

CHAPTER.....

AN ACT relating to exploitation; revising the definition of “exploitation” for the purposes of certain provisions concerning the abuse of an older person to include converting money, assets or property of the older person under certain circumstances; revising the definition of “exploitation” for the purposes of certain provisions concerning civil liability of a person for exploiting an older person or vulnerable person to include converting money, assets or property of the older or vulnerable person under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

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

Section 1. NRS 200.5092 is hereby amended to read as follows:

200.5092 As used in NRS 200.5091 to 200.50995, inclusive, unless the context otherwise requires:

1. “Abuse” means willful and unjustified:

(a) Infliction of pain, injury or mental anguish on an older person; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person.

2. “Exploitation” means any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship of an older person to ~~obtain~~ :

(a) *Obtain* control, through deception, intimidation or undue influence, over the older person’s money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property ~~to~~; or

(b) *Convert money, assets or property of the older person with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property.*

As used in this subsection, “undue influence” does not include the normal influence that one member of a family has over another.

3. “Isolation” means willfully, maliciously and intentionally preventing an older person from having contact with another person by:

(a) Intentionally preventing the older person from receiving his visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or a person who telephones the older person that the older person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person and intended to prevent the older person from having contact with the visitor; or

(b) Physically restraining the older person to prevent the older person from meeting with a person who comes to visit the older person.

The term does not include an act intended to protect the property or physical or mental welfare of the older person or an act performed pursuant to the instructions of a physician of the older person.

4. "Neglect" means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or who has voluntarily assumed responsibility for his care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person; or

(b) An older person to provide for his own needs because of inability to do so.

5. "Older person" means a person who is 60 years of age or older.

6. "Protective services" means services the purpose of which is to prevent and remedy the abuse, neglect, exploitation and isolation of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

Sec. 2. NRS 41.1395 is hereby amended to read as follows:

41.1395 1. Except as otherwise provided in subsection 3, if an older person or a vulnerable person suffers a personal injury or death that is caused by abuse or neglect or suffers a loss of money or property caused by exploitation, the person who caused the injury, death or loss is liable to the older person or vulnerable person for two times the actual damages incurred by the older person or vulnerable person.

2. If it is established by a preponderance of the evidence that a person who is liable for damages pursuant to this section acted with recklessness, oppression, fraud or malice, the court shall order the person to pay the attorney's fees and costs of the person who initiated the lawsuit.

3. The provisions of this section do not apply to a person who caused injury, death or loss to a vulnerable person if he did not know or have reason to know that the harmed person was a vulnerable person.

4. For the purposes of this section:

(a) "Abuse" means willful and unjustified:

(1) Infliction of pain, injury or mental anguish; or

(2) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.

(b) "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to ~~obtain~~:

(1) *Obtain* control, through deception, intimidation or undue influence, over the money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property ~~to~~; or

(2) *Convert money, assets or property of the older person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property.*

As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(c) "Neglect" means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a vulnerable person, or who has voluntarily assumed responsibility for his care, to provide food, shelter, clothing or services within the scope of his responsibility or obligation, which are necessary to maintain the physical or mental health of the older person or vulnerable person. For the purposes of this paragraph, a person voluntarily assumes responsibility to provide care for an older or vulnerable person only to the extent that he has expressly acknowledged his responsibility to provide such care.

(d) "Older person" means a person who is 60 years of age or older.

(e) "Vulnerable person" means a person who:

(1) Has a physical or mental impairment that substantially limits one or more of the major life activities of the person; and

(2) Has a medical or psychological record of the impairment or is otherwise regarded as having the impairment.

The term includes, without limitation, a person who is mentally retarded, a person who has a severe learning disability, a person who suffers from a severe mental or emotional illness or a person who suffers from a terminal or catastrophic illness or injury.