

ASSEMBLY BILL NO. 226—ASSEMBLYMEN MCCLAIN, KIRKPATRICK, PARNELL, KOIVISTO, GERHARDT, ARBERRY, ATKINSON, BOBZIEN, BUCKLEY, CARPENTER, CLABORN, CONKLIN, DENIS, HOGAN, HORNE, KIHUEN, LESLIE, OCEGUERA, PARKS, PIERCE, SEGERBLOM AND WOMACK

MARCH 1, 2007

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to crimes against older persons. (BDR 18-162)

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 older persons; creating the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Office of the Attorney General; authorizing the Unit to investigate, prosecute and commence certain legal proceedings to prevent certain crimes against older persons; providing for a civil penalty to be imposed against a person who commits certain crimes against an older person; creating the Repository for Information Concerning Crimes Against Older Persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill creates the Unit for the Investigation and Prosecution of Crimes Against Older Persons within the Office of the Attorney General. **Section 12** of this bill authorizes the Unit to investigate and prosecute alleged incidences of abuse, neglect, exploitation or isolation of an older person in certain circumstances. **Section 14** of this bill authorizes the Unit to bring an action to enjoin or obtain other equitable relief to prevent abuse, neglect, exploitation or isolation of an older person.

Section 15 of this bill provides for the imposition of a civil penalty against a person who engages in such acts. Any money collected from such civil penalties will be divided between the Fund for the Compensation of Victims of Crime and the Account for the Unit.



Section 16 of this bill creates in the State General Fund an account for the Unit to pay expenses relating to the duties of the Unit. **Section 17** of this bill allows the Unit to apply for grants and accept gifts, grants, appropriations or donations to assist in carrying out its duties.

Section 18 of this bill creates the Repository for Information Concerning Crimes Against Older Persons in the Central Repository for Nevada Records of Criminal History.

Section 19 of this bill requires certain reports concerning the abuse, neglect, exploitation or isolation of an older person to be forwarded to the Unit. (NRS 200.5093)

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Older person” means a person who is 60 years of age or older.*

Sec. 4. *“Unit” means the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 5 of this act.*

Sec. 5. *There is hereby created in the Office of the Attorney General the Unit for the Investigation and Prosecution of Crimes Against Older Persons.*

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. *The Unit may investigate and prosecute any alleged abuse, neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:*

1. At the request of the district attorney of the county in which the violation occurred;

2. If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

3. Jointly with the district attorney of the county in which the violation occurred.

Sec. 13. (Deleted by amendment.)



1 **Sec. 14.** *The Unit may bring an action to enjoin or obtain*
2 *any other equitable relief to prevent the abuse, neglect,*
3 *exploitation or isolation of an older person. The court may award*
4 *reasonable attorney's fees and costs if the Unit prevails in such an*
5 *action.*

6 **Sec. 15.** *1. In addition to any criminal penalty, a person*
7 *who is found guilty of abuse, neglect, exploitation or isolation of*
8 *an older person pursuant to NRS 200.5099 or 200.50995 is liable*
9 *for a civil penalty to be recovered by the Attorney General in a*
10 *civil action brought in the name of the State of Nevada:*

11 *(a) For the first offense, in an amount which is not less than*
12 *\$5,000 and not more than \$20,000.*

13 *(b) For a second or subsequent offense, in an amount which is*
14 *not less than \$10,000 and not more than \$30,000.*

15 **2.** *The Attorney General shall deposit any money collected for*
16 *civil penalties pursuant to subsection 1 in equal amounts to:*

17 *(a) A separate account in the Fund for the Compensation of*
18 *Victims of Crime created pursuant to NRS 217.260 to provide*
19 *compensation to older persons who are abused, neglected,*
20 *exploited or isolated in violation of NRS 200.5099 and 200.50995;*
21 *and*

22 *(b) The Account for the Unit for the Investigation and*
23 *Prosecution of Crimes Against Older Persons created pursuant to*
24 *section 16 of this act.*

25 **Sec. 16.** *1. The Account for the Unit for the Investigation*
26 *and Prosecution of Crimes Against Older Persons is hereby*
27 *created in the State General Fund. The Attorney General shall*
28 *administer the Account.*

29 **2.** *The money in the Account must only be used to carry out*
30 *the provisions of sections 2 to 17, inclusive, of this act and to pay*
31 *the expenses incurred by the Unit in the discharge of its duties,*
32 *including, without limitation, expenses relating to the provision of*
33 *training and salaries and benefits for employees of the Unit.*

34 **3.** *Money in the Account must remain in the Account and*
35 *must not revert to the State General Fund at the end of any fiscal*
36 *year.*

37 **Sec. 17.** *1. The Unit may apply for any available grants and*
38 *accept gifts, grants, appropriations or donations to assist the Unit*
39 *in carrying out its duties pursuant to the provisions of this chapter.*

40 **2.** *Any money received by the Unit must be deposited in the*
41 *Account for the Unit for the Investigation and Prosecution of*
42 *Crimes Against Older Persons created pursuant to section 16 of*
43 *this act.*



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1 **Sec. 18.** Chapter 179A of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. The Repository for Information Concerning Crimes***
4 ***Against Older Persons is hereby created within the Central***
5 ***Repository.***

6 ***2. The Repository for Information Concerning Crimes***
7 ***Against Older Persons must contain a complete and systematic***
8 ***record of all reports of crimes against older persons committed in***
9 ***this State that must be prepared in a manner approved by the***
10 ***Director of the Department.***

11 ***3. The Director of the Department shall compile and analyze***
12 ***the data collected pursuant to this section to assess the incidence***
13 ***of crimes against older persons.***

14 ***4. On or before July 1 of each year, the Director of the***
15 ***Department shall prepare and submit a report to the Director of***
16 ***the Legislative Counsel Bureau for transmittal to the Legislature***
17 ***that sets forth statistical data on crimes against older persons.***

18 ***5. The data acquired pursuant to this section is confidential***
19 ***and must be used only for the purpose of research. The data and***
20 ***findings generated pursuant to this section must not contain***
21 ***information that may reveal the identity of an individual victim of***
22 ***a crime.***

23 ***6. As used in this section, "older person" means a person***
24 ***who is 60 years of age or older.***

25 **Sec. 19.** NRS 200.5093 is hereby amended to read as follows:

26 200.5093 1. Any person who is described in subsection 4 and
27 who, in his professional or occupational capacity, knows or has
28 reasonable cause to believe that an older person has been abused,
29 neglected, exploited or isolated shall:

30 (a) Except as otherwise provided in subsection 2, report the
31 abuse, neglect, exploitation or isolation of the older person to:

32 (1) The local office of the Aging Services Division of the
33 Department of Health and Human Services;

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

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

37 (4) A toll-free telephone service designated by the Aging
38 Services Division of the Department of Health and Human Services;
39 and


40 (b) Make such a report as soon as reasonably practicable but not
41 later than 24 hours after the person knows or has reasonable cause to
42 believe that the older person has been abused, neglected, exploited or
43 isolated.

44 2. If a person who is required to make a report pursuant to
45 subsection 1 knows or has reasonable cause to believe that the



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1 abuse, neglect, exploitation or isolation of the older person involves
2 an act or omission of the Aging Services Division, another division
3 of the Department of Health and Human Services or a law
4 enforcement agency, the person shall make the report to an agency
5 other than the one alleged to have committed the act or omission.

6 3. Each agency, after reducing a report to writing, shall forward
7 a copy of the report to the Aging Services Division of the
8 Department of Health and Human Services  and the Unit for the
9 *Investigation and Prosecution of Crimes.*

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

12 (a) Every physician, dentist, dental hygienist, chiropractor,
13 optometrist, podiatric physician, medical examiner, resident, intern,
14 professional or practical nurse, physician assistant, psychiatrist,
15 psychologist, marriage and family therapist, alcohol or drug abuse
16 counselor, athletic trainer, driver of an ambulance, advanced
17 emergency medical technician or other person providing medical
18 services licensed or certified to practice in this State, who examines,
19 attends or treats an older person who appears to have been abused,
20 neglected, exploited or isolated.

21 (b) Any personnel of a hospital or similar institution engaged in
22 the admission, examination, care or treatment of persons or an
23 administrator, manager or other person in charge of a hospital or
24 similar institution upon notification of the suspected abuse, neglect,
25 exploitation or isolation of an older person by a member of the staff
26 of the hospital.

27 (c) A coroner.

28 (d) Every person who maintains or is employed by an agency to
29 provide personal care services in the home.

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

32 (f) Any employee of the Department of Health and Human
33 Services.

34 (g) Any employee of a law enforcement agency or a county's
35 office for protective services or an adult or juvenile probation
36 officer.

37 (h) Any person who maintains or is employed by a facility or
38 establishment that provides care for older persons.

39 (i) Any person who maintains, is employed by or serves as a
40 volunteer for an agency or service which advises persons regarding
41 the abuse, neglect, exploitation or isolation of an older person and
42 refers them to persons and agencies where their requests and needs
43 can be met.

44 (j) Every social worker.



(k) Any person who owns or is employed by a funeral home or mortuary.

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

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, ~~and~~ the Aging Services Division of the Department of Health and Human Services *and the Unit for the Investigation and Prosecution of Crimes* his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report ~~and~~ *and a copy of any final report of an investigation must be forwarded to the Unit for the Investigation and Prosecution of Crimes within 90 days after completion of the report.*

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

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

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to section 5 of this act.

Sec. 20. NRS 217.050 is hereby amended to read as follows:

217.050 "Personal injury" means:

1. Actual bodily harm or threat of bodily harm which results in a need for medical treatment;

2. In the case of a minor who was involved in the production of pornography in violation of NRS 200.710, 200.720, 200.725 or 200.730, any harm which results in a need for medical treatment or any psychological or psychiatric counseling, or both; ~~or~~

3. Any harm which results from sexual abuse ~~or~~



1 **4. Any harm which results from a violation of NRS 200.5099**
2 **or 200.50995.**

3 **Sec. 21.** NRS 217.070 is hereby amended to read as follows:
4 217.070 “Victim” means:

5 1. A person who is physically injured or killed as the direct
6 result of a criminal act;

7 2. A minor who was involved in the production of pornography
8 in violation of NRS 200.710, 200.720, 200.725 or 200.730;

9 3. A minor who was sexually abused, as “sexual abuse” is
10 defined in NRS 432B.100;

11 4. A person who is physically injured or killed as the direct
12 result of a violation of NRS 484.379 or any act or neglect of duty
13 punishable pursuant to NRS 484.3795 or 484.37955;

14 5. A pedestrian who is physically injured or killed as the direct
15 result of a driver of a motor vehicle who failed to stop at the scene
16 of an accident involving the driver and the pedestrian in violation of
17 NRS 484.219; ~~or~~

18 6. *An older person who is abused, neglected, exploited or*
19 *isolated in violation of NRS 200.5099 or 200.50995; or*

20 7. A resident who is physically injured or killed as the direct
21 result of an act of international terrorism as defined in 18 U.S.C. §
22 2331(1).

23 ➤ The term includes a person who was harmed by any of these acts
24 whether the act was committed by an adult or a minor.

25 **Sec. 22.** This act becomes effective on July 1, 2007.

