

CHAPTER.....

AN ACT relating to protective orders; making various changes to the provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence and for the protection of children; and providing other matters properly relating thereto.

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

Section 1. NRS 193.166 is hereby amended to read as follows:

193.166 1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

(a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;

(b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;

(c) *A temporary or extended order for the protection of a child issued pursuant to NRS 33.400;*

(d) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; or

~~[(d)]~~ (e) A temporary or extended order issued pursuant to NRS 200.591,

↪ shall be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a term equal to and in addition to the term of imprisonment prescribed by statute for that crime. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 5 years. The sentence prescribed by this section runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

2. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

Sec. 2. NRS 200.591 is hereby amended to read as follows:

200.591 1. ~~[A]~~ *In addition to any other remedy provided by law, a* person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed against him by another person may petition any court of competent jurisdiction for a temporary or extended order directing the person who is allegedly committing the crime to:

(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.*

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 *pursuant to the Nevada Rules of Civil Procedure*; 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.

Sec. 3. NRS 200.597 is hereby amended to read as follows:

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

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

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

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

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

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

Sec. 4. NRS 33.100 is hereby amended to read as follows:

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

Sec. 5. NRS 33.270 is hereby amended to read as follows:

33.270 1. The court may issue a temporary order for protection against harassment in the workplace if it appears to the satisfaction of the court from specific facts shown by a verified application filed pursuant to NRS 33.250 that harassment in the workplace has occurred.

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

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

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

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

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

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

(2) The facts supporting waiver of notice requirements.

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

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

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

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

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

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

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

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

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

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

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

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

11. If a court issues an extended order for protection against harassment in the workplace, 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.

Sec. 6. NRS 33.350 is hereby amended to read as follows:

33.350 ~~11.~~ A person who *intentionally* violates a temporary or extended order for protection against harassment in the workplace is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order. ~~If the violation is accompanied by a violent physical act by that person against a person protected by the order, the court shall:~~

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

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

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

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

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

Sec. 7. NRS 33.400 is hereby amended to read as follows:

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

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

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

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

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

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child 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.

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 pursuant to the Nevada Rules of Civil Procedure; 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.

Sec. 8. NRS 33.430 is hereby amended to read as follows:

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

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

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

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

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

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

Sec. 9. This act becomes effective on July 1, 2005.