
ASSEMBLY BILL NO. 73—ASSEMBLYMEN MCCLAIN, CLABORN, CHOWNING, PARKS, CONKLIN, ANDERSON, ANDONOV, ARBERRY, ATKINSON, BUCKLEY, CARPENTER, COLLINS, GIBBONS, GIUNCHIGLIANI, GOLDWATER, GRADY, HORNE, KOIVISTO, LESLIE, MANENDO, MCCLEARY, MORTENSON, OCEGUERA, OHRENSCHALL, PERKINS, PIERCE AND WILLIAMS (BY REQUEST)

FEBRUARY 11, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provisions concerning certain crimes committed against older persons. (BDR 15-357)

FISCAL NOTE: Effect on Local Government: Yes.
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 crimes; reducing the age of a victim that is used as the threshold for determining the applicability of certain crimes against older persons; authorizing a court to require a person found guilty of certain crimes against older persons to pay the cost of investigating and prosecuting the crime; 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:

- 1 **Section 1.** NRS 193.167 is hereby amended to read as follows:
2 193.167 1. Except as otherwise provided in NRS 193.169,
3 any person who commits the crime of:
4 (a) Murder;
5 (b) Attempted murder;
6 (c) Assault;
7 (d) Battery;
8 (e) Kidnapping;
9 (f) Robbery;



- 1 (g) Sexual assault;
- 2 (h) Embezzlement of money or property of a value of \$250 or
- 3 more;
- 4 (i) Obtaining money or property of a value of \$250 or more by
- 5 false pretenses; or
- 6 (j) Taking money or property from the person of another,
- 7 against any person who is ~~65~~ 60 years of age or older shall be
- 8 punished by imprisonment in the county jail or state prison,
- 9 whichever applies, for a term equal to and in addition to the term of
- 10 imprisonment prescribed by statute for the crime. The sentence
- 11 prescribed by this subsection must run consecutively with the
- 12 sentence prescribed by statute for the crime.
- 13 2. Except as otherwise provided in NRS 193.169, any person
- 14 who commits a criminal violation of the provisions of chapter 90 or
- 15 91 of NRS against any person who is ~~65~~ 60 years of age or older
- 16 shall be punished by imprisonment in the county jail or state prison,
- 17 whichever applies, for a term equal to and in addition to the term of
- 18 imprisonment prescribed by statute for the criminal violation. The
- 19 sentence prescribed by this subsection must run consecutively with
- 20 the sentence prescribed by statute for the criminal violation.
- 21 3. This section does not create any separate offense but
- 22 provides an additional penalty for the primary offense, whose
- 23 imposition is contingent upon the finding of the prescribed fact.
- 24 **Sec. 2.** NRS 200.5093 is hereby amended to read as follows:
- 25 200.5093 1. Any person who is described in subsection 4 and
- 26 who, in his professional or occupational capacity, knows or has
- 27 reasonable cause to believe that an older person has been abused,
- 28 neglected, exploited or isolated shall:
- 29 (a) Except as otherwise provided in subsection 2, report the
- 30 abuse, neglect, exploitation or isolation of the older person to:
- 31 (1) The local office of the Aging Services Division of the
- 32 Department of Human Resources;
- 33 (2) A police department or sheriff's office;
- 34 (3) The county's office for protective services, if one exists
- 35 in the county where the suspected action occurred; or
- 36 (4) A toll-free telephone service designated by the Aging
- 37 Services Division of the Department of Human Resources; and
- 38 (b) Make such a report as soon as reasonably practicable but not
- 39 later than 24 hours after the person knows or has reasonable cause to
- 40 believe that the older person has been abused, neglected, exploited
- 41 or isolated.
- 42 2. If a person who is required to make a report pursuant to
- 43 subsection 1 knows or has reasonable cause to believe that the
- 44 abuse, neglect, exploitation or isolation of the older person involves
- 45 an act or omission of the Aging Services Division, another division



1 of the Department of Human Resources or a law enforcement
2 agency, the person shall make the report to an agency other than the
3 one alleged to have committed the act or omission.

4 3. Each agency, after reducing a report to writing, shall forward
5 a copy of the report to the Aging Services Division of the
6 Department of Human Resources.

7 4. A report must be made pursuant to subsection 1 by the
8 following persons:

9 (a) Every physician, dentist, dental hygienist, chiropractor,
10 optometrist, podiatric physician, medical examiner, resident, intern,
11 professional or practical nurse, physician assistant, psychiatrist,
12 psychologist, marriage and family therapist, alcohol or drug abuse
13 counselor, driver of an ambulance, advanced emergency medical
14 technician or other person providing medical services licensed or
15 certified to practice in this state, who examines, attends or treats an
16 older person who appears to have been abused, neglected, exploited
17 or isolated.

18 (b) Any personnel of a hospital or similar institution engaged in
19 the admission, examination, care or treatment of persons or an
20 administrator, manager or other person in charge of a hospital or
21 similar institution upon notification of the suspected abuse, neglect,
22 exploitation or isolation of an older person by a member of the staff
23 of the hospital.

24 (c) A coroner.

25 (d) Every clergyman, practitioner of Christian Science or
26 religious healer, unless he acquired the knowledge of abuse, neglect,
27 exploitation or isolation of the older person from the offender during
28 a confession.

29 (e) Every person who maintains or is employed by an agency to
30 provide nursing in the home.

31 (f) Every attorney, unless he has acquired the knowledge of
32 abuse, neglect, exploitation or isolation of the older person from a
33 client who has been or may be accused of such abuse, neglect,
34 exploitation or isolation.

35 (g) Any employee of the Department of Human Resources.

36 (h) Any employee of a law enforcement agency or a county's
37 office for protective services or an adult or juvenile probation
38 officer.

39 (i) Any person who maintains or is employed by a facility or
40 establishment that provides care for older persons.

41 (j) Any person who maintains, is employed by or serves as a
42 volunteer for an agency or service which advises persons regarding
43 the abuse, neglect, exploitation or isolation of an older person and
44 refers them to persons and agencies where their requests and needs
45 can be met.



- 1 (k) Every social worker.
2 (l) Any person who owns or is employed by a funeral home or
3 mortuary.
4 5. A report may be made by any other person.
5 6. If a person who is required to make a report pursuant to
6 subsection 1 knows or has reasonable cause to believe that an older
7 person has died as a result of abuse, neglect or isolation, the person
8 shall, as soon as reasonably practicable, report this belief to the
9 appropriate medical examiner or coroner, who shall investigate the
10 cause of death of the older person and submit to the appropriate
11 local law enforcement agencies, the appropriate prosecuting
12 attorney and the Aging Services Division of the Department of
13 Human Resources his written findings. The written findings must
14 include the information required pursuant to the provisions of NRS
15 200.5094, when possible.
16 7. A division, office or department which receives a report
17 pursuant to this section shall cause the investigation of the report to
18 commence within 3 working days. A copy of the final report of the
19 investigation conducted by a division, office or department, other
20 than the Aging Services Division of the Department of Human
21 Resources, must be forwarded to the Aging Services Division within
22 90 days after the completion of the report.
23 8. If the investigation of a report results in the belief that an
24 older person is abused, neglected, exploited or isolated, the Aging
25 Services Division of the Department of Human Resources or the
26 county's office for protective services may provide protective
27 services to the older person if he is able and willing to accept them.
28 9. A person who knowingly and willfully violates any of the
29 provisions of this section is guilty of a misdemeanor. *In addition to*
30 *any other penalty, a court may order such a person to pay the cost*
31 *of the investigation or prosecution of the crime, or both.*
32 **Sec. 3.** NRS 200.5095 is hereby amended to read as follows:
33 200.5095 1. Reports made pursuant to NRS 200.5093 and
34 200.5094, and records and investigations relating to those reports,
35 are confidential.
36 2. A person, law enforcement agency or public or private
37 agency, institution or facility who willfully releases data or
38 information concerning the reports and investigation of the abuse,
39 neglect, exploitation or isolation of older persons, except:
40 (a) Pursuant to a criminal prosecution;
41 (b) Pursuant to NRS 200.50982; or
42 (c) To persons or agencies enumerated in subsection 3 of this
43 section,



1 is guilty of a misdemeanor. *In addition to any other penalty, a*
2 *court may order such a person to pay the cost of the investigation*
3 *or prosecution of the crime, or both.*

4 3. Except as otherwise provided in subsection 2 and NRS
5 200.50982, data or information concerning the reports and
6 investigations of the abuse, neglect, exploitation or isolation of an
7 older person is available only to:

8 (a) A physician who is providing care to an older person who
9 may have been abused, neglected, exploited or isolated;

10 (b) An agency responsible for or authorized to undertake the
11 care, treatment and supervision of the older person;

12 (c) A district attorney or other law enforcement official who
13 requires the information in connection with an investigation of the
14 abuse, neglect, exploitation or isolation of the older person;

15 (d) A court which has determined, in camera, that public
16 disclosure of such information is necessary for the determination of
17 an issue before it;

18 (e) A person engaged in bona fide research, but the identity of
19 the subjects of the report must remain confidential;

20 (f) A grand jury upon its determination that access to such
21 records is necessary in the conduct of its official business;

22 (g) Any comparable authorized person or agency in another
23 jurisdiction;

24 (h) A legal guardian of the older person, if the identity of the
25 person who was responsible for reporting the alleged abuse, neglect,
26 exploitation or isolation of the older person to the public agency is
27 protected, and the legal guardian of the older person is not the
28 person suspected of such abuse, neglect, exploitation or isolation;

29 (i) If the older person is deceased, the executor or administrator
30 of his estate, if the identity of the person who was responsible for
31 reporting the alleged abuse, neglect, exploitation or isolation of the
32 older person to the public agency is protected, and the executor or
33 administrator is not the person suspected of such abuse, neglect,
34 exploitation or isolation; or

35 (j) The older person named in the report as allegedly being
36 abused, neglected, exploited or isolated, if that person is not legally
37 incompetent.

38 4. If the person who is reported to have abused, neglected,
39 exploited or isolated an older person is the holder of a license or
40 certificate issued pursuant to chapters 449, 630 to 641B, inclusive,
41 or 654 of NRS, information contained in the report must be
42 submitted to the board that issued the license.

43 **Sec. 4.** NRS 200.5099 is hereby amended to read as follows:

44 200.5099 1. Except as otherwise provided in subsection 6,
45 any person who abuses an older person, causing the older person to



1 suffer unjustifiable physical pain or mental suffering, is guilty of a
2 category B felony and shall be punished by imprisonment in the
3 state prison for a minimum term of not less than 2 years and a
4 maximum term of not more than 6 years, unless a more severe
5 penalty is prescribed by law for the act or omission which brings
6 about the abuse. *In addition to any other penalty, a court may*
7 *order such a person to pay the cost of the investigation or*
8 *prosecution of the crime, or both.*
9 2. Except as otherwise provided in subsection 7, any person
10 who has assumed responsibility, legally, voluntarily or pursuant to a
11 contract, to care for an older person and who:
12 (a) Neglects the older person, causing the older person to suffer
13 physical pain or mental suffering;
14 (b) Permits or allows the older person to suffer unjustifiable
15 physical pain or mental suffering; or
16 (c) Permits or allows the older person to be placed in a situation
17 where the older person may suffer physical pain or mental suffering
18 as the result of abuse or neglect,
19 is guilty of a gross misdemeanor unless a more severe penalty is
20 prescribed by law for the act or omission which brings about the
21 abuse or neglect. *In addition to any other penalty, a court may*
22 *order such a person to pay the cost of the investigation or*
23 *prosecution of the crime, or both.*
24 3. Except as otherwise provided in subsection 4, any person
25 who exploits an older person shall be punished, if the value of any
26 money, assets and property obtained or used:
27 (a) Is less than \$250, for a misdemeanor by imprisonment in the
28 county jail for not more than 1 year, or by a fine of not more than
29 \$2,000, or by both fine and imprisonment;
30 (b) Is at least \$250, but less than \$5,000, for a category B felony
31 by imprisonment in the state prison for a minimum term of not less
32 than 2 years and a maximum term of not more than 10 years, or by a
33 fine of not more than \$10,000, or by both fine and imprisonment; or
34 (c) Is \$5,000 or more, for a category B felony by imprisonment
35 in the state prison for a minimum term of not less than 2 years and a
36 maximum term of not more than 20 years, or by a fine of not more
37 than \$25,000, or by both fine and imprisonment,
38 unless a more severe penalty is prescribed by law for the act which
39 brought about the exploitation. The monetary value of all of the
40 money, assets and property of the older person which have been
41 obtained or used, or both, may be combined for the purpose of
42 imposing punishment for an offense charged pursuant to this
43 subsection. *In addition to any other penalty, a court may order*
44 *such a person to pay the cost of the investigation or prosecution of*
45 *the crime, or both.*



1 4. If a person exploits an older person and the monetary value
2 of any money, assets and property obtained cannot be determined,
3 the person shall be punished for a gross misdemeanor by
4 imprisonment in the county jail for not more than 1 year, or by a
5 fine of not more than \$2,000, or by both fine and imprisonment. *In*
6 *addition to any other penalty, a court may order such a person to*
7 *pay the cost of the investigation or prosecution of the crime, or*
8 *both.*

9 5. Any person who isolates an older person is guilty:
10 (a) For the first offense, of a gross misdemeanor; or
11 (b) For any subsequent offense, of a category B felony and shall
12 be punished by imprisonment in the state prison for a minimum
13 term of not less than 2 years and a maximum term of not more than
14 10 years, and may be further punished by a fine of not more than
15 \$5,000. *In addition to any other penalty, a court may order such a*
16 *person to pay the cost of the investigation or prosecution of the*
17 *crime, or both.*

18 6. A person who violates any provision of subsection 1, if
19 substantial bodily or mental harm or death results to the older
20 person, is guilty of a category B felony and shall be punished by
21 imprisonment in the state prison for a minimum term of not less
22 than 2 years and a maximum term of not more than 20 years, unless
23 a more severe penalty is prescribed by law for the act or omission
24 which brings about the abuse. *In addition to any other penalty, a*
25 *court may order such a person to pay the cost of the investigation*
26 *or prosecution of the crime, or both.*

27 7. A person who violates any provision of subsection 2, if
28 substantial bodily or mental harm or death results to the older
29 person, shall be punished for a category B felony by imprisonment
30 in the state prison for a minimum term of not less than 2 years and a
31 maximum term of not more than 6 years, unless a more severe
32 penalty is prescribed by law for the act or omission which brings
33 about the abuse or neglect. *In addition to any other penalty, a court*
34 *may order such a person to pay the cost of the investigation or*
35 *prosecution of the crime, or both.*

36 8. 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 if the person knows or has reason to
39 know that the older person is being abused or neglected.

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



1 **Sec. 5.** NRS 200.50995 is hereby amended to read as follows:
2 200.50995 A person who conspires with another to commit
3 abuse, exploitation or isolation of an older person as prohibited by
4 NRS 200.5099, shall be punished:

- 5 1. For the first offense, for a gross misdemeanor.
6 2. For the second and all subsequent offenses, for a category C
7 felony as provided in NRS 193.130.

8 In addition to any other penalty, the court shall order the person to
9 pay restitution ~~[]~~ *and may order such a person to pay the cost of*
10 *the investigation or prosecution of the crime, or both.* Each person
11 found guilty of such a conspiracy is jointly and severally liable for
12 the restitution with each other person found guilty of the conspiracy.

13 **Sec. 6.** NRS 207.014 is hereby amended to read as follows:

14 207.014 1. A person who:

15 (a) Has been convicted in this state of any felony committed on
16 or after July 1, 1995, of which fraud or intent to defraud is an
17 element; and

18 (b) Has previously been two times convicted, whether in this
19 state or elsewhere, of any felony of which fraud or intent to defraud
20 is an element before the commission of the felony under paragraph
21 (a) of this subsection,

22 is a habitually fraudulent felon and shall be punished for a category
23 B felony by imprisonment in the state prison for a minimum term of
24 not less than 5 years and a maximum term of not more than 20
25 years, if the victim of each offense was ~~[65]~~ 60 years of age or older
26 or a mentally disabled person.

27 2. The prosecuting attorney shall include a count under this
28 section in any information or shall file a notice of habitually
29 fraudulent felon if an indictment is found, if the prior convictions
30 and the alleged offense committed by the accused are felonies of
31 which fraud or intent to defraud is an element and the victim of each
32 offense was:

33 (a) ~~[Sixty-five]~~ Sixty years of age or older; or

34 (b) A mentally disabled person.

35 3. The trial judge may not dismiss a count under this section
36 that is included in an indictment or information.

37 4. As used in this section, "mentally disabled person" means a
38 person who has a mental impairment which is medically
39 documented and substantially limits one or more of the person's
40 major life activities. The term includes, but is not limited to, a
41 person who:

42 (a) Is mentally retarded;

43 (b) Suffers from a severe mental or emotional illness;

44 (c) Has a severe learning disability; or



1 (d) Is experiencing a serious emotional crisis in his life as a
2 result of the fact that he or a member of his immediate family has a
3 catastrophic illness.

4 **Sec. 7.** NRS 598.0933 is hereby amended to read as follows:
5 598.0933 "Elderly person" means a person who is ~~65~~ 60
6 years of age or older.

7 **Sec. 8.** NRS 599B.270 is hereby amended to read as follows:
8 599B.270 As used in NRS 599B.270 to 599B.300, inclusive,
9 unless the context otherwise requires:

- 10 1. "Disabled person" means a person who:
11 (a) Has a physical or mental impairment that substantially limits
12 one or more of the major life activities of the person;
13 (b) Has a record of such an impairment; or
14 (c) Is regarded as having such an impairment.
15 2. "Elderly person" means a person who is ~~65~~ 60 years of age
16 or older.

