

Amendment No. 196

Assembly Amendment to Assembly Bill No. 285	(BDR 4-1027)
Proposed by: Assembly 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



ASSEMBLY BILL NO. 285--ASSEMBLYMAN FRIERSON

MARCH 18, 2019

Referred to Committee on Judiciary

SUMMARY—Enacts provisions relating to a mental or physical examination of certain persons in a civil action. (BDR 4-1027)

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 civil actions; enacting provisions relating to a mental or physical examination of certain persons in a civil action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Rules of Civil Procedure authorize a court to order a party or certain other persons, whose mental or physical condition is in controversy, to submit to a mental or physical examination under certain circumstances. The Nevada Rules of Civil Procedure govern the time, place, manner, conditions and scope of such an examination. (N.R.C.P. 35)

This bill authorizes an observer to be present at a mental or physical examination ordered by a court. This bill authorizes the observer to be: (1) an attorney for the person undergoing the examination; (2) an attorney for the party producing the person subject to the examination; or (3) the designated representative of such an attorney if the designated representative receives written authorization from the attorney to be the observer at the examination and the designated representative presents the written authorization to the person performing the examination.

This bill authorizes an observer to suspend an examination if the person conducting the examination is abusive towards the person being examined or the person conducting the examination exceeds the authorized scope of the examination. This bill also authorizes a person conducting the examination to suspend the examination if the observer attempts to participate in or disrupt the examination. If the examination is suspended, the party subject to the order for the examination may petition a court for a protective order pursuant to the Nevada Rules of Civil Procedure. This bill also authorizes an observer to make an audio or stenographic recording of the examination ~~under certain circumstances.~~

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

Section 1. Chapter 52 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An observer may attend an examination but shall not participate in or disrupt the examination.

2. The observer attending the examination pursuant to subsection 1 may be:

1 (a) An attorney of an examinee or party producing the examinee; or

2 (b) A designated representative of the attorney, if:

3 (1) The attorney of the examinee or party producing the examinee, in
4 writing, authorizes the designated representative to act on behalf of the attorney
5 during the examination; and

6 (2) The designated representative presents the authorization to the
7 examiner before the commencement of the examination.

8 3. The observer attending the examination pursuant to subsection 1 may
9 make an audio or stenographic recording of the examination. ~~[Such a recording
10 must be limited to any words spoken to or by the examinee during the
11 examination.]~~

12 4. The observer attending the examination pursuant to subsection 1 may
13 suspend the examination if an examiner:

14 (a) Becomes abusive towards an examinee; or

15 (b) Exceeds the scope of the examination, including, without limitation,
16 engaging in unauthorized diagnostics, tests or procedures.

17 5. An examiner may suspend the examination if the observer attending the
18 examination pursuant to subsection 1 disrupts or attempts to participate in the
19 examination.

20 6. If the examination is suspended pursuant to subsection 4 or 5, the party
21 ordered to produce the examinee may move for a protective order pursuant to the
22 Nevada Rules of Civil Procedure.

23 7. As used in this section:

24 (a) "Examination" means a mental or physical examination ordered by a
25 court for the purpose of discovery in a civil action.

26 (b) "Examinee" means a person who is ordered by a court to submit to an
27 examination.

28 (c) "Examiner" means a person who is ordered by a court to conduct an
29 examination.