

ASSEMBLY BILL NO. 581—COMMITTEE ON JUDICIARY

(ON BEHALF OF OFFICE OF THE ATTORNEY GENERAL)

MARCH 26, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning orders for protection against domestic violence. (BDR 3-480)

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

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

AN ACT relating to orders; making various changes concerning orders for protection against domestic violence; 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 a
2 new section to read as follows:

3 *1. Except as otherwise provided in subsection 2, an order for*
4 *protection against domestic violence issued by the court of another state,*
5 *territory or Indian tribe within the United States, including, without*
6 *limitation, any provisions in the order related to custody and support, is*
7 *valid and must be accorded full faith and credit and enforced by the*
8 *courts of this state as if it were issued by a court in this state, regardless*
9 *of whether the order has been registered in this state, if the court in this*
10 *state determines that:*

11 *(a) The issuing court had jurisdiction over the parties and the subject*
12 *matter under the laws of the state, territory or Indian tribe in which the*
13 *order was issued; and*

14 *(b) The adverse party was given reasonable notice and an opportunity*
15 *to be heard before the order was issued or, in the case of an ex parte*
16 *order, the adverse party was given reasonable notice and an opportunity*
17 *to be heard within the time required by the laws of the issuing state,*
18 *territory or tribe and, in any event, within a reasonable time after the*
19 *order was issued.*



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1 2. *If the order for protection against domestic violence issued by the*
2 *court of another state, territory or Indian tribe is a mutual order for*
3 *protection against domestic violence and:*

4 (a) *No counter or cross-petition or other pleading was filed by the*
5 *adverse party; or*

6 (b) *A counter or cross-petition or other pleading was filed and the*
7 *court did not make a specific finding of domestic violence by*
8 *both parties,*

9 *the court shall refuse to enforce the order against the applicant and may*
10 *determine whether to issue its own temporary or extended order.*

11 3. *A law enforcement officer shall enforce an order for protection*
12 *against domestic violence issued by the court of another state, territory or*
13 *Indian tribe and shall make an arrest for a violation thereof in the same*
14 *manner that a law enforcement officer would make an arrest for a*
15 *violation of a temporary or extended order issued by a court of this state*
16 *unless it is apparent to the officer that the order is not authentic on its*
17 *face.*

18 4. *In enforcing an order for protection against domestic violence*
19 *issued by the court of another state, territory or Indian tribe or arresting*
20 *a person for a violation of such an order, a law enforcement officer may*
21 *rely upon:*

22 (a) *A copy of an order for protection against domestic violence that*
23 *has been provided to the officer; and*

24 (b) *The statement of a person protected by such an order that the*
25 *order remains in effect.*

26 5. *The fact that an order has not been registered or included in the*
27 *repository for information concerning orders for protection against*
28 *domestic violence pursuant to NRS 33.095 or in any national crime*
29 *database is not grounds for a law enforcement officer to refuse to*
30 *enforce the terms of the order unless it is apparent to the officer that the*
31 *order is not authentic on its face.*

32 6. *A court, law enforcement officer or any other person who enforces*
33 *an order for protection against domestic violence issued by the court of*
34 *another state, territory or Indian tribe based upon a reasonable belief*
35 *that the order is valid is immune from civil and criminal liability for any*
36 *action taken based on that belief.*

37 **Sec. 2.** NRS 33.017 is hereby amended to read as follows:

38 33.017 As used in NRS 33.017 to 33.100, inclusive, *and section 1 of*
39 *this act*, unless the context otherwise requires:

40 1. "Extended order" means an extended order for protection against
41 domestic violence.

42 2. "Temporary order" means a temporary order for protection against
43 domestic violence.

44 **Sec. 3.** NRS 33.050 is hereby amended to read as follows:

45 33.050 1. The payment of all costs and official fees must be deferred
46 for any applicant for a temporary or extended order. After any hearing and
47 no later than final disposition of the application or order, the court shall



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1 assess the costs and fees against the adverse party, except that the court
2 may reduce them or waive them, as justice may require.

3 2. The clerk of the court shall provide each party, free of cost, with
4 information about the:

- 5 (a) Availability of temporary and extended orders;
6 (b) Procedure for filing an application for an order; and
7 (c) Right to proceed without legal counsel.

8 3. The clerk of the court or other person designated by the court shall
9 assist any party in completing and filing the application, affidavit, and any
10 other paper or pleading necessary to initiate or respond to an application
11 for a temporary or extended order. This assistance does not constitute the
12 practice of law, but the clerk shall not render any advice or service that
13 requires the professional judgment of an attorney.

14 *4. The clerk of the court shall not charge an applicant for a*
15 *temporary or extended order for providing the applicant with a certified*
16 *copy of the temporary or extended order.*

17 **Sec. 4.** NRS 33.060 is hereby amended to read as follows:

18 33.060 1. The court shall transmit, by the end of the next business
19 day after the order is issued, a copy of the temporary or extended order to
20 the appropriate law enforcement agency which has jurisdiction over the
21 residence, school, child care facility or other provider of child care, or
22 place of employment of the applicant or the minor child.

23 2. The court ~~may~~ *shall* order the appropriate law enforcement agency
24 to serve, *without charge*, the adverse party personally with the temporary
25 order ~~if it finds that such service is necessary to avoid any act of violence~~
26 and to file with or mail to the clerk of the court proof of service by the end
27 of the next business day after service is made. Service of an application for
28 an extended order and the notice of hearing thereon must be served upon
29 the adverse party pursuant to the Nevada Rules of Civil Procedure.

30 3. A law enforcement agency shall enforce a temporary or extended
31 order without regard to the county in which the order was issued.

32 4. The clerk of the court shall issue, without fee, a copy of the
33 temporary or extended order to the applicant and the adverse party.

34 **Sec. 5.** NRS 33.090 is hereby amended to read as follows:

35 33.090 1. ~~A valid order for protection against domestic violence~~
36 ~~issued by a court of another state, territory or Indian tribe within the United~~
37 ~~States must be accorded full faith and credit by the courts of this state and~~
38 ~~enforced as if it were issued by a court in this state, regardless of whether~~
39 ~~the order has been registered in this state.~~

40 ~~2. A person may apply to a court of this state to~~ register an order for
41 protection against domestic violence issued by the court of another state,
42 territory or Indian tribe within the United States by presenting a certified
43 copy of the order to the clerk of the court in a judicial district in which the
44 person believes that enforcement may be necessary.

45 ~~3. Except as otherwise provided in subsection 5, upon application by~~
46 ~~the protected party pursuant to subsection 2, a court of competent~~
47 ~~jurisdiction in this state shall register such an order if:~~



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1 ~~—(a) The court determines that the issuing court had proper jurisdiction~~
2 ~~over the parties and the subject matter under the laws of the state, territory~~
3 ~~or tribe; and~~

4 ~~—(b) The court determines that the adverse party was given reasonable~~
5 ~~notice and an opportunity to be heard before the order was issued or, in the~~
6 ~~case of an ex parte order, the adverse party was given reasonable notice~~
7 ~~and an opportunity to be heard as soon as possible after the order was~~
8 ~~issued.~~

9 ~~—4. An order that is registered has the same effect and must be enforced~~
10 ~~in like manner as an order for protection against domestic violence issued~~
11 ~~by a court of this state.~~

12 ~~—5. If the order for protection against domestic violence issued by the~~
13 ~~court of another state, territory or Indian tribe was a mutual order for~~
14 ~~protection against domestic violence and:~~

15 ~~—(a) No counter or cross petition was filed seeking such protection order;~~

16 ~~—(b) A counter or cross petition was filed and the court did not make a~~
17 ~~specific finding of domestic violence by both parties; or~~

18 ~~—(c) The person who is applying to register the order has violated a law~~
19 ~~of the State of Nevada relating to a different protection order issued against~~
20 ~~him,~~

21 ~~the court may refuse to register and enforce the order and may determine~~
22 ~~whether to issue its own temporary or extended order.~~

23 ~~—6. A temporary or extended order of another state, territory or Indian~~
24 ~~tribe presented pursuant to this section which appears authentic on its face~~
25 ~~must be presumed valid.~~

26 ~~—7. A court, law enforcement officer or any other person who enforces~~
27 ~~an order for protection against domestic violence based upon a reasonable~~
28 ~~belief that the order is valid is immune from civil liability for any action~~
29 ~~taken based on that belief.~~

30 ~~—8.†~~ 2. The clerk of the court shall **maintain** :

31 **(a) Maintain** a record of each order registered pursuant to this section ~~†~~.

32 ~~—9. The clerk shall not charge a fee for an application to register or for~~
33 ~~registering an order pursuant to this section.~~

34 ~~—10. The clerk shall inform~~ ;

35 **(b) Provide the protected party with a certified copy of the order**
36 **registered pursuant to this section bearing proof of registration with the**
37 **court;**

38 **(c) Forward, by the end of the next business day, a copy of an order**
39 **registered pursuant to this section to the appropriate law enforcement**
40 **agency which has jurisdiction over the residence, school, child care**
41 **facility or other provider of child care, or place of employment of the**
42 **protected party or the child of the protected party; and**

43 **(d) Inform** the protected party upon the successful transfer of
44 information concerning the registration to the central repository for Nevada
45 records of criminal history as required pursuant to NRS 33.095.

46 3. **The clerk of the court shall not:**

47 **(a) Charge a fee for providing an application to register an order, for**
48 **registering an order or for providing a certified copy of an order**
49 **pursuant to this section.**



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1 *(b) Notify the party against whom the order has been made that an*
2 *order for protection against domestic violence issued by the court of*
3 *another state, territory or Indian tribe has been registered in this state.*

4 *4. A person who registers an order pursuant to this section must not*
5 *be charged to have the order served in this state.*

6 **Sec. 6.** NRS 4.060 is hereby amended to read as follows:

7 4.060 1. Except as otherwise provided in this section ~~H~~ *and NRS*
8 *33.017 to 33.100, inclusive, and section 1 of this act*, each justice of the
9 peace shall charge and collect the following fees:

10 (a) On the commencement of any action or proceeding in
11 the justice's court, other than in actions commenced pursuant
12 to chapter 73 of NRS, to be paid by the party commencing the
13 action:

If the sum claimed does not exceed \$1,000.....	\$28.00
If the sum claimed exceeds \$1,000 but does not exceed	
\$2,500.....	50.00
If the sum claimed exceeds \$2,500 but does not exceed	
\$4,500.....	100.00
If the sum claimed exceeds \$4,500 but does not exceed	
\$6,500.....	125.00
If the sum claimed exceeds \$6,500 but does not exceed	
\$7,500.....	150.00
In all other civil actions	28.00

24 (b) For the preparation and filing of an affidavit and order
25 in an action commenced pursuant to chapter 73 of NRS:

If the sum claimed does not exceed \$1,000.....	25.00
If the sum claimed exceeds \$1,000 but does not exceed	
\$2,500.....	45.00
If the sum claimed exceeds \$2,500 but does not exceed	
\$5,000.....	65.00

31 (c) On the appearance of any defendant, or any number of
32 defendants answering jointly, to be paid him or them on filing
33 the first paper in the action, or at the time of appearance:

In all civil actions	12.00
For every additional defendant, appearing separately	6.00

36 (d) No fee may be charged where a defendant or defendants
37 appear in response to an affidavit and order issued pursuant to
38 the provisions of chapter 73 of NRS.

39 (e) For the filing of any paper in intervention

40 (f) For the issuance of any writ of attachment, writ of
41 garnishment, writ of execution or any other writ designed to
42 enforce any judgment of the court.....

43 (g) For filing a notice of appeal, and appeal bonds

44 One charge only may be made if both papers are filed at
45 the same time.

46 (h) For issuing supersedeas to a writ designed to enforce a
47 judgment or order of the court.....

48 (i) For preparation and transmittal of transcript and papers
49 on appeal



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- 1 (j) For celebrating a marriage and returning the certificate
2 to the county recorder..... 35.00
3 (k) For entering judgment by confession..... 6.00
4 (l) For preparing any copy of any record, proceeding or
5 paper, for each page 30
6 (m) For each certificate of the clerk, under the seal of the
7 court 3.00
8 (n) For searching records or files in his office, for each year 1.00
9 (o) For filing and acting upon each bail or property bond 40.00
10 2. A justice of the peace shall not charge or collect any of the fees set
11 forth in subsection 1 for any service rendered by him to the county in
12 which his township is located.
13 3. A justice of the peace shall not charge or collect the fee pursuant to
14 paragraph (j) of subsection 1 if he performs a marriage ceremony in a
15 commissioner township.
16 4. Except as otherwise provided by an ordinance adopted pursuant to
17 the provisions of NRS 244.207, the justice of the peace shall, on or before
18 the fifth day of each month, account for and pay to the county treasurer all
19 fees collected during the preceding month, except for the fees he may
20 retain as compensation and the fees he is required to pay to the state
21 treasurer pursuant to subsection 5.
22 5. The justice of the peace shall, on or before the fifth day of each
23 month, pay to the state treasurer ~~half~~ *one-half* of the fees collected
24 pursuant to paragraph (o) of subsection 1 during the preceding month. The
25 state treasurer shall deposit the money in the fund for the compensation of
26 victims of crime.
27 **Sec. 7.** This act becomes effective on July 1, 2001.

