

ASSEMBLY BILL NO. 177—ASSEMBLYMAN SPRINKLE

PREFILED FEBRUARY 13, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to domestic violence.
(BDR 3-210)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 domestic violence; authorizing a court to set a second or third hearing on an extended order for protection under certain circumstances; requiring the service of certain documents related to an application for an extended order of protection; extending the time that a temporary order for protection remains in effect under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a court to issue a temporary or extended order for
2 protection against domestic violence. Further, a court is authorized to grant an
3 extended order after notice to the adverse party and a hearing on the application for
4 the extended order. The hearing must be held within 45 days after the date on
5 which the application for the extended order is filed. (NRS 33.020) **Section 1** of
6 this bill authorizes the court to set a date for a second hearing within 90 days after
7 the date on which the first hearing was scheduled if the adverse party fails to appear
8 at the first hearing and: (1) after due diligence, the adverse party has not been
9 served with certain documents; or (2) the adverse party conceals himself or herself
10 to avoid such service. **Section 1** also authorizes the court to set a date for a third
11 hearing, under similar circumstances, within 90 days after the date on which the
12 second hearing was scheduled.

13 Existing law requires the court to order the appropriate law enforcement agency
14 to serve the adverse party personally with a temporary order. An application for an
15 extended order and the notice of hearing must be served upon the adverse party
16 pursuant to the Nevada Rules of Civil Procedure or at the party's current place of
17 employment. (NRS 33.060, 33.065) **Section 2** of this bill requires the court to order
18 the appropriate law enforcement agency to serve upon the adverse party an
19 application for an extended order and the notice of any second or third hearing
20 upon the application scheduled by the court.



Existing law provides that, if an application for an extended order is filed within the period of a temporary order or at the same time that an application for a temporary order is filed, the temporary order remains in effect until the hearing on the extended order is held. (NRS 33.080) If the court sets a date for a second or third hearing on an application for an extended order, **section 3** of this bill requires the temporary order to remain in effect until the date on which the second or third hearing is held.

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

Section 1. NRS 33.020 is hereby amended to read as follows:

33.020 1. If it appears to the satisfaction of the court from specific facts shown by a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence, the court may grant a temporary or extended order. A temporary or extended order must not be granted to the applicant or the adverse party unless the applicant or the adverse party has requested the order and has filed a verified application that an act of domestic violence has occurred or there exists a threat of domestic violence.

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

3. A temporary order may be granted with or without notice to the adverse party. An extended order may only be granted after notice to the adverse party and a hearing on the application.

4. A hearing on an application for an extended order must be held within 45 days after the date on which the application for the extended order is filed.

~~4.~~ *If the adverse party has not been served pursuant to NRS 33.060 or 33.065 and fails to appear at the hearing, the court may, upon a showing that law enforcement, after due diligence, has been unable to serve the adverse party or that the adverse party has sought to avoid service by concealment, set a date for a second hearing which must be held within 90 days after the date on which the first hearing was scheduled.*

5. *If the adverse party has not been served pursuant to NRS 33.060 or 33.065 and fails to appear on the date set for a second hearing on an application for an extended order pursuant to subsection 4, the court may, upon a showing that law enforcement, after due diligence, has been unable to serve the adverse party or that the adverse party has sought to avoid service by concealment, set a date for a third hearing which must be held within 90 days after the date on which the second hearing was scheduled.*



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

~~15-1~~ 7. If it appears to the satisfaction of the court from specific facts communicated by telephone to the court by an alleged victim that an act of domestic violence has occurred and the alleged perpetrator of the domestic violence has been arrested and is presently in custody pursuant to NRS 171.137, the court may grant a temporary order. Before approving an order under such circumstances, the court shall confirm with the appropriate law enforcement agency that the applicant is an alleged victim and that the alleged perpetrator is in custody. Upon approval by the court, the signed order may be transmitted to the facility where the alleged perpetrator is in custody by electronic or telephonic transmission to a facsimile machine. If such an order is received by the facility holding the alleged perpetrator while the alleged perpetrator is still in custody, the order must be personally served by an authorized employee of the facility before the alleged perpetrator is released. The court shall mail a copy of each order issued pursuant to this subsection to the alleged victim named in the order and cause the original order to be filed with the court clerk on the first judicial day after it is issued.

~~16-1~~ 8. In a county whose population is 52,000 or more, the court shall be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of a temporary order pursuant to subsection ~~15-1~~ 7.

~~17-1~~ 9. In a county whose population is less than 52,000, the court may be available 24 hours a day, 7 days a week, including nonjudicial days and holidays, to receive communications by telephone and for the issuance of a temporary order pursuant to subsection ~~15-1~~ 7.

~~18-1~~ 10. The clerk of the court shall inform the protected party upon the successful transfer of information concerning the registration to the Central Repository for Nevada Records of Criminal History as required pursuant to NRS 33.095.

Sec. 2. NRS 33.060 is hereby amended to read as follows:

33.060 1. The court shall transmit, by the end of the next business day after the order is issued, a copy of the temporary or extended order to the appropriate law enforcement agency which has jurisdiction over the residence, school, child care facility or other provider of child care, or place of employment of the applicant or the minor child.

2. The court shall order the appropriate law enforcement agency to serve, without charge, the adverse party personally with the temporary order and to file with or mail to the clerk of the court



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1 proof of service by the end of the next business day after service is
2 made. Service of an application for an extended order and the notice
3 of *any* hearing thereon must be served upon the adverse party:

4 (a) Pursuant to the Nevada Rules of Civil Procedure; or

5 (b) In the manner provided in NRS 33.065.

6 3. A law enforcement agency shall enforce a temporary or
7 extended order without regard to the county in which the order was
8 issued.

9 4. The clerk of the court shall issue, without fee, a copy of the
10 temporary or extended order to the applicant and the adverse party.

11 **Sec. 3.** NRS 33.080 is hereby amended to read as follows:

12 33.080 1. A temporary order expires within such time, not to
13 exceed 30 days, as the court fixes. If an application for an extended
14 order is filed within the period of a temporary order or at the same
15 time that an application for a temporary order is filed, the temporary
16 order remains in effect until ~~that~~ :

17 (a) *The* hearing on the extended order is held ~~H~~ ; or

18 (b) *If the court schedules a second or third hearing pursuant*
19 *to subsection 4 or 5 of NRS 33.020, the date on which the second*
20 *or third hearing on an application for an extended order is held.*

21 2. On 2 days' notice to the party who obtained the temporary
22 order, the adverse party may appear and move its dissolution or
23 modification, and in that event the court shall proceed to hear and
24 determine such motion as expeditiously as the ends of justice
25 require.

26 3. An extended order expires within such time, not to exceed 1
27 year, as the court fixes. A temporary order may be converted by the
28 court, upon notice to the adverse party and a hearing, into an
29 extended order effective for not more than 1 year.

30 **Sec. 4.** NRS 1.130 is hereby amended to read as follows:

31 1.130 1. No court except a justice court or a municipal court
32 shall be opened nor shall any judicial business be transacted except
33 by a justice court or municipal court on Sunday, or on any day
34 declared to be a legal holiday according to the provisions of NRS
35 236.015, except for the following purposes:

36 (a) To give, upon their request, instructions to a jury then
37 deliberating on their verdict.

38 (b) To receive a verdict or discharge a jury.

39 (c) For the exercise of the power of a magistrate in a criminal
40 action or in a proceeding of a criminal nature.

41 (d) To receive communications by telephone and for the
42 issuance of a temporary order pursuant to subsection ~~1~~ 7 of
43 NRS 33.020.

44 (e) For the issue of a writ of attachment, which may be issued on
45 each and all of the days above enumerated upon the plaintiff, or



1 some person on behalf of the plaintiff, setting forth in the affidavit
2 required by law for obtaining the writ the additional averment as
3 follows:

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5 That the affiant has good reason to believe, and does
6 believe, that it will be too late for the purpose of acquiring a
7 lien by the writ to wait until subsequent day for the issuance
8 of the same.
9

10 All proceedings instituted, and all writs issued, and all official acts
11 done on any of the days above specified, under and by virtue of this
12 section, shall have all the validity, force and effect of proceedings
13 commenced on other days, whether a lien be obtained or a levy
14 made under and by virtue of the writ.

15 2. Nothing herein contained shall affect private transactions of
16 any nature whatsoever.

17 **Sec. 5.** This act becomes effective upon passage and approval.

