

Assembly Bill No. 112—Assemblymen Parnell, Pierce, Parks, McClain, Anderson, Atkinson, Bobzien, Buckley, Gansert, Gerhardt, Kirkpatrick, Koivisto, Leslie, Oceguera, Ohrenschall, Segerblom, Smith and Womack

CHAPTER.....

AN ACT relating to protective orders; expanding the circumstances which prohibit a court from admitting a person who is arrested for violating an order for protection against domestic violence to bail sooner than 12 hours after his arrest; applying the same standards for not admitting a person to bail sooner than 12 hours after his arrest to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment; establishing the amount of bail that the arrested person must post to be released for such an offense when the amount has not otherwise been established by the court or magistrate; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a court from admitting to bail a person who is arrested for violating an order for protection against domestic violence, whether the person is a child or an adult, if the arresting officer determines that the violation of the order was accompanied by a direct or indirect threat of harm. (NRS 62C.020, 125.555, 178.484) **Sections 2 and 3** of this bill further prohibit a court from admitting a person to bail sooner than 12 hours after arrest if the person has previously violated an order for protection or has a certain concentration of alcohol in his blood or breath or a certain amount of a prohibited substance in his blood or urine at the time of, or within 2 hours after, the violation. (NRS 62C.020, 125.555) **Sections 2 and 5** of this bill make the circumstances requiring the 12-hour hold of a person who violates an order for protection against domestic violence applicable to a person arrested for violating an order for protection against stalking, aggravated stalking or harassment. (NRS 62C.020, 178.484)

Existing law requires notice to be provided to a person who is arrested for violating an order for protection against domestic violence and to the alleged victim of such a person stating the circumstances under which such a person may not be admitted to bail sooner than 12 hours after arrest. (NRS 33.030, 171.1225) **Sections 1 and 4** of this bill add the new circumstances to that notice. **Section 7** of this bill further requires such notice to be included with a temporary or extended order for protection against stalking, aggravated stalking or harassment. (NRS 200.591)

Section 5 of this bill further makes existing law which establishes the amount of bail that a person must post before being admitted to bail if the person is held for more than 12 hours after his arrest for violating an order for protection against domestic violence without appearing personally before a magistrate or without the amount of bail otherwise being established by a magistrate or a court applicable to a person who violates an order for protection against stalking, aggravated stalking or harassment. (NRS 178.484)



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

Section 1. NRS 33.030 is hereby amended to read as follows:

33.030 1. The court by a temporary order may:

(a) Enjoin the adverse party from threatening, physically injuring or harassing the applicant or minor child, either directly or through an agent;

(b) Exclude the adverse party from the applicant's place of residence;

(c) Prohibit the adverse party from entering the residence, school or place of employment of the applicant or minor child and order him to stay away from any specified place frequented regularly by them;

(d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant; and

(e) Order such other relief as it deems necessary in an emergency situation.

2. The court by an extended order may grant any relief enumerated in subsection 1 and:

(a) Specify arrangements for visitation of the minor child by the adverse party and require supervision of that visitation by a third party if necessary; and

(b) Order the adverse party to:

(1) Avoid or limit communication with the applicant or minor child;

(2) Pay rent or make payments on a mortgage on the applicant's place of residence or pay for the support of the applicant or minor child if he is found to have a duty to support the applicant or minor child; and

(3) Pay all costs and fees incurred by the applicant in bringing the action.

3. If an extended order is issued by a justice 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.

4. A temporary or extended order must specify, as applicable, the county and city, if any, in which the residence, school, child care facility or other provider of child care, and place of employment of the applicant or minor child are located.

5. A temporary or extended order must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if ~~the~~ :



(a) *The* arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[]~~;

(b) *The person has previously violated a temporary or extended order for protection; or*

(c) *At the time of the violation or within 2 hours after the violation, the person has:*

(1) *A concentration of alcohol of 0.08 or more in his blood or breath; or*

(2) *An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.*

Sec. 2. NRS 62C.020 is hereby amended to read as follows:

62C.020 1. A child must not be released from custody sooner than 12 hours after the child is taken into custody if the child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018.

2. A child must not be released from custody sooner than 12 hours after the child is taken into custody if ~~[]~~:

~~—(a) The~~ *the* child is taken into custody for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~[] and~~

~~—(b)] or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591 and:~~

(a) The peace officer or probation officer who has taken the child into custody determines that such a violation is accompanied by a direct or indirect threat of harm ~~[]~~;

(b) *The child has previously violated a temporary or extended order for protection of the type for which he has been arrested; or*

(c) *At the time of the violation or within 2 hours after the violation, the child has:*

(1) *A concentration of alcohol of 0.08 or more in his blood or breath; or*

(2) *An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.*

3. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a



temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 3. NRS 125.555 is hereby amended to read as follows:

125.555 1. A restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence which is issued in an action or proceeding brought pursuant to this title must provide notice that a person who is arrested for violating the order or injunction will not be admitted to bail sooner than 12 hours after his arrest if ~~the~~ :

(a) *The* arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~;

(b) *The person has previously violated a temporary or extended order for protection; or*

(c) *At the time of the violation or within 2 hours after the violation, the person has:*

(1) *A concentration of alcohol of 0.08 or more in his blood or breath; or*

(2) *An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.*

2. For the purposes of this section, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 4. NRS 171.1225 is hereby amended to read as follows:

171.1225 1. When investigating an act of domestic violence, a peace officer shall:

(a) Make a good faith effort to explain the provisions of NRS 171.137 pertaining to domestic violence and advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community.

(b) Provide a person suspected of being the victim of an act of domestic violence with a written copy of the following statements:

(1) My name is officer (naming the investigating officer). Nevada law requires me to inform you of the following information.

(2) If I have probable cause to believe that a battery has been committed against you, your minor child or the minor child of the person believed to have committed the battery in the last 24 hours by your spouse, your former spouse, any other person to whom you are related by blood or marriage, a person with whom you are or



were actually residing, a person with whom you have had or are having a dating relationship or a person with whom you have a child in common, I am required, unless mitigating circumstances exist, to arrest the person suspected of committing the act.

(3) If I am unable to arrest the person suspected of committing the battery, you have the right to request that the prosecutor file a criminal complaint against the person. I can provide you with information on this procedure. If convicted, the person who committed the battery may be placed on probation, ordered to see a counselor, put in jail or fined.

(4) The law provides that you may seek a court order for the protection of you or your minor children against further threats or acts of domestic violence. You do not need to hire a lawyer to obtain such an order for protection.

(5) An order for protection may require the person who committed or threatened the act of domestic violence against you to:

(I) Stop threatening, harassing or injuring you or your children;

(II) Move out of your residence;

(III) Stay away from your place of employment;

(IV) Stay away from the school attended by your children;

(V) Stay away from any place you or your children regularly go; and

(VI) Avoid or limit all communication with you or your children.

(6) A court may make future orders for protection which award you custody of your children and require the person who committed or threatened the act of domestic violence against you to pay:

(I) The rent or mortgage due on the place in which you live;

(II) The amount of money necessary for the support of your children; and

(III) Part or all of the costs incurred by you in obtaining the order for protection.

(7) To get an order for protection, go to room number (state the room number of the office at the court) at the court, which is located at (state the address of the court). Ask the clerk of the court to provide you with the forms for an order of protection.



(8) If the person who committed or threatened the act of domestic violence against you violates the terms of an order for protection, he may be arrested and, if ~~the~~ :

(I) *The* arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~to~~;

(II) *The person has previously violated a temporary or extended order for protection; or*

(III) *At the time of the violation or within 2 hours after the violation, the person has a concentration of alcohol of 0.08 or more in his blood or breath or an amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.*

↳ he will not be admitted to bail sooner than 12 hours after his arrest.

(9) You may obtain emergency assistance or shelter by contacting your local program against domestic violence at (state name, address and telephone number of local program) or you may call, without charge to you, the Statewide Program Against Domestic Violence at (state toll-free telephone number of Statewide Program).

2. As used in this section, “act of domestic violence” means any of the following acts committed by a person against his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he is or was actually residing, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child:

(a) A battery.

(b) An assault.

(c) Compelling the other by force or threat of force to perform an act from which he has the right to refrain or to refrain from an act which he has the right to perform.

(d) A sexual assault.

(e) A knowing, purposeful or reckless course of conduct intended to harass the other. Such conduct may include, but is not limited to:

(1) Stalking.

(2) Arson.

(3) Trespassing.

(4) Larceny.

(5) Destruction of private property.

(6) Carrying a concealed weapon without a permit.

(f) False imprisonment.



(g) Unlawful entry of the other's residence, or forcible entry against the other's will if there is a reasonably foreseeable risk of harm to the other from the entry.

3. The failure of a peace officer to carry out the requirements set forth in subsection 1 is not a defense in a criminal prosecution for the commission of an act of domestic violence, nor may such an omission be considered as negligence or as causation in any civil action against the peace officer or his employer.

4. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

Sec. 5. NRS 178.484 is hereby amended to read as follows:

178.484 1. Except as otherwise provided in this section, a person arrested for an offense other than murder of the first degree must be admitted to bail.

2. A person arrested for a felony who has been released on probation or parole for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail;

(b) The State Board of Parole Commissioners directs the detention facility to admit the person to bail; or

(c) The Division of Parole and Probation of the Department of Public Safety directs the detention facility to admit the person to bail.

3. A person arrested for a felony whose sentence has been suspended pursuant to NRS 4.373 or 5.055 for a different offense or who has been sentenced to a term of residential confinement pursuant to NRS 4.3762 or 5.076 for a different offense must not be admitted to bail unless:

(a) A court issues an order directing that the person be admitted to bail; or

(b) A department of alternative sentencing directs the detention facility to admit the person to bail.

4. A person arrested for murder of the first degree may be admitted to bail unless the proof is evident or the presumption great by any competent court or magistrate authorized by law to do so in the exercise of discretion, giving due weight to the evidence and to the nature and circumstances of the offense.

5. A person arrested for a battery that constitutes domestic violence pursuant to NRS 33.018 must not be admitted to bail



sooner than 12 hours after his arrest. If the person is admitted to bail more than 12 hours after his arrest, ~~[pursuant to subsection 5 of NRS 171.178.]~~ without appearing personally before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of battery that constitute domestic violence pursuant to NRS 33.018 and there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm;

(b) Five thousand dollars, if the person has:

(1) No previous convictions of battery that constitute domestic violence pursuant to NRS 33.018, but there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018, but there is no reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(c) Fifteen thousand dollars, if the person has:

(1) One previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 and there is reason to believe that the battery for which he has been arrested resulted in substantial bodily harm; or

(2) Two or more previous convictions of battery that constitute domestic violence pursuant to NRS 33.018.

↳ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of battery that constitutes domestic violence pursuant to NRS 33.018 if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

6. A person arrested for violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or for violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , *or for violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to*



NRS 200.591 must not be admitted to bail sooner than 12 hours after his arrest if ~~[the]~~ :

(a) *The* arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm ~~[]~~ ;

(b) *The person has previously violated a temporary or extended order for protection of the type for which he has been arrested; or*

(c) *At the time of the violation or within 2 hours after the violation, the person has:*

(1) *A concentration of alcohol of 0.08 or more in his blood or breath; or*

(2) *An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.*

7. If ~~[the]~~ a person is admitted to bail more than 12 hours after his arrest, pursuant to subsection ~~[5 of NRS 171.178.]~~ 6, without appearing personally before a magistrate, or without the amount of bail having been otherwise set by a magistrate or a court, the amount of bail must be:

(a) Three thousand dollars, if the person has no previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS ~~[]~~ , *or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591;*

(b) Five thousand dollars, if the person has one previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , ~~[]~~ *or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591; or*

(c) Fifteen thousand dollars, if the person has two or more previous convictions of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought



pursuant to title 11 of NRS ~~8~~, *or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591.*

↪ The provisions of this subsection do not affect the authority of a magistrate or a court to set the amount of bail when the person personally appears before the magistrate or the court, or when a magistrate or a court has otherwise been contacted to set the amount of bail. For the purposes of this subsection, a person shall be deemed to have a previous conviction of violating a temporary or extended order for protection against domestic violence issued pursuant to NRS 33.017 to 33.100, inclusive, or of violating a restraining order or injunction that is in the nature of a temporary or extended order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS , *or of violating a temporary or extended order for protection against stalking, aggravated stalking or harassment issued pursuant to NRS 200.591* if the person has been convicted of such an offense in this State or has been convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct.

~~8~~ 8. The court may, before releasing a person arrested for an offense punishable as a felony, require the surrender to the court of any passport the person possesses.

~~8~~ 9. Before releasing a person arrested for any crime, the court may impose such reasonable conditions on the person as it deems necessary to protect the health, safety and welfare of the community and to ensure that the person will appear at all times and places ordered by the court, including, without limitation:

(a) Requiring the person to remain in this State or a certain county within this State;

(b) Prohibiting the person from contacting or attempting to contact a specific person or from causing or attempting to cause another person to contact that person on his behalf;

(c) Prohibiting the person from entering a certain geographic area; or

(d) Prohibiting the person from engaging in specific conduct that may be harmful to his own health, safety or welfare, or the health, safety or welfare of another person.

↪ In determining whether a condition is reasonable, the court shall consider the factors listed in NRS 178.4853.

~~9~~ 10. If a person fails to comply with a condition imposed pursuant to subsection ~~8~~ 9, the court may, after providing the person with reasonable notice and an opportunity for a hearing:

(a) Deem such conduct a contempt pursuant to NRS 22.010; or



(b) Increase the amount of bail pursuant to NRS 178.499.

~~10.1~~ **11.** An order issued pursuant to this section that imposes a condition on a person admitted to bail must include a provision ordering any law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his bail.

~~11.1~~ **12.** Before a person may be admitted to bail, he must sign a document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document; and

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings.

➡ The signed document must be filed with the clerk of the court of competent jurisdiction as soon as practicable, but in no event later than the next business day.

~~12.2~~ **13.** If a person admitted to bail fails to appear as ordered by a court and the jurisdiction incurs any cost in returning the person to the jurisdiction to stand trial, the person who failed to appear is responsible for paying those costs as restitution.

~~13.3~~ **14.** For the purposes of subsection 6, an order or injunction is in the nature of a temporary or extended order for protection against domestic violence if it grants relief that might be given in a temporary or extended order issued pursuant to NRS 33.017 to 33.100, inclusive.

Sec. 6. NRS 178.4851 is hereby amended to read as follows:

178.4851 1. Upon a showing of good cause, a court may release without bail any person entitled to bail if it appears to the court that it can impose conditions on the person that will adequately protect the health, safety and welfare of the community and ensure that he will appear at all times and places ordered by the court.

2. In releasing a person without bail, the court may impose such conditions as it deems necessary to protect the health, safety and welfare of the community and to ensure that he will appear at all times and places ordered by the court, including, without limitation, any condition set forth in subsection ~~8.1~~ **9** of NRS 178.484.

3. Upon a showing of good cause, a sheriff or chief of police may release without bail any person charged with a misdemeanor



pursuant to standards established by a court of competent jurisdiction.

4. Before a person may be released without bail, he must file with the clerk of the court of competent jurisdiction a signed document stating that:

(a) He will appear at all times and places as ordered by the court releasing him and as ordered by any court before which the charge is subsequently heard;

(b) He will comply with the other conditions which have been imposed by the court and are stated in the document;

(c) If he fails to appear when so ordered and is taken into custody outside of this State, he waives all his rights relating to extradition proceedings; and

(d) He understands that any court of competent jurisdiction may revoke the order of release without bail and may order him into custody or require him to furnish bail or otherwise ensure the protection of the health, safety and welfare of the community or his appearance.

5. If a jurisdiction incurs any costs in returning a person to the jurisdiction to stand trial, the person failing to appear is responsible for paying those costs as restitution.

6. An order issued pursuant to this section that imposes a condition on a person who is released without bail must include a provision ordering a law enforcement officer to arrest the person if he has probable cause to believe that the person has violated a condition of his release.

Sec. 7. NRS 200.591 is hereby amended to read as follows:

200.591 1. 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 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 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:

(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

(b) A hearing is held on the petition.

4. If an extended order is issued by a justice 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. 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.

7. A temporary or extended order issued pursuant to this section must provide notice that a person who is arrested for violating the order will not be admitted to bail sooner than 12 hours after his arrest if:

(a) The arresting officer determines that such a violation is accompanied by a direct or indirect threat of harm;

(b) The person has previously violated a temporary or extended order for protection; or

(c) At the time of the violation or within 2 hours after the violation, the person has:

(1) A concentration of alcohol of 0.08 or more in his blood or breath; or

(2) An amount of a prohibited substance in his blood or urine that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379.

