

Amendment No. 347

Senate Amendment to Senate Bill No. 347	(BDR 15-1075)
<b>Proposed by:</b> Senate Committee on Judiciary	
<b>Amends:</b> Summary: Yes Title: Yes 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 underlining* is newly added transitory language.

DP/KEL



Date: 4/17/2011

S.B. No. 347—Authorizes the issuance of a subpoena to compel the production of certain financial records as part of an investigation of the exploitation of an older person. (BDR 15-1075)



## SENATE BILL NO. 347—SENATOR DENIS

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—~~[Authorizes the issuance of a subpoena to compel the production of certain financial records as part of an investigation of the exploitation of an older person.]~~ Confers the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes. (BDR ~~(15-1075)~~ 23-1075)

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 older persons; ~~[authorizing the issuance of a subpoena to compel the production of certain financial records and other documents in an investigation of the exploitation of an older person under certain circumstances.]~~ conferring the powers of a peace officer upon certain employees of the Aging and Disability Services Division of the Department of Health and Human Services for certain purposes; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires certain persons who have reasonable cause to believe that an older person has been abused, neglected, exploited or isolated to report the abuse, neglect, exploitation or isolation of the older person to the Aging and Disability Services Division of the Department of Health and Human Services, or a local office thereof, a police department, sheriff's office or a county's office for protective services. (NRS 200.5093) The exploitation of an older person consists of wrongfully depriving the older person of the ownership, use, benefit or possession of his or her money, assets or property. (NRS 200.5092) ~~[This bill authorizes the Administrator of the Division or the executive head of an office or department that is investigating a report of the exploitation of an older person to issue an administrative subpoena to compel the production of financial records or other documents relating to the older person which are in the possession of a bank or other financial institution, savings and loan association, thrift company or credit union.]~~ Section 4 of this bill confers upon employees of the Division, as designated by the Administrator of the Division, the powers of a peace officer when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.

Section 5 of this bill designates as category II peace officers employees of the Division, as designated by the Administrator of the Division, when performing duties relating to investigations of reports of abuse, neglect, exploitation or isolation of older persons or vulnerable persons.

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

Section 1. ~~[Chapter 200 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~If the Aging and Disability Services Division of the Department of Health and Human Services or a local office thereof, a police department or sheriff's office, or a county office for protective services investigates a report of the exploitation of an older person made pursuant to NRS 200.5093, the Administrator of the Division or the executive head of the department or office may issue a subpoena to compel the production of financial records or other documents relating to the older person by a:~~

- ~~1. Financial institution subject to the provisions of any chapter of title 55 of NRS;~~
- ~~2. Savings and loan association subject to the provisions of chapter 673 of NRS;~~
- ~~3. Thrift company subject to the provisions of chapter 677 of NRS; or~~
- ~~4. Credit union subject to the provisions of chapter 678 of NRS.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 200.5092 is hereby amended to read as follows:~~

~~200.5092 As used in NRS 200.5091 to 200.50995, inclusive, and section 1 of this act, unless the context otherwise requires:~~

~~1. "Abuse" means willful and unjustified:~~

~~(a) Infliction of pain, injury or mental anguish on an older person or a vulnerable person; or~~

~~(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person.~~

~~2. "Exploitation" means any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:~~

~~(a) Obtain control, through deception, intimidation or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property; or~~

~~(b) Convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his or her money, assets or property.~~

~~As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.~~

~~3. "Isolation" means willfully, maliciously and intentionally preventing an older person or a vulnerable person from having contact with another person by:~~

~~(a) Intentionally preventing the older person or vulnerable person from receiving visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor; or~~

~~(b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person.~~

~~1 The term does not include an act intended to protect the property or physical or~~  
~~2 mental welfare of the older person or vulnerable person or an act performed~~  
~~3 pursuant to the instructions of a physician of the older person or vulnerable person.~~

~~4 4. "Neglect" means the failure of:~~

~~5 (a) A person who has assumed legal responsibility or a contractual obligation~~  
~~6 for caring for an older person or a vulnerable person or who has voluntarily~~  
~~7 assumed responsibility for his or her care to provide food, shelter, clothing or~~  
~~8 services which are necessary to maintain the physical or mental health of the older~~  
~~9 person or vulnerable person; or~~

~~10 (b) An older person or a vulnerable person to provide for his or her own needs~~  
~~11 because of inability to do so.~~

~~12 5. "Older person" means a person who is 60 years of age or older.~~

~~13 6. "Protective services" means services the purpose of which is to prevent and~~  
~~14 remedy the abuse, neglect, exploitation and isolation of older persons. The services~~  
~~15 may include investigation, evaluation, counseling, arrangement and referral for~~  
~~16 other services and assistance.~~

~~17 7. "Vulnerable person" means a person 18 years of age or older who:~~

~~18 (a) Suffers from a condition of physical or mental incapacitation because of a~~  
~~19 developmental disability, organic brain damage or mental illness; or~~

~~20 (b) Has one or more physical or mental limitations that restrict the ability of the~~  
~~21 person to perform the normal activities of daily living.] (Deleted by amendment.)~~

**Sec. 3. [NRS 200.50984 is hereby amended to read as follows:**

~~22 200.50984 1. Notwithstanding any other statute to the contrary, the local~~  
~~23 office of the Aging and Disability Services Division of the Department of Health~~  
~~24 and Human Services and a county's office for protective services, if one exists in~~  
~~25 the county where a violation is alleged to have occurred, may for the purpose of~~  
~~26 investigating an alleged violation of NRS 200.50991 to 200.50995, inclusive, and~~  
~~27 section 1 of this act inspect all records pertaining to the older person on whose~~  
~~28 behalf the investigation is being conducted, including, but not limited to, that~~  
~~29 person's medical and financial records.~~

~~30 2. Except as otherwise provided in this subsection [.] and section 1 of this~~  
~~31 act, if a guardian has not been appointed for the older person, the Aging and~~  
~~32 Disability Services Division or the county's office for protective services shall~~  
~~33 obtain the consent of the older person before inspecting those records. If the Aging~~  
~~34 and Disability Services Division or the county's office for protective services~~  
~~35 determines that the older person is unable to consent to the inspection, the~~  
~~36 inspection may be conducted without his or her consent. Except as otherwise~~  
~~37 provided in this subsection [.] and section 1 of this act, if a guardian has been~~  
~~38 appointed for the older person, the Aging and Disability Services Division or the~~  
~~39 county's office for protective services shall obtain the consent of the guardian~~  
~~40 before inspecting those records. If the Aging and Disability Services Division or the~~  
~~41 county's office for protective services has reasonable cause to believe that the~~  
~~42 guardian is abusing, neglecting, exploiting or isolating the older person, the~~  
~~43 inspection may be conducted without the consent of the guardian, except that if the~~  
~~44 records to be inspected are in the personal possession of the guardian, the~~  
~~45 inspection must be approved by a court of competent jurisdiction.] (Deleted by~~  
~~46 amendment.)~~

**Sec. 4. NRS 289.240 is hereby amended to read as follows:**

~~47 289.240 1. Forensic technicians and correctional officers employed by the~~  
~~48 Division of Mental Health and Developmental Services of the Department of~~  
~~49 Health and Human Services at facilities for offenders with mental disorders have~~  
~~50 the powers of peace officers when performing duties prescribed by the~~  
~~51 Administrator of the Division.~~  
~~52~~  
~~53~~

2. Employees of the Aging and Disability Services Division of the Department of Health and Human Services, as designated by the Administrator of the Division, have the powers of peace officers when performing duties pursuant to NRS 200.5091 to 200.50995, inclusive.

Sec. 5. NRS 289.470 is hereby amended to read as follows:

289.470 “Category II peace officer” means:

1. The Bailiff of the Supreme Court;
2. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;
3. Constables and their deputies whose official duties require them to carry weapons and make arrests;
4. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;
5. Parole and probation officers;
6. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;
7. Investigators of arson for fire departments who are specially designated by the appointing authority;
8. The assistant and deputies of the State Fire Marshal;
9. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;
10. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;
11. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;
12. School police officers employed by the board of trustees of any county school district;
13. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;
14. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;
15. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;
16. Legislative police officers of the State of Nevada;
17. The personnel of the Capitol Police Division of the Department of Public Safety appointed pursuant to subsection 2 of NRS 331.140;
18. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;
19. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;
20. Field investigators of the Taxicab Authority;
21. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

1        22. The chief of a department of alternative sentencing created pursuant to  
2        NRS 211A.080 and the assistant alternative sentencing officers employed by that  
3        department;

4        23. Criminal investigators who are employed by the Secretary of State; ~~and~~

5        24. The Inspector General of the Department of Corrections and any person  
6        employed by the Department as a criminal investigator ~~;~~ and

7        25. Employees of the Aging and Disability Services Division of the  
8        Department of Health and Human Services, as designated by the Administrator  
9        of the Division, when performing duties pursuant to NRS 200.5091 to 200.50995,  
10       inclusive.