

ASSEMBLY BILL NO. 407—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR  
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

MARCH 25, 2021

Referred to Committee on Judiciary

SUMMARY—Authorizes the issuance of an order for protection of  
a vulnerable adult. (BDR 3-380)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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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 public safety; authorizing the issuance of an  
order for protection of a vulnerable adult; providing for  
the enforcement of such an order; providing penalties for  
the violation of such an order; providing an additional  
penalty for committing a felony in violation of such an  
order; and providing other matters properly relating  
thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the issuance of orders for protection of certain persons  
under certain circumstances, including, without limitation, orders for protection of  
children, persons experiencing workplace harassment and victims of domestic  
violence, stalking, aggravated stalking, harassment and sexual assault. (NRS  
33.020, 33.270, 33.400, 200.378, 200.591) This bill authorizes the issuance of a  
temporary or extended order for protection of a vulnerable adult.

**Sections 3-6** of this bill define certain necessary terms. **Section 7** of this bill  
provides that certain authorized persons, including a vulnerable adult and persons  
acting on behalf of a vulnerable adult, may file a verified petition for the issuance  
of a temporary or extended order for protection of a vulnerable adult. **Section 7**  
also: (1) establishes the jurisdiction and venue for filing such a petition; (2)  
provides that the Aging and Disability Services Division of the Department of  
Health and Human Services may file such a petition under certain circumstances or  
may refer the matter to a public guardian; (3) expressly requires the Division to  
comply with all applicable laws and regulations relating to confidentiality that  
generally apply to the performance of its duties; (4) grants immunity to the  
Division, the Department, the State of Nevada and their officers and employees  
from criminal and civil liability for any act or omission relating to the filing of such



a petition; (5) establishes the grounds for issuance of such an order; (6) sets forth the specific actions that the court may order if the court issues such an order; (7) provides that a temporary order may be granted with or without notice to the adverse party, but an extended order may be granted only after notice and a hearing; (8) clarifies that such a petition may be filed regardless of whether there is an existing judicial or administrative action or matter pending that relates to the issues presented in the petition; and (9) requires a court order to be in writing, to be personally served on the person to whom it is directed and to contain certain warnings.

**Section 8** of this bill: (1) provides for the deferral of fees for a petitioner for a temporary or extended order; (2) requires the clerk of the court to provide certain information to each party; and (3) provides that no fee may be charged for service of a court order.

**Section 9** of this bill provides that: (1) a temporary order expires not later than 30 days after the date on which it is issued unless a petition for an extended order is filed, in which case the temporary order remains in effect until the hearing on the petition for the extended order is held; and (2) an extended order expires not later than 5 years after the date it is issued.

**Section 10** of this bill: (1) requires each court that issues a temporary or extended order to transmit, as soon as practicable, a copy of the order to all law enforcement agencies within its jurisdiction; and (2) provides for the enforcement of a temporary or extended order by law enforcement.

**Section 11** of this bill provides that any time a court issues a temporary or extended order and any time a person serves such an order, registers such an order or receives any information or takes any other action relating to such an order, the court or person, as applicable, must cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day.

**Section 12** of this bill provides that a person who violates a temporary order is guilty of a gross misdemeanor, and a person who intentionally violates an extended order is guilty of a category C felony.

**Section 13** of this bill provides that a person who commits a felony in violation of a temporary or extended order for protection of a vulnerable adult is subject to an additional penalty.

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

**Section 1.** Chapter 33 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Extended order” means an extended order for protection of a vulnerable adult.*



1     **Sec. 4.** *"Prohibited act" means an act of abandonment,*  
2 *abuse, exploitation, isolation or neglect, as those terms are defined*  
3 *in NRS 200.5092, that is committed against a vulnerable adult.*

4     **Sec. 5.** *"Temporary order" means a temporary order for*  
5 *protection of a vulnerable adult.*

6     **Sec. 6.** *"Vulnerable adult" means a person who:*

7     1. *Suffers from a condition of physical or mental*  
8 *incapacitation because of a developmental disability, organic*  
9 *brain damage or mental illness;*

10    2. *Has one or more physical or mental limitations that restrict*  
11 *the ability of the person to perform the normal activities of daily*  
12 *living;*

13    3. *Is 60 years of age or older and lacks the functional, mental*  
14 *or physical ability to care for himself or herself;*

15    4. *Has been found to be incapacitated pursuant to chapter*  
16 *159 of NRS;*

17    5. *Is currently admitted to a health care facility, as defined in*  
18 *NRS 162A.740;*

19    6. *Is currently receiving services from an agency to provide*  
20 *nursing in the home as defined in NRS 449.0015 or home or*  
21 *hospice care from an entity required to be licensed under chapter*  
22 *449 of NRS;*

23    7. *Is currently receiving services from a care provider, as*  
24 *defined in NRS 159.014; or*

25    8. *Self-directs his or her own care and receives services from*  
26 *a personal aide.*

27     **Sec. 7.** 1. *In addition to any other remedy provided by law,*  
28 *an authorized person may file a verified petition for a temporary*  
29 *or extended order against a person who has committed or is*  
30 *committing a prohibited act against a vulnerable adult. The*  
31 *petition may be filed in the district court of:*

32     (a) *The county in which the vulnerable adult currently resides;*  
33 *or*

34     (b) *The county in which the vulnerable adult formerly resided,*  
35 *if the vulnerable adult left or was removed from his or residence in*  
36 *that county as a result of the commission of a prohibited act*  
37 *against the vulnerable adult or to avoid the commission of a*  
38 *prohibited act against the vulnerable adult.*

39    2. *If the Aging and Disability Services Division of the*  
40 *Department of Health and Human Services has reason to believe*  
41 *that a person has committed or is committing a prohibited act*  
42 *against a vulnerable adult and that the vulnerable adult needs the*  
43 *protection of a temporary or extended order, the Division may:*

44     (a) *File a petition for a temporary or extended order on behalf*  
45 *of the vulnerable adult if:*



(1) The Division finds that the commission of a prohibited act against the vulnerable adult has impaired the ability of the vulnerable adult to appreciate and understand the circumstances that place him or her at risk of harm; or

(2) The vulnerable adult has provided written authorization to the Division to act on his or her behalf; or

(b) May refer the matter to the closest office of the public guardian, who may file a petition in accordance with the provisions of chapter 159 of NRS to seek guardianship for the vulnerable adult if the public guardian determines that a guardianship is appropriate.

3. If the Division files a petition for a temporary or extended order pursuant to this section, the Division:

(a) Shall comply with all applicable laws and regulations relating to confidentiality that generally apply to the performance of its duties; and

(b) May disclose only those facts that are necessary to provide sufficient proof to the court that a temporary or extended order should be issued.

4. The Division, the Department of Health and Human Services, the State of Nevada and their officers and employees are immune from criminal and civil liability for any act or omission relating to the filing of a petition for a temporary or extended order pursuant to this section.

5. If it appears to the satisfaction of the court from specific facts shown by the petition that a person has committed or is committing a prohibited act against a vulnerable adult, the court may grant a temporary or extended order.

6. If a temporary or extended order is granted pursuant to this section, the court may direct the adverse party to:

(a) Refrain from committing the prohibited act against the vulnerable adult.

(b) Stay away from the residence of the vulnerable adult and any other location specifically ordered by the court for a specified period or until further order of the court.

(c) Refrain from contacting, intimidating, threatening or otherwise interfering with the vulnerable adult for a specified period or until further order of the court.

(d) Refrain from knowingly coming within, or knowingly remaining within, a specified distance of the vulnerable adult or a specified location.

(e) Provide an accounting of the income or other property of the vulnerable adult.



(f) Refrain from transferring, selling or otherwise disposing of the property of the vulnerable adult for a specified period not to exceed 90 days.

(g) Stay away from any animal owned, possessed, leased, kept or held by the vulnerable adult or refrain from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming or otherwise disposing of any animal owned, possessed, leased, kept or held by the vulnerable adult. The court may also grant to the vulnerable adult exclusive care, possession or control of the animal after a showing of good cause.

(h) Remit payment of any filing fee and court costs, including, without limitation, service fees, and reimburse the vulnerable adult for costs incurred in bringing the action, including, without limitation, reasonable attorney's fees.

(i) Comply with any other restriction which the court deems necessary to protect the vulnerable adult or any other person specifically named by the court, including, without limitation, a member of the family or household of the vulnerable adult.

7. A temporary order for protection 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.

8. A petition for a temporary order or extended order may be filed regardless of whether there is an existing judicial or administrative action or matter pending that relates to the issues presented in the petition.

9. 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 a 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.

10. As used in this section, "authorized person" means:

(a) A vulnerable adult, acting on his or her own behalf;

(b) A guardian of a vulnerable adult;

(c) An attorney-in-fact for a vulnerable adult who is acting within the authority of a power of attorney; or

(d) The Division, acting as provided in subsection 2.



**Sec. 8. 1.** *The payment of all costs and official fees must be deferred for any petitioner for a temporary or extended order. After any hearing and no later than final disposition of the petition or order, the court shall assess the costs and fees against the adverse party, except that the court may reduce them or waive them, as justice may require.*

**2.** *The clerk of the court shall provide each party, free of cost, with information about the:*

*(a) Availability of temporary and extended orders;*

*(b) Procedure for filing an application for such an order; and*

*(c) Right to proceed without legal counsel.*

**3.** *No fee may be charged to have an order issued pursuant to section 7 of this act served in this State.*

**Sec. 9. 1.** *A temporary order expires not more than 30 days after the date on which the order is issued by a court. If a petition for an extended order is filed with the court within the 30-day period of a temporary order, the temporary order remains in effect until the hearing on the application for an extended order is held.*

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

**3.** *An extended order expires not more than 5 years after the date on which the order is issued by a court. A temporary order may be converted by the court, upon notice to the adverse party and a hearing, into an extended order effective for not more than 5 years after the date on which the temporary order was converted by the court into an extended order.*

**Sec. 10. 1.** *Each court that issues a temporary or extended order 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 probable cause to believe that:*

*(a) A temporary or extended order has been issued against the person to be arrested;*

*(b) The person to be arrested has 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 section 7 of this act.*



**Sec. 11.** *Any time a court issues a temporary or extended order and any time a person serves such an order, registers such an order or receives any information or takes any other action pursuant to sections 2 to 12, inclusive, of this act, the court or person, as applicable, shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, any information required by the Central Repository in a manner which ensures that the information is received by the Central Repository by the end of the next business day.*

**Sec. 12.** *Unless a more severe penalty is prescribed by law for an act that constitutes a violation of a temporary or extended order, any person who intentionally violates:*

*1. A temporary order is guilty of a gross misdemeanor.*

*2. An extended order is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

**Sec. 13.** 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 6 of NRS 33.400, subsection 5 of NRS 200.378 or subsection 5 of NRS 200.591, *or subsection 2 of section 12 of this act*, 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 ex parte or extended order for protection against high-risk behavior issued pursuant to NRS 33.570 or 33.580;

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

(f) A temporary or extended order issued pursuant to NRS 200.378; ~~or~~

(g) A temporary or extended order issued pursuant to NRS 200.591 ~~or~~; *or*

*(h) A temporary or extended order for protection of a vulnerable adult issued pursuant to section 7 of this act,*

➤ shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a minimum term of not less than 1 year and a maximum term of not more than 20 years. If the crime committed by the person is punishable as a category A felony or category B felony, in addition



1 to the term of imprisonment prescribed by statute for that crime, the  
2 person shall be punished by imprisonment in the state prison for a  
3 minimum term of not less than 1 year and a maximum term of not  
4 more than 5 years.

5 2. In determining the length of the additional penalty imposed  
6 pursuant to this section, the court shall consider the following  
7 information:

8 (a) The facts and circumstances of the crime;

9 (b) The criminal history of the person;

10 (c) The impact of the crime on any victim;

11 (d) Any mitigating factors presented by the person; and

12 (e) Any other relevant information.

13 ↪ The court shall state on the record that it has considered the  
14 information described in paragraphs (a) to (e), inclusive, in  
15 determining the length of the additional penalty imposed.

16 3. The sentence prescribed by this section:

17 (a) Must not exceed the sentence imposed for the crime; and

18 (b) Runs concurrently or consecutively with the sentence  
19 prescribed by statute for the crime, as ordered by the court.

20 4. The court shall not grant probation to or suspend the  
21 sentence of any person convicted of attempted murder, battery  
22 which involves the use of a deadly weapon, battery which results in  
23 substantial bodily harm or battery which is committed by  
24 strangulation as described in NRS 200.481 or 200.485 if an  
25 additional term of imprisonment may be imposed for that primary  
26 offense pursuant to this section.

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

30 **Sec. 14.** Notwithstanding the provisions of NRS 218D.430 and  
31 218D.435, a committee, other than the Assembly Standing  
32 Committee on Ways and Means and the Senate Standing Committee  
33 on Finance, may vote on this act before the expiration of the period  
34 prescribed for the return of a fiscal note in NRS 218D.475. This  
35 section applies retroactively from and after March 22, 2021.

