

SENATE BILL NO. 45—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 5, 2008

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to certain criminal cases involving older persons and vulnerable persons. (BDR 14-262)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 crimes; allowing a prospective witness who is an older person or a vulnerable person to have his deposition taken for use at a trial or hearing under certain circumstances; providing for a civil penalty against a person convicted of certain crimes against an older person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law allows a prospective witness who may be unable to attend or may
2 be prevented from attending a trial or hearing to have his deposition taken, if his
3 testimony is material, in order to prevent a failure of justice. (NRS 174.175) At a
4 trial or hearing, a part or all of a deposition may be used if it appears that: (1) the
5 witness is dead; (2) the witness is out of the State of Nevada; (3) the witness is sick;
6 (4) the witness has become of unsound mind; or (5) the party offering the
7 deposition could not procure the attendance of the witness by subpoena. (NRS
8 174.215) **Section 1** of this bill expands the list of prospective witnesses who may
9 have their deposition taken to include older persons and vulnerable persons. (NRS
10 174.175) **Section 1** also provides that a court may order the deposition of an older
11 person or a vulnerable person only upon good cause shown to the court.

12 Existing law provides for the imposition of a civil penalty in addition to any
13 criminal penalty against a person who is found guilty of abuse, neglect, exploitation
14 or isolation of an older person. **Section 2** of this bill expands the imposition of the
15 civil penalty to any person who is found guilty of committing certain crimes such
16 as murder, assault, battery and robbery against an older person. (NRS 228.280)



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

Section 1. NRS 174.175 is hereby amended to read as follows:

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

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

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

4. As used in this section:

(a) "Older person" means a person who is 70 years of age or older.

(b) "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 2. NRS 228.280 is hereby amended to read as follows:

228.280 1. In addition to any criminal penalty, a person who is found guilty of abuse, neglect, exploitation or isolation of an older person pursuant to NRS 200.5099 or 200.50995 *or found guilty of a crime against an older person pursuant to subsection 1 of NRS 193.167* is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:

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

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

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



* S B 4 5 R 1 *

(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons who are abused, neglected, exploited or isolated in violation of NRS 200.5099 and 200.50995 ~~to~~ *or to provide compensation to an older person who is a victim of a crime pursuant to subsection 1 of NRS 193.167;* and

(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons created pursuant to NRS 228.285.

Sec. 3. This act becomes effective upon passage and approval.

