

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.

~

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:

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

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

14 This bill authorizes an observer to suspend an examination if the person
15 conducting the examination is abusive towards the person being examined or the
16 person conducting the examination exceeds the authorized scope of the
17 examination. This bill also authorizes a person conducting the examination to
18 suspend the examination if the observer attempts to participate in or disrupt the
19 examination. If the examination is suspended, the party subject to the order for the
20 examination may petition a court for a protective order pursuant to the Nevada
21 Rules of Civil Procedure. This bill also authorizes an observer to make an audio or
22 stenographic recording of the examination.



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

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

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

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

7 (a) *An attorney of an examinee or party producing the*
8 *examinee; or*

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

10 (1) *The attorney of the examinee or party producing the*
11 *examinee, in writing, authorizes the designated representative to*
12 *act on behalf of the attorney during the examination; and*

13 (2) *The designated representative presents the*
14 *authorization to the examiner before the commencement of the*
15 *examination.*

16 3. *The observer attending the examination pursuant to*
17 *subsection 1 may make an audio or stenographic recording of the*
18 *examination.*

19 4. *The observer attending the examination pursuant to*
20 *subsection 1 may suspend the examination if an examiner:*

21 (a) *Becomes abusive towards an examinee; or*

22 (b) *Exceeds the scope of the examination, including, without*
23 *limitation, engaging in unauthorized diagnostics, tests or*
24 *procedures.*

25 5. *An examiner may suspend the examination if the observer*
26 *attending the examination pursuant to subsection 1 disrupts or*
27 *attempts to participate in the examination.*

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

31 7. *As used in this section:*

32 (a) *“Examination” means a mental or physical examination*
33 *ordered by a court for the purpose of discovery in a civil action.*

34 (b) *“Examinee” means a person who is ordered by a court to*
35 *submit to an examination.*

36 (c) *“Examiner” means a person who is ordered by a court to*
37 *conduct an examination.*

