

INFORMATION ABOUT ORDERS FOR PROTECTION AGAINST HARASSMENT IN THE WORKPLACE

(1) Who can apply for this type of protection order?

Only the EMPLOYER of a business or the AUTHORIZED AGENT (such as an attorney) for that business may apply for protection. **NRS 33.210** defines an EMPLOYER to include public or private employers in Nevada, including, without limitation, the State of Nevada, a state agency, and a state political subdivision.

If you are an employee being harassed in the workplace, your Employer must apply for this type of protection order, or you must file for a different type of protection order on your own behalf (i.e., an Order for Protection Against Stalking and Harassment, an Order for Protection of Children, or an Order for Protection Against Domestic Violence.)

(2) What is the definition of “harassment in the workplace”?

Under **NRS 33.240**, harassment in the workplace occurs when:

1. A person knowingly threatens to cause or commits an act that causes:
 - (a) Bodily injury to himself or another person;
 - (b) Damage to the property of another person; or
 - (c) Substantial harm to the physical or mental health or safety of a person;
2. The threat is made or the act is committed against an employer, an employee of the employer while the employee performs his duties of employment or a person present at the workplace of the employer; and
3. The threat would cause a reasonable person to fear that the threat will be carried out or the act would cause a reasonable person to feel terrorized, frightened, intimidated or harassed.

(3) What is an “order for protection”?

NRS 33.250 states that if an EMPLOYER or AUTHORIZED AGENT for the EMPLOYER reasonably believes that harassment in the workplace has occurred, that individual may petition the Justice Court for an order restricting the conduct of the person who is allegedly committing the harassment. The employer or authorized agent is considered the APPLICANT and the person allegedly committing the harassment is considered the ADVERSE PARTY.

An **order for protection** may do the following:

- (1) It may prohibit the Adverse Party from contacting the employer, an employee of the employer while the employee is performing his duties of employment, and any person while the person is present at the workplace of the employer.
- (2) It may order the Adverse Party to stay away from the workplace of the employer.
- (3) It may order such other relief as the Court deems necessary to protect the employer, the workplace of the employer, the employees of the employer while performing their duties of employment and any other persons who are present at the workplace.

(4) How long will a protection order remain in effect?

Unlike other types of protection orders, a temporary order must expire not later than **15 days** after the date on which the order is issued, unless otherwise ordered by a justice of the peace.

An extended order must expire no later than **1 year** after the extended order is signed by a justice of the peace.

If a petition for an extended order is filed within the period of a temporary order, the temporary order remains in effect until the hearing on the extended order is held. An extended order cannot be issued after a temporary order has expired.

(5) Can I obtain a protection order without notifying the Adverse Party?

Yes. However, unlike other types of protection orders, there are more strict requirements for having an Order for Protection Against Harassment in the Workplace issued without notice to the Adverse Party.

When applying for a temporary Order for Protection Against Harassment in the Workplace, you are generally required to provide WRITTEN or ORAL notice to the Adverse Party that you intend to seek such relief. For example, an e-mail, letter, or fax to the Adverse Party would constitute written notice. A telephone call or face-to-face statement would constitute oral notice of your intent to seek this type of protection order.

If you are unable to provide WRITTEN or ORAL notice, or if you believe that such notice would be dangerous or impractical, then **NRS 33.270** requires that you provide the following information in your Application:

(1) You must list specific facts that 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 the employer,

before the Adverse Party or his attorney can be heard in opposition.

(2) You must list the efforts, **if any**, that have been made to give notice to Adverse Party.

(3) You must list specific facts supporting waiver of the statutory notice requirements.

Whether or not you have provided notice to the Adverse Party, **NRS 33.270** states that the Court can require the Applicant, the Adverse Party, or both to appear for a scheduled hearing before it decides whether to issue the temporary order for protection. However, the justice of the peace can still grant the temporary order for protection without a hearing, if the justice of the peace is so inclined.

An extended order **cannot** be granted unless:

- (1) The Application, and notice of the petition for the order and of the hearing thereon, are served upon the Adverse Party pursuant to the Rules of Civil Procedure, and
- (2) The Court holds a hearing on the request.

For both temporary and extended orders, if a hearing is scheduled, you are strongly encouraged to prepare in advance for the hearing, and to bring any supporting documentation and witnesses to the hearing.

NOTE: When an application for an extended order is filed, the Court must hold a hearing on that Application within **10 days** after the date that the Application is filed, unless the Court determines that there are compelling reasons to hold the hearing at a later date.

(6) What is the criminal penalty for violating a protection order?

A person who intentionally violates a temporary or extended Order for Protection Against Harassment in the Workplace is guilty of a **misdemeanor**, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the Order.

Pursuant to NRS 193.166, if the act that constitutes the violation of a protection order is itself a felony, the violator shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

In addition, a person who violates a protection order may also be summarily held in contempt of Court pursuant to NRS 22.100 and punished by a fine of up to \$500 and/or imprisonment up to 25 days.

Criminal contempt may also be prosecuted as a misdemeanor criminal case, punishable by imprisonment in jail for up to 6 months and/or a fine of up to \$1,000.

(7) Do I need an attorney to apply for a protection order?

No. Although an attorney may assist you in filing for a protection order, and although an attorney may appear with you at any Court hearing, you have the right to proceed without legal counsel if you so desire. However, due to the complexities involved in this type of protection order, you are strongly encouraged to seek legal assistance.

(8) How much does it cost to file for a protection order against harassment in the workplace?

Unlike other types of protection orders there is a filing fee to obtain a protection order against harassment in the workplace. The amount of the filing fee varies by jurisdiction. However, in this Court, the filing fee is \$_____.

In addition, there is an additional **\$100.00** (cash or equivalent) that must be posted as “security.” Under **NRS 33.270**, a temporary Order for Protection Against Harassment in the Workplace cannot be issued unless the Applicant posts this amount. The purpose of this security is to

compensate the Adverse Party for “such costs and damages as may be incurred or suffered” by the Adverse Party if that person is “found to have been wrongfully enjoined or restrained.” An Adverse Party may file a Motion to increase the amount of security if that person feels he may be subject to excessive damages. However, an Applicant may not file a Motion to decrease the amount to less than \$100.00.

If a justice of the peace decides not to issue a protection order, or if the justice of the peace issues a protection order that expires by its own terms, then the Applicant may file a Motion for Refund of Security. **NOTE:** The filing fee is not refundable, however.

If a justice of the peace dissolves a TPO against the Adverse Party, the Adverse Party may file a Motion for an Award from the security amount. If that occurs, the Court may award the entire security amount to the Adverse Party. Alternatively, the Court may award a portion of the security to the Adverse Party, and the Applicant would only be able to file a motion for a refund of the remaining portion.

(9) Are there unique rules for this type of protection order that do not apply to the other types of protection orders?

YES. Some of these unique rules are highlighted below:

(A) An Order for Protection Against Harassment in the Workplace **cannot** be issued against more than one person.

(B) Under **NRS 33.260**, if an employer has knowledge that a specific person is the target of harassment in the workplace and the employer intends to seek a temporary or extended order for protection against such harassment, the employer must make **a good faith effort to notify** the person who is the target of the harassment that the employer intends to seek such an order.

(C) Under **NRS 33.310**, an employer or an authorized agent of an employer may **register** a temporary or extended Order for Protection Against Harassment in the Workplace issued by the Court of another state by presenting a certified copy of the order to the clerk of the Court in a judicial district in which the employer believes that enforcement may be necessary. A temporary or extended Order for Protection Against Harassment in the Workplace that is registered has the same effect and must be enforced as if it were issued in Nevada. Moreover, the clerk of the Court will maintain a record of all orders that are registered.

(D) The Court may award **costs and reasonable attorney’s fees** to the prevailing party in this type of case.

(E) Under **NRS 33.330**, any person who enforces an Order for Protection Against Harassment in the Workplace based upon a reasonable belief that the order is valid is immune from civil and criminal liability for any action taken based upon that belief.

(F) Under **NRS 33.330**, any person who refuses to enforce an Order for Protection Against Harassment in the Workplace based upon a reasonable belief that the order is **not**

valid is immune from civil and criminal liability for any action taken or not taken based upon that belief.

(G) Under **NRS 33.340**, an Employer is immune from civil liability for:

- (a) Seeking a temporary or extended Order for Protection Against Harassment in the Workplace, if the employer acts in good faith in seeking the order; or
- (b) Failing to seek a temporary or extended Order for Protection Against Harassment in the Workplace.

(H) Under **NRS 33.340**, an action taken or a statement made by an employer pursuant to NRS 33.200 to 33.260, inclusive (the statutes addressing Orders for Protection Against Harassment in the Workplace):

- (a) Shall not be deemed an admission by the employer of any fact; and
- (b) May be used for the purposes of impeachment.

(I) The statutory provisions relating to Orders for Protection Against Harassment in the Workplace do not:

- (a) Modify the duty of an employer to provide a safe workplace for the employees of the employer and other persons present at the workplace of the employer;
- (b) Prohibit a person from engaging in any constitutionally protected exercise of free speech, including, without limitation, speech involving labor disputes concerning organized labor; or
- (c) Prohibit a person from engaging in any activity that is part of a labor dispute.

(10) What is the procedure for filing for a protection order?

You must fill out two different types of documents and submit them to the Court. All documents must be completed **LEGIBLY**. If you need additional pages because you need more space to write, you may request a **CONTINUATION PAGE** in order to continue writing.

The first document to be completed is called an **APPLICATION**. Please refer to the Court's detailed instructions on completing the **APPLICATION**.

As you are filling out the **APPLICATION**, you should keep the following things in mind:

(1) Under **NRS 200.581**, harassment is deemed to have been committed "where the conduct occurred" or "where the person who was affected by the conduct was located at the time that the conduct occurred."

For example, if the Adverse Party causes physical damage to a business in this township, or threatens employees in this township, you may file here. If the Adverse Party is making

threatening phone calls to your business or its employees, and you received those phone calls in this township, you may file here.

If another Court has jurisdiction over your protection order filing, you may need to contact that Court in order to apply for a protection order.

(2) You need to be as specific as possible. For example, it is important to include all relevant dates, locations, witnesses, etc., so that the reviewing justice of the peace will have the most complete information to consider. It is also helpful to present your story in a chronological fashion so that the justice of the peace will understand a clear sequence of events.

(3) You may include any supporting documents that you have gathered, such as:

- * Documentation of phone calls by the Adverse Party
- * Notes/written threats left by the Adverse Party
- * Pictures of property damage caused by the Adverse Party
- * Any other written documents that help to substantiate your allegations.

(4) Although you are not required to file a police report prior to seeking a protection order, if you have filed a police report, you may attach a copy of the police report along with your **APPLICATION. Additionally, if there are other protection orders involving the Adverse Party, please attach copies, if available.**

(5) To apply for a protection order, you must be at least **18 years of age.**

(6) The **APPLICATION** and any supporting documents that you provide are public records and may be viewed by any member of the public, including the Adverse Party, except as specified in these instructions.

(7) The **APPLICATION** asks you to list specific locations where you are seeking protection. If you are afraid to divulge that information to the Adverse Party, you may indicate that such information is **CONFIDENTIAL** and should not appear on the protection order. However, please be advised that this may limit the ability of law enforcement to enforce your order effectively. For example, if the Court orders the Adverse Party to stay away from “your business,” with no specific business addresses listed in the protection order, police may be reluctant to arrest the Adverse Party if that person shows up at a specific business location. **Although this order of protection applies statewide, you are strongly encouraged to list the specific business addresses where protection will most likely be needed.**

(8) As part of the **APPLICATION**, you will be asked if you would like the Court to set a hearing date for an extended order. If you check the yes box, you will be asked to file a separate application for an extended order along with your application for the temporary order. If you check the no box, you may apply for an extended order later, but the extended order can only be requested while the temporary order is still in effect.

For either option, the temporary order will remain in effect until the hearing on the extended order is held.

(9) You are signing the **APPLICATION** under penalty of perjury, so you must remember that intentionally false or misleading statements may subject you to criminal penalties.

The second document to be completed is called a **CONFIDENTIAL INFORMATION SHEET**. This document is not available to the general public or to the Adverse Party.

For several reasons, it is critical that you fill out this document as completely as possible:

(1) This document will provide information to the Court so that the Court can contact you and provide information about upcoming hearings or activities in your case.

(2) This information is needed by law enforcement agencies for purposes of service. **Justice Court Rules of Civil Procedure 4 requires personal service for (A) An Application for a Temporary or Extended Order, and the Notice of Hearing on such an Application, and (B) All Orders issued by the Court. All other documents may be served as provided in Justice Court Rules of Civil Procedure 5.**

After you have completed the **APPLICATION** and the **CONFIDENTIAL INFORMATION SHEET**, your paperwork will be assigned a case number, and the case will be assigned to a justice of the peace who will review your information.

If the justice of the peace denies your request for a protection order, the justice of the peace will sign a written order denying your request and explaining why the protection order is not warranted.

If the justice of the peace grants your request, a written protection order will be prepared, and the parties will each receive a free copy of the order. The order will also be forwarded to the appropriate law enforcement agencies for service upon the Adverse Party. Unlike other types of protection orders, there is a fee for having law enforcement agencies serve this type of protection order in Nevada.

Please note that if the Adverse Party resides outside this County or in another state, it will be your responsibility to contact the proper law enforcement agencies where the Adverse Party resides, in order to have the protection order served. Under **NRS 33.300**, a law enforcement agency must enforce an Order for Protection Against Harassment in the Workplace without regard to the county in which the order was issued.

If you are a party to a TPO action, you, may not serve that TPO yourself on the adverse party. Instead, the TPO must be served by a deputy constable, deputy sheriff, or person who is not a party and who is over 18 years of age.

You may also use a private process server to serve the Adverse Party at your own expense. If you choose to do so, you must file with the Court a document called a “Return of Service” which shows that the Adverse Party was properly served.

(11) Does the Adverse Party have any remedies once the protection order is issued?

The Adverse Party has three (3) options once the protection order is issued.

(A) On **2 days' notice** to the Applicant, or on such shorter notice as the Court may require, the Adverse Party may file a **Motion to Dissolve** the protection order, and the Court may schedule a hearing on the Motion. If the Motion is granted, the protection order will become immediately void and unenforceable. A protection order can only be dissolved by a Court.

(B) On **2 days' notice** to the Applicant, or on such shorter notice as the Court may require, the Adverse Party may file a **Motion to Modify** the protection order, and the Court may schedule a hearing on the Motion. This commonly occurs when the Adverse Party believes that the protection order is too broad or that the protection order is unduly burdensome. A protection order can only be modified by the Court.

(C) If an extended order is issued, the Adverse Party may file an **appeal** to District Court, and the District Court may affirm, modify or vacate the order in question. The Adverse Party may appeal without filing a bond, but the appeal itself does not stay the effect or enforcement of the extended order.

Although a bond is not required, the statute does require specific fees for an appeal. These fees include:

\$12.00 Justice Court fee for filing a notice of appeal (NRS 4.060(1)(g))

\$12.00 Justice Court fee for preparation of papers on appeal (NRS 4.060(1)(i))

\$42.00 District Court fee for an appeal to the District Court (NRS 19.013(1))

\$5.00 District Court fee for filing an appeal from Justice Court (NRS 19.020(3))

(12) If the Adverse Party violates the protection order, what should I do?

If the Adverse Party violates the protection order, you should call the police and report the incident immediately. In addition, you should consider filing a Motion to hold the Adverse Party in Contempt of Court. The Court will review your Motion and decide whether a hearing should be scheduled.

(13) If I seek this type of protection order against the Adverse Party, am I prohibited from seeking other remedies also?

Under **NRS 33.290**, a temporary or extended Order for Protection Against Harassment in the Workplace is in addition to and not in lieu of any other available civil or criminal action. An employer is not barred from seeking an order because of other pending proceedings.

Also, the employees of the business may choose to file for an "Order for Protection Against Stalking or Harassment" or an "Order for Protection of Children" on their own behalf.

In addition, if an employee has a "domestic relationship" with the Adverse Party, that employee may also be eligible to apply for an **Order for Protection Against Domestic Violence**.

"Domestic violence" is defined in NRS 33.018 as follows:

NRS 33.018. Acts which constitute domestic violence

1. Domestic violence occurs when a person commits one of the following acts against or upon 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, his minor child, or any person who has been appointed the custodian or legal guardian for 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.
 - (7) Injuring or killing an animal.
- (f) A 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.

2. 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.

(14) Are there other important phone numbers I should know?

Here is a list of some important phone numbers that may assist you:

COURT: _____

POLICE: _____

CONSTABLE: _____

SHERIFF-CIVIL DIVISION: _____

SHELTER: _____

PROTECTIVE SERVICES: _____

ADVOCACY PROGRAMS: _____

LEGAL SERVICES: _____ State Bar Lawyer Referral Service: 1-800-789-5747

COUNSELING: _____

DETENTION FACILITIES: _____

MISCELLANEOUS SERVICES (Etc.): _____

DISCLAIMER

The information contained in this packet is provided as a **reference guide** to victims, law enforcement personnel, health care providers, social service personnel, and the general public.

No copyright is claimed in the text of statutes quoted within. Citations to all or part of this publication are encouraged (with cited source). However, the legal citations contained herein are subject to statutory amendment and/or changes in Nevada case law.

If you need more information about your legal rights and remedies, you are encouraged to consult an attorney.

Comparison of Protection Orders in Nevada

	Domestic Violence	Stalking and Harassment	Protection of Children	Workplace Harassment
Crime involved?	Domestic violence (NRS 33.018)	Stalking (NRS 200.575) Harassment (NRS 200.571)	Any crime involving: (a) Physical or mental injury to a child of a nonaccidental nature; or (b) Sexual abuse or sexual exploitation of a child (NRS 33.400)	Acts that constitute “harassment in the workplace” (NRS 33.240)
Who Can File?	Victim	Victim	Parent or guardian of a child	Employer or authorized agent
Filing Fee?	Deferred (NRS 33.050)	Deferred(NRS 200.592)	Deferred (NRS 33.410)	Yes
Security?	No	No	No	Yes (NRS 33.270)
Duration of a TEMPORARY order?	Up to 30 days (NRS 33.080)	Up to 30 days (NRS 200.594)	Up to 30 days (NRS 33.420)	Up to 15 days (NRS 33.270)
Duration of an EXTENDED order?	Up to 1 year (NRS 33.080)	Up to 1 year (NRS 200.594)	Up to 1 year (NRS 33.420)	Up to 1 year (NRS 33.270)
Penalty for violation of a TEMPORARY order?	Misdemeanor, unless more severe penalty is provided by law (NRS 33.100)	Gross misdemeanor, unless more severe penalty is provided by law (NRS 200.591)	Gross misdemeanor, unless more severe penalty is provided by law (NRS 33.400)	Misdemeanor, unless more severe penalty is provided by law. (NRS 33.350)
Penalty for violation of an EXTENDED order?	Misdemeanor, unless more severe penalty is provided by law (NRS 33.100)	Category C felony, unless more severe penalty is provided by law (NRS 200.591)	Category C felony, unless more severe penalty is provided by law (NRS 33.400)	Misdemeanor, unless more severe penalty is provided by law (NRS 33.350)
Costs and attorney’s fees can be recovered?	Yes (in an extended order only) (NRS 33.030)	No	No	Yes (NRS 33.270)
Right to proceed without lawyer?	Yes (NRS 33.050)	Yes (NRS 200.592)	Yes (NRS 33.410)	Yes (but attorney is encouraged)
Can more than 1 defendant be named?	Yes	Yes	Yes	No (NRS 33.280)
Can a defendant be a minor?	Yes	Yes	No (NRS 33.400)	Yes
Can the TPO be modified, rescinded, or appealed?	Yes (NRS 33.030 and NRS 33.080)	Yes (NRS 200.591 and NRS 200.594)	Yes (NRS 33.400 and NRS 33.420)	Yes (NRS 33.270)
Special remedies related to custody and support?	Visitation or temporary custody for a minor; orders to pay rent/mortgage; support orders; assignment of income. (NRS 33.030 and NRS 33.035)	No	No	No
Can foreign orders be registered?	Yes (NRS 33.090)	No (but the order is entitled to Full Faith and Credit under federal law)	No (but the order is entitled to Full Faith and Credit under federal law)	Yes (NRS 33.310)