

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT A.B. 581

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; providing that certain orders for protection issued in another state are not subject to certain requirements to be given full faith and credit in this state; 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. An officer shall determine that an order is authentic on its face if
18 the order contains:

19 (a) The names of the parties;

20 (b) Information indicating that the order has not expired; and

21 (c) Information indicating that the court which issued the order had
22 legal authority to issue the order as evidenced by a certified copy of the
23 order, a file-stamped copy of the order, an authorized signature or stamp
24 of the court which issued the order or another indication of the authority
25 of the court which issued the order.

26 An officer may determine that any other order is authentic on its face.

27 4. In enforcing an order for protection against domestic violence
28 issued by the court of another state, territory or Indian tribe or arresting
29 a person for a violation of such an order, a law enforcement officer may
30 rely upon:

31 (a) A copy of an order for protection against domestic violence that
32 has been provided to the officer;

33 (b) An order for protection against domestic violence that is included
34 in the repository for information concerning orders for protection
35 against domestic violence pursuant to NRS 33.095 or in any national
36 crime information database;

37 (c) Oral or written confirmation from a law enforcement agency or
38 court in the jurisdiction in which the order for protection against
39 domestic violence was issued that the order is valid and effective; or

40 (d) An examination of the totality of the circumstances concerning the
41 existence of a valid and effective order for protection against domestic
42 violence, including, without limitation, the statement of a person
43 protected by the order that the order remains in effect.

44 5. The fact that an order has not been registered or included in the
45 repository for information concerning orders for protection against
46 domestic violence pursuant to NRS 33.095 or in any national crime
47 information database is not grounds for a law enforcement officer to
48 refuse to enforce the terms of the order unless it is apparent to the officer
49 that the order is not authentic on its face.



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1 **6. A court or law enforcement officer who enforces an order for**
2 **protection against domestic violence issued by the court of another state,**
3 **territory or Indian tribe based upon a reasonable belief that the order is**
4 **valid or who refuses to enforce such an order based upon a reasonable**
5 **belief that the order is not valid and the employer of such a law**
6 **enforcement officer are immune from civil and criminal liability for any**
7 **action taken or not taken based on that belief.**

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

9 33.017 As used in NRS 33.017 to 33.100, inclusive, **and section 1 of**
10 **this act**, unless the context otherwise requires:

11 1. "Extended order" means an extended order for protection against
12 domestic violence.

13 2. "Temporary order" means a temporary order for protection against
14 domestic violence.

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

16 33.050 1. The payment of all costs and official fees must be deferred
17 for any applicant for a temporary or extended order. After any hearing and
18 no later than final disposition of the application or order, the court shall
19 assess the costs and fees against the adverse party, except that the court
20 may reduce them or waive them, as justice may require.

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

23 (a) Availability of temporary and extended orders;

24 (b) Procedure for filing an application for an order; and

25 (c) Right to proceed without legal counsel.

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

32 **4. The clerk of the court shall not charge an applicant for a**
33 **temporary or extended order for providing the applicant with a certified**
34 **copy of the temporary or extended order.**

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

36 33.060 1. The court shall transmit, by the end of the next business
37 day after the order is issued, a copy of the temporary or extended order to
38 the appropriate law enforcement agency which has jurisdiction over the
39 residence, school, child care facility or other provider of child care, or
40 place of employment of the applicant or the minor child.

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

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



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1 4. The clerk of the court shall issue, without fee, a copy of the
2 temporary or extended order to the applicant and the adverse party.
3 **Sec. 5.** NRS 33.090 is hereby amended to read as follows:
4 33.090 1. ~~{A valid order for protection against domestic violence~~
5 ~~issued by a court of another state, territory or Indian tribe within the United~~
6 ~~States must be accorded full faith and credit by the courts of this state and~~
7 ~~enforced as if it were issued by a court in this state, regardless of whether~~
8 ~~the order has been registered in this state.~~
9 ~~—2.} A person may ~~{apply to a court of this state to}~~ register an order for
10 protection against domestic violence issued by the court of another state,
11 territory or Indian tribe within the United States by presenting a certified
12 copy of the order to the clerk of the court in a judicial district in which the
13 person believes that enforcement may be necessary.
14 ~~{3. Except as otherwise provided in subsection 5, upon application by~~
15 ~~the protected party pursuant to subsection 2, a court of competent~~
16 ~~jurisdiction in this state shall register such an order if:~~
17 ~~—(a) The court determines that the issuing court had proper jurisdiction~~
18 ~~over the parties and the subject matter under the laws of the state, territory~~
19 ~~or tribe; and~~
20 ~~—(b) The court determines that the adverse party was given reasonable~~
21 ~~notice and an opportunity to be heard before the order was issued or, in the~~
22 ~~case of an ex parte order, the adverse party was given reasonable notice~~
23 ~~and an opportunity to be heard as soon as possible after the order was~~
24 ~~issued.~~
25 ~~—4. An order that is registered has the same effect and must be enforced~~
26 ~~in like manner as an order for protection against domestic violence issued~~
27 ~~by a court of this state.~~
28 ~~—5. If the order for protection against domestic violence issued by the~~
29 ~~court of another state, territory or Indian tribe was a mutual order for~~
30 ~~protection against domestic violence and:~~
31 ~~—(a) No counter or cross petition was filed seeking such protection order;~~
32 ~~—(b) A counter or cross petition was filed and the court did not make a~~
33 ~~specific finding of domestic violence by both parties; or~~
34 ~~—(c) The person who is applying to register the order has violated a law~~
35 ~~of the State of Nevada relating to a different protection order issued against~~
36 ~~him;~~
37 ~~the court may refuse to register and enforce the order and may determine~~
38 ~~whether to issue its own temporary or extended order.~~
39 ~~—6. A temporary or extended order of another state, territory or Indian~~
40 ~~tribe presented pursuant to this section which appears authentic on its face~~
41 ~~must be presumed valid.~~
42 ~~—7. A court, law enforcement officer or any other person who enforces~~
43 ~~an order for protection against domestic violence based upon a reasonable~~
44 ~~belief that the order is valid is immune from civil liability for any action~~
45 ~~taken based on that belief.~~
46 ~~—8.} 2. The clerk of the court shall ~~{maintain}~~ :~~
47 ~~(a) Maintain~~ a record of each order registered pursuant to this section ~~{.~~
48 ~~—9. The clerk shall not charge a fee for an application to register or for~~
49 ~~registering an order pursuant to this section.~~~~



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- 1 ~~10. The clerk shall inform~~ ;
2 (b) Provide the protected party with a certified copy of the order
3 registered pursuant to this section bearing proof of registration with the
4 court;
5 (c) Forward, by the end of the next business day, a copy of an order
6 registered pursuant to this section to the appropriate law enforcement
7 agency which has jurisdiction over the residence, school, child care
8 facility or other provider of child care, or place of employment of the
9 protected party or the child of the protected party; and
10 (d) Inform the protected party upon the successful transfer of
11 information concerning the registration to the central repository for Nevada
12 records of criminal history as required pursuant to NRS 33.095.
13 3. The clerk of the court shall not:
14 (a) Charge a fee for registering an order or for providing a certified
15 copy of an order pursuant to this section.
16 (b) Notify the party against whom the order has been made that an
17 order for protection against domestic violence issued by the court of
18 another state, territory or Indian tribe has been registered in this state.
19 4. A person who registers an order pursuant to this section must not
20 be charged to have the order served in this state.
21 Sec. 6. NRS 4.060 is hereby amended to read as follows:
22 4.060 1. Except as otherwise provided in this section ~~H~~ and NRS
23 33.017 to 33.100, inclusive, and section 1 of this act, each justice of the
24 peace shall charge and collect the following fees:
25 (a) On the commencement of any action or proceeding in
26 the justice's court, other than in actions commenced pursuant
27 to chapter 73 of NRS, to be paid by the party commencing the
28 action:
29 If the sum claimed does not exceed \$1,000..... \$28.00
30 If the sum claimed exceeds \$1,000 but does not exceed
31 \$2,500..... 50.00
32 If the sum claimed exceeds \$2,500 but does not exceed
33 \$4,500..... 100.00
34 If the sum claimed exceeds \$4,500 but does not exceed
35 \$6,500..... 125.00
36 If the sum claimed exceeds \$6,500 but does not exceed
37 \$7,500..... 150.00
38 In all other civil actions..... 28.00
39 (b) For the preparation and filing of an affidavit and order
40 in an action commenced pursuant to chapter 73 of NRS:
41 If the sum claimed does not exceed \$1,000..... 25.00
42 If the sum claimed exceeds \$1,000 but does not exceed
43 \$2,500..... 45.00
44 If the sum claimed exceeds \$2,500 but does not exceed
45 \$5,000..... 65.00
46 (c) On the appearance of any defendant, or any number of
47 defendants answering jointly, to be paid him or them on filing
48 the first paper in the action, or at the time of appearance:
49 In all civil actions..... 12.00



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- 1 For every additional defendant, appearing separately 6.00
2 (d) No fee may be charged where a defendant or defendants
3 appear in response to an affidavit and order issued pursuant to
4 the provisions of chapter 73 of NRS.
5 (e) For the filing of any paper in intervention 6.00
6 (f) For the issuance of any writ of attachment, writ of
7 garnishment, writ of execution or any other writ designed to
8 enforce any judgment of the court..... 6.00
9 (g) For filing a notice of appeal, and appeal bonds 12.00
10 One charge only may be made if both papers are filed at
11 the same time.
12 (h) For issuing supersedeas to a writ designed to enforce a
13 judgment or order of the court..... 12.00
14 (i) For preparation and transmittal of transcript and papers
15 on appeal 12.00
16 (j) For celebrating a marriage and returning the certificate
17 to the county recorder..... 35.00
18 (k) For entering judgment by confession..... 6.00
19 (l) For preparing any copy of any record, proceeding or
20 paper, for each page 30
21 (m) For each certificate of the clerk, under the seal of the
22 court 3.00
23 (n) For searching records or files in his office, for each year 1.00
24 (o) For filing and acting upon each bail or property bond 40.00
25 2. A justice of the peace shall not charge or collect any of the fees set
26 forth in subsection 1 for any service rendered by him to the county in
27 which his township is located.
28 3. A justice of the peace shall not charge or collect the fee pursuant to
29 paragraph (j) of subsection 1 if he performs a marriage ceremony in a
30 commissioner township.
31 4. Except as otherwise provided by an ordinance adopted pursuant to
32 the provisions of NRS 244.207, the justice of the peace shall, on or before
33 the fifth day of each month, account for and pay to the county treasurer all
34 fees collected during the preceding month, except for the fees he may
35 retain as compensation and the fees he is required to pay to the state
36 treasurer pursuant to subsection 5.
37 5. The justice of the peace shall, on or before the fifth day of each
38 month, pay to the state treasurer ~~half~~ *one-half* of the fees collected
39 pursuant to paragraph (o) of subsection 1 during the preceding month. The
40 state treasurer shall deposit the money in the fund for the compensation of
41 victims of crime.
42 **Sec. 7.** NRS 17.340 is hereby amended to read as follows:
43 17.340 As used in NRS 17.330 to 17.400, inclusive, unless the context
44 otherwise requires, "foreign judgment" means any judgment of a court of
45 the United States or of any other court which is entitled to full faith and
46 credit in this state, except ~~that~~ :
47 1. A judgment to which chapter 130 of NRS applies ~~that~~ ; and
48 2. An order for protection issued for the purpose of preventing
49 violent or threatening acts or harassment against, or contact or



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- 1 *communication with or physical proximity to, another person, including*
2 *temporary and final orders.*
3 **Sec. 8.** This act becomes effective on July 1, 2001.

