

SENATE BILL NO. 22—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the Office of the Attorney General. (BDR 18-213)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 the Office of the Attorney General; requiring the Office of the Attorney General to be provided with a copy of certain court rulings and to provide an index of those rulings to the Legislative Counsel biennially; authorizing the Office of the Attorney General to enter into a cooperative agreement with the Office of the State Controller for the collection of certain restitution owed to the Attorney General; authorizing the establishment of a program to prevent certain criminal offenders and persons charged with a crime from obtaining or using a United States passport; requiring prosecuting attorneys to provide to the Office of the Attorney General copies of judgments of conviction for abuse, neglect, exploitation or isolation of an older person or a vulnerable person; clarifying the term “state agency” as it relates to agencies required to deposit money in the Fund for Insurance Premiums; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires a court, in certain circumstances, to order a person who
- 2 was extradited to this State to make restitution for the expenses incurred by the
- 3 Attorney General in returning the person to this State. (NRS 179.225) **Section 8** of
- 4 this bill provides that if a court orders a person to make such restitution, the district
- 5 attorney is required to provide the Office of the Attorney General with a copy of the
- 6 order within 30 days after the entry of the order. **Section 3** of this bill authorizes the
- 7 Office of the Attorney General to enter into a cooperative agreement with



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the Office of the State Controller for the collection of any such restitution owed to the Attorney General.

Existing law prohibits a person from abusing, neglecting, exploiting or isolating an older person or a vulnerable person, or from conspiring with another person to commit abuse, exploitation or isolation of an older person or a vulnerable person. (NRS 200.5099, 200.50995) **Section 9** of this bill provides that if a person is found guilty of any such act, the prosecuting attorney is required to provide a copy of the judgment of conviction to the Office of the Attorney General within 30 days after the entry of the judgment.

Existing law requires each state agency to deposit certain amounts of money into the Fund for Insurance Premiums, which is maintained in part for use by the Attorney General. (NRS 331.187) **Section 14** of this bill clarifies that a part-time or full-time board, commission or similar body of the State which is created by law is required to make such a deposit.

Section 4 of this bill authorizes the Office of the Extradition Coordinator within the Office of the Attorney General to establish a program that assists prosecuting attorneys and law enforcement officers in this State in coordinating with the United States Department of State to prevent criminal offenders and certain persons charged with a crime from obtaining or using a United States passport. **Section 4** also authorizes the Attorney General to adopt regulations relating to such a program.

Section 5 of this bill provides that if the Nevada Supreme Court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the reporters of decisions must provide a copy of the ruling to the Office of the Attorney General. **Sections 6 and 7** of this bill apply this requirement to the clerks of the district courts and justice courts, respectively, if a district court or justice court holds that any such provision is unconstitutional. **Section 2** of this bill requires the Office of the Attorney General to provide to the Legislative Counsel an index of all rulings it receives pursuant to **sections 5-7** on or before September 1 of each even-numbered year.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *On or before September 1 of each even-numbered year, the Office of the Attorney General shall provide to the Legislative Counsel an index of all court rulings it has received pursuant to sections 5, 6 and 7 of this act during the immediately preceding 2-year period.*

Sec. 3. *The Office of the Attorney General may enter into a cooperative agreement with the Office of the State Controller pursuant to NRS 353.650 for the collection of any restitution for expenses related to extradition that a court orders a person to make to the Attorney General pursuant to NRS 179.225.*

Sec. 4. *1. The Office of the Extradition Coordinator within the Office of the Attorney General may establish a program that assists prosecuting attorneys and law enforcement officers in this*



1 *State in coordinating with the United States Department of State to*
2 *prevent criminal offenders or persons charged with a crime who*
3 *are subject to court-ordered restrictions on international travel*
4 *from obtaining or using a United States passport.*

5 *2. The Attorney General may adopt regulations to carry out*
6 *the provisions of this section.*

7 **Sec. 5.** Chapter 2 of NRS is hereby amended by adding thereto
8 a new section to read as follows:

9 *If the Supreme Court holds that a provision of the Nevada*
10 *Constitution or the Nevada Revised Statutes violates a provision of*
11 *the Nevada Constitution or the United States Constitution, the*
12 *reporters of decisions shall provide a copy of the ruling to the*
13 *Office of the Attorney General.*

14 **Sec. 6.** Chapter 3 of NRS is hereby amended by adding thereto
15 a new section to read as follows:

16 *If a district court holds that a provision of the Nevada*
17 *Constitution or the Nevada Revised Statutes violates a provision of*
18 *the Nevada Constitution or the United States Constitution, the*
19 *clerk of the court shall provide a copy of the ruling to the Office of*
20 *the Attorney General.*

21 **Sec. 7.** Chapter 4 of NRS is hereby amended by adding thereto
22 a new section to read as follows:

23 *If a justice court holds that a provision of the Nevada*
24 *Constitution or the Nevada Revised Statutes violates a provision of*
25 *the Nevada Constitution or the United States Constitution, the*
26 *clerk of the court shall provide a copy of the ruling to the Office of*
27 *the Attorney General.*

28 **Sec. 8.** NRS 179.225 is hereby amended to read as follows:

29 179.225 1. If the punishment of the crime is the confinement
30 of the criminal in prison, the expenses must be paid from money
31 appropriated to the Office of the Attorney General for that purpose,
32 upon approval by the State Board of Examiners. After
33 the appropriation is exhausted, the expenses must be paid from the
34 Reserve for Statutory Contingency Account upon approval by the
35 State Board of Examiners. In all other cases, they must be paid out
36 of the county treasury in the county wherein the crime is alleged to
37 have been committed. The expenses are:

38 (a) If the prisoner is returned to this State from another state, the
39 fees paid to the officers of the state on whose governor the
40 requisition is made;

41 (b) If the prisoner is returned to this State from a foreign country
42 or jurisdiction, the fees paid to the officers and agents of this State
43 or the United States; or

44 (c) If the prisoner is temporarily returned for prosecution to this
45 State from another state pursuant to this chapter or chapter 178 of



1 NRS and is then returned to the sending state upon completion of
2 the prosecution, the fees paid to the officers and agents of this State,
3 ➡ and the per diem allowance and travel expenses provided for state
4 officers and employees generally incurred in returning the prisoner.

5 2. If a person is returned to this State pursuant to this chapter or
6 chapter 178 of NRS and is convicted of, or pleads guilty, guilty but
7 mentally ill or nolo contendere to, the criminal charge for which the
8 person was returned or a lesser criminal charge, the court shall
9 conduct an investigation of the financial status of the person to
10 determine the ability to make restitution. In conducting the
11 investigation, the court shall determine if the person is able to pay
12 any existing obligations for:

13 (a) Child support;

14 (b) Restitution to victims of crimes; and

15 (c) Any administrative assessment required to be paid pursuant
16 to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

17 3. If the court determines that the person is financially able to
18 pay the obligations described in subsection 2, it shall, in addition to
19 any other sentence it may impose, order the person to make
20 restitution for the expenses incurred by the Attorney General or
21 other governmental entity in returning the person to this State. The
22 court shall not order the person to make restitution if payment of
23 restitution will prevent the person from paying any existing
24 obligations described in subsection 2. Any amount of restitution
25 remaining unpaid constitutes a civil liability arising upon the date of
26 the completion of the sentence.

27 4. *If the court orders a person to make restitution for the*
28 *expenses incurred by the Attorney General in returning the person*
29 *to this State pursuant to subsection 3, the district attorney shall*
30 *provide a copy of the order to the Office of the Attorney General*
31 *within 30 days after the entry of the order.*

32 5. The Attorney General may adopt regulations to carry out the
33 provisions of this section.

34 **Sec. 9.** Chapter 200 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *If a person is found guilty of abusing, neglecting, exploiting or*
37 *isolating an older person or a vulnerable person in violation of*
38 *NRS 200.5099 or of conspiring with another to commit abuse,*
39 *exploitation or isolation of an older person or a vulnerable person*
40 *in violation of NRS 200.50995, the prosecuting attorney shall*
41 *provide a copy of the judgment of conviction to the Office of the*
42 *Attorney General within 30 days after the entry of the judgment.*

43 **Sec. 10.** NRS 200.5092 is hereby amended to read as follows:

44 200.5092 As used in NRS 200.5091 to 200.50995, inclusive,
45 *and section 9 of this act*, unless the context otherwise requires:



1 1. "Abuse" means willful and unjustified:

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

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

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

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

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

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

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

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

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

38 ➤ The term does not include an act intended to protect the property
39 or physical or mental welfare of the older person or vulnerable
40 person or an act performed pursuant to the instructions of a
41 physician of the older person or vulnerable person.

42 4. "Neglect" means the failure of:

43 (a) A person who has assumed legal responsibility or a
44 contractual obligation for caring for an older person or a vulnerable
45 person or who has voluntarily assumed responsibility for his or her



1 care to provide food, shelter, clothing or services which are
2 necessary to maintain the physical or mental health of the older
3 person or vulnerable person; or

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

6 5. "Older person" means a person who is 60 years of age or
7 older.

8 6. "Protective services" means services the purpose of which is
9 to prevent and remedy the abuse, neglect, exploitation and isolation
10 of older persons. The services may include investigation, evaluation,
11 counseling, arrangement and referral for other services and
12 assistance.

13 7. "Vulnerable person" means a person 18 years of age or older
14 who:

15 (a) Suffers from a condition of physical or mental incapacitation
16 because of a developmental disability, organic brain damage or
17 mental illness; or

18 (b) Has one or more physical or mental limitations that restrict
19 the ability of the person to perform the normal activities of daily
20 living.

21 **Sec. 11.** NRS 200.50925 is hereby amended to read as
22 follows:

23 200.50925 For the purposes of NRS 200.5091 to 200.50995,
24 inclusive, *and section 9 of this act*, a person:

25 1. Has "reasonable cause to believe" if, in light of all the
26 surrounding facts and circumstances which are known or which
27 reasonably should be known to the person at the time, a reasonable
28 person would believe, under those facts and circumstances, that an
29 act, transaction, event, situation or condition exists, is occurring or
30 has occurred.

31 2. Acts "as soon as reasonably practicable" if, in light of all the
32 surrounding facts and circumstances which are known or which
33 reasonably should be known to the person at the time, a reasonable
34 person would act within approximately the same period under those
35 facts and circumstances.

36 **Sec. 12.** NRS 200.5096 is hereby amended to read as follows:

37 200.5096 Immunity from civil or criminal liability extends to
38 every person who, pursuant to NRS 200.5091 to 200.50995,
39 inclusive, *and section 9 of this act*, in good faith:

40 1. Participates in the making of a report;

41 2. Causes or conducts an investigation of alleged abuse,
42 neglect, exploitation or isolation of an older person or a vulnerable
43 person; or

44 3. Submits information contained in a report to a licensing
45 board pursuant to subsection 4 of NRS 200.5095.



Sec. 13. NRS 200.5099 is hereby amended to read as follows:

200.5099 1. Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is guilty:

(a) For the first offense, of a gross misdemeanor; or

(b) For any subsequent offense or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

2. Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person or a vulnerable person and who:

(a) Neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering;

(b) Permits or allows the older person or vulnerable person to suffer unjustifiable physical pain or mental suffering; or

(c) Permits or allows the older person or vulnerable person to be placed in a situation where the older person or vulnerable person may suffer physical pain or mental suffering as the result of abuse or neglect,

➤ is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

3. Except as otherwise provided in subsection 4, any person who exploits an older person or a vulnerable person shall be punished, if the value of any money, assets and property obtained or used:

(a) Is less than \$650, for a misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment;

(b) Is at least \$650, but less than \$5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment; or

(c) Is \$5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by both fine and imprisonment,

➤ unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person or vulnerable



1 person which have been obtained or used, or both, may be combined
2 for the purpose of imposing punishment for an offense charged
3 pursuant to this subsection.

4 4. If a person exploits an older person or a vulnerable person
5 and the monetary value of any money, assets and property obtained
6 cannot be determined, the person shall be punished for a gross
7 misdemeanor by imprisonment in the county jail for not more than 1
8 year, or by a fine of not more than \$2,000, or by both fine and
9 imprisonment.

10 5. Any person who isolates an older person or a vulnerable
11 person is guilty:

12 (a) For the first offense, of a gross misdemeanor; or

13 (b) For any subsequent offense, of a category B felony and shall
14 be punished by imprisonment in the state prison for a minimum
15 term of not less than 2 years and a maximum term of not more than
16 10 years, and may be further punished by a fine of not more than
17 \$5,000.

18 6. A person who violates any provision of subsection 1, if
19 substantial bodily or mental harm or death results to the older person
20 or vulnerable person, is guilty of a category B felony and shall be
21 punished by imprisonment in the state prison for a minimum term of
22 not less than 2 years and a maximum term of not more than 20
23 years, unless a more severe penalty is prescribed by law for the act
24 or omission which brings about the abuse.

25 7. A person who violates any provision of subsection 2, if
26 substantial bodily or mental harm or death results to the older person
27 or vulnerable person, shall be punished for a category B felony by
28 imprisonment in the state prison for a minimum term of not less
29 than 2 years and a maximum term of not more than 6 years, unless a
30 more severe penalty is prescribed by law for the act or omission
31 which brings about the abuse or neglect.

32 8. In addition to any other penalty imposed against a person for
33 a violation of any provision of NRS 200.5091 to 200.50995,
34 inclusive, *and section 9 of this act*, the court shall order the person
35 to pay restitution.

36 9. As used in this section:

37 (a) "Allow" means to take no action to prevent or stop the abuse
38 or neglect of an older person or a vulnerable person if the person
39 knows or has reason to know that the older person or vulnerable
40 person is being abused or neglected.

41 (b) "Permit" means permission that a reasonable person would
42 not grant and which amounts to a neglect of responsibility attending
43 the care and custody of an older person or a vulnerable person.



(c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his or her normal range of performance or behavior.

Sec. 14. NRS 331.187 is hereby amended to read as follows:

331.187 1. There is created in the State Treasury the Fund for Insurance Premiums as an internal service fund to be maintained for use by the Risk Management Division of the Department of Administration and the Attorney General.

2. Each state agency shall deposit in the Fund:

(a) An amount equal to its insurance premium and other charges for potential liability, self-insured claims, other than self-insured tort claims, and administrative expenses, as determined by the Risk Management Division; and

(b) An amount for self-insured tort claims and expenses related to those claims, as determined by the Attorney General.

3. Each county shall deposit in the Fund an assessment for the employees of the district court of that county, excluding district judges, unless the county enters into a written agreement with the Attorney General to:

(a) Hold the State of Nevada harmless and assume liability and costs of defense for the employees of the district court;

(b) Reimburse the State of Nevada for any liability and costs of defense that the State of Nevada incurs for the employees of the district court; or

(c) Include the employees of the district court under the county's own insurance or other coverage.

4. Expenditures from the Fund must be made by the Risk Management Division or the Attorney General to an insurer for premiums of state agencies as they become due or for deductibles, self-insured property and tort claims or claims pursuant to NRS 41.0349. If the money in the Fund is insufficient to pay a tort claim, it must be paid from the Reserve for Statutory Contingency Account.

5. As used in this section ~~the~~ "assessment":

(a) "Assessment" means an amount determined by the Risk Management Division and the Attorney General to be equal to the share of a county for:

~~(a)~~ (1) Applicable insurance premiums;

~~(b)~~ (2) Other charges for potential liability and tort claims;

and

~~(c)~~ (3) Expenses related to tort claims.



- 1 (b) “State agency” includes, without limitation, a part-time or
- 2 full-time board, commission or similar body of the State which is
- 3 created by law.

