

Amendment No. 945

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

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No 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 dashed underlining* is newly added transitory language.

BFG/BAW



Date: 5/26/2009

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.

~

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 reporting of abuse, neglect, exploitation or isolation of an older person; providing for the establishment of a multidisciplinary team; making various other changes relating to older persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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.

~~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 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)

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.

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] ;~~

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

(c) 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 NRS 228.265.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

2 ~~174.175 1. If it appears that a prospective witness is an older person or may~~
3 ~~be unable to attend or prevented from attending a trial or hearing, that his testimony~~
4 ~~is material and that it is necessary to take his deposition in order to prevent a failure~~
5 ~~of justice, the court at any time after the filing of an indictment, information or~~
6 ~~complaint may upon motion of a defendant or of the State and notice to the parties~~
7 ~~order that his testimony be taken by deposition and that any designated books,~~
8 ~~papers, documents or tangible objects, not privileged, be produced at the same time~~
9 ~~and place. If the deposition is taken upon motion of the State, the court shall order~~
10 ~~that it be taken under such conditions as will afford to each defendant the~~
11 ~~opportunity to confront the witnesses against him.~~

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

16 ~~3. This section does not apply to the prosecutor, or to an accomplice in the~~
17 ~~commission of the offense charged.~~

18 ~~4. As used in this section, "older person" means a person who is 70 years of~~
19 ~~age or older.~~ **(Deleted by amendment.)**

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

21 179A.450 1. The Repository for Information Concerning Crimes Against
22 Older Persons is hereby created within the Central Repository.

23 2. The Repository for Information Concerning Crimes Against Older Persons
24 must contain a complete and systematic record of all reports of crimes against older
25 persons committed in this State. ~~that~~ **The record** must be prepared in a manner
26 approved by the Director of the Department ~~and~~ **and may include, without**
27 **limitation, the following information:**

28 (a) *All incidents that are reported to any entity.*

29 (b) *All cases that are currently under investigation and the type of such*
30 *cases.*

31 (c) *All cases that are referred for prosecution and the type of such cases.*

32 (d) *All cases in which prosecution is declined or dismissed and any reason*
33 *for such action.*

34 (e) *All cases that are prosecuted and the final disposition of such cases.*

35 (f) *All cases that are resolved by agencies which provide protective services*
36 *and the type of such cases.*

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

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

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

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

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

51 228.270 1. The Unit may investigate and prosecute any alleged abuse,
52 neglect, exploitation or isolation of an older person in violation of NRS 200.5099 or
53 200.50995 and any failure to report such a violation pursuant to NRS 200.5093:

~~(1)~~ (a) At the request of the district attorney of the county in which the violation occurred;

~~(2)~~ (b) If the district attorney of the county in which the violation occurred fails, neglects or refuses to prosecute the violation; or

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

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

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

289.510 1. The Commission:

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

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

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

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

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

(3) Qualifications for instructors of peace officers; and

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

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

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

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

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

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

2. Regulations adopted by the Commission:

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

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

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

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

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)