; or

40 (3) Conditionally released for supervised detention at the home of the
41 child in lieu of detention at a facility for the detention of juveniles.

42 4. A child who is taken into custody for committing a battery that
43 constitutes domestic violence pursuant to NRS 33.018 must not be released
44 from custody sooner than 12 hours after he is taken into custody.

45 5. *A child who is taken into custody for violating a temporary or*
46 *extended order for protection against domestic violence issued pursuant*
47 *to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or*
48 *injunction that is in the nature of a temporary or extended order for*
49 *protection against domestic violence issued in an action or proceeding*



* A B 3 7 7 *

1 *brought pursuant to Title 11 of NRS must not be released from custody*
2 *sooner than 12 hours after he is taken into custody if such a violation is*
3 *accompanied by a direct or indirect threat of harm. For the purposes of*
4 *this subsection, an order or injunction is in the nature of a temporary or*
5 *extended order for protection against domestic violence if it grants relief*
6 *that might be given in a temporary or extended order issued pursuant to*
7 *NRS 33.017 to 33.100, inclusive.*

8 6. Except as otherwise provided in ~~{subsection}~~ subsections 4 and 5
9 and NRS 62.172, if a child is alleged to be delinquent or in need of
10 supervision, the child must not, before disposition of the case, be detained
11 in a facility for the secure detention of juveniles unless there is probable
12 cause to believe that:

13 (a) If the child is not detained, he is likely to commit an offense
14 dangerous to himself or to the community, or likely to commit damage to
15 property;

16 (b) The child will run away or be taken away so as to be unavailable for
17 proceedings of the court or to its officers;

18 (c) The child was brought to the probation officer pursuant to a court
19 order or warrant; or

20 (d) The child is a fugitive from another jurisdiction.

21 ~~{6-}~~ 7. If a child is not alleged to be delinquent or in need of
22 supervision, the child must not, at any time, be confined or detained in:

23 (a) A facility for the secure detention of juveniles; or

24 (b) Any police station, lockup, jail, prison or other facility in which
25 adults are detained or confined.

26 ~~{7-}~~ 8. If a child is less than 18 years of age, the child must not, at any
27 time, be confined or detained in any police station, lockup, jail, prison or
28 other facility where the child has regular contact with any adult who is
29 confined or detained therein and who has been convicted of a crime or
30 charged with a crime, unless:

31 (a) The child is alleged to be delinquent;

32 (b) An alternative facility is not available; and

33 (c) The child is separated by sight and sound from any adults who are
34 confined or detained therein.

35 ~~{8-}~~ 9. If a child who is alleged to be delinquent is taken into custody
36 and detained, the child must be given a detention hearing, conducted by the
37 judge or master:

38 (a) Within 24 hours after the child submits a written application;

39 (b) In a county whose population is less than 100,000, within 24 hours
40 after the commencement of detention at a police station, lockup, jail, prison
41 or other facility in which adults are detained or confined;

42 (c) In a county whose population is 100,000 or more, within 6 hours
43 after the commencement of detention at a police station, lockup, jail, prison
44 or other facility in which adults are detained or confined; or

45 (d) Within 72 hours after the commencement of detention at a facility in
46 which adults are not detained or confined,

47 whichever occurs first, excluding Saturdays, Sundays and holidays. A child
48 must not be released after a detention hearing without the written consent
49 of the judge or master.



1 ~~19.1~~ 10. If the parent, guardian or custodian of the child appears with
2 or on behalf of the child at a detention hearing, the judge or master shall
3 provide to him a certificate of attendance which he may provide to his
4 employer. The certificate of attendance must set forth the date and time of
5 appearance and the provisions of NRS 62.900. The certificate of attendance
6 must not set forth the name of the child or the offense alleged.

7 ~~10.1~~ 11. Except as otherwise provided in subsection ~~11.1~~ 12, if a
8 child who is alleged to be in need of supervision is taken into custody and
9 detained, the child must be released within 24 hours, excluding Saturdays,
10 Sundays and holidays, after his initial contact with a peace officer to his
11 parent, guardian or custodian, to any other person who is able to provide
12 adequate care and supervision, or to shelter care, unless the court holds a
13 detention hearing and determines the child:

- 14 (a) Has threatened to run away from home or from the shelter;
15 (b) Is accused of violent behavior at home; or
16 (c) Is accused of violating the terms of his supervision and consent
17 decree.

18 If the court makes such a determination, the child may be detained for an
19 additional 24 hours after the hearing, excluding Saturdays, Sundays and
20 holidays, if needed by the court to make an alternative placement. Such an
21 alternative placement must be in a facility in which there are no physically
22 restraining devices or barriers. A child must not be detained pursuant to
23 this subsection for a total period in excess of 48 hours, excluding
24 Saturdays, Sundays and holidays.

25 ~~11.1~~ 12. If a child who is alleged to be in need of supervision is taken
26 into custody and detained, the child need not be released pursuant to
27 subsection ~~10.1~~ 11, if the court holds a detention hearing and determines
28 the child:

- 29 (a) Is a ward of a federal court or held pursuant to federal statute;
30 (b) Has run away from another state and a jurisdiction within the state
31 has issued a want, warrant or request for the child; or
32 (c) Is accused of violating a valid court order.

33 If the court makes such a determination, the child may be detained for such
34 an additional period as necessary for the court to return the child to the
35 jurisdiction from which he originated or to make an alternative placement.
36 Such an alternative placement must be in a facility in which there are no
37 physically restraining devices or barriers.

38 ~~12.1~~ 13. During the pendency of a criminal or quasi-criminal charge
39 of a crime excluded from the original jurisdiction of the juvenile court
40 pursuant to NRS 62.040, a child may petition the juvenile court for
41 temporary placement in a facility for the detention of juveniles.

42 ~~13.1~~ 14. In determining whether to release a child pursuant to this
43 section to a person other than his parent, guardian or custodian, preference
44 must be given to any person related within the third degree of
45 consanguinity to the child who is suitable and able to provide proper care
46 and guidance for the child.

47 **Sec. 5.** NRS 62.172 is hereby amended to read as follows:

48 62.172 1. If a peace officer or probation officer has probable cause to
49 believe that a child is committing or has committed an offense that



1 involves the possession, use or threatened use of a firearm, the officer shall
2 take the child into custody.

3 2. If a child is taken into custody for an offense described in subsection
4 1, the child must not be released before a detention hearing is held pursuant
5 to subsection ~~8~~ 9 of NRS 62.170.

6 3. At a detention hearing held pursuant to subsection ~~8~~ 9 of NRS
7 62.170 concerning a child who was taken into custody for an offense
8 described in subsection 1, the judge or master shall determine whether to
9 order the child to be evaluated by a qualified professional. If the judge or
10 master orders a child to be evaluated by a qualified professional, the
11 evaluation must be completed within 14 days after the detention hearing.
12 Until the evaluation is completed, the child must be:

13 (a) Detained at a facility for the detention of juveniles; or

14 (b) Placed under a program of supervision in his home that may include
15 electronic surveillance of the child.

16 4. If a child is evaluated by a qualified professional pursuant to
17 subsection 3, the statements made by the child to the qualified professional
18 during the evaluation and any evidence directly or indirectly derived from
19 those statements may not be used for any purpose in a proceeding which is
20 conducted to prove that the child committed a delinquent act or criminal
21 offense. The provisions of this subsection do not prohibit the district
22 attorney from proving that the child committed a delinquent act or criminal
23 offense based upon evidence obtained from sources or by means that are
24 independent of the statements made by the child to the qualified
25 professional during the evaluation conducted pursuant to subsection 3.

26 5. As used in this section:

27 (a) "Firearm" has the meaning ascribed to it in subsection 1 of NRS
28 202.253.

29 (b) "Qualified professional" means:

30 (1) A psychiatrist licensed to practice medicine in this state and
31 certified by the American Board of Psychiatry and Neurology, Inc.;

32 (2) A psychologist licensed to practice in this state;

33 (3) A social worker holding a master's degree in social work and
34 licensed in this state as a clinical social worker;

35 (4) A registered nurse holding a master's degree in the field of
36 psychiatric nursing and licensed to practice professional nursing in this
37 state; or

38 (5) A marriage and family therapist licensed in this state pursuant to
39 chapter 641A of NRS.

40 **Sec. 6.** Chapter 125 of NRS is hereby amended by adding thereto a
41 new section to read as follows:

42 *1. A restraining order or injunction that is in the nature of a*
43 *temporary or extended order for protection against domestic violence*
44 *which is issued in an action or proceeding brought pursuant to this Title*
45 *must provide notice that a person who is arrested for violating the order*
46 *or injunction will not be admitted to bail sooner than 12 hours after his*
47 *arrest if such a violation is accompanied by a direct or indirect threat of*
48 *harm.*



1 **2. For the purposes of this section, an order or injunction is in the**
2 **nature of a temporary or extended order for protection against domestic**
3 **violence if it grants relief that might be given in a temporary or extended**
4 **order issued pursuant to NRS 33.017 to 33.100, inclusive.**

5 **Sec. 7.** NRS 171.1225 is hereby amended to read as follows:

6 171.1225 1. When investigating an act of domestic violence, a peace
7 officer shall:

8 (a) Make a good faith effort to explain the provisions of NRS 171.137
9 pertaining to domestic violence and advise victims of all reasonable means
10 to prevent further abuse, including advising each person of the availability
11 of a shelter or other services in the community.

12 (b) Provide a person suspected of being the victim of an act of domestic
13 violence with a written copy of the following statements:

14 (1) My name is officer (naming the investigating
15 officer). Nevada law requires me to inform you of the following
16 information.

17 (2) If I have probable cause to believe that a battery has been
18 committed against you, your minor child or the minor child of the person
19 believed to have committed the battery in the last 24 hours by your spouse,
20 your former spouse, any other person to whom you are related by blood or
21 marriage, a person with whom you are or were actually residing, a person
22 with whom you have had or are having a dating relationship or a person
23 with whom you have a child in common, I am required, unless mitigating
24 circumstances exist, to arrest the person suspected of committing the act.

25 (3) If I am unable to arrest the person suspected of committing the
26 battery, you have the right to request that the prosecutor file a criminal
27 complaint against the person. I can provide you with information on this
28 procedure. If convicted, the person who committed the battery may be
29 placed on probation, ordered to see a counselor, put in jail or fined.

30 (4) The law provides that you may seek a court order for the
31 protection of you or your minor children against further threats or acts of
32 domestic violence. You do not need to hire a lawyer to obtain such an
33 order for protection.

34 (5) An order for protection may require the person who committed or
35 threatened the act of domestic violence against you to:

36 (I) Stop threatening, harassing or injuring you or your children;

37 (II) Move out of your residence;

38 (III) Stay away from your place of employment;

39 (IV) Stay away from the school attended by your children;

40 (V) Stay away from any place you or your children regularly go;

41 and

42 (VI) Avoid or limit all communication with you or your children.

43 (6) A court may make future orders for protection which award you
44 custody of your children and require the person who committed or
45 threatened the act of domestic violence against you to pay:

46 (I) The rent or mortgage due on the place in which you live;

47 (II) The amount of money necessary for the support of your
48 children; and



* A B 3 7 7 *

(III) Part or all of the costs incurred by you in obtaining the order for protection.

(7) To get an order for protection, go to room number (state the room number of the office at the court) at the court, which is located at (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.

(8) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, he may be arrested **and, if such a violation is accompanied by a direct or indirect threat of harm, he will not be admitted to bail sooner than 12 hours after his arrest.**

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at (state name, address and telephone number of local program) or you may call, without charge to you, the statewide program against domestic violence at (state toll-free telephone number of statewide program).

2. As used in this section, "act of domestic violence" means any of the following acts committed by a person against his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(f) False imprisonment.

(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

3. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or his employer.

4. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual



* A B 3 7 7 *

1 relationship or an ordinary association between persons in a business or
2 social context.

3 **Sec. 8.** NRS 178.484 is hereby amended to read as follows:

4 178.484 1. Except as otherwise provided in this section, a person
5 arrested for an offense other than murder of the first degree must be
6 admitted to bail.

7 2. A person arrested for a felony who has been released on probation
8 or parole for a different offense must not be admitted to bail unless:

9 (a) A court issues an order directing that the person be admitted to bail;

10 (b) The state board of parole commissioners directs the detention
11 facility to admit the person to bail; or

12 (c) The division of parole and probation of the department of motor
13 vehicles and public safety directs the detention facility to admit the person
14 to bail.

15 3. A person arrested for a felony whose sentence has been suspended
16 pursuant to NRS 4.373 or 5.055 for a different offense or who has been
17 sentenced to a term of residential confinement pursuant to NRS 4.3762 or
18 5.076 for a different offense must not be admitted to bail unless:

19 (a) A court issues an order directing that the person be admitted to bail;
20 or

21 (b) A department of alternative sentencing directs the detention facility
22 to admit the person to bail.

23 4. A person arrested for murder of the first degree may be admitted to
24 bail unless the proof is evident or the presumption great by any competent
25 court or magistrate authorized by law to do so in the exercise of discretion,
26 giving due weight to the evidence and to the nature and circumstances of
27 the offense.

28 5. A person arrested for a battery that constitutes domestic violence
29 pursuant to NRS 33.018 must not be admitted to bail sooner than 12 hours
30 after his arrest. If the person is admitted to bail more than 12 hours after his
31 arrest, pursuant to subsection 5 of NRS 171.178, without appearing
32 personally before a magistrate, the amount of bail must be:

33 (a) Three thousand dollars, if the person has no previous convictions of
34 battery that constitute domestic violence pursuant to NRS 33.018 and there
35 is no reason to believe that the battery for which he has been arrested
36 resulted in substantial bodily harm;

37 (b) Five thousand dollars, if the person has:

38 (1) No previous convictions of battery that constitute domestic
39 violence pursuant to NRS 33.018, but there is reason to believe that the
40 battery for which he has been arrested resulted in substantial bodily harm;
41 or

42 (2) One previous conviction of battery that constitutes domestic
43 violence pursuant to NRS 33.018, but there is no reason to believe that the
44 battery for which he has been arrested resulted in substantial bodily harm;
45 or

46 (c) Fifteen thousand dollars, if the person has:

47 (1) One previous conviction of battery that constitutes domestic
48 violence pursuant to NRS 33.018 and there is reason to believe that the



* A B 3 7 7 *

1 battery for which he has been arrested resulted in substantial bodily harm;
2 or

3 (2) Two or more previous convictions of battery that constitute
4 domestic violence pursuant to NRS 33.018.

5 The provisions of this subsection do not affect the authority of a magistrate
6 or a court to set the amount of bail when the person personally appears
7 before the magistrate or the court. For the purposes of this subsection, a
8 person shall be deemed to have a previous conviction of battery that
9 constitutes domestic violence pursuant to NRS 33.018 if the person has
10 been convicted of such an offense in this state or has been convicted of
11 violating a law of any other jurisdiction that prohibits the same or similar
12 conduct.

13 6. *A person arrested for violating a temporary or extended order for*
14 *protection against domestic violence issued pursuant to NRS 33.017 to*
15 *33.100, inclusive, or for violating a restraining order or injunction that is*
16 *in the nature of a temporary or extended order for protection against*
17 *domestic violence issued in an action or proceeding brought pursuant to*
18 *Title 11 of NRS must not be admitted to bail sooner than 12 hours after*
19 *his arrest if such a violation is accompanied by a direct or indirect threat*
20 *of harm. If the person is admitted to bail more than 12 hours after his*
21 *arrest, pursuant to subsection 5 of NRS 171.178, without appearing*
22 *personally before a magistrate, the amount of bail must be:*

23 (a) *Three thousand dollars, if the person has no previous convictions*
24 *of violating a temporary or extended order for protection against*
25 *domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or*
26 *of violating a restraining order or injunction that is in the nature of a*
27 *temporary or extended order for protection against domestic violence*
28 *issued in an action or proceeding brought pursuant to Title 11 of NRS;*

29 (b) *Five thousand dollars, if the person has one previous conviction of*
30 *violating a temporary or extended order for protection against domestic*
31 *violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of*
32 *violating a restraining order or injunction that is in the nature of a*
33 *temporary or extended order for protection against domestic violence*
34 *issued in an action or proceeding brought pursuant to Title 11 of NRS;*
35 *or*

36 (c) *Fifteen thousand dollars, if the person has two or more previous*
37 *convictions of violating a temporary or extended order for protection*
38 *against domestic violence issued pursuant to NRS 33.017 to 33.100,*
39 *inclusive, or of violating a restraining order or injunction that is in the*
40 *nature of a temporary or extended order for protection against domestic*
41 *violence issued in an action or proceeding brought pursuant to Title 11*
42 *of NRS.*

43 *The provisions of this subsection do not affect the authority of a*
44 *magistrate or a court to set the amount of bail when the person*
45 *personally appears before the magistrate or the court. For the purposes*
46 *of this subsection, a person shall be deemed to have a previous conviction*
47 *of violating a temporary or extended order for protection against*
48 *domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or*
49 *of violating a restraining order or injunction that is in the nature of a*



1 *temporary or extended order for protection against domestic violence*
2 *issued in an action or proceeding brought pursuant to Title 11 of NRS if*
3 *the person has been convicted of such an offense in this state or has been*
4 *convicted of violating a law of any other jurisdiction that prohibits the*
5 *same or similar conduct.*

6 7. The court may, before releasing a person arrested for an offense
7 punishable as a felony, require the surrender to the court of any passport
8 the person possesses.

9 ~~7.1~~ 8. Before releasing a person arrested for any crime, the court may
10 impose such reasonable conditions on the person as it deems necessary to
11 protect the health, safety and welfare of the community and to ensure that
12 the person will appear at all times and places ordered by the court,
13 including, without limitation:

14 (a) Requiring the person to remain in this state or a certain county
15 within this state;

16 (b) Prohibiting the person from contacting or attempting to contact a
17 specific person or from causing or attempting to cause another person to
18 contact that person on his behalf;

19 (c) Prohibiting the person from entering a certain geographic area; or

20 (d) Prohibiting the person from engaging in specific conduct that may
21 be harmful to his own health, safety or welfare, or the health, safety or
22 welfare of another person.

23 In determining whether a condition is reasonable, the court shall consider
24 the factors listed in NRS 178.4853.

25 ~~8.1~~ 9. If a person fails to comply with a condition imposed pursuant
26 to subsection ~~7.1~~ 8, the court may, after providing the person with
27 reasonable notice and an opportunity for a hearing:

28 (a) Deem such conduct a contempt pursuant to NRS 22.010; or

29 (b) Increase the amount of bail pursuant to NRS 178.499.

30 ~~9.1~~ 10. An order issued pursuant to this section that imposes a
31 condition on a person admitted to bail must include a provision ordering
32 any law enforcement officer to arrest the person if he has probable cause to
33 believe that the person has violated a condition of his bail.

34 ~~10.1~~ 11. Before a person may be admitted to bail, he must sign a
35 document stating that:

36 (a) He will appear at all times and places as ordered by the court
37 releasing him and as ordered by any court before which the charge is
38 subsequently heard;

39 (b) He will comply with the other conditions which have been imposed
40 by the court and are stated in the document; and

41 (c) If he fails to appear when so ordered and is taken into custody
42 outside of this state, he waives all his rights relating to extradition
43 proceedings.

44 The signed document must be filed with the clerk of the court of competent
45 jurisdiction as soon as practicable, but in no event later than the next
46 business day.

47 ~~11.1~~ 12. If a person admitted to bail fails to appear as ordered by a
48 court and the jurisdiction incurs any cost in returning the person to the



1 jurisdiction to stand trial, the person who failed to appear is responsible for
2 paying those costs as restitution.

3 *13. For the purposes of subsection 6, an order or injunction is in the*
4 *nature of a temporary or extended order for protection against domestic*
5 *violence if it grants relief that might be given in a temporary or extended*
6 *order issued pursuant to NRS 33.017 to 33.100, inclusive.*

7 **Sec. 9.** NRS 178.4851 is hereby amended to read as follows:

8 178.4851 1. Upon a showing of good cause, a court may release
9 without bail any person entitled to bail if it appears to the court that it can
10 impose conditions on the person that will adequately protect the health,
11 safety and welfare of the community and ensure that he will appear at all
12 times and places ordered by the court.

13 2. In releasing a person without bail the court may impose such
14 conditions as it deems necessary to protect the health, safety and welfare of
15 the community and to ensure that he will appear at all times and places
16 ordered by the court, including, without limitation, any condition set forth
17 in subsection ~~7~~ 8 of NRS 178.484.

18 3. Upon a showing of good cause, a sheriff or chief of police may
19 release without bail any person charged with a misdemeanor pursuant to
20 standards established by a court of competent jurisdiction.

21 4. Before a person may be released without bail, he must file with the
22 clerk of the court of competent jurisdiction a signed document stating that:

23 (a) He will appear at all times and places as ordered by the court
24 releasing him and as ordered by any court before which the charge is
25 subsequently heard;

26 (b) He will comply with the other conditions which have been imposed
27 by the court and are stated in the document;

28 (c) If he fails to appear when so ordered and is taken into custody
29 outside of this state, he waives all his rights relating to extradition
30 proceedings; and

31 (d) He understands that any court of competent jurisdiction may revoke
32 the order of release without bail and may order him into custody or require
33 him to furnish bail or otherwise ensure the protection of the health, safety
34 and welfare of the community or his appearance.

35 5. If a jurisdiction incurs any costs in returning a person to the
36 jurisdiction to stand trial, the person failing to appear is responsible for
37 paying those costs as restitution.

38 6. An order issued pursuant to this section that imposes a condition on
39 a person who is released without bail must include a provision ordering a
40 law enforcement officer to arrest the person if he has probable cause to
41 believe that the person has violated a condition of his release.

42 **Sec. 10.** The provisions of subsection 1 of NRS 354.599 do not apply
43 to any additional expenses of a local government that are related to the
44 provisions of this act.

45 **Sec. 11.** The amendatory provisions of this act do not apply to a
46 person who is admitted to bail before October 1, 2001.

