
ASSEMBLY BILL NO. 267—ASSEMBLYMEN ANDERSON, PARNELL,
CONKLIN, ALLEN, ANGLE, GERHARDT, HOLCOMB, HORNE,
MORTENSON AND OCEGUERA

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Prohibits abuse, neglect, exploitation or isolation of
vulnerable person. (BDR 15-1244)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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; prohibiting the abuse, neglect,
exploitation or isolation of a vulnerable person; requiring
the report of the abuse, neglect, exploitation or isolation
of a vulnerable person; providing penalties; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the abuse, neglect, exploitation and isolation of persons
who are 60 years of age or older and requires certain persons to report suspected
instances of the abuse, neglect, exploitation or isolation of persons who are 60 years
of age or older. (NRS 200.5091-200.50995)

This bill expands these provisions to include victims of abuse, neglect,
exploitation or isolation who are vulnerable persons. This bill defines “vulnerable
person” as a person of any age 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.

Existing law provides that if certain crimes are committed against a person who
is 60 years of age or older, the person who commits the crime must be punished by
a term of imprisonment equal to and in addition to the term of imprisonment
otherwise prescribed by statute for the crime. (NRS 193.167)

This bill expands this provision to also impose such an additional term of
imprisonment if the victim of the crime is a vulnerable person.

Existing law provides for the designation of certain persons as habitually
fraudulent felons if such persons have been convicted multiple times of certain



felonies involving fraud or intent to defraud and if the victim of each offense was an older person or a mentally disabled person. (NRS 207.014)

This bill replaces the term "mentally disabled person" with the more expansive term "vulnerable person." This alteration does not affect the protection of mentally disabled persons, as such persons are included within the definition of the term "vulnerable person."

Existing law establishes a privilege for certain communications made by a victim to a victim's advocate, and creates an exception to the privilege for that portion of such a communication which involves a report of abuse or neglect of a child or an older person. (NRS 49.2547, 49.2549)

This bill expands the exception to the privilege to include reports of abuse or neglect of a vulnerable person.

Existing law provides in relevant part that if a defendant is convicted of the abuse or neglect of an older person, the court at sentencing shall order that a biological specimen be obtained from the defendant to determine the genetic markers of the specimen. (NRS 176.0913)

This bill expands the scope of the provision to include defendants convicted of the abuse or neglect of a vulnerable person.

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

Section 1. NRS 193.167 is hereby amended to read as follows:
193.167 1. Except as otherwise provided in NRS 193.169,
any person who commits the crime of:

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;
- (g) Sexual assault;
- (h) Embezzlement of money or property of a value of \$250 or more;

(i) Obtaining money or property of a value of \$250 or more by false pretenses; or

(j) Taking money or property from the person of another,
↪ against any person who is 60 years of age or older *or against a vulnerable person* shall be punished by imprisonment in the county jail or state prison, whichever applies, for a term equal to and in addition to the term of imprisonment prescribed by statute for the crime. The sentence prescribed by this subsection must run consecutively with the sentence prescribed by statute for the crime.

2. Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or 91 of NRS against any person who is 60 years of age or older *or against a vulnerable person* shall be punished by imprisonment in



1 the county jail or state prison, whichever applies, for a term equal to
2 and in addition to the term of imprisonment prescribed by statute for
3 the criminal violation. The sentence prescribed by this subsection
4 must run consecutively with the sentence prescribed by statute for
5 the criminal violation.

6 3. This section does not create any separate offense but
7 provides an additional penalty for the primary offense, whose
8 imposition is contingent upon the finding of the prescribed fact.

9 *4. As used in this section, "vulnerable person" has the*
10 *meaning ascribed to it in subsection 7 of NRS 200.5092.*

11 **Sec. 2.** NRS 200.5091 is hereby amended to read as follows:

12 200.5091 It is the policy of this State to provide for the
13 cooperation of law enforcement officials, courts of competent
14 jurisdiction and all appropriate state agencies providing human
15 services in identifying the abuse, neglect, exploitation and isolation
16 of older persons *and vulnerable persons* through the complete
17 reporting of abuse, neglect, exploitation and isolation of older
18 persons ~~and~~ *and vulnerable persons.*

19 **Sec. 3.** NRS 200.5092 is hereby amended to read as follows:

20 200.5092 As used in NRS 200.5091 to 200.50995, inclusive,
21 unless the context otherwise requires:

22 1. "Abuse" means willful and unjustified:

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

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

28 2. "Exploitation" means any act taken by a person who has the
29 trust and confidence of an older person *or a vulnerable person* or
30 any use of the power of attorney or guardianship of an older person
31 *or a vulnerable person* to:

32 (a) Obtain control, through deception, intimidation or undue
33 influence, over the older person's *or vulnerable person's* money,
34 assets or property with the intention of permanently depriving the
35 older person *or vulnerable person* of the ownership, use, benefit or
36 possession of his money, assets or property; or

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

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



3. "Isolation" means willfully, maliciously and intentionally preventing an older person *or a vulnerable person* from having contact with another person by:

(a) Intentionally preventing the older person *or vulnerable person* from receiving his visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person *or vulnerable person* or a person who telephones the older person *or vulnerable person* that the older person *or vulnerable 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 *or vulnerable person* and intended to prevent the older person *or vulnerable person* from having contact with the visitor; or

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

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

(b) An older person *or a vulnerable 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 *and vulnerable persons*. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

7. "*Vulnerable person*" means a person who:

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

(b) *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*



1 *who suffers from a severe mental or emotional illness or a person*
2 *who suffers from a terminal or catastrophic illness or injury.*

3 **Sec. 4.** NRS 200.5093 is hereby amended to read as follows:

4 200.5093 1. Any person who is described in subsection 4 and
5 who, in his professional or occupational capacity, knows or has
6 reasonable cause to believe that an older person *or a vulnerable*
7 *person* has been abused, neglected, exploited or isolated shall:

8 (a) Except as otherwise provided in subsection 2, report the
9 abuse, neglect, exploitation or isolation of the older person *or*
10 *vulnerable person* to:

11 (1) The local office of the Aging Services Division of the
12 Department of Human Resources;

13 (2) A police department or sheriff's office;

14 (3) The county's office for protective services, if one exists
15 in the county where the suspected action occurred; or

16 (4) A toll-free telephone service designated by the Aging
17 Services Division of the Department of Human Resources; and

18 (b) Make such a report as soon as reasonably practicable but not
19 later than 24 hours after the person knows or has reasonable cause to
20 believe that the older person *or vulnerable person* has been abused,
21 neglected, exploited or isolated.

22 2. If a person who is required to make a report pursuant to
23 subsection 1 knows or has reasonable cause to believe that the
24 abuse, neglect, exploitation or isolation of the older person *or*
25 *vulnerable person* involves an act or omission of the Aging
26 Services Division, another division of the Department of Human
27 Resources or a law enforcement agency, the person shall make the
28 report to an agency other than the one alleged to have committed the
29 act or omission.

30 3. Each agency, after reducing a report to writing, shall forward
31 a copy of the report to the Aging Services Division of the
32 Department of Human Resources.

33 4. A report must be made pursuant to subsection 1 by the
34 following persons:

35 (a) Every physician, dentist, dental hygienist, chiropractor,
36 optometrist, podiatric physician, medical examiner, resident, intern,
37 professional or practical nurse, physician assistant, psychiatrist,
38 psychologist, marriage and family therapist, alcohol or drug abuse
39 counselor, athletic trainer, driver of an ambulance, advanced
40 emergency medical technician or other person providing medical
41 services licensed or certified to practice in this State, who examines,
42 attends or treats an older person *or a vulnerable person* who
43 appears to have been abused, neglected, exploited or isolated.

44 (b) Any personnel of a hospital or similar institution engaged in
45 the admission, examination, care or treatment of persons or an



1 administrator, manager or other person in charge of a hospital or
2 similar institution upon notification of the suspected abuse, neglect,
3 exploitation or isolation of an older person *or a vulnerable person*
4 by a member of the staff of the hospital.

5 (c) A coroner.

6 (d) Every clergyman, practitioner of Christian Science or
7 religious healer, unless he acquired the knowledge of abuse, neglect,
8 exploitation or isolation of the older person *or vulnerable person*
9 from the offender during a confession.

10 (e) Every person who maintains or is employed by an agency to
11 provide nursing in the home.

12 (f) Every attorney, unless he has acquired the knowledge of
13 abuse, neglect, exploitation or isolation of the older person *or*
14 *vulnerable person* from a client who has been or may be accused of
15 such abuse, neglect, exploitation or isolation.

16 (g) Any employee of the Department of Human Resources.

17 (h) Any employee of a law enforcement agency or a county's
18 office for protective services or an adult or juvenile probation
19 officer.

20 (i) Any person who maintains or is employed by a facility or
21 establishment that provides care for older persons ~~§~~ *or vulnerable*
22 *persons*.

23 (j) Any person who maintains, is employed by or serves as a
24 volunteer for an agency or service which advises persons regarding
25 the abuse, neglect, exploitation or isolation of an older person *or a*
26 *vulnerable person* and refers them to persons and agencies where
27 their requests and needs can be met.

28 (k) Every social worker.

29 (l) Any person who owns or is employed by a funeral home or
30 mortuary.

31 5. A report may be made by any other person.

32 6. If a person who is required to make a report pursuant to
33 subsection 1 knows or has reasonable cause to believe that an older
34 person *or a vulnerable person* has died as a result of abuse, neglect
35 or isolation, the person shall, as soon as reasonably practicable,
36 report this belief to the appropriate medical examiner or coroner,
37 who shall investigate the cause of death of the older person *or*
38 *vulnerable person* and submit to the appropriate local law
39 enforcement agencies, the appropriate prosecuting attorney and the
40 Aging Services Division of the Department of Human Resources his
41 written findings. The written findings must include the information
42 required pursuant to the provisions of NRS 200.5094, when
43 possible.

44 7. A division, office or department which receives a report
45 pursuant to this section shall cause the investigation of the report to



1 commence within 3 working days. A copy of the final report of the
2 investigation conducted by a division, office or department, other
3 than the Aging Services Division of the Department of Human
4 Resources, must be forwarded to the Aging Services Division within
5 90 days after the completion of the report.

6 8. If the investigation of a report results in the belief that an
7 older person *or a vulnerable person* is abused, neglected, exploited
8 or isolated, the Aging Services Division of the Department of
9 Human Resources or the county's office for protective services may
10 provide protective services to the older person *or vulnerable person*
11 if he is able and willing to accept them.

12 9. A person who knowingly and willfully violates any of the
13 provisions of this section is guilty of a misdemeanor.

14 **Sec. 5.** NRS 200.5094 is hereby amended to read as follows:

15 200.5094 1. A person may make a report pursuant to NRS
16 200.5093 by telephone or, in light of all the surrounding facts and
17 circumstances which are known or which reasonably should be
18 known to the person at the time, by any other means of oral, written
19 or electronic communication that a reasonable person would believe,
20 under those facts and circumstances, is a reliable and swift means of
21 communicating information to the person who receives the report. If
22 the report is made orally, the person who receives the report must
23 reduce it to writing as soon as reasonably practicable.

24 2. The report must contain the following information, when
25 possible:

26 (a) The name and address of the older person ~~§~~ *or vulnerable*
27 *person;*

28 (b) The name and address of the person responsible for his care,
29 if there is one;

30 (c) The name and address, if available, of the person who is
31 alleged to have abused, neglected, exploited or isolated the older
32 person ~~§~~ *or vulnerable person;*

33 (d) The nature and extent of the abuse, neglect, exploitation or
34 isolation of the older person ~~§~~ *or vulnerable person;*

35 (e) Any evidence of previous injuries; and

36 (f) The basis of the reporter's belief that the older person *or*
37 *vulnerable person* has been abused, neglected, exploited or isolated.

38 **Sec. 6.** NRS 200.5095 is hereby amended to read as follows:

39 200.5095 1. Reports made pursuant to NRS 200.5093 and
40 200.5094, and records and investigations relating to those reports,
41 are confidential.

42 2. A person, law enforcement agency or public or private
43 agency, institution or facility who willfully releases data or
44 information concerning the reports and investigation of the abuse,



neglect, exploitation or isolation of older persons ~~§~~ *or vulnerable persons*, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3 of this section,

↳ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person *or a vulnerable person* is available only to:

(a) A physician who is providing care to an older person *or a vulnerable person* who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person ~~§~~ *or vulnerable person*;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person ~~§~~ *or vulnerable person*;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person ~~§~~ *or vulnerable person*, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person *or vulnerable person* to the public agency is protected, and the legal guardian of the older person *or vulnerable person* is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person *or vulnerable person* is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person *or vulnerable person* to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or



(j) The older person *or vulnerable person* named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person *or a vulnerable person* is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, information contained in the report must be submitted to the board that issued the license.

Sec. 7. NRS 200.50955 is hereby amended to read as follows:

200.50955 A law enforcement agency shall promptly seek to obtain a warrant for the arrest of any person the agency has probable cause to believe is criminally responsible for the abuse, neglect, exploitation or isolation of an older person ~~or~~ *or a vulnerable person*.

Sec. 8. NRS 200.5096 is hereby amended to read as follows:

200.5096 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 200.5091 to 200.50995, inclusive, in good faith:

1. Participates in the making of a report;

2. Causes or conducts an investigation of alleged abuse, neglect, exploitation or isolation of an older person ~~or~~ *or a vulnerable person*; or

3. Submits information contained in a report to a licensing board pursuant to subsection 4 of NRS 200.5095.

Sec. 9. NRS 200.5097 is hereby amended to read as follows:

200.5097 In any proceeding resulting from a report made or action taken pursuant to NRS 200.5091 to 200.50995, inclusive, or in any other proceeding, the report or its contents or any other fact related thereto or to the condition of the older person *or vulnerable person* who is the subject of the report may not be excluded on the ground that the matter would otherwise be privileged against disclosure under chapter 49 of NRS.

Sec. 10. NRS 200.5098 is hereby amended to read as follows:

200.5098 1. The Aging Services Division of the Department of Human Resources shall:

(a) Identify and record demographic information on the older person *or vulnerable person* who is alleged to have been abused, neglected, exploited or isolated and the person who is alleged to be responsible for such abuse, neglect, exploitation or isolation.

(b) Obtain information from programs for preventing abuse of older persons ~~and~~ *and vulnerable persons*, analyze and compare the programs, and make recommendations to assist the organizers of the programs in achieving the most efficient and effective service possible.



(c) Publicize the provisions of NRS 200.5091 to 200.50995, inclusive.

2. The Administrator of the Aging Services Division of the Department may organize one or more teams to assist in strategic assessment and planning of protective services, issues regarding the delivery of service, programs or individual plans for preventing, identifying, remedying or treating abuse, neglect, exploitation or isolation of older persons ~~and~~ *and vulnerable persons*. Members of the team serve at the invitation of the administrator and must be experienced in preventing, identifying, remedying or treating abuse, neglect, exploitation or isolation of older persons ~~and~~ *and vulnerable persons*. The team may include representatives of other organizations concerned with education, law enforcement or physical or mental health.

3. The team may receive otherwise confidential information and records pertaining to older persons *and vulnerable persons* to assist in assessing and planning. The confidentiality of any information or records received must be maintained under the terms or conditions required by law. The content of any discussion regarding information or records received by the team pursuant to this subsection is not subject to discovery and a member of the team shall not testify regarding any discussion which occurred during the meeting. Any information disclosed in violation of this subsection is inadmissible in all judicial proceedings.

Sec. 11. NRS 200.50982 is hereby amended to read as follows:

200.50982 The provisions of NRS 200.5091 to 200.50995, inclusive, do not prohibit an agency which is investigating a report of abuse, neglect, exploitation or isolation, or which provides protective services, from disclosing data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person *or a vulnerable person* to other federal, state or local agencies or the legal representatives of the older person *or vulnerable person* on whose behalf the investigation is being conducted if:

1. The agency making the disclosure determines that the disclosure is in the best interest of the older person ~~and~~ *or vulnerable person*; and

2. Proper safeguards are taken to ensure the confidentiality of the information.

Sec. 12. NRS 200.50984 is hereby amended to read as follows:

200.50984 1. Notwithstanding any other statute to the contrary, the local office of the Aging Services Division of the Department of Human Resources and a county's office for



1 protective services, if one exists in the county where a violation is
2 alleged to have occurred, may for the purpose of investigating an
3 alleged violation of NRS 200.5091 to 200.50995, inclusive, inspect
4 all records pertaining to the older person *or vulnerable person* on
5 whose behalf the investigation is being conducted, including, but not
6 limited to, that person's medical and financial records.

7 2. Except as otherwise provided in this subsection, if a
8 guardian has not been appointed for the older person *or*
9 *vulnerable person*, the Aging Services Division or the county's
10 office for protective services shall obtain the consent of the older
11 person *or vulnerable person* before inspecting those records. If the
12 Aging Services Division or the county's office for protective
13 services determines that the older person *or vulnerable person* is
14 unable to consent to the inspection, the inspection may be conducted
15 without his consent. Except as otherwise provided in this
16 subsection, if a guardian has been appointed for the older person *or*
17 *vulnerable person*, the Aging Services Division or the county's
18 office for protective services shall obtain the consent of the guardian
19 before inspecting those records. If the Aging Services Division or
20 the county's office for protective services has reasonable cause to
21 believe that the guardian is abusing, neglecting, exploiting or
22 isolating the older person *or vulnerable person*, the inspection
23 may be conducted without the consent of the guardian, except that if
24 the records to be inspected are in the personal possession of the
25 guardian, the inspection must be approved by a court of competent
26 jurisdiction.

27 **Sec. 13.** NRS 200.50986 is hereby amended to read as
28 follows:

29 200.50986 The local office of the Aging Services Division of
30 the Department of Human Resources or the county's office for
31 protective services may petition a court in accordance with NRS
32 159.185, 159.1853 or 159.1905 for the removal of the guardian of
33 an older person *or a vulnerable person*, or the termination or
34 modification of that guardianship, if, based on its investigation, the
35 Aging Services Division or the county's office of protective services
36 has reasonable cause to believe that the guardian is abusing,
37 neglecting, exploiting or isolating the older person *or vulnerable*
38 *person* in violation of NRS 200.5091 to 200.50995, inclusive.

39 **Sec. 14.** NRS 200.5099 is hereby amended to read as follows:

40 200.5099 1. Except as otherwise provided in subsection 6,
41 any person who abuses an older person *or a vulnerable person* is
42 guilty:

43 (a) For the first offense, of a gross misdemeanor; or

44 (b) For any subsequent offense or if the person has been
45 previously convicted of violating a law of any other jurisdiction that



1 prohibits the same or similar conduct, of a category B felony and
2 shall be punished by imprisonment in the state prison for a
3 minimum term of not less than 2 years and a maximum term of not
4 more than 6 years, unless a more severe penalty is prescribed by law
5 for the act or omission which brings about the abuse.

6 2. Except as otherwise provided in subsection 7, any person
7 who has assumed responsibility, legally, voluntarily or pursuant to a
8 contract, to care for an older person *or a vulnerable person* and
9 who:

10 (a) Neglects the older person *or a vulnerable person*, causing
11 the older person *or a vulnerable person* to suffer physical pain or
12 mental suffering;

13 (b) Permits or allows the older person *or a vulnerable person* to
14 suffer unjustifiable physical pain or mental suffering; or

15 (c) Permits or allows the older person *or a vulnerable person* to
16 be placed in a situation where the older person *or a vulnerable person*
17 may suffer physical pain or mental suffering as the result of abuse or
18 neglect,

19 ➤ is guilty of a gross misdemeanor unless a more severe penalty is
20 prescribed by law for the act or omission which brings about the
21 abuse or neglect.

22 3. Except as otherwise provided in subsection 4, any person
23 who exploits an older person *or a vulnerable person* shall be
24 punished, if the value of any money, assets and property obtained or
25 used:

26 (a) Is less than \$250, for a misdemeanor by imprisonment in the
27 county jail for not more than 1 year, or by a fine of not more than
28 \$2,000, or by both fine and imprisonment;

29 (b) Is at least \$250, but less than \$5,000, for a category B felony
30 by imprisonment in the state prison for a minimum term of not less
31 than 2 years and a maximum term of not more than 10 years, or by a
32 fine of not more than \$10,000, or by both fine and imprisonment; or

33 (c) Is \$5,000 or more, for a category B felony by imprisonment
34 in the state prison for a minimum term of not less than 2 years and a
35 maximum term of not more than 20 years, or by a fine of not more
36 than \$25,000, or by both fine and imprisonment,

37 ➤ unless a more severe penalty is prescribed by law for the act
38 which brought about the exploitation. The monetary value of all of
39 the money, assets and property of the older person *or a vulnerable*
40 *person* which have been obtained or used, or both, may be
41 combined for the purpose of imposing punishment for an offense
42 charged pursuant to this subsection.

43 4. If a person exploits an older person *or a vulnerable person*
44 and the monetary value of any money, assets and property obtained
45 cannot be determined, the person shall be punished for a gross





1 misdemeanor by imprisonment in the county jail for not more than 1
2 year, or by a fine of not more than \$2,000, or by both fine and
3 imprisonment.

4 5. Any person who isolates an older person *or a vulnerable*
5 *person* is guilty:

6 (a) For the first offense, of a gross misdemeanor; or

7 (b) For any subsequent offense, of a category B felony and shall
8 be punished by imprisonment in the state prison for a minimum
9 term of not less than 2 years and a maximum term of not more than
10 10 years, and may be further punished by a fine of not more than
11 \$5,000.


12 6. A person who violates any provision of subsection 1, if
13 substantial bodily or mental harm or death results to the older person
14  *or vulnerable person*, is guilty of a category B felony and shall
15 be punished by imprisonment in the state prison for a minimum
16 term of not less than 2 years and a maximum term of not more than
17 20 years, unless a more severe penalty is prescribed by law for the
18 act or omission which brings about the abuse.

19 7. A person who violates any provision of subsection 2, if
20 substantial bodily or mental harm or death results to the older person
21  *or vulnerable person*, shall be punished for a category B felony
22 by imprisonment in the state prison for a minimum term of not less
23 than 2 years and a maximum term of not more than 6 years, unless a
24 more severe penalty is prescribed by law for the act or omission
25 which brings about the abuse or neglect.

26 8. In addition to any other penalty imposed against a person for
27 a violation of any provision of NRS 200.5091 to 200.50995,
28 inclusive, the court shall order the person to pay restitution.

29 9. As used in this section:

30 (a) “Allow” means to take no action to prevent or stop the abuse
31 or neglect of an older person *or a vulnerable person* if the person
32 knows or has reason to know that the older person *or vulnerable*
33 *person* is being abused or neglected.

34 (b) “Permit” means permission that a reasonable person would
35 not grant and which amounts to a neglect of responsibility attending
36 the care and custody of an older person  *or a vulnerable person*.

37 (c) “Substantial mental harm” means an injury to the intellectual
38 or psychological capacity or the emotional condition of an older
39 person *or a vulnerable person* as evidenced by an observable and
40 substantial impairment of the ability of the older person *or*
41 *vulnerable person* to function within his normal range of
42 performance or behavior.



1 **Sec. 15.** NRS 200.50995 is hereby amended to read as
2 follows:

3 200.50995 A person who conspires with another to commit
4 abuse, exploitation or isolation of an older person *or a vulnerable*
5 *person* as prohibited by NRS 200.5099 shall be punished:

6 1. For the first offense, for a gross misdemeanor.

7 2. For the second and all subsequent offenses, for a category C
8 felony as provided in NRS 193.130.

9 ➔ Each person found guilty of such a conspiracy is jointly and
10 severally liable for the restitution ordered by the court pursuant to
11 NRS 200.5099 with each other person found guilty of the
12 conspiracy.

13 **Sec. 16.** NRS 207.014 is hereby amended to read as follows:

14 207.014 1. A person who:

15 (a) Has been convicted in this State of any felony committed on
16 or after July 1, 1995, of which fraud or intent to defraud is an
17 element; and

18 (b) Has previously been two times convicted, whether in this
19 State or elsewhere, of any felony of which fraud or intent to defraud
20 is an element before the commission of the felony under paragraph
21 (a) of this subsection,

22 ➔ is a habitually fraudulent felon and shall be punished for a
23 category B felony by imprisonment in the state prison for a
24 minimum term of not less than 5 years and a maximum term of not
25 more than 20 years, if the victim of each offense was an older
26 person or a ~~mentally disabled~~ *vulnerable* person.

27 2. The prosecuting attorney shall include a count under this
28 section in any information or shall file a notice of habitually
29 fraudulent felon if an indictment is found, if the prior convictions
30 and the alleged offense committed by the accused are felonies of
31 which fraud or intent to defraud is an element and the victim of each
32 offense was:

33 (a) An older person; or

34 (b) A ~~mentally disabled~~ *vulnerable* person.

35 3. The trial judge may not dismiss a count under this section
36 that is included in an indictment or information.

37 4. As used in this section:

38 (a) ~~“Mentally disabled person” means a person who has a~~
39 ~~mental impairment which is medically documented and substantially~~
40 ~~limits one or more of the person’s major life activities. The term~~
41 ~~includes, but is not limited to, a person who:~~

42 ~~—— (1) Is mentally retarded;~~

43 ~~—— (2) Suffers from a severe mental or emotional illness;~~

44 ~~—— (3) Has a severe learning disability; or~~



~~— (4) Is experiencing a serious emotional crisis in his life as a result of the fact that he or a member of his immediate family has a catastrophic illness.~~

~~— (b)}~~ “Older person” means a person who is:

(1) Sixty-five years of age or older if the crime was committed before October 1, 2003.

(2) Sixty years of age or older if the crime was committed on or after October 1, 2003.

(b) “Vulnerable person” has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 17. NRS 49.2549 is hereby amended to read as follows:

49.2549 There is no privilege pursuant to NRS 49.2547 if:

1. The purpose of the victim in seeking services from a victim’s advocate is to enable or aid any person to commit or plan to commit what the victim knows or reasonably should have known is a crime or fraud;

2. The communication concerns a report of abuse or neglect of a child, ~~or~~ older person *or vulnerable person* in violation of NRS 200.508 or 200.5093, but only as to that portion of the communication;

3. The communication is relevant to an issue of breach of duty by the victim’s advocate to the victim or by the victim to the victim’s advocate; or

4. Disclosure of the communication is otherwise required by law.

Sec. 18. NRS 176.0913 is hereby amended to read as follows:

176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall provide the specimen to the forensic laboratory that has been designated by the county in which the defendant was convicted to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917.

3. If the defendant is not committed to the custody of the Department of Corrections, the Division shall arrange for the



1 biological specimen to be obtained from the defendant. The
2 Division shall provide the specimen to the forensic laboratory that
3 has been designated by the county in which the defendant was
4 convicted to conduct or oversee genetic marker testing for the
5 county pursuant to NRS 176.0917. Any cost that is incurred to
6 obtain a biological specimen from a defendant pursuant to this
7 subsection is a charge against the county in which the defendant was
8 convicted and must be paid as provided in NRS 176.0915.

9 4. Except as otherwise provided in subsection 5, the provisions
10 of subsection 1 apply to a defendant who is convicted of:

11 (a) A category A felony;

12 (b) A category B felony;

13 (c) A category C felony involving the use or threatened use of
14 force or violence against the victim;

15 (d) A crime against a child as defined in NRS 179D.210;

16 (e) A sexual offense as defined in NRS 179D.410;

17 (f) Abuse or neglect of an older person *or a vulnerable person*
18 pursuant to NRS 200.5099;

19 (g) A second or subsequent offense for stalking pursuant to
20 NRS 200.575;

21 (h) An attempt or conspiracy to commit an offense listed in
22 paragraphs (a) to (g), inclusive;

23 (i) Failing to register with a local law enforcement agency as a
24 convicted person as required pursuant to NRS 179C.100, if the
25 defendant previously was:

26 (1) Convicted in this State of committing an offense listed in
27 paragraph (a), (b), (c), (f), (g) or (h); or

28 (2) Convicted in another jurisdiction of committing an
29 offense that would constitute an offense listed in paragraph (a), (b),
30 (c), (f), (g) or (h) if committed in this State;

31 (j) Failing to register with a local law enforcement agency after
32 being convicted of a crime against a child as required pursuant to
33 NRS 179D.240; or

34 (k) Failing to register with a local law enforcement agency after
35 being convicted of a sexual offense as required pursuant to
36 NRS 179D.450.

37 5. A court shall not order a biological specimen to be obtained
38 from a defendant who has previously submitted such a specimen for
39 conviction of a prior offense unless the court determines that an
40 additional sample is necessary.

