

ASSEMBLY BILL NO. 3—COMMITTEE ON JUDICIARY

PREFILED DECEMBER 12, 2006

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning protective orders.
(BDR 3-390)

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; revising certain provisions concerning orders for protection against domestic violence and orders for protection against harassment in the workplace; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill eliminates the requirement that an application for an order
2 for protection against domestic violence must be verified and instead requires the
3 person seeking the order to sign the application under penalty of perjury. (NRS
4 33.020) **Sections 2 and 3** of this bill similarly amend the law with regard to an
5 application for an order for protection against harassment in the workplace.
6 (NRS 33.250, 33.270)

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

1 **Section 1.** NRS 33.020 is hereby amended to read as follows:
2 33.020 1. If it appears to the satisfaction of the court from
3 specific facts shown by ~~a verified~~ ***an application filed pursuant to***
4 ***this section*** that an act of domestic violence has occurred or there
5 exists a threat of domestic violence, the court may grant a temporary
6 or extended order. A temporary or extended order must not be
7 granted to the applicant or the adverse party unless he has requested
8 the order and has filed ~~a verified~~ ***an*** application that ***he signed***



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1 *under penalty of perjury which indicates that* an act of domestic
2 violence has occurred or there exists a threat of domestic violence.

3 2. The court may require the applicant or the adverse party, or
4 both, to appear before the court before determining whether to grant
5 the temporary or extended order.

6 3. A temporary order may be granted with or without notice to
7 the adverse party. An extended order may only be granted after
8 notice to the adverse party and a hearing on the application. A
9 hearing on an application for an extended order must be held within
10 45 days after the date on which the application for the extended
11 order is filed.

12 4. The court shall rule upon an application for a temporary
13 order within 1 judicial day after it is filed.

14 5. If it appears to the satisfaction of the court from specific
15 facts communicated by telephone to the court by an alleged victim
16 that an act of domestic violence has occurred and the alleged
17 perpetrator of the domestic violence has been arrested and is
18 presently in custody pursuant to NRS 171.137, the court may grant a
19 temporary order. Before approving an order under such
20 circumstances, the court shall confirm with the appropriate law
21 enforcement agency that the applicant is an alleged victim and that
22 the alleged perpetrator is in custody. Upon approval by the court, the
23 signed order may be transmitted to the facility where the alleged
24 perpetrator is in custody by electronic or telephonic transmission to
25 a facsimile machine. If such an order is received by the facility
26 holding the alleged perpetrator while he is still in custody, the order
27 must be personally served by an authorized employee of the facility
28 before the alleged perpetrator is released. The court shall mail a
29 copy of each order issued pursuant to this subsection to the alleged
30 victim named in the order and cause the original order to be filed
31 with the court clerk on the first judicial day after it is issued.

32 6. In a county whose population is 47,000 or more, the court
33 ~~shall~~ *must* be available 24 hours a day, 7 days a week, including
34 nonjudicial days and holidays, to receive communications by
35 telephone and for the issuance of a temporary order pursuant to
36 subsection 5.

37 7. In a county whose population is less than 47,000, the court
38 may be available 24 hours a day, 7 days a week, including
39 nonjudicial days and holidays, to receive communications by
40 telephone and for the issuance of a temporary order pursuant to
41 subsection 5.

42 8. The clerk of the court shall inform the protected party upon
43 the successful transfer of information concerning the registration to
44 the Central Repository for Nevada Records of Criminal History as
45 required pursuant to NRS 33.095.



Sec. 2. NRS 33.250 is hereby amended to read as follows:

33.250 1. An employer or an authorized agent of an employer who reasonably believes that harassment in the workplace has occurred may file ~~{a-verified}~~ **an** application for a temporary order for protection against harassment in the workplace against the person who allegedly committed the harassment.

2. The ~~{verified}~~ application must ***be signed under penalty of perjury by the employer seeking the order and must*** include, without limitation:

(a) The name of the employer seeking the order;

(b) The name and address, if known, of the person who allegedly committed the harassment in the workplace; and

(c) A detailed description of the events that allegedly constituted harassment in the workplace and the dates on which these events occurred.

Sec. 3. 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}~~ **an** 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}~~ **An** 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



1 the employer before the person who allegedly committed the
2 harassment or his attorney can be heard in opposition; and

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

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

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

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

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

20 (a) In addition to ~~{the information required by}~~ **satisfying the**
21 **requirements of** subsection 2 of NRS 33.250, set forth the facts that
22 provide the basis for granting an extended order for protection
23 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.



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

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

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

17 **Sec. 4.** This act becomes effective upon passage and approval.

