

MEMBERS PRESENT: Vice Chairman Sader
Mr. Thompson
Ms. Foley
Mr. Beyer
Mr. Price
Mr. Chaney
Mr. Malone
Mrs. Cafferata
Ms. Ham
Mr. Banner

MEMBERS ABSENT: Chairman Stewart (excused)

GUESTS PRESENT: Bryce Wilson, NV Association of Counties
Colleen Dolan, UNR Intern (Stewart)
Bob Evans, UNR Intern (Rusk)
Larry Irvine, LV Police Protective Association
Joe Cathcart, City of North Las Vegas

Mr. Sader, Acting Chairman, called the meeting to order at 8:10 a.m., noting that Chairman Stewart was absent because he was testifying at another hearing.

AB 157: Requires report of abuse and neglect of older person and provides penalty therefor.

Mr. Sader distributed copies of an amendment which had been largely drawn up by the Welfare Division. (See EXHIBIT A.) He explained that while there is currently a fiscal note of \$22,000 attached to these amendments, the Welfare Division intends to reevaluate the fiscal impact of this bill based upon the suggested amendments, and believes the new fiscal note will be substantially less, if there is any at all.

Mr. Sader went on to explain that originally, the bill required the Welfare Division to investigate the complaints of elderly abuse; this would have required additional staff and funding. The proposed amendments, however, should fulfill the purpose of the original bill, but without creating a larger bureaucracy.

Mr. Sader said that the amendments to this bill take out all reference to investigation by the Department of Aging Services. If the state agencies receive reports of abuse which they believe constitute violation of the law, then these state agencies will report this to the local agencies, who will assume the responsibility of investigating the possible criminal violation.

Mr. Sader went on to review the specific changes in the bill.

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Mrs. Cafferata questioned the addition of the term "exploitation", saying she thought this bill addressed strictly physical abuse. Mr. Sader said that he, too, had questioned this term in the beginning, but since the definition of the term is so limited in the bill, he felt it acceptable. He added it would be an extremely difficult point to prove, however.

Mr. Sader told Mrs. Cafferata he did not know where these definitions had come from, but he assumed that, since they are so specific as to what abuse is, and since they were supplied by the Aging Services ombudsmen who had testified previously on the bill, they were taken from federal law. Mrs. Cafferata said she felt it desirable to determine where these definitions originated.

Mr. Beyer questioned the reduction of the fiscal note from the original estimate of \$150,000 to \$22,000, wondering how this could result from simply eliminating the requirement for a state agency to investigate the complaints. Mr. Sader explained that the original fiscal note was based upon the assumption that the Welfare Division would investigate the complaints; this would have entailed, basically, setting up an entire new unit to handle this. Then Aging Services said their Department could handle the investigations with the addition of only one person, which resulted in extensive savings. Now, if the state agencies do not have to investigate at all, but leave this up to the local agencies, it may be possible to eliminate the fiscal note altogether.

Mrs. Cafferata reminded the Committee that the Nurses Association had requested the addition of an amendment to the effect that any abuse done by a licensed person be reported to the licensing board. Mr. Sader said this had been incorporated into the Welfare Division amendments (EXHIBIT A). He added that, while the wording may not be exact, it does give the bill drafter the idea of what this section should do.

Following a discussion of whether or not to vote on this bill now, or wait until the origins of the definitions could be determined, it was agreed to go ahead and vote on the bill, and should they discover some problem with the definitions after checking on them, the bill would be returned to the Committee for additional review. Mrs. Cafferata could not support this.

Mr. Malone moved AMEND AND DO PASS AB 157, seconded by Mr. Thompson, and passed with Mrs. Cafferata voting against, and Mr. Banner and Mr. Stewart absent at the time of the vote.

Mr. Sader said he would have the amendments drafted, and then would bring the bill back to the Committee for final perusal prior to reporting it out of Committee.

AB 246: Adds to provisions for assignment of wages of responsible parent for child support.

SB 252: Strengthens provisions for assignment of earnings in child support cases and revises provisions for reciprocal enforcement of support.

Mr. Sader said that he, Ms. Ham and Mr. Malone formed the subcommittee overseeing AB 246, and that they had not yet taken action on combining this bill with SB 252. The Committee discussed the problems involved in combining the two bills, and it was agreed to hold AB 246 until additional changes could be made to it and the bills could be combined.

AB 240: Provides for use of foreign standard of "felony" in defining certain offenses for purposes of registration of convicted felons.

Mr. Sader reminded the Committee that there had been a question as to whether or not this bill should be amended.

Mrs. Cafferata questioned whether this bill would have affected a current Reno case. It was determined that this would have affected the case, since if passed, the individual involved would not have been required to register as a felon (which he failed to do) and hence would not have been in violation of the law.

Mr. Sader said he did not believe anyone not actually convicted of a felony should have to register as a felon in Nevada simply because the same crime would have been a felony in this state; for this reason Mr. Sader favors the bill.

Mrs. Cafferata noted that the case mentioned earlier came to light when the individual involved applied for a gun permit. She wondered if AB 240 would affect the ease with which this type of individual might obtain weapons. Mr. Sader explained that in order to obtain a permit for a concealed weapon the applicant must fill out a form stating whether he has ever been arrested for or convicted of any crime. Since the individual in the Reno case was not convicted of a felony, he still could easily obtain the weapon; AB 240 would not change this, it would simply require that he register the same as a felon would, if the crime of which he was convicted is a felony in Nevada. The individual is still not a felon, however.

Mr. Sader summarized by saying that the law requiring the registering of felons is simply to alert local people as to whom they have in their jurisdiction who has been a felon before so they can keep tabs on him.

Ms. Ham raised the question of those states where they have the "Class" system of crimes. Mr. Sader replied that there is really no way to cover all the different ways states classify their crimes

in this bill, but he felt the majority of cases would be included in AB 240.

Ms. Foley then raised the point that the current wording of the bill deals with a crime "punishable" as a felony; thus, whether or not the individual was actually sentenced as a felon, if he could have been, then he must register. She suggested the bill be amended to indicate the person must actually have been convicted of a felony, or that the crime was punished as a felony.

Mr. Sader agreed this language would be clearer and more precise, and agreed to get the amendment and return the bill to the Committee for a final review.

Mrs. Cafferata moved AMEND AND DO PASS AB 240, seconded by Ms. Foley and passed unanimously, with Mr. Stewart absent at the time of the vote.

AB 303: Increases compensation of witnesses at hearings.

Mr. Thompson moved DO PASS AB 303, seconded by Mr. Malone.

Mrs. Cafferata said she found that the possibility of a person losing his job because he has been absent in order to testify is a very real one, and she therefore suggested the bill be amended to proscribe an employer from doing this.

Mrs. Cafferata moved AMEND AB 303 as noted above, seconded by Ms. Foley and passed unanimously, with Mr. Stewart absent at the time of the vote.

In the discussion that preceded the vote on Mr. Thompson's motion to do pass, Mrs. Cafferata said she opposed the bill itself because it was a spending bill.

Mr. Beyer said he opposed the bill because he felt the citizens should be willing to support the judicial system without any reimbursement whatsoever.

Mr. Malone and Mr. Thompson both pointed out that taking time off from work in order to testify can be a real financial hardship for some people, and while even \$25 is not sufficient reimbursement, it does lessen the impact on the witness. Also, these witnesses are often of prime importance to a case, and anything which will encourage them to appear to testify in someone's behalf will only further justice.

Ms. Ham noted \$25 is not enough and the price should be raised. Ms. Foley said if \$25 is not enough, why not just leave it at \$15. Others noted that \$25 may not be enough, but every little bit helps.

Regarding Mr. Thompson's motion to DO PASS AB 303, the motion carried, with Mr. Beyer and Mrs. Cafferata voting in opposition to it and Mr. Stewart absent.

AB 255: Reduces period required for sale of goods in storage to satisfy liens.

AB 340: Provides procedure for fixing salaries of justices of peace and police judges.

Mr. Sader noted he did not wish to discuss these two bills unless Mr. Stewart, who has additional information on them, were present. He therefore decided to reschedule them for Friday, 10 April 1981.

SB 188: Makes various changes concerning custody of children in cases of parents' separation or divorce.

Mr. Sader said he had spoken to Mr. Tayler, who had testified at the hearing on this bill, regarding a) whether or not this bill would cause a problem with child-snatching laws, and b) whether or not this would affect the Aid to Dependent Children Program of the Welfare Division. The problem of child-snatching can only arise when you have joint custody and no physical custody specified by the court; rather than amend the bill, however, this can be handled by having the parent who has lost the child immediately return to court and file an order to show cause why the parent who snatched the child should not be held in contempt of court. The Welfare Division did not yet have the necessary information regarding the possible effects on the ADC Program.

AB 234: Provides alternative to grand jury proceedings.

Ms. Foley requested, and Mr. Sader agreed, that this bill also be placed on the agenda for Friday, 10 April 1981.

As there was no further business, the meeting adjourned at 9:15 a.m.

Respectfully submitted,

Pamela B. Sleeper

Pamela B. Sleeper
Assembly Attache

ASSEMBLY JUDICIAL COMMITTEE

GUEST LIST

DATE: Tuesday, 7 April 1981

PLEASE PRINT YOUR NAME	PLEASE PRINT WHO YOU REPRESENT	I WISH TO SPEAK		
		FOR	AGAINST	BILL NO.
Bryce Wilson	New Assn of Counties			AB 340
Colleen Dolan	Intern - Stewart			
Bob Evans	Intern B Rusk			
Larry Irvine	Las Vegas Police Protective Assn			AB 303
Joe Cathcart	City of North Las Vegas			

61st NEVADA LEGISLATURE
ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Tuesday, 7 April 1981
SUBJECT: AB 157: Requires report of abuse and neglect of older person and provides penalty therefor.

MOTION:

DO PASS _____ AMEND _____ INDEFINITELY POSTPONE _____
RECONSIDER _____ AMEND AND DO PASS XX
MOVED BY: MR. MALONE SECONDED BY: MR. THOMPSON

AMENDMENT:

See EXHIBIT A.

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	—	—	—	—
Foley	<u>X</u>	—	—	—	—	—
Beyer	<u>X</u>	—	—	—	—	—
Price	<u>X</u>	—	—	—	—	—
Sader	<u>X</u>	—	—	—	—	—
Stewart	ABSENT	—	—	—	—	—
Chaney	<u>X</u>	—	—	—	—	—
Malone	<u>X</u>	—	—	—	—	—
Cafferata	—	<u>X</u>	—	—	—	—
Ham	<u>X</u>	—	—	—	—	—
Banner	ABSENT	—	—	—	—	—
TALLY:	<u>8</u>	<u>1</u>	—	—	—	—

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____
AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Assembly Judiciary Committee
Tuesday, 7 April 1981

61st NEVADA LEGISLATURE
 ASSEMBLY JUDICIARY COMMITTEE
LEGISLATION ACTION

DATE: Tuesday, 7 April 1981

SUBJECT: AB 240: Provides for use of foreign standard of "felony" in defining certain offenses for purposes of registration of convicted felons.

MOTION:

DO PASS _____ AMEND _____ INDEFINITELY POSTPONE _____
 RECONSIDER _____ AMEND AND DO PASS XX
 MOVED BY: MRS. CAFFERATA SECONDED BY: MS. FOLEY

AMENDMENT:

Wording to the effect that: "Any person convicted of a felony in the State of Nevada or convicted of a felony where the conviction took place".

MOVED BY: _____ SECONDED BY: _____

AMENDMENT:

MOVED BY: _____ SECONDED BY: _____

VOTE:	MOTION		AMEND		AMEND	
	YES	NO	YES	NO	YES	NO
Thompson	<u>X</u>	—	—	—	—	—
Foley	<u>X</u>	—	—	—	—	—
Beyer	<u>X</u>	—	—	—	—	—
Price	<u>X</u>	—	—	—	—	—
Sader	<u>X</u>	—	—	—	—	—
Stewart	ABSENT	—	—	—	—	—
Chaney	<u>X</u>	—	—	—	—	—
Malone	<u>X</u>	—	—	—	—	—
Cafferata	<u>X</u>	—	—	—	—	—
Ham	<u>X</u>	—	—	—	—	—
Banner	<u>X</u>	—	—	—	—	—
TALLY:	<u>10</u>	<u>0</u>	—	—	—	—

ORIGINAL MOTION: Passed XX Defeated _____ Withdrawn _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____
 AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES OF Assembly Judiciary Committee
 Tuesday, 7 April 1981

ASSEMBLY BILL NO. 157 - ASSEMBLYMEN COULTER, BARENGO, HAYES,
FOLEY, THOMPSON, BANNER, SADER, PRENGAMAN, WESTALL,
JEFFREY, BREMNER, PRICE, HORN, RUSK AND GLOVER.

February 13, 1981

Referred to Committee on Judiciary

SUMMARY - Requires report of abuse and neglect of older person and provides penalty therefor.
(BDR 16-697)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes

Explanation - Matter underlined is new; matter in brackets [] is to be omitted.

AN ACT relating to crimes; requiring the report of the abuse or neglect of an older person providing a penalty; and providing other matters properly relating thereto.

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 the provisions set forth as sections 2 to [1] 9, inclusive of this act.

SEC. 2. It is the policy of this state to provide for the cooperation of law enforcement officials, courts of competent jurisdiction and all appropriate state agencies providing human services in relation to [preventing,] identifying [and treating] the abuse, [and] neglect, or exploitation of older persons [and investigation of such reports by a social agency and the provision of services where needed, to protect the best interests of the older person, to offer protective services in order to prevent any further harm to the person, to preserve family life whenever possible and to provide the person with a temporary or permanent safe environment when necessary].

SEC. 3. As used in sections 2 to [1] 9, inclusive, of this act, unless the context otherwise requires:

1. ["Abuse and neglect of an older person" means the nonaccidental physical or mental injury, negligent treatment or mistreatment of an older person by a person who is responsible for the older person's welfare under circumstances which indicate that the older person's health or welfare is harmed or threatened thereby.] "Abuse" means the willful:

(a) Infliction of physical or mental pain or physical injury; or

(b) Deprivation of food, shelter, clothing or services which are necessary for physical or mental health.

2. "Caretaker" means a person who has assumed the responsibility for caring for an older person who is unable to care for himself.

3. "Exploitation" means the wrongful use of an older person or his money or other property to the advantage of another person when that older person is unable to care for himself.

4. "Neglect" means:

(a) The failure of a caretaker to provide food, shelter, clothing or services which are necessary for the mental or physical health of an older person unable to care for himself, for whom the caretaker has assumed responsibility; or

(b) The failure of an older person to provide for his own needs because of his physical or mental inability to do so.

5. "Older person" means a person who is ~~62~~⁶⁵ years of age or older.

6. "Unable to care for himself" refers to a person who is mentally or physically incapable of caring for himself adequately.

SUB. 4. 1. A report must be made ^{within 3 working days} ~~promptly~~ to the local office of the welfare division of the department of human resources or to any police department or sheriff's office or the aging services division of the department of human resources when there is reason to believe that an older person has been abused, [or] neglected, or exploited. If the report of abuse, [or] neglect, or exploitation involves an act or omission of the welfare division or a law enforcement agency, the report must be made to [an agency other than the one alleged to have committed the act or omission] the division for aging services. Upon receipt of a report concerning the possible abuse [or], neglect, or exploitation of an older person, the welfare division or law enforcement agency [shall investigate within 3 working days. The law enforcement agency] must immediately refer the report to the [local office or the welfare division] aging services division. [An older person may not be removed from his residence or the residence of his guardian by a law enforcement agency unless, in the judgment of the reporting physician or law enforcement agency, immediate removal is essential to protect the older person from further injury or abuse.]

2. Reports must be made by:

(a) Every physician, dentist, chiropractor, optometrist, resident and intern licensed in this state who examines, attends or treats an older person who appears to have been abused [or], neglected, or exploited.

(b) The superintendent, manager or other person in charge of a hospital or similar institution, upon notification, which must be given by every physician who has attended an older person who

appears to have been abused, [or] neglected, or exploited pursuant to his performance of services as a member of the staff of the hospital or institution.

(c) Every professional or practical nurse, physician's assistant, psychologist and [advanced emergency medical technician-ambulance] driver or ambulance attendant licensed or certified to practice in this state, who examines, attends or treats an older person who appears to have been neglected, [or] abused, or exploited.

(d) Every [attorney] clergyman or social worker.

(e) Every person who maintains or is employed by a group care facility.

(f) Every attorney, unless he has acquired the knowledge of abuse, neglect, or exploitation through representation of a person who is or may be accused of said abuse, neglect or exploitation.

3. A report may be filed by any other person.

SEC. 5. The report required pursuant to section 4 of this act may be made orally, by telephone or otherwise. The person who [makes] receives the report must reduce it to writing as soon as possible.

2. The report must contain the following information, when possible:

(a) The name and address of the older person;

(b) The name and address of the person responsible for his care;

(c) The nature and extent of the abuse, [or] neglect, or exploitation;

(d) Any evidence of previous injuries.

SEC. 6. The [welfare division of the department of human resources] aging services division shall:

[(a) File with the aging services division of the department of human resources a copy of each report of abuse or neglect of an older person received by or referred to them.]

[(b) Investigate each report of neglect or abuse of an older person which was received by or referred to it by a law enforcement agency to determine the circumstances surrounding the injury, its cause and the person responsible for the injury.]

[(c) Report to the aging services division upon completion of the investigation:]

[(1)] identify[ing] and record demographic information on the older person alleged to have been abused, [or] neglected, or exploited and the person allegedly responsible for the abuse, [or] neglect, or exploitation.

[(2) The facts of the alleged abuse or neglect, including the date and type of abuse or neglect, the manner in which the abuse was inflicted and the severity of the injuries.]

SEC. 8. Immunity from civil or criminal liability extends to every person participating in good faith in:

- (1.) the making of a report pursuant to sections 4 and 5 of this act;
- (2.) The instituting of actions pursuant to section 6 of this act; or
- (3.) A judicial proceeding resulting therefrom.

SEC. 9. In any proceeding resulting from a report made or action taken pursuant to sections 3 to 11, inclusive, of this act or in any proceeding where the report of its contents or any other fact related thereto or to the condition of the older person who is the subject of the report may not be excluded on the ground that the matter would otherwise be privileged against disclosure under chapter 49 of NRS.

SEC. 10. Any person who knowingly and willfully violates sections 3 to 11, inclusive, of this act is guilty of a misdemeanor.

~~SEC. 11.~~ 1. Any adult person who willfully causes or permits an older person to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or who willfully causes or permits an older person to be placed in a situation where the person may suffer physical pain or mental suffering as the result of abuse ^{or} neglect ^{or} ^{on maintenance} 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, neglect or danger.

2. A person who violates any provision of subsection 1, if substantial bodily or mental harm results to the older person, shall be punished by imprisonment in the state prison for not less than 1 year nor more than 20 years.

3. As used in this section, "permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person.

Further amend Sec. 7

4. If the person reported to have abused or neglected an older person is a licensed health care professional, a copy of the report must be sent to the board or agency responsible for issuing his license.

FISCAL NOTE

HDR _____
 A.B. 157 _____
 S.B. _____

• STATE AGENCY ESTIMATES

Date Prepared 3-24-81

Agency Submitting Aging Services

Revenue and/or Expense Items	Fiscal Year 1980-81	Fiscal Year 1981-82	Fiscal Year 1982-83	Continuing
GR 28 Social Worker Trainee		15,200	15,968	
Office Space		1,500	2,000	
Equipment		2,200		
Communications & equipment		1,000	1,200	
Office Supplies		400	500	
Travel Expense		1,500	2,000	
Training Expense		400	500	
Total		22,200	22,168	

Explanation (Use Continuation Sheets If Required)

* Two (2) year Elder Abuse Study (Reporting only)

GR 28 Social Worker Trainee: After two (2) years of working in this area, the Social Worker will have the knowledge and the skill to become the lead person if the study indicates a need to continue and expand the program.

Local Government Impact YES NO
 (Attach Explanation)

Signature _____
 Title Administrator

• DEPARTMENT OF ADMINISTRATION COMMENTS

Date _____

Signature _____
 Title _____

• LOCAL GOVERNMENT FISCAL IMPACT
 (Legislative Counsel Bureau Use Only)

Date _____

Signature _____ 1252
 Title _____