

Amendment No. 502

Assembly Amendment to Assembly Bill No. 576 (BDR 38-603)

Proposed by: Assembly Committee on Health and Human Services**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 576 (§§ 9, 10, 20).

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.

AMI/RBL



Date: 4/21/2007

A.B. No. 576—Makes various changes relating to certain personal assistance provided to persons with disabilities. (BDR 38-603)



ASSEMBLY BILL NO. 576—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF HEALTH CARE FINANCING AND POLICY)

MARCH 26, 2007

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes relating to certain personal assistance provided to persons with disabilities. (BDR 38-603)

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 public welfare; providing for the certification of intermediary service organizations which provide certain services relating to personal assistance received by persons with disabilities; clarifying the definition of “agency to provide personal care services in the home” for purposes of licensing; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Sections 2-25 of this bill provide for the certification of an intermediary service organization by the Office of Disability Services. **Section 3** provides that an intermediary service organization is authorized to provide certain services for a person with a disability or for another person responsible for the care of a person with a disability relating to the provision of personal assistance to the person with a disability. Such services may relate to employment matters concerning a personal assistant and other financial management relating to the personal assistance for the disabled person. **Section 4** makes it a misdemeanor to operate an intermediary service organization without a certificate issued by the Office of Disability Services.

Section 9 of this bill authorizes the Department of Health and Human Services to prescribe a fee for an application for the issuance of a certificate to operate as an intermediary service organization. **Sections 18 and 19** of this bill require the Department to adopt regulations governing the certification of intermediary service organizations and to establish the criteria for the imposition of sanctions for certain violations relating to the certification of the intermediary service organization.

Section 31 of this bill clarifies the term “agency to provide personal care services in the home” so that certain **organized** groups of persons ~~(who form a nonprofit corporation to)~~ **that** employ or contract with persons to provide certain ~~(medical and)~~ nonmedical services for a person with a disability are not required to obtain a license from the Health Division of the Department of Health and Human Services. **Section 31** also excludes an intermediary service organization so that such organizations are not required to obtain a license from the Health

Division. ~~[Finally, section 21 also clarifies that the services that may be provided by an agency to provide personal care services in the home include nonmedical services and certain authorized medical services.]~~ (NRS 449.0021)

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

Section 1. Chapter 426 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this act.

Sec. 2. *“Intermediary service organization” means ~~[an]~~ a nongovernmental entity that provides services authorized pursuant to section 3 of this act for a person who has a disability or other responsible person.*

Sec. 3. 1. *An intermediary service organization that is certified pursuant to sections 2 to 25, inclusive, of this act may provide services for a person with a disability or other responsible person relating to personal assistance received by the person with a disability. The services that may be provided by an intermediary service organization include, without limitation:*

(a) Obtaining a criminal background check of a personal assistant selected by the person with a disability or other responsible person to provide nonmedical services and any medical services authorized pursuant to NRS 629.091;

(b) Providing payroll services to pay the personal assistant and determine any tax liability;

(c) Providing services relating to financial management; and

(d) Providing any other services relating to the employment of a personal assistant and any other financial assistance relating to the personal assistance for the person with a disability.

2. *As used in this section:*

(a) “Other responsible person” means:

(1) A parent or guardian of, or any other person legally responsible for, a person with a disability who is under the age of 18 years; or

(2) A parent, spouse, guardian or adult child of a person with a disability who suffers from a cognitive impairment.

(b) “Personal assistance” means the provision of any goods or services to help a person with a disability maintain his independence, personal hygiene and safety, including, without limitation, the provision of services by a personal assistant.

(c) “Personal assistant” means a person who, for compensation and under the direction of a person with a disability or other responsible person, performs services for a person with a disability to help him maintain his independence, personal hygiene and safety.

Sec. 4. 1. *A person ~~[, state or local government or agency thereof]~~ shall not operate or maintain in this State an intermediary service organization without first obtaining a certificate therefor as provided in sections 2 to 25, inclusive, of this act.*

2. *A person who violates the provisions of this section is guilty of a misdemeanor.*

Sec. 5. *Any person ~~[, state or local government or agency thereof]~~ wishing to obtain a certificate pursuant to the provisions of sections 2 to 25, inclusive, of this act must file with the Office an application on a form prescribed, prepared and furnished by the Office, containing:*

1 1. The name of the applicant and, if a natural person, whether the applicant
2 has attained the age of 21 years.

3 2. The location of the intermediary service organization.

4 3. The name of the person in charge of the intermediary service
5 organization.

6 4. Such other information as may be required by the Office for the proper
7 administration and enforcement of sections 2 to 25, inclusive, of this act.

8 5. Evidence satisfactory to the Office that the applicant is of reputable and
9 responsible character. If the applicant is a firm, association, organization,
10 partnership, business trust, corporation or company, similar evidence must be
11 submitted as to the members thereof, and the person in charge of the
12 intermediary service organization for which application is made. ~~If the applicant
13 is a political subdivision of the State or other governmental agency, similar
14 evidence must be submitted as to the person in charge of the intermediary service
15 organization for which application is made.~~

16 6. Evidence satisfactory to the Office of the ability of the applicant to
17 comply with the provisions of sections 2 to 25, inclusive, of this act and the
18 standards and regulations adopted by the Department.

19 **Sec. 6.** 1. An applicant for the issuance or renewal of a certificate as an
20 intermediary service organization must submit to the Office the statement
21 prescribed by the Division of Welfare and Supportive Services of the Department
22 pursuant to NRS 425.520. The statement must be completed and signed by the
23 applicant.

24 2. The Office shall include the statement required pursuant to subsection 1
25 in:

26 (a) The application or any other forms that must be submitted for the
27 issuance or renewal of the certificate; or

28 (b) A separate form prescribed by the Office.

29 3. A certificate as an intermediary service organization may not be issued or
30 renewed by the Office if the applicant:

31 (a) Fails to submit the statement required pursuant to subsection 1; or

32 (b) Indicates on the statement submitted pursuant to subsection 1 that he is
33 subject to a court order for the support of a child and is not in compliance with
34 the order or a plan approved by the district attorney or other public agency
35 enforcing the order for the repayment of the amount owed pursuant to the order.

36 4. If an applicant indicates on the statement submitted pursuant to
37 subsection 1 that he is subject to a court order for the support of a child and is
38 not in compliance with the order or a plan approved by the district attorney or
39 other public agency enforcing the order for the repayment of the amount owed
40 pursuant to the order, the Office shall advise the applicant to contact the district
41 attorney or other public agency enforcing the order to determine the actions that
42 the applicant may take to satisfy the arrearage.

43 **Sec. 7.** An application for the issuance of a certificate to operate an
44 intermediary service organization pursuant to section 5 of this act must include
45 the social security number of the applicant.

46 **Sec. 8.** 1. If the Office receives a copy of a court order issued pursuant to
47 NRS 425.540 that provides for the suspension of all professional, occupational
48 and recreational licenses, certificates and permits issued to a person who is the
49 holder of a certificate to operate an intermediary service organization, the Office
50 shall deem the certificate issued to that person to be suspended at the end of the
51 30th day after the date on which the court order was issued unless the Office
52 receives a letter issued to the holder of the certificate by the district attorney or
53 other public agency pursuant to NRS 425.550 stating that the holder of the

1 *certificate has complied with the subpoena or warrant or has satisfied the*
2 *arrearage pursuant to NRS 425.560.*

3 *2. The Office shall reinstate a certificate to operate an intermediary service*
4 *organization that has been suspended by a district court pursuant to NRS 425.540*
5 *if the Office receives a letter issued by the district attorney or other public agency*
6 *pursuant to NRS 425.550 to the person whose certificate was suspended stating*
7 *that the person whose certificate was suspended has complied with the subpoena*
8 *or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

9 *Sec. 9. Each application for a certificate must be accompanied by such fee*
10 *as may be determined by regulation of the Department. The Department may, by*
11 *regulation, allow or require payment of a fee for a certificate in installments and*
12 *may fix the amount of each payment and the date on which the payment is due.*

13 *Sec. 10. 1. Each certificate issued pursuant to sections 2 to 25, inclusive,*
14 *of this act expires on December 31 following its issuance and is renewable for 1*
15 *year upon reapplication and payment of all fees required pursuant to section 9 of*
16 *this act unless the Office finds, after an investigation, that the intermediary*
17 *service organization has not satisfactorily complied with the provisions of*
18 *sections 2 to 25, inclusive, of this act or the standards and regulations adopted by*
19 *the Department.*

20 *2. Each reapplication for an intermediary service organization must*
21 *include, without limitation, a statement that the organization is in compliance*
22 *with the provisions of sections 20 to 23, inclusive, of this act.*

23 *Sec. 11. 1. The Office shall issue the certificate to the applicant if, after*
24 *investigation, the Office finds that the:*

25 *(a) Applicant is in full compliance with the provisions of sections 2 to 25,*
26 *inclusive, of this act; and*

27 *(b) Applicant is in substantial compliance with the standards and regulations*
28 *adopted by the Department.*

29 *2. A certificate applies only to the person to whom it is issued and is not*
30 *transferable.*

31 *Sec. 12. Each certificate issued by the Office must be in the form*
32 *prescribed by the Office and must contain:*

33 *1. The name of the person or persons authorized to operate the*
34 *intermediary service organization;*

35 *2. The location of the intermediary service organization; and*

36 *3. The services offered by the intermediary service organization.*

37 *Sec. 13. 1. The Office may cancel the certificate of an intermediary*
38 *service organization and issue a provisional certificate, effective for a period*
39 *determined by the Office, to the intermediary service organization if the*
40 *intermediary service organization:*

41 *(a) Is in operation at the time of the adoption of standards and regulations*
42 *pursuant to the provisions of sections 2 to 25, inclusive, of this act and the Office*
43 *determines that the intermediary service organization requires a reasonable time*
44 *under the particular circumstances within which to comply with the standards*
45 *and regulations; or*

46 *(b) Has failed to comply with the standards or regulations and the Office*
47 *determines that the intermediary service organization is in the process of making*
48 *the necessary changes or has agreed to make the changes within a reasonable*
49 *time.*

50 *2. The provisions of subsection 1 do not require the issuance of a certificate*
51 *or prevent the Office from refusing to renew or from revoking or suspending any*
52 *certificate if the Office deems such action necessary for the health and safety of a*
53 *person for whom the intermediary service organization provides services.*

1 **Sec. 14. 1. Money received from the certification of intermediary service**
2 **organizations ~~must~~ :**

3 (a) **Must be forwarded to the State Treasurer for deposit in the State**
4 **~~General Fund~~ Treasury;**

5 (b) **Must be accounted for separately in the State General Fund; and**

6 (c) **May only be used to carry out the provisions of sections 2 to 25, inclusive,**
7 **of this act.**

8 **2. The Office shall enforce the provisions of ~~section~~ sections 2 to 25,**
9 **inclusive, of this act and may incur any necessary expenses not in excess of**
10 **money appropriated for that purpose by the State or received from the Federal**
11 **Government.**

12 **Sec. 15. The Office may:**

13 **1. Upon receipt of an application for a certificate, conduct an investigation**
14 **into the qualifications of personnel, methods of operation and policies and**
15 **purposes of any person proposing to engage in the operation of an intermediary**
16 **service organization.**

17 **2. Upon receipt of a complaint against an intermediary service**
18 **organization, except for a complaint concerning the cost of services, conduct an**
19 **investigation into the qualifications of personnel, methods of operation and**
20 **policies, procedures and records of that intermediary service organization or any**
21 **other intermediary service organization which may have information pertinent to**
22 **the complaint.**

23 **3. Employ such professional, technical and clerical assistance as it deems**
24 **necessary to carry out the provisions of sections 2 to 25, inclusive, of this act.**

25 **Sec. 16. The Office may deny an application for a certificate or may**
26 **suspend or revoke any certificate issued under the provisions of sections 2 to 25,**
27 **inclusive, of this act upon any of the following grounds:**

28 **1. Violation by the applicant or the holder of a certificate of any of the**
29 **provisions of sections 2 to 25, inclusive, of this act or of any other law of this**
30 **State or of the standards, rules and regulations adopted thereunder.**

31 **2. Aiding, abetting or permitting the commission of any illegal act.**

32 **3. Conduct inimical to the public health, morals, welfare and safety of the**
33 **people of the State of Nevada in the operation of an intermediary service**
34 **organization.**

35 **4. Conduct or practice detrimental to the health or safety of a person under**
36 **contract with or employees of the intermediary service organization.**

37 **Sec. 17. 1. If an intermediary service organization violates any provision**
38 **related to its certification, including, without limitation, any provision of sections**
39 **2 to 25, inclusive, of this act or any condition, standard or regulation adopted by**
40 **the Department, the Office, in accordance with the regulations adopted pursuant**
41 **to section 18 of this act, may, as it deems appropriate:**

42 **(a) Prohibit the intermediary service organization from providing services**
43 **pursuant to section 3 of this act until it determines that the intermediary service**
44 **organization has corrected the violation;**

45 **(b) Impose an administrative penalty of not more than \$1,000 per day for**
46 **each violation, together with interest thereon at a rate not to exceed 10 percent**
47 **per annum; and**

48 **(c) Appoint temporary management to oversee the operation of the**
49 **intermediary service organization and to ensure the health and safety of the**
50 **persons for whom the intermediary service organization performs services, until:**

51 **(1) It determines that the intermediary service organization has corrected**
52 **the violation and has management which is capable of ensuring continued**
53 **compliance with the applicable statutes, conditions, standards and regulations; or**

1 (2) *Improvements are made to correct the violation.*

2 2. *If the intermediary service organization fails to pay any administrative*
3 *penalty imposed pursuant to paragraph (b) of subsection 1, the Office may:*

4 (a) *Suspend the certificate of the intermediary service organization until the*
5 *administrative penalty is paid; and*

6 (b) *Collect court costs, reasonable attorney's fees and other costs incurred to*
7 *collect the administrative penalty.*

8 3. *The Office may require any intermediary service organization that*
9 *violates any provision of sections 2 to 25, inclusive, of this act or any condition,*
10 *standard or regulation adopted by the Department, to make any improvements*
11 *necessary to correct the violation.*

12 4. *Any money collected as administrative penalties pursuant to this section*
13 *must be accounted for separately and used to protect the health or property of the*
14 *persons for whom the intermediary service organization performs services in*
15 *accordance with applicable federal standards.*

16 **Sec. 18.** *The Department shall adopt regulations establishing the criteria*
17 *for the imposition of each sanction prescribed by section 17 of this act. These*
18 *regulations must:*

19 1. *Prescribe the circumstances and manner in which each sanction applies;*

20 2. *Minimize the time between identification of a violation and the*
21 *imposition of a sanction;*

22 3. *Provide for the imposition of incrementally more severe sanctions for*
23 *repeated or uncorrected violations; and*

24 4. *Provide for less severe sanctions for lesser violations of applicable state*
25 *statutes, conditions, standards or regulations.*

26 **Sec. 19.** 1. *When the Office intends to deny, suspend or revoke a*
27 *certificate or impose any sanction prescribed by section 17 of this act, it shall give*
28 *reasonable notice to the holder of the certificate by certified mail. The notice*
29 *must contain the legal authority, jurisdiction and reasons for the action to be*
30 *taken. Notice is not required if the Office finds that the public health requires*
31 *immediate action. In that case, it may order a summary suspension of a*
32 *certificate or impose any sanction prescribed by section 17 of this act, pending*
33 *proceedings for revocation or other action.*

34 2. *If a person wants to contest the action of the Office, he must file an*
35 *appeal pursuant to regulations adopted by the Department.*

36 3. *Upon receiving notice of an appeal, the Office shall hold a hearing*
37 *pursuant to regulations adopted by the Department.*

38 4. *The Department shall adopt such regulations as are necessary to carry*
39 *out the provisions of this section.*

40 **Sec. 20.** 1. *Except as otherwise provided in subsection 2, within 10 days*
41 *after hiring an employee or entering into a contract with an independent*
42 *contractor, the holder of a certificate to operate an intermediary service*
43 *organization shall:*

44 (a) *Obtain a written statement from the employee or independent contractor*
45 *stating whether he has been convicted of any crime listed in subsection 1 of*
46 *section 23 of this act;*

47 (b) *Obtain an oral and written confirmation of the information contained in*
48 *the written statement obtained pursuant to paragraph (a);*

49 (c) *Obtain from the employee or independent contractor two sets of*
50 *fingerprints and a written authorization to forward the fingerprints to the Central*
51 *Repository for Nevada Records of Criminal History for submission to the Federal*
52 *Bureau of Investigation for its report; and*

1 (d) Submit to the Central Repository for Nevada Records of Criminal History
2 the fingerprints obtained pursuant to paragraph (c).

3 2. The holder of a certificate to operate an intermediary service
4 organization is not required to obtain the information described in subsection 1
5 from an employee or independent contractor who provides proof that an
6 investigation of his criminal history has been conducted by the Central
7 Repository for Nevada Records of Criminal History within the immediately
8 preceding 6 months and the investigation did not indicate that the employee or
9 independent contractor had been convicted of any crime set forth in subsection 1
10 of section 23 of this act.

11 3. The holder of a certificate to operate an intermediary service
12 organization shall ensure that the criminal history of each employee or
13 independent contractor who works at or for the intermediary service organization
14 is investigated at least once every 5 years. The certificate holder shall:

15 (a) If the intermediary service organization does not have the fingerprints of
16 the employee or independent contractor on file, obtain two sets of fingerprints
17 from the employee or independent contractor;

18 (b) Obtain written authorization from the employee or independent
19 contractor to forward the fingerprints on file or obtained pursuant to paragraph
20 (a) to the Central Repository for Nevada Records of Criminal History for
21 submission to the Federal Bureau of Investigation for its report; and

22 (c) Submit the fingerprints to the Central Repository for Nevada Records of
23 Criminal History.

24 4. Upon receiving fingerprints submitted pursuant to this section, the
25 Central Repository for Nevada Records of Criminal History shall determine
26 whether the employee or independent contractor has been convicted of a crime
27 listed in subsection 1 of section 23 of this act and immediately inform the Office
28 and the holder of a certificate to operate the intermediary service organization for
29 which the person works whether the employee or independent contractor has
30 been convicted of such a crime.

31 5. The Central Repository for Nevada Records of Criminal History may
32 impose a fee upon an intermediary service organization that submits fingerprints
33 pursuant to this section for the reasonable cost of the investigation. The
34 intermediary service organization may recover from the employee or independent
35 contractor not more than one-half of the fee imposed by the Central Repository.
36 If the intermediary service organization requires the employee or independent
37 contractor to pay for any part of the fee imposed by the Central Repository, it
38 shall allow the employee or independent contractor to pay the amount through
39 periodic payments.

40 Sec. 21. Each intermediary service organization shall maintain accurate
41 records of the information concerning its employees and independent contractors
42 collected pursuant to section 20 of this act and shall maintain a copy of the
43 fingerprints submitted to the Central Repository for Nevada Records of Criminal
44 History and proof that it submitted two sets of fingerprints to the Central
45 Repository for its report. These records must be made available for inspection by
46 the Office at any reasonable time, and copies thereof must be furnished to the
47 Office upon request.

48 Sec. 22. 1. Upon receiving information from the Central Repository for
49 Nevada Records of Criminal History pursuant to section 20 of this act, or
50 evidence from any other source, that an employee or independent contractor of
51 an intermediary service organization has been convicted of a crime listed in
52 subsection 1 of section 23 of this act, the holder of a certificate to operate the
53 intermediary service organization shall terminate the employment or contract of

1 *that person after allowing him time to correct the information pursuant to*
2 *subsection 2.*

3 *2. If an employee or independent contractor believes that the information*
4 *provided by the Central Repository is incorrect, he may immediately inform the*
5 *intermediary service organization. An intermediary service organization that is so*
6 *informed shall give the employee or independent contractor a reasonable amount*
7 *of time of not less than 30 days to correct the information received from the*
8 *Central Repository before terminating the employment or contract of the person*
9 *pursuant to subsection 1.*

10 *3. An intermediary service organization that has complied with section 20*
11 *of this act may not be held civilly or criminally liable based solely upon the*
12 *ground that the intermediary service organization allowed an employee or*
13 *independent contractor to work:*

14 *(a) Before it received the information concerning the employee or*
15 *independent contractor from the Central Repository;*

16 *(b) During any period required pursuant to subsection 2 to allow the*
17 *employee or independent contractor to correct that information;*

18 *(c) Based on the information received from the Central Repository, if the*
19 *information received from the Central Repository was inaccurate; or*

20 *(d) Any combination thereof.*

21 *↪ An intermediary service organization may be held liable for any other conduct*
22 *determined to be negligent or unlawful.*

23 **Sec. 23.** *In addition to the grounds listed in section 16 of this act, the Office*
24 *may deny a certificate to operate an intermediary service organization to an*
25 *applicant or may suspend or revoke the certificate of a holder of a certificate to*
26 *operate an intermediary service organization if:*

27 *1. The applicant or holder of a certificate has been convicted of:*

28 *(a) Murder, voluntary manslaughter or mayhem;*

29 *(b) Assault with intent to kill or to commit sexual assault or mayhem;*

30 *(c) Sexual assault, statutory sexual seduction, incest, lewdness, indecent*
31 *exposure or any other sexually related crime;*

32 *(d) Abuse or neglect of a child or contributory delinquency;*

33 *(e) A violation of any federal or state law regulating the possession,*
34 *distribution or use of any controlled substance or any dangerous drug as defined*
35 *in chapter 454 of NRS, within the past 7 years;*

36 *(f) A violation of any provision of NRS 200.50955 or 200.5099;*

37 *(g) Any offense involving fraud, theft, embezzlement, burglary, robbery,*
38 *fraudulent conversion or misappropriation of property, within the immediately*
39 *preceding 7 years; or*

40 *(h) Any other felony involving the use of a firearm or other deadly weapon,*
41 *within the immediately preceding 7 years; or*

42 *2. The holder of a certificate has continued to employ a person who has*
43 *been convicted of a crime listed in subsection 1.*

44 **Sec. 24.** *1. The Office may bring an action in the name of the State to*
45 *enjoin any person ~~from state or local government unit or agency thereof~~ from*
46 *operating or maintaining an intermediary service organization within the*
47 *meaning of sections 2 to 25, inclusive, of this act:*

48 *(a) Without first obtaining a certificate therefor; or*

49 *(b) After his certificate has been revoked or suspended by the Office.*

50 *2. It is sufficient in such action to allege that the defendant did, on a certain*
51 *date and in a certain place, operate and maintain the intermediary service*
52 *organization without a certificate.*

1 **Sec. 25.** *The district attorney of the county in which an intermediary*
2 *service organization operates shall, upon application by the Office, institute and*
3 *conduct the prosecution of any action for violation of any provisions of sections 2*
4 *to 25, inclusive, of this act.*

5 **Sec. 26.** NRS 426.205 is hereby amended to read as follows:

6 426.205 As used in NRS 426.205 to 426.295, inclusive, *and sections 2 to 25,*
7 *inclusive, of this act,* unless the context otherwise requires, the words and terms
8 defined in NRS 426.215 and 426.225 *and section 2 of this act* have the meanings
9 ascribed to them in those sections.

10 **Sec. 27.** NRS 426.245 is hereby amended to read as follows:

11 426.245 1. The Department may adopt any regulations to carry out the
12 provisions of NRS 426.205 to 426.295, inclusive ~~H~~, *and sections 2 to 25,*
13 *inclusive, of this act.*

14 2. *The Department shall adopt regulations governing the certification of*
15 *intermediary service organizations and such other regulations as it deems*
16 *necessary to carry out the provisions of sections 3 to 25, inclusive, of this act.*

17 **Sec. 28.** NRS 427A.175 is hereby amended to read as follows:

18 427A.175 1. Within 1 year after an older patient sustains damage to his
19 property as a result of any act or failure to act by a facility for intermediate care, a
20 facility for skilled nursing, a residential facility for groups, an agency to provide
21 personal care services in the home, *an intermediary service organization* or an
22 agency to provide nursing in the home in protecting the property, the older patient
23 may file a verified complaint with the Division setting forth the details of the
24 damage.

25 2. Upon receiving a verified complaint pursuant to subsection 1, the
26 Administrator shall investigate the complaint and attempt to settle the matter
27 through arbitration, mediation or negotiation.

28 3. If a settlement is not reached pursuant to subsection 2, the facility, agency
29 or older patient may request a hearing before the Specialist for the Rights of Elderly
30 Persons. If requested, the Specialist for the Rights of Elderly Persons shall conduct
31 a hearing to determine whether the facility or agency is liable for damages to the
32 patient. If the Specialist for the Rights of Elderly Persons determines that the
33 facility or agency is liable for damages to the patient, he shall order the amount of
34 the surety bond pursuant to NRS 449.065 or the substitute for the surety bond
35 necessary to pay for the damages pursuant to NRS 449.067 to be released to the
36 Division. The Division shall pay any such amount to the older patient or the estate
37 of the older patient.

38 4. The Division shall create a separate account for money to be collected and
39 distributed pursuant to this section.

40 5. As used in this section:

41 (a) "Agency to provide nursing in the home" has the meaning ascribed to it in
42 NRS 449.0015;

43 (b) "Agency to provide personal care services in the home" has the meaning
44 ascribed to it in NRS 449.0021;

45 (c) "Facility for intermediate care" has the meaning ascribed to it in
46 NRS 449.0038;

47 (d) "Facility for skilled nursing" has the meaning ascribed to it in
48 NRS 449.0039;

49 (e) *"Intermediary Service Organization" has the meaning ascribed to it in*
50 *section 2 of this act;*

51 (f) "Older patient" has the meaning ascribed to it in NRS 449.063; and

52 ~~H~~ (g) "Residential facility for groups" has the meaning ascribed to it in
53 NRS 449.017.

1 **Sec. 29.** NRS 179A.075 is hereby amended to read as follows:

2 179A.075 1. The Central Repository for Nevada Records of Criminal
3 History is hereby created within the Department.

4 2. Each agency of criminal justice and any other agency dealing with crime or
5 delinquency of children shall:

6 (a) Collect and maintain records, reports and compilations of statistical data
7 required by the Department; and

8 (b) Submit the information collected to the Central Repository in the manner
9 approved by the Director of the Department.

10 3. Each agency of criminal justice shall submit the information relating to
11 records of criminal history that it creates or issues, and any information in its
12 possession relating to the genetic markers of a biological specimen of a person who
13 is convicted of an offense listed in subsection 4 of NRS 176.0913, to the
14 Department:

15 (a) Through an electronic network;

16 (b) On a medium of magnetic storage; or

17 (c) In the manner prescribed by the Director of the Department,

18 ➤ within the period prescribed by the Director of the Department. If an agency has
19 submitted a record regarding the arrest of a person who is later determined by the
20 agency not to be the person who committed the particular crime, the agency shall,
21 immediately upon making that determination, so notify the Department. The
22 Department shall delete all references in the Central Repository relating to that
23 particular arrest.

24 4. The Department shall, in the manner prescribed by the Director of the
25 Department:

26 (a) Collect, maintain and arrange all information submitted to it relating to:

27 (1) Records of criminal history; and

28 (2) The genetic markers of a biological specimen of a person who is
29 convicted of an offense listed in subsection 4 of NRS 176.0913.

30 (b) When practicable, use a record of the personal identifying information of a
31 subject as the basis for any records maintained regarding him.

32 (c) Upon request, provide the information that is contained in the Central
33 Repository to the State Disaster Identification Team of the Division of Emergency
34 Management of the Department.

35 5. The Department may:

36 (a) Disseminate any information which is contained in the Central Repository
37 to any other agency of criminal justice;

38 (b) Enter into cooperative agreements with federal and state repositories to
39 facilitate exchanges of information that may be disseminated pursuant to paragraph
40 (a); and

41 (c) Request of and receive from the Federal Bureau of Investigation
42 information on the background and personal history of any person whose record of
43 fingerprints the Central Repository submits to the Federal Bureau of Investigation
44 and:

45 (1) Who has applied to any agency of the State of Nevada or any political
46 subdivision thereof for a license which it has the power to grant or deny;

47 (2) With whom any agency of the State of Nevada or any political
48 subdivision thereof intends to enter into a relationship of employment or a contract
49 for personal services;

50 (3) Who has applied to any agency of the State of Nevada or any political
51 subdivision thereof to attend an academy for training peace officers approved by
52 the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 449.179 ~~§~~ *and section 20 of this act*; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof has a legitimate need to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➤ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➤ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➤ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 449.176 or 449.179 ~~§~~ *or section 20 of this act*.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative

Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2, and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 30. 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.

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) *Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in section 2 of this act.*

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

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

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

~~(i)~~ (j) 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)~~ (k) Every social worker.

~~(k)~~ (l) 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 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.

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.

Sec. 31. NRS 449.0021 is hereby amended to read as follows:

449.0021 1. "Agency to provide personal care services in the home" means any person, other than a natural person, which provides in the home, through its employees or by contractual arrangement with other persons, nonmedical services ~~and medical services authorized pursuant to NRS 629.091~~ related to personal care to elderly persons or persons with ~~mental or physical~~ disabilities to assist those persons with activities of daily living, including, without limitation:

- (a) The elimination of wastes from the body;
- (b) Dressing and undressing;
- (c) Bathing;
- (d) Grooming;
- (e) The preparation and eating of meals;
- (f) Laundry;
- (g) Shopping;
- (h) Cleaning;
- (i) Transportation; and
- (j) Any other minor needs related to the maintenance of personal hygiene.

2. The term does not include:

(a) An independent contractor who provides nonmedical services specified by subsection 1 without the assistance of employees; ~~for~~

~~—(b) A microboard, as defined by regulations adopted by the Board.~~

(b) A person who is a member of an organized group composed of persons comprised of the family members or friends of an elderly person or person with a disability who organize as a nonprofit corporation and employ or contract a person needing personal care services that employs or contracts with persons to provide services specified by subsection 1 for the person if:

(1) The articles of incorporation are organization of the group of persons is set forth in a written document that is made available for review by the Health Division upon request; and

(2) The personal care services are provided to only one person or one family who resides in the same residence; or

(c) An intermediary service organization.

3. As used in this section, "intermediary service organization" has the meaning ascribed to it in section 2 of this act.

Sec. 32. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, physician assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

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

1 (e) *Any person who operates, who is employed by or who contracts to provide*
2 *services for an intermediary service organization as defined in section 2 of this*
3 *act.*

4 (f) Any person who maintains or is employed by an agency to provide nursing
5 in the home.

6 ~~(g)~~ (g) Any employee of the Department of Health and Human Services.

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

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

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

15 ~~(k)~~ (k) Any social worker.

16 2. Every physician who, as a member of the staff of a medical facility or
17 facility for the dependent, has reason to believe that a nursing assistant has engaged
18 in conduct which constitutes grounds for the denial, suspension or revocation of a
19 certificate shall notify the superintendent, manager or other person in charge of the
20 facility. The superintendent, manager or other person in charge shall make a report
21 as required in subsection 1.

22 3. A report may be filed by any other person.

23 4. Any person who in good faith reports any violation of the provisions of this
24 chapter to the Executive Director of the Board pursuant to this section is immune
25 from civil liability for reporting the violation.

26 5. As used in this section, "agency to provide personal care services in the
27 home" has the meaning ascribed to it in NRS 449.0021.

28 **Sec. 33.** 1. This act becomes effective upon passage and approval for the
29 purpose of adopting regulations and on October 1, 2007, for all other purposes.

30 2. The provisions of sections 6, 7 and 8 of this act expire by limitation on the
31 date on which the provisions of 42 U.S.C. § 666 requiring each state to establish
32 procedures under which the state has authority to withhold or suspend, or to restrict
33 the use of professional, occupational and recreational licenses of persons who:

34 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
35 to determine the paternity of a child or to establish or enforce an obligation for the
36 support of a child; or

37 (b) Are in arrears in the payment for the support of one or more children,

38 are repealed by the Congress of the United States.