

## Amendment No. 294

Assembly Amendment to Assembly Bill No. 226

(BDR 15-162)

**Proposed by:** Assembly Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

RBL



Date: 4/17/2007

A.B. No. 226—Establishes teams specializing in the investigation and prosecution of crimes against older persons. (BDR 15-162)



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—~~[Establishes teams specializing in the investigation and prosecution of]~~ **Makes various changes relating to** crimes against older persons. (BDR ~~[15]~~ 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 ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons **within the Office of the Attorney General; [the Initial Crime Evaluation Team, and the Civilian Volunteer Investigation and Prosecution Team; providing for the appointment of an Executive Director of Crimes Against Older Persons;]** **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 ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons ~~[to facilitate cooperation among law enforcement agencies in the detection, investigation and prosecution of crimes against persons 60 years of age or older. Section 6 of this bill establishes the meeting requirements for members of the Unit. Section 7 of this bill establishes the duties of the Unit, including the creation of the Initial Crime Evaluation Team and the Civilian Volunteer Investigation and Prosecution Team. Section 8 of this bill establishes the duties of the Initial Crime Evaluation Team. Section 9 of this bill establishes the duties of the Civilian Volunteer Investigation and Prosecution Team. Section 10 of this bill provides for the appointment of an Executive Director of Crimes Against Older Persons within the Office of the Attorney General. Section 11 of this bill provides for the appointment of a full time secretary for the Unit.]~~ **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 13 of this bill requires the Unit, to the extent of legislative appropriation, to provide training to persons who have regular contact with**

older persons in their professions and occupations. 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~~ 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~~ 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. ~~[Title 15]~~ Chapter 228 of NRS is hereby amended by adding thereto ~~[a new chapter to consist of]~~ the provisions set forth as sections 2 to ~~14~~ 17, inclusive, of this act.

Sec. 2. *As used in ~~[this chapter]~~ 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 ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons created pursuant to section 5 of this act.*

Sec. 5. 1. *There is hereby created in the Office of the Attorney General the Unit for the ~~[Review and Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons.*

2. *The ~~[Unit consists of the following members:]~~*

~~(a) One prosecuting attorney from the Office of the Attorney General.~~

~~(b) One prosecuting attorney from the office of the district attorney of each county.~~

~~(c) One officer from:~~

~~(1) Each police department of an incorporated city located in a county whose population is 100,000 or more.~~

~~(2) The sheriff's office of each county, except that if the county is within the jurisdiction of a metropolitan police department, then two officers from the metropolitan police department.~~

~~3. Each member of the Unit who is appointed to the Unit serves for a term of 4 years. A vacancy on the Unit in an appointed position must be filled in the same manner as the original appointment. A member may be reappointed to the Unit.~~

~~4. The members of the Unit shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on July 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Unit shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.~~

~~5. The members of the Unit:~~

~~(a) Serve without compensation; and~~  
~~(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Unit.~~

~~6. A member of the Unit who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Unit and perform any work necessary to carry out the duties of the Unit in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Unit to make up the time he is absent from work to carry out his duties as a member of the Unit or use annual vacation or compensatory time for the absence.~~ Attorney General shall appoint to the Unit one attorney, at least one investigator and at least one other person to provide outreach services to older persons concerning the duties of the Unit and to provide administrative support to the Unit.

Sec. 6. ~~{1. The Unit shall meet at least once every quarter and at the times and places specified by a call of the Chairman or a majority of the members of the Unit.~~

~~2. A member of the Unit may designate in writing a person to represent him at a meeting of the Unit. A representative who has been so designated:~~

~~(a) Shall be deemed to be a member of the Unit for the purpose of determining a quorum at the meeting; and~~

~~(b) May vote on any matter that is voted on by the regular members of the Unit at the meeting.~~

~~3. A majority of the members of the Unit constitute a quorum. A quorum may exercise all the power and authority conferred on the Unit.~~

~~4. Notwithstanding any other provision of law, a member of the Unit:~~

~~(a) Is not disqualified from public employment or holding a public office because of his membership on the Unit; and~~

~~(b) Does not forfeit his public office or public employment because of his membership on the Unit.~~ (Deleted by amendment.)

Sec. 7. ~~{The Unit shall:~~

~~1. Facilitate cooperation among state, local and federal law enforcement officers in detecting, investigating and prosecuting crimes against older persons.~~

~~2. Provide appropriate review and oversight of all active investigations and activities relating to the prosecution of crimes against older persons, including, without limitation, the allegation of a crime, all stages of legal proceedings and the financial compensation of the victim.~~

~~3. Establish an Initial Crime Evaluation Team.~~

~~4. Establish a Civilian Volunteer Investigation and Prosecution Team.~~

~~5. Coordinate and provide training and education for members of the general public, private industry and governmental agencies, including, without limitation, law enforcement agencies, concerning the national, state and local statistics of crimes against older persons.~~

~~6. Evaluate and recommend changes to the existing civil and criminal laws relating to crimes against older persons in response to current and projected studies and data relating to crimes against older persons.~~

~~7. Authorize the payment of expenses incurred by the Unit in carrying out its duties pursuant to this chapter.~~ (Deleted by amendment.)

Sec. 8. ~~{1. The Initial Crime Evaluation Team created pursuant to section 7 of this act shall consist of:~~

~~(a) Local law enforcement officers, investigators and prosecutors who are specifically trained to investigate and prosecute crimes against older persons; and~~

~~(b) Persons from state governmental agencies that conduct activities related to older persons;~~

~~2. The Initial Crime Evaluation Team shall:~~

~~(a) Establish a procedure to determine the seriousness and category of each reported offense against an older person; and~~

~~(b) Coordinate with local law enforcement officers, investigators and prosecutors to provide additional assistance in the investigation and prosecution of crimes against older persons.~~

~~3. The members of the Initial Crime Evaluation Team:~~

~~(a) Serve without compensation; and~~

~~(b) May, upon written request, receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the Initial Crime Evaluation Team.~~

~~4. A member of the Initial Crime Evaluation Team who is an officer or employee of this State or a political subdivision of this State must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Initial Crime Evaluation Team and perform any work necessary to carry out the duties of the Initial Crime Evaluation Team in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Initial Crime Evaluation Team to make up the time he is absent from work to carry out his duties as a member of the Initial Crime Evaluation Team or use annual vacation or compensatory time for the absence.] (Deleted by amendment.)~~

~~Sec. 9. [1. The Civilian Volunteer Investigation and Prosecution Team created pursuant to section 7 of this act shall consist of retired law enforcement officers, attorneys licensed to practice in this State, social workers and other persons who are selected with appropriate regard for their expertise with and knowledge of matters relating to crimes against older persons.~~

~~2. Volunteers of the Civilian Volunteer Investigation and Prosecution Team shall investigate reports of financial crimes against older persons and provide assistance to the victim throughout any civil proceeding.~~

~~3. The Unit shall establish regulations to provide a stipend for volunteer work, a training program and the investigation of a volunteer's background.~~

~~4. As used in this section, "financial crimes" include, without limitation, any act by a person conducted to:~~

~~(a) Obtain control, through deception, intimidation or undue influence, over an older person's ownership, use, benefit or possession of his money, assets or property; or~~

~~(b) Unlawfully convert money, assets or property of an older person with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property.] (Deleted by amendment.)~~

~~Sec. 10. [1. The Unit shall appoint an Executive Director of Crimes Against Older Persons within the Office of the Attorney General.~~

~~2. The Executive Director is in the unclassified service of the State and serves at the pleasure of the Unit.~~

~~3. The Unit shall establish the qualifications, powers and duties of the Executive Director.] (Deleted by amendment.)~~

~~Sec. 11. [The Unit shall appoint a full-time secretary who is in the unclassified service of the State and serves at the pleasure of the Unit.] (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 1. At the request of the district attorney of the county in which the violation  
2 occurred;

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

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

7 Sec. 13. To the extent of legislative appropriation, the Unit shall provide  
8 training concerning the manner in which to recognize, prevent and intervene in  
9 cases of abuse, neglect, exploitation and isolation of older persons to persons who  
10 are likely to have regular contact with older persons in their professions or  
11 occupations, including, without limitation, persons described in subsection 4 of  
12 NRS 200.5093, attorneys, bankers, investment brokers and administrators of  
13 health care facilities.

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

18 Sec. 15. 1. In addition to any criminal penalty, a person who is found  
19 guilty of abuse, neglect, exploitation or isolation of an older person pursuant to  
20 NRS 200.5099 or 200.50995 is liable for a civil penalty to be recovered by the  
21 Attorney General in a civil action brought in the name of the State of Nevada;

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

24 (b) For a second or subsequent offense, in an amount which is not less than  
25 \$10,000 and not more than \$30,000.

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

28 (a) A separate account in the Fund for the Compensation of Victims of  
29 Crime created pursuant to NRS 217.260 to provide compensation to older persons  
30 who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and  
31 200.50995; and

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

34 ~~[Sec. 12.]~~ Sec. 16. 1. The Account for the Unit for the ~~[Review and~~  
35 ~~Oversight of the]~~ Investigation and Prosecution of Crimes Against Older Persons  
36 is hereby created in the State General Fund. The ~~[Unit]~~ Attorney General shall  
37 administer the Account.

38 2. The money in the Account must only be used to carry out the provisions  
39 of ~~[this chapter]~~ sections 2 to 17, inclusive, of this act and to pay the expenses  
40 incurred by the Unit in the discharge of its duties, including, without limitation,  
41 ~~[the payment of any expenses related to the creation and subsequent activities of~~  
42 ~~the Initial Crime Evaluation Team and the Civilian Volunteer Investigation and~~  
43 ~~Prosecution Team.]~~ expenses relating to the provision of training and salaries  
44 and benefits for employees of the Unit.

45 3. ~~[Claims against]~~ Money in the Account must remain in the Account and  
46 must not revert to the State General Fund at the end of any fiscal year.

47 ~~[Sec. 13.]~~ Sec. 17. 1. The Unit may apply for any available grants and  
48 accept gifts, grants, appropriations or donations to assist the Unit in carrying out  
49 its duties pursuant to the provisions of this chapter.

50 2. Any money received by the Unit must be deposited in the Account for the  
51 Unit for the ~~[Review and Oversight of the]~~ Investigation and Prosecution of  
52 Crimes Against Older Persons created pursuant to section ~~[12.]~~ 16 of this act.

~~[Sec. 14.]~~ **Sec. 18.** Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

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

**2. The Repository for Information Concerning Crimes Against Older Persons must contain a complete and systematic record of all reports of crimes against older persons committed in this State ~~in accordance with regulations adopted~~ that must be prepared in a manner approved by the Director of the Department.**

**3. The Director of the Department shall compile and analyze the data collected pursuant to this section to assess ~~the~~**

~~**(a) The incidence of crimes against older persons. ~~the~~**~~

~~**(b) The effectiveness of programs for the prevention of crimes against older persons.**~~

~~**4. The Director of the Department shall report the statistical data and findings from the program to the Legislature at the beginning of each regular session.**~~

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

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

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

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

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

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

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

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

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

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

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

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

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

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



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

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

(c) A coroner.

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

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

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

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

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

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

(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.

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

**Sec. 21. NRS 217.070 is hereby amended to read as follows:**

217.070 "Victim" means:

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

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

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

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

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

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

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

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

~~[Sec. 15.]~~ **Sec. 22.** This act becomes effective on July 1, 2007.