

Amendment No. 632

Assembly Amendment to Assembly Bill No. 461 First Reprint (BDR 15-126)

Proposed by: Assembly Committee on Ways and Means

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from A.B. 461.

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 dashed underlining* is newly added transitory language.

EGO/BJE



Date: 5/10/2009

A.B. No. 461—Makes various changes relating to older persons. (BDR 15-126)



ASSEMBLY BILL NO. 461—ASSEMBLYWOMAN MCCLAIN

MARCH 16, 2009

Referred to Committee on Judiciary

SUMMARY—Makes various changes relating to older persons. (BDR 15-126)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: Contains Appropriation not included in Executive Budget.

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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; revising the provisions pertaining to the ~~[persons who are required to report the]~~ **reporting of** abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; ~~[increasing certain filing fees;]~~ making various other changes relating to older persons; ~~[making an appropriation;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, certain persons, including, without limitation, medical professionals, therapists and social workers, are required to make a report if the person knows or reasonably believes an older person has been abused, neglected, exploited or isolated. (NRS 200.5093) Section 1 of this bill adds to the list of persons required to make such a report: (1) religious leaders, unless the religious leader acquired knowledge of the abuse, neglect, exploitation or isolation during a confession; and (2) attorneys, unless the attorney acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the crime.]~~

Existing law requires certain governmental entities to forward to the Aging Services Division of the Department of Health and Human Services and to the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General a copy of the final report of the investigation of a report of abuse, neglect, exploitation or isolation of an older person. (NRS 200.5093) **Section 1** of this bill: (1) adds the Repository for Information Concerning Crimes Against Older Persons to the list of entities that must be forwarded a copy of such a report; and (2) changes the period within which the report must be forwarded from 90 days after the completion of the report to 30 days after the completion of the report.

~~[Section 2 of this bill imposes a filing fee of \$10 for deposit in the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons. (Chapter 19 of NRS)]~~

Existing law allows a prospective witness who may be unable to attend or may be prevented from attending a trial or hearing to have his deposition taken, if his testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a trial or hearing, a part or all of a deposition may be used if it appears that: (1) the witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick; (4) the witness has become of unsound mind; or (5) the party offering the deposition could not procure the attendance of the witness by subpoena. (NRS 174.215) **Section 4** of this bill expands the list of prospective witnesses who

may have their deposition taken to include ~~[older persons.]~~ **persons who are 70 years of age or older.** (NRS 174.175)

Section 5 of this bill allows the Repository for Information Concerning Crimes Against Older Persons to include records of every incident of elder abuse reported to any entity and certain additional information related to each incident. (NRS 179A.450)

Section 6 of this bill allows the Unit for the Investigation and Prosecution of Crimes Against Older Persons to establish a multidisciplinary team to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation and prescribes its membership. (NRS 228.270) The establishment of such a team does not grant the Unit supervisory authority over any state or local agency that investigates or prosecutes allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person as the result of abuse, neglect or isolation.

Section 7 of this bill requires the Peace Officers' Standards and Training Commission to adopt regulations that require all peace officers to receive training in the handling of cases involving abuse, neglect, exploitation and isolation of older persons. (NRS 289.510)

~~[Section 10 of this bill makes an appropriation to the Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons.]~~

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

Section 1. 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 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 licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and 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 NRS 426.218.

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

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

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

(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.

(k) Every social worker.

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

~~[(m) A clergyman, practitioner of Christian Science or a religious healer, unless he acquired knowledge of the abuse, neglect, exploitation or isolation from the offender during a confession.]~~

~~[(n) An attorney, unless he has acquired knowledge of the abuse, neglect, exploitation or isolation from a client who is or may be accused of the abuse, neglect, exploitation or isolation.]~~

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, 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 **within 30 days after the completion of the report** to the :

(a) Aging Services Division ~~[within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the] ;~~

1 *(b) Repository for Information Concerning Crimes Against Older Persons*
2 *created by NRS 179A.450; and*

3 *(c) Unit for the Investigation and Prosecution of Crimes . [within 90 days after*
4 *completion of the report.]*

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

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

12 10. As used in this section, "Unit for the Investigation and Prosecution of
13 Crimes" means the Unit for the Investigation and Prosecution of Crimes Against
14 Older Persons in the Office of the Attorney General created pursuant to
15 NRS 228.265.

16 **Sec. 2.** (Deleted by amendment.)

17 **Sec. 3.** ~~[Chapter 19 of NRS is hereby amended by adding thereto a new~~
18 ~~section to read as follows:~~

19 ~~1. Except as otherwise provided by specific statute, on the commencement~~
20 ~~of any civil action or proceeding in the district court, other than the~~
21 ~~commencement of a proceeding for an adoption, the county clerk of a county, in~~
22 ~~addition to any other fees provided by law, shall charge and collect \$10 from the~~
23 ~~party commencing the action or proceeding.~~

24 ~~2. On or before the first Monday of each month, the county clerk shall pay~~
25 ~~over to the county treasurer the amount of all fees collected by him pursuant to~~
26 ~~subsection 1 and the county treasurer shall place that amount to the credit of the~~
27 ~~State General Fund. Quarterly, the county treasurer shall remit all money so~~
28 ~~collected to the State Controller, who shall place the money in the Account for~~
29 ~~the Unit for the Investigation and Prosecution of Crimes Against Older Persons~~
30 ~~created pursuant to NRS 228.285.] (Deleted by amendment.)~~

31 **Sec. 4.** NRS 174.175 is hereby amended to read as follows:

32 174.175 1. If it appears that a prospective witness *is an older person or* may
33 be unable to attend or prevented from attending a trial or hearing, that his testimony
34 is material and that it is necessary to take his deposition in order to prevent a failure
35 of justice, the court at any time after the filing of an indictment, information or
36 complaint may upon motion of a defendant or of the State and notice to the parties
37 order that his testimony be taken by deposition and that any designated books,
38 papers, documents or tangible objects, not privileged, be produced at the same time
39 and place. If the deposition is taken upon motion of the State, the court shall order
40 that it be taken under such conditions as will afford to each defendant the
41 opportunity to confront the witnesses against him.

42 2. If a witness is committed for failure to give bail to appear to testify at a trial
43 or hearing, the court on written motion of the witness and upon notice to the parties
44 may direct that his deposition be taken. After the deposition has been subscribed the
45 court may discharge the witness.

46 3. This section does not apply to the prosecutor, or to an accomplice in the
47 commission of the offense charged.

48 *4. As used in this section, "older person" means a person who is [60] 70*
49 *years of age or older.*

50 **Sec. 5.** NRS 179A.450 is hereby amended to read as follows:

51 179A.450 1. The Repository for Information Concerning Crimes Against
52 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. ~~That~~ *The record* must be prepared in a manner approved by the Director of the Department ~~and~~ *and may include, without limitation, the following information:*

- (a) All incidents that are reported to any entity.*
- (b) All cases that are currently under investigation and the type of such cases.*
- (c) All cases that are referred for prosecution and the type of such cases.*
- (d) All cases in which prosecution is declined or dismissed and any reason for such action.*
- (e) All cases that are prosecuted and the final disposition of such cases.*
- (f) All cases that are resolved by agencies which provide protective services and the type of such cases.*

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

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. 6. NRS 228.270 is hereby amended to read as follows:

228.270 *1.* 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~~ *(a)* At the request of the district attorney of the county in which the violation occurred;
- ~~1-2~~ *(b)* If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or
- ~~1-3~~ *(c)* Jointly with the district attorney of the county in which the violation occurred.

2. The Unit may organize or sponsor one or more multidisciplinary teams to review any allegations of abuse, neglect, exploitation or isolation of an older person or the death of an older person that is alleged to be from abuse, neglect or isolation. A multidisciplinary team may include, without limitation, the following members:

- (a) A representative of the Unit;*
- (b) Any law enforcement agency that is involved with the case under review;*
- (c) The district attorney's office in the county where the case is under review;*
- (d) The Aging Services Division of the Department of Health and Human Services or the county's office of protective services, if one exists in the county where the case is under review;*
- (e) A representative of the coroner's office; and*
- (f) Any other medical professional or financial professional that the Attorney General deems appropriate for the review.*

3. Each organization represented on a multidisciplinary team may share with other members of the team information in its possession concerning the

1 *older person who is the subject of the review or any person who was in contact*
2 *with the older person and any other information deemed by the organization to be*
3 *pertinent to the review. Any information shared by an organization with other*
4 *members of a team is confidential.*

5 *4. The organizing or sponsoring of a multidisciplinary team pursuant to*
6 *subsection 2 does not grant the Unit supervisory authority over, or restrict or*
7 *impair the statutory authority of, any state or local agency responsible for the*
8 *investigation or prosecution of allegations of abuse, neglect, exploitation or*
9 *isolation of an older person or the death of an older person that is alleged to be*
10 *the result of abuse, neglect or isolation.*

11 **Sec. 7.** NRS 289.510 is hereby amended to read as follows:

12 289.510 1. The Commission:

13 (a) Shall meet at the call of the Chairman, who must be elected by a majority
14 vote of the members of the Commission.

15 (b) Shall provide for and encourage the training and education of persons
16 whose primary duty is law enforcement to ensure the safety of the residents of and
17 visitors to this State.

18 (c) Shall adopt regulations establishing minimum standards for the certification
19 and decertification, recruitment, selection and training of peace officers. The
20 regulations must establish:

21 (1) Requirements for basic training for category I, category II and category
22 III peace officers and reserve peace officers;

23 (2) Standards for programs for the continuing education of peace officers,
24 including minimum courses of study and requirements concerning attendance;

25 (3) Qualifications for instructors of peace officers; and

26 (4) Requirements for the certification of a course of training.

27 (d) Shall, when necessary, present courses of training and continuing education
28 courses for category I, category II and category III peace officers and reserve peace
29 officers.

30 (e) May make necessary inquiries to determine whether the agencies of this
31 State and of the local governments are complying with standards set forth in its
32 regulations.

33 (f) Shall carry out the duties required of the Commission pursuant to NRS
34 432B.610 and 432B.620.

35 (g) May perform any other acts that may be necessary and appropriate to the
36 functions of the Commission as set forth in NRS 289.450 to 289.600, inclusive.

37 (h) May enter into an interlocal agreement with an Indian tribe to provide
38 training to and certification of persons employed as police officers by that Indian
39 tribe.

40 2. Regulations adopted by the Commission:

41 (a) Apply to all agencies of this State and of local governments in this State
42 that employ persons as peace officers;

43 (b) Must require that all peace officers receive training in the handling of cases
44 involving abuse or neglect of children or missing children; ~~and~~

45 (c) *Must require that all peace officers receive training in the handling of*
46 *cases involving abuse, neglect, exploitation and isolation of older persons; and*

47 (d) May require that training be carried on at institutions which it approves in
48 those regulations.

49 **Sec. 8.** (Deleted by amendment.)

50 **Sec. 9.** (Deleted by amendment.)

51 **Sec. 10.** ~~[There is hereby appropriated from the State General Fund to the~~
52 ~~Account for the Unit for the Investigation and Prosecution of Crimes Against Older~~
53 ~~Persons to be used for the purposes set forth in NRS 228.285 the sum of:~~

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For the Fiscal Year 2009-2010	\$250,000
For the Fiscal Year 2010-2011	\$250,000
(Deleted by amendment.)	