

ASSEMBLY BILL NO. 160—ASSEMBLYMEN BUCKLEY, PARKS, GIUNCHIGLIANI, GOLDWATER, ANDERSON, ARBERRY, ATKINSON, BEERS, CARPENTER, CHOWNING, CHRISTENSEN, CLABORN, COLLINS, CONKLIN, GIBBONS, GRADY, GRIFFIN, HORNE, KOIVISTO, LESLIE, MABEY, MANENDO, MCCLAIN, MCCLEARY, MORTENSON, OCEGUERA, OHRENSCHALL, PERKINS, PIERCE, SHERER AND WILLIAMS

FEBRUARY 18, 2003

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provide protection to certain persons. (BDR 3-160)

FISCAL NOTE: Effect on Local Government: Yes.
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 persons in need of protection; requiring a court to order an assignment of income in an extended order if the order includes an order for support of a child in certain circumstances; providing an additional manner of service of certain documents upon the adverse party under certain circumstances; authorizing a court to seal records and waive publication concerning a change of name when the person proves that his personal safety is at risk; providing for privileged communications between victims of domestic violence or sexual assault and their advocates; and providing other matters properly relating thereto.

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



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1 **Section 1.** Chapter 33 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *If a court issues an extended order which*
4 *includes an order for the support of a minor child, the court shall*
5 *order the adverse party to assign to the party who obtained the*
6 *extended order that portion of the income of the adverse party*
7 *which is due or to become due and is sufficient to pay the amount*
8 *ordered by the court for the support, unless the court finds good*
9 *cause for the postponement of the assignment. A finding of good*
10 *cause must be based upon a written finding by the court that the*
11 *immediate assignment of income would not be in the best interests*
12 *of the child.*

13 **2.** *An assignment of income ordered pursuant to subsection 1*
14 *is subject to the provisions of chapters 31A and 125B of NRS.*

15 **3.** *The Welfare Division of the Department of Human*
16 *Resources, in consultation with the Office of Court Administrator*
17 *and other interested governmental entities, shall develop*
18 *procedures and forms to allow a person to whom an assignment is*
19 *ordered to be made to enforce the assignment in an expeditious*
20 *and safe manner.*

21 **Sec. 3. 1.** *If the current address where the adverse party*
22 *resides is unknown and the law enforcement agency has made at*
23 *least two attempts to personally serve the adverse party at his*
24 *current place of employment, the law enforcement agency or a*
25 *person designated by the law enforcement agency may serve the*
26 *adverse party by:*

27 **(a)** *Delivering a copy of the application for an extended order,*
28 *the notice of hearing thereon and a copy of the temporary order to*
29 *the current place of employment of the adverse party; and*

30 **(b)** *Thereafter, mailing a copy of the application for an*
31 *extended order, the notice of hearing thereon and a copy of the*
32 *temporary order to the adverse party at his current place of*
33 *employment.*

34 **2.** *Delivery pursuant to paragraph (a) of subsection 1 must be*
35 *made by leaving a copy of the documents specified at the current*
36 *place of employment of the adverse party with the manager of the*
37 *department of human resources or another similar person. Such a*
38 *person shall:*

39 **(a)** *Accept service of the documents and make a reasonable*
40 *effort to deliver the documents to the adverse party;*

41 **(b)** *Identify another appropriate person who will accept service*
42 *of the documents and who shall make a reasonable effort to*
43 *deliver the documents to the adverse party; or*



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1 (c) *Contact the adverse party and arrange for the adverse party*
2 *to be present at the place of employment to accept service of the*
3 *documents personally.*

4 3. *After delivering the documents to the place of employment*
5 *of the adverse party, a copy of the documents must be mailed to*
6 *the adverse party by first-class mail to the place of employment of*
7 *the adverse party in care of the employer.*

8 4. *The adverse party shall be deemed to have been served 10*
9 *days after the date on which the documents are mailed to the*
10 *adverse party.*

11 5. *Upon completion of service pursuant to this section, the*
12 *law enforcement agency or the person designated by the law*
13 *enforcement agency who served the adverse party in the manner*
14 *set forth in this section shall file with or mail to the clerk of the*
15 *court proof of service in this manner.*

16 6. *An employer is immune from civil liability for any act or*
17 *omission with respect to accepting service of documents,*
18 *delivering documents to the adverse party or contacting the*
19 *adverse party and arranging for the adverse party to accept service*
20 *of the documents personally pursuant to this section, if the*
21 *employer acts in good faith with respect to accepting service of*
22 *documents, delivering documents to the adverse party or*
23 *contacting the adverse party and arranging for the adverse party*
24 *to accept service of the documents personally.*

25 **Sec. 4.** NRS 33.017 is hereby amended to read as follows:

26 33.017 As used in NRS 33.017 to 33.100, inclusive, *and*
27 *sections 2 and 3 of this act*, unless the context otherwise requires:

28 1. "Extended order" means an extended order for protection
29 against domestic violence.

30 2. "Temporary order" means a temporary order for protection
31 against domestic violence.

32 **Sec. 5.** NRS 33.060 is hereby amended to read as follows:

33 33.060 1. The court shall transmit, by the end of the next
34 business day after the order is issued, a copy of the temporary or
35 extended order to the appropriate law enforcement agency which
36 has jurisdiction over the residence, school, child care facility or
37 other provider of child care, or place of employment of the applicant
38 or the minor child.

39 2. The court shall order the appropriate law enforcement
40 agency to serve, without charge, the adverse party personally with
41 the temporary order and to file with or mail to the clerk of the court
42 proof of service by the end of the next business day after service is
43 made. Service of an application for an extended order and the notice
44 of hearing thereon must be served upon the adverse party
45 ~~[pursuant]~~ :



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1 (a) Pursuant to the Nevada Rules of Civil Procedure ~~[]~~; or
2 (b) In the manner provided in section 3 of this act.

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

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

8 Sec. 6. NRS 41.280 is hereby amended to read as follows:

9 41.280 1. ~~[Upon]~~ Except as otherwise provided in
10 subsection 2, upon the filing of the petition, the applicant shall
11 make out and procure a notice ~~[, which shall state]~~ that must:

12 (a) State the fact of the filing of the petition, its object, his
13 present name and the name which he desires to bear in the future ~~[~~
14 ~~The notice shall be]~~; and

15 (b) Be published in some newspaper of general circulation in the
16 county once a week for 3 successive weeks.

17 2. If the applicant submits proof satisfactory to the court that
18 publication of the change of name would place his personal safety
19 at risk, the court shall not require the applicant to comply with the
20 provisions of subsection 1 and shall order the records concerning
21 the petition and any proceedings concerning the petition to be
22 sealed and to be opened for inspection only upon an order of the
23 court for good cause shown or upon the request of the applicant.

24 Sec. 7. Chapter 49 of NRS is hereby amended by adding
25 thereto the provisions set forth as sections 8 to 16, inclusive, of this
26 act.

27 Sec. 8. As used in sections 8 to 16, inclusive, of this act, the
28 words and terms defined in sections 9 to 12, inclusive, of this act
29 have the meanings ascribed to them in those sections.

30 Sec. 9. "Domestic violence" means an act described in
31 NRS 33.018.

32 Sec. 10. "Sexual assault" means a violation of NRS 200.366
33 or an attempt to violate or conspiracy to violate NRS 200.366.

34 Sec. 11. "Victim" means a person who alleges that an act of
35 domestic violence or sexual assault has been committed against
36 the person.

37 Sec. 12. "Victim's advocate" means a person who works for
38 a nonprofit program that provides assistance to victims with or
39 without compensation and who has received at least 20 hours of
40 relevant training.

41 Sec. 13. 1. A communication shall be deemed to be
42 confidential if the communication is between a victim and a
43 victim's advocate and is not intended to be disclosed to third
44 persons other than:



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1 (a) A person who is present to further the interest of the
2 victim;

3 (b) A person reasonably necessary for the transmission of the
4 communication; or

5 (c) A person who is participating in the advice, counseling or
6 assistance of the victim, including, without limitation, a member of
7 the victim's family.

8 2. As used in this section, "communication" includes, without
9 limitation, all records concerning the victim and the services
10 provided to the victim which are within the possession of:

11 (a) The victim's advocate; or

12 (b) The nonprofit program for whom the victim's advocate
13 works.

14 **Sec. 14.** Except as otherwise provided in section 16 of this
15 act, a victim who seeks advice, counseling or assistance from a
16 victim's advocate has a privilege to refuse to disclose, and to
17 prevent any other person from disclosing, confidential
18 communications set forth in section 13 of this act.

19 **Sec. 15. 1.** The privilege provided pursuant to section 14 of
20 this act may be claimed by:

21 (a) The victim;

22 (b) The guardian or conservator of the victim;

23 (c) The personal representative of a deceased victim; and

24 (d) The victim's advocate, but only on behalf of the victim.

25 2. The authority of a victim's advocate to claim the privilege
26 is presumed in the absence of evidence to the contrary.

27 **Sec. 16.** There is no privilege pursuant to section 14 of this
28 act if:

29 1. The purpose of the victim in seeking services from a
30 victim's advocate is to enable or aid any person to commit or plan
31 to commit what the victim knows or reasonably should have
32 known is a crime or fraud;

33 2. The communication concerns a report of abuse or neglect
34 of a child or older person in violation of NRS 200.508 or
35 200.5093, but only as to that portion of the communication;

36 3. The communication is relevant to an issue of breach of
37 duty by the victim's advocate to the victim or by the victim to the
38 victim's advocate; or

39 4. Disclosure of the communication is otherwise required by
40 law.

41 **Sec. 17.** NRS 125B.240 is hereby amended to read as follows:

42 125B.240 The court shall not issue an order pursuant to NRS
43 125B.210, unless it finds the existence of one or more of the
44 following conditions:



1 1. The obligor-parent is not receiving income which may be
2 subject to an assignment or withholding pursuant to chapter 31A of
3 NRS ~~§~~ *or section 2 of this act*, and there is reason to believe that he
4 has income from some source which may be subject to an
5 assignment.

6 2. An assignment or withholding of income pursuant to chapter
7 31A of NRS *or section 2 of this act* would not be sufficient to meet
8 the obligation of the support of a child for reasons other than a
9 change of circumstances which would qualify for a reduction in the
10 amount of the support ordered.

11 3. The history of employment of the obligor-parent makes an
12 assignment or withholding of income pursuant to chapter 31A of
13 NRS *or section 2 of this act* difficult to enforce or not a practical
14 means for securing the payment of the obligation of support. Such a
15 history may be evidenced by such conditions as multiple, concurrent
16 or consecutive employers.

17 **Sec. 18.** NRS 608.1576 is hereby amended to read as follows:

18 608.1576 If an employer provides benefits for health care to
19 his employees and the benefits include coverage of the employee's
20 family, the employer shall:

21 1. Permit an employee who is required by the order of a court
22 or administrative tribunal to provide health coverage for his child to
23 enroll the child for coverage as a member of his family without
24 regard to a restriction on periods of enrollment applicable to the
25 employee.

26 2. If the parent so required is enrolled for coverage but does not
27 apply to enroll the child, permit the child's other parent or the
28 Welfare Division of the Department of Human Resources to enroll
29 the child.

30 3. Not terminate the enrollment of the child in that coverage or
31 otherwise eliminate that coverage of the child unless the insurer has
32 written proof that:

33 (a) The order for medical coverage is no longer in effect; or

34 (b) The child is or will be enrolled in comparable coverage
35 through another insurer on or before the effective date of the
36 termination of enrollment or elimination of coverage.

37 4. Withhold from the employee's wages, and pay to the insurer
38 if the employer is not self-insured, the employee's share, if any, of
39 the cost of the coverage provided for the child but not more than the
40 amount of withholding for insurance permitted by federal law or
41 regulation.

42 The purpose of this section is to ensure that children are promptly
43 enrolled in a program of health insurance provided by the
44 responsible parent and that the health insurance is maintained. The
45 remedies provided in this section are cumulative and in addition to



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- 1 any other remedy provided by law to the extent they are not
- 2 inconsistent with the provisions of chapters 31A, 125B, 130 and 425
- 3 of NRS ~~[]~~ *and section 2 of this act.*

