

ASSEMBLY BILL NO. 107—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

FEBRUARY 13, 2003

Referred to Committee on Judiciary

SUMMARY—Provides additional penalty for committing certain crimes in violation of temporary or extended order for protection. (BDR 15-285)

FISCAL NOTE: Effect on Local Government: No.
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 crimes; providing an additional penalty for committing a felony in violation of a temporary or extended order for protection; prohibiting a court from granting probation to a person who commits such a crime; 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.** Chapter 193 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 ***1. Except as otherwise provided in NRS 193.169, a person***
4 ***who commits a crime that is punishable as a felony, other than a***
5 ***crime that is punishable as a felony pursuant to subsection 5 of***
6 ***NRS 200.591, in violation of:***
7 ***(a) A temporary or extended order for protection against***
8 ***domestic violence issued pursuant to NRS 33.020;***
9 ***(b) An order for protection against harassment in the***
10 ***workplace issued pursuant to NRS 33.270;***
11 ***(c) An order for protection against domestic violence issued in***
12 ***an action or proceeding brought pursuant to title 11 of NRS; or***



* A B 1 0 7 R 2 *

1 (d) 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
11 5 years. The sentence prescribed by this section runs concurrently
12 or consecutively with the sentence prescribed by statute for the
13 crime, 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
17 results in substantial bodily harm if an additional term of
18 imprisonment may be imposed for that primary offense pursuant
19 to this section.

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

23 **Sec. 2.** NRS 193.169 is hereby amended to read as follows:

24 193.169 1. A person who is sentenced to an additional term
25 of imprisonment pursuant to the provisions of subsection 1 of NRS
26 193.161, NRS 193.162, 193.163, 193.165, 193.167, 193.1675,
27 193.168 or 453.3345 *or section 1 of this act* must not be sentenced
28 to an additional term of imprisonment pursuant to any of the other
29 listed sections even if the person's conduct satisfies the
30 requirements for imposing an additional term of imprisonment
31 pursuant to another one or more of those sections.

32 2. A person who is sentenced to an alternative term of
33 imprisonment pursuant to subsection 2 of NRS 193.161 must not be
34 sentenced to an additional term of imprisonment pursuant to
35 subsection 1 of NRS 193.161, NRS 193.162, 193.163, 193.165,
36 193.167, 193.1675, 193.168 or 453.3345 *or section 1 of this act*
37 even if the person's conduct satisfies the requirements for imposing
38 an additional term of imprisonment pursuant to another one or more
39 of those sections.

40 3. This section does not:

41 (a) Affect other penalties or limitations upon probation or
42 suspension of a sentence contained in the sections listed in
43 subsection 1 or 2.

44 (b) Prohibit alleging in the alternative in the indictment or
45 information that the person's conduct satisfies the requirements of



1 more than one of the sections listed in subsection 1 or 2 and
2 introducing evidence to prove the alternative allegations.

3 **Sec. 3.** NRS 33.100 is hereby amended to read as follows:

4 33.100 ~~[(1)]~~ A person who violates a temporary or extended
5 order is guilty of a misdemeanor, unless a more severe penalty is
6 prescribed by law for the act that constitutes the violation of the
7 order. ~~[If the violation is accompanied by a violent physical act by
8 the adverse party against a person protected by the order, the court
9 shall:~~

10 ~~—(a) Impose upon the adverse party a fine of \$1,000 or require
11 him to perform a minimum of 200 hours of community service;~~

12 ~~—(b) Sentence him to imprisonment for not fewer than 5 days nor
13 more than 6 months;~~

14 ~~—(c) Order him to reimburse the applicant, in an amount
15 determined by the court, for all costs and attorney’s fees incurred by
16 the applicant in seeking to enforce the temporary or extended order,
17 and for all medical expenses of the applicant and any minor child
18 incurred as a result of the violent physical act; and~~

19 ~~—(d) Order him to participate in and complete a program of
20 professional counseling, at his own expense, if such counseling is
21 available.~~

22 ~~—2. The adverse party shall comply with the order for
23 reimbursement of the applicant before paying a fine imposed
24 pursuant to this section.]~~

25 **Sec. 4.** NRS 125.560 is hereby amended to read as follows:

26 125.560 ~~[(1)]~~ A person who violates a restraining order or
27 injunction:

28 ~~[(a)]~~ 1. That is in the nature of a temporary or extended order
29 for protection against domestic violence; and

30 ~~[(b)]~~ 2. That is issued in an action or proceeding brought
31 pursuant to this Title,

32 is guilty of a misdemeanor, unless a more severe penalty is
33 prescribed by law for the act that constitutes the violation of the
34 order or injunction. For the purposes of this ~~[subsection,]~~ **section**,
35 an order or injunction is in the nature of a temporary or extended order
36 for protection against domestic violence if it grants relief that might
37 be given in a temporary or extended order issued pursuant to NRS
38 33.017 to 33.100, inclusive.

39 ~~[2. If the violation is accompanied by a violent physical act
40 against a person protected by the order or injunction, the court shall:~~

41 ~~—(a) Impose upon the person committing the act a fine of \$1,000
42 or require him to perform a minimum of 200 hours of community
43 service;~~

44 ~~—(b) Sentence him to imprisonment for not fewer than 5 days nor
45 more than 6 months;~~



1 ~~—(c) Order him to reimburse the person obtaining the order or~~
2 ~~injunction, in an amount determined by the court, for all costs and~~
3 ~~attorney's fees incurred by that person in seeking to enforce the~~
4 ~~order or injunction, and for all medical expenses of the person and~~
5 ~~any minor child incurred as a result of the violent physical act; and~~
6 ~~—(d) Order him to participate in and complete a program of~~
7 ~~professional counseling, at his own expense, if such counseling is~~
8 ~~available.~~
9 ~~—3. The person committing the violation shall comply with the~~
10 ~~order for reimbursement of the person obtaining the order or~~
11 ~~injunction before paying any fine imposed pursuant to this section.]~~

