

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; 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) This bill expands the list of prospective witnesses who may have their
9 deposition taken to include older persons and vulnerable persons. (NRS 174.175)
10 This bill also provides that a court may order the deposition of an older person or a
11 vulnerable person only upon good cause shown to the court.



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

- 1 **Section 1.** NRS 174.175 is hereby amended to read as follows:
2 174.175 1. If it appears that a prospective witness *is an older*
3 *person or a vulnerable person or* may be unable to attend or
4 prevented from attending a trial or hearing, that his testimony is
5 material and that it is necessary to take his deposition in order to
6 prevent a failure of justice, the court at any time after the filing of an
7 indictment, information or complaint may , upon motion of a
8 defendant or of the State and notice to the parties , order that his
9 testimony be taken by deposition and that any designated books,
10 papers, documents or tangible objects, not privileged, be produced
11 at the same time and place. *If the motion is for the deposition of an*
12 *older person or a vulnerable person, the court may enter an order*
13 *to take the deposition only upon good cause shown to the court.* If
14 the deposition is taken upon motion of the State, the court shall
15 order that it be taken under such conditions as will afford to each
16 defendant the opportunity to confront the witnesses against him.
17 2. If a witness is committed for failure to give bail to appear to
18 testify at a trial or hearing, the court , on written motion of the
19 witness and upon notice to the parties , may direct that his
20 deposition be taken. After the deposition has been subscribed , the
21 court may discharge the witness.
22 3. This section does not apply to the prosecutor, or to an
23 accomplice in the commission of the offense charged.
24 **4. As used in this section:**
25 (a) *“Older person” means a person who is 70 years of age or*
26 *older.*
27 (b) *“Vulnerable person” has the meaning ascribed to it in*
28 *subsection 7 of NRS 200.5092.*
29 **Sec. 2.** (Deleted by amendment.)
30 **Sec. 3.** This act becomes effective upon passage and approval.

