

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 and for protection of children. (BDR 15-1407)

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

~

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 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:

- 1     **Section 1.** NRS 193.166 is hereby amended to read as follows:  
2     193.166 1. Except as otherwise provided in NRS 193.169, a  
3     person who commits a crime that is punishable as a felony, other  
4     than a crime that is punishable as a felony pursuant to subsection 5  
5     of NRS 200.591, in violation of:  
6     (a) A temporary or extended order for protection against  
7     domestic violence issued pursuant to NRS 33.020;  
8     (b) An order for protection against harassment in the workplace  
9     issued pursuant to NRS 33.270;  
10    (c) *A temporary or extended order for the protection of a child*  
11    *issued pursuant to NRS 33.400;*  
12    (d) An order for protection against domestic violence issued in  
13    an action or proceeding brought pursuant to title 11 of NRS; or



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

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

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

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

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

23 200.591 1. ~~[(A)]~~ *In addition to any other remedy provided by*  
24 *law, a* person who reasonably believes that the crime of stalking,  
25 aggravated stalking or harassment is being committed against him  
26 by another person may petition any court of competent jurisdiction  
27 for a temporary or extended order directing the person who is  
28 allegedly committing the crime to:

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

32 (b) Refrain from contacting, intimidating, threatening or  
33 otherwise interfering with the victim of the alleged crime and any  
34 other person ~~[(1)]~~ *named in the order, including, without limitation,*  
35 *a member of the family or the household of the victim* ~~[(1)]~~ *specifically*  
36 *named by the court of the alleged crime.*

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

42 2. If a defendant charged with a crime involving harassment,  
43 stalking or aggravated stalking is released from custody before trial  
44 or is found guilty at the trial, the court may issue a temporary or



1 extended order or provide as a condition of the release or sentence  
2 that the defendant:

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

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

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

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

19 (a) *Notice of the petition for the order and of the hearing*  
20 *thereon is served upon* the adverse party *pursuant to the Nevada*  
21 *Rules of Civil Procedure;* and ~~[a]~~

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

23 4. If an extended order is issued by a justice's court, an  
24 interlocutory appeal lies to the district court, which may affirm,  
25 modify or vacate the order in question. The appeal may be taken  
26 without bond, but its taking does not stay the effect or enforcement  
27 of the order.

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

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

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

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

35 (a) Be in writing;

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

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

39 (1) Subjects the person to immediate arrest.

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

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

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

43 200.597 1. Each court that issues an order pursuant to NRS  
44 200.591 shall transmit, as soon as practicable, a copy of the order to  
45 all law enforcement agencies within its jurisdiction. The copy must



1 include a notation of the date on which the order was personally  
2 served upon the person to whom it is directed.

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

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

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

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

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

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

14 33.100 A person who *intentionally* violates a temporary or  
15 extended order is guilty of a misdemeanor, unless a more severe  
16 penalty is prescribed by law for the act that constitutes the violation  
17 of the order.

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

19 33.270 1. The court may issue a temporary order for  
20 protection against harassment in the workplace if it appears to the  
21 satisfaction of the court from specific facts shown by a verified  
22 application filed pursuant to NRS 33.250 that harassment in the  
23 workplace has occurred.

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

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

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

42 (a) A verified application is accompanied by an affidavit that  
43 contains specific facts which clearly show that immediate and  
44 irreparable injury, loss or damage will result to the employer, an  
45 employee of the employer while the employee performs the duties



1 of his employment or a person who is present at the workplace of  
2 the employer before the person who allegedly committed the  
3 harassment or his attorney can be heard in opposition; and

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

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

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

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

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

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

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

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

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

33 7. At the hearing on an application filed pursuant to subsection  
34 6, the employer must present evidence sufficient to support the  
35 granting of the application for an extended order for protection  
36 against harassment in the workplace. At the hearing, the court may:

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

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

41 8. If granted, an extended order for protection against  
42 harassment in the workplace expires within such time, not to exceed  
43 1 year, as the court fixes.

44 9. Upon 2 days' notice to an employer who obtained a  
45 temporary order for protection against harassment in the workplace



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

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

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

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

16 33.350 ~~[(1)]~~ A person who *intentionally* violates a temporary  
17 or extended order for protection against harassment in the workplace  
18 is guilty of a misdemeanor, unless a more severe penalty is  
19 prescribed by law for the act that constitutes the violation of the  
20 order. ~~[(If the violation is accompanied by a violent physical act by~~  
21 ~~that person against a person protected by the order, the court shall:~~

22 ~~—(a) Impose upon the person who violated the order a fine of~~  
23 ~~\$1,000 or require him to perform a minimum of 200 hours of~~  
24 ~~community service;~~

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

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

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

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

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

42 33.400 1. In addition to any other remedy provided by law,  
43 the parent or guardian of a child may petition any court of  
44 competent jurisdiction on behalf of the child for a temporary or  
45 extended order against a person who is 18 years of age or older and



1 who the parent or guardian reasonably believes has committed or is  
2 committing a crime involving:

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

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

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

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

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

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

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

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

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

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

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

40 (a) *Notice of the petition for the order and of the hearing*  
41 *thereon is served upon* the adverse party *pursuant to the Nevada*  
42 *Rules of Civil Procedure*; and ~~{a}~~

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

44 5. If an extended order is issued by a justice's court, an  
45 interlocutory appeal lies to the district court, which may affirm,



1 modify or vacate the order in question. The appeal may be taken  
2 without bond, but its taking does not stay the effect or enforcement  
3 of the order.

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

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

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

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

11 (a) Be in writing;

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

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

15 (1) Subjects the person to immediate arrest.

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

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

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

19 33.430 1. Each court that issues an order pursuant to NRS  
20 33.400 shall transmit, as soon as practicable, a copy of the order to  
21 all law enforcement agencies within its jurisdiction. The copy must  
22 include a notation of the date on which the order was personally  
23 served upon the person to whom it is directed.

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

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

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

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

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

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

