

SENATE BILL NO. 450—COMMITTEE ON JUDICIARY

MARCH 29, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence. (BDR 15-1407)

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 protective orders; making various changes to provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and 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.** NRS 200.591 is hereby amended to read as follows:
2 200.591 1. ~~[A]~~ *In addition to any other remedy provided by*
3 *law, a* person who reasonably believes that the crime of stalking,
4 aggravated stalking or harassment is being committed against him
5 by another person may petition any court of competent jurisdiction
6 for a temporary or extended order directing the person who is
7 allegedly committing the crime to:
8 (a) Stay away from the home, school, business or place of
9 employment of the victim of the alleged crime and any other
10 location specifically named by the court.
11 (b) Refrain from contacting, intimidating, threatening or
12 otherwise interfering with the victim of the alleged crime and any
13 other person ~~[,]~~ *named in the order, including , without limitation,*
14 a member of the family or the household of the victim ~~[, specifically~~
15 ~~named by the court.]~~ *of the alleged crime.*



2. If a defendant charged with a crime involving harassment, stalking or aggravated stalking is released from custody before trial or is found guilty at the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the victim of the alleged crime and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the victim of the alleged crime and any other person ~~[]~~ *named in the order*, including *, without limitation*, a member of the family or the household of the victim ~~[, specifically named by the court.]~~ *of the alleged crime.*

(c) *Comply with any other restriction which the court deems necessary to protect the victim of the alleged crime or to protect any other person named in the order, including, without limitation, a member of the family or the household of the victim of the alleged crime.*

3. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after ~~[notice to]~~ :

(a) *Notice of the petition for the order and of the hearing thereon is served upon* the adverse party *in the manner provided by rule of the court;* and ~~[a]~~

(b) *A hearing is held* on the petition.

4. If an extended order is issued by a justice's court, 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.

5. ~~[Any]~~ *Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any* person who intentionally violates:

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.



1 **Sec. 2.** NRS 200.597 is hereby amended to read as follows:

2 200.597 1. Each court that issues an order pursuant to NRS
3 200.591 shall transmit, as soon as practicable, a copy of the order to
4 all law enforcement agencies within its jurisdiction. The copy must
5 include a notation of the date on which the order was personally
6 served upon the person to whom it is directed.

7 2. A peace officer, without a warrant, may arrest and take into
8 custody a person when the peace officer has ~~reasonable~~ *probable*
9 cause to believe that:

10 (a) An order has been issued pursuant to NRS 200.591 to the
11 person to be arrested;

12 (b) The person to be arrested has ~~received~~ *been served with* a
13 copy of the order; and

14 (c) The person to be arrested is acting in violation of the order.

15 3. Any law enforcement agency in this State may enforce a
16 court order issued pursuant to NRS 200.591.

17 **Sec. 3.** NRS 33.100 is hereby amended to read as follows:

18 33.100 1. A person who *intentionally* violates a temporary or
19 extended order is guilty of a misdemeanor, unless a more severe
20 penalty is prescribed by law for the act that constitutes the violation
21 of the order.

22 2. *If a violation of an order is accompanied by a violent*
23 *physical act by that person against an applicant, the court shall:*

24 (a) *Impose upon the person who violated the order a fine of*
25 *\$1,000 or require him to perform a minimum of 200 hours of*
26 *community service;*

27 (b) *Sentence the person who violated the order to*
28 *imprisonment for not fewer than 5 days and not more than 6*
29 *months;*

30 (c) *Order the person who violated the order to reimburse the*
31 *applicant, in an amount determined by the court, for all costs and*
32 *attorney's fees incurred by the applicant in seeking to enforce the*
33 *order, and for all medical expenses of the applicant and any minor*
34 *child incurred as a result of the violent physical act; and*

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

38 3. *The person who violates a temporary or extended order*
39 *shall comply with the order for reimbursement of the applicant*
40 *before paying a fine imposed pursuant to this section.*

41 **Sec. 4.** NRS 33.270 is hereby amended to read as follows:

42 33.270 1. The court may issue a temporary order for
43 protection against harassment in the workplace if it appears to the
44 satisfaction of the court from specific facts shown by a verified



1 application filed pursuant to NRS 33.250 that harassment in the
2 workplace has occurred.

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

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

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

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

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

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

32 (2) The facts supporting waiver of notice requirements.

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

37 6. If a temporary order for protection against harassment in the
38 workplace is granted, with or without notice, the employer or his
39 authorized agent may apply for an extended order for protection
40 against harassment in the workplace by filing a verified application
41 for an extended order for protection against harassment in the
42 workplace. ~~[Such]~~ *If such an application is filed, the temporary
43 order remains in effect until the hearing on the application for an
44 extended order is held. The application must:*



1 (a) In addition to the information required by subsection 2 of
2 NRS 33.250, set forth the facts that provide the basis for granting an
3 extended order for protection against harassment in the workplace;

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

6 (c) Be heard as soon as reasonably possible and not later than 10
7 days after the date on which the application is filed with the court
8 unless the court determines that there are compelling reasons to hold
9 the hearing at a later date; and

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

13 7. At the hearing on an application filed pursuant to subsection
14 6, the employer must present evidence sufficient to support the
15 granting of the application for an extended order for protection
16 against harassment in the workplace. At the hearing, the court may:

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

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

21 8. If granted, an extended order for protection against
22 harassment in the workplace expires within such time, not to exceed
23 1 year, as the court fixes.

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

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

35 11. If a court issues an extended order for protection against
36 harassment in the workplace, an interlocutory appeal lies to the
37 district court, which may affirm, modify or vacate the order in
38 question. The appeal may be taken without bond, but its taking does
39 not stay the effect or enforcement of the order.

40 **Sec. 5.** NRS 33.350 is hereby amended to read as follows:

41 33.350 1. A person who *intentionally* violates a temporary or
42 extended order for protection against harassment in the workplace is
43 guilty of a misdemeanor, unless a more severe penalty is prescribed
44 by law for the act that constitutes the violation of the order. If the



1 violation is accompanied by a violent physical act by that person
2 against a person protected by the order, the court shall:

3 (a) Impose upon the person who violated the order a fine of
4 \$1,000 or require him to perform a minimum of 200 hours of
5 community service;

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

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

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

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

22 **Sec. 6.** NRS 33.400 is hereby amended to read as follows:

23 33.400 1. In addition to any other remedy provided by law,
24 the parent or guardian of a child may petition any court of
25 competent jurisdiction on behalf of the child for a temporary or
26 extended order against a person who is 18 years of age or older and
27 who the parent or guardian reasonably believes has committed or is
28 committing a crime involving:

29 (a) Physical or mental injury to the child of a nonaccidental
30 nature; or

31 (b) Sexual abuse or sexual exploitation of the child.

32 2. If such an order on behalf of a child is granted, the court
33 may direct the person who allegedly committed or is committing the
34 crime to:

35 (a) Stay away from the home, school, business or place of
36 employment of the child and any other location specifically named
37 by the court.

38 (b) Refrain from contacting, intimidating, threatening or
39 otherwise interfering with the child and any other person
40 specifically named by the court, who may include, without
41 limitation, a member of the family or the household of the child.

42 (c) *Comply with any other restriction which the court deems*
43 *necessary to protect the child or to protect any other person*
44 *specifically named by the court who may include, without*
45 *limitation, a member of the family or the household of the child.*



3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty during the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

(a) Stay away from the home, school, business or place of employment of the child against whom the alleged crime was committed and any other location specifically named by the court.

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court who may include, without limitation, a member of the family or the household of the child.

4. A temporary order may be granted with or without notice to the adverse party. An extended order may be granted only after ~~notice to~~:

(a) Notice of the petition for the order and of the hearing thereon is served upon the adverse party in the manner provided by rule of the court; and [a]

(b) A hearing is held on the petition.

5. If an extended order is issued by a justice's court, 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.

6. ~~[Any]~~ *Unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order, any person who intentionally violates:*

(a) A temporary order is guilty of a gross misdemeanor.

(b) An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. Any court order issued pursuant to this section must:

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.



1 **Sec. 7.** NRS 33.430 is hereby amended to read as follows:

2 33.430 1. Each court that issues an order pursuant to NRS
3 33.400 shall transmit, as soon as practicable, a copy of the order to
4 all law enforcement agencies within its jurisdiction. The copy must
5 include a notation of the date on which the order was personally
6 served upon the person to whom it is directed.

7 2. A peace officer, without a warrant, may arrest and take into
8 custody a person when the peace officer has ~~reasonable~~ *probable*
9 cause to believe that:

10 (a) An order has been issued pursuant to NRS 33.400 to the
11 person to be arrested;

12 (b) The person to be arrested has ~~received~~ *been served with* a
13 copy of the order; and

14 (c) The person to be arrested is acting in violation of the order.

15 3. Any law enforcement agency in this State may enforce a
16 court order issued pursuant to NRS 33.400.

17 **Sec. 8.** This act becomes effective on July 1, 2005.

