
ASSEMBLY BILL NO. 305—ASSEMBLYMEN KITE, ANDERSON;
AIZLEY, BENITEZ-THOMPSON, BUSTAMANTE ADAMS,
ELLISON, FLORES, GRADY, HAMBRICK, HANSEN, HARDY,
HICKEY, KIRNER, LIVERMORE, MCARTHUR, NEAL,
SHERWOOD, STEWART AND WOODBURY

MARCH 17, 2011

JOINT SPONSORS: SENATORS GUSTAVSON, KIECKHEFER,
MCGINNESS AND SETTELMAYER

Referred to Committee on Judiciary

SUMMARY—Increases the penalty for certain crimes committed
against older or vulnerable persons. (BDR 15-1048)

FISCAL NOTE: Effect on Local Government: No.
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; increasing the penalty for certain
crimes committed against older or vulnerable persons;
providing penalties; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

1 Existing law, with certain exceptions, makes a first offense of abuse against an
2 older person or vulnerable person a gross misdemeanor and any subsequent offense
3 a category B felony, punishable by imprisonment in the state prison for a minimum
4 term of not less than 2 years and a maximum term of not more than 6 years. (NRS
5 200.5099) Under existing law, a gross misdemeanor is punishable by imprisonment
6 in the county jail for a term of not more than 1 year, or a fine of up to \$2,000, or
7 both. (NRS 193.140) This bill eliminates the distinction between the penalty for a
8 first or subsequent offense of abuse against an older person or vulnerable person by
9 providing, with certain exceptions, that a person who commits abuse against an
10 older person or vulnerable person is guilty of a category B felony regardless of
11 whether the crime is a first or subsequent offense.

12 Existing law, with certain exceptions, makes the crime of neglect of an older
13 person or vulnerable person by certain persons punishable as a gross misdemeanor.
14 (NRS 200.5099) This bill increases the penalty for that crime from a gross
15 misdemeanor to a category B felony, punishable by imprisonment in the state



16 prison for a minimum term of not less than 1 year and a maximum term of not more
17 than 6 years.

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

1 **Section 1.** NRS 200.5099 is hereby amended to read as
2 follows:

3 200.5099 1. Except as otherwise provided in subsection 6,
4 any person who abuses an older person or a vulnerable person is
5 guilty ~~of:~~

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

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

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

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

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

26 **↪ is guilty of a ~~[gross misdemeanor]~~ category B felony and shall**
27 ***be punished by imprisonment in the state prison for a minimum***
28 ***term of not less than 1 year and a maximum term of not more than***
29 ***6 years,*** unless a more severe penalty is prescribed by law for the act
30 or omission which brings about the abuse or neglect.

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

35 (a) Is less than \$250, for a misdemeanor by imprisonment in the
36 county jail for not more than 1 year, or by a fine of not more than
37 \$2,000, or by both fine and imprisonment;

38 (b) Is at least \$250, but less than \$5,000, for a category B felony
39 by imprisonment in the state prison for a minimum term of not less



1 than 2 years and a maximum term of not more than 10 years, or by a
2 fine of not more than \$10,000, or by both fine and imprisonment; or

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

7 unless a more severe penalty is prescribed by law for the act
8 which brought about the exploitation. The monetary value of all of
9 the money, assets and property of the older person or vulnerable
10 person which have been obtained or used, or both, may be combined
11 for the purpose of imposing punishment for an offense charged
12 pursuant to this subsection.

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

19 5. Any person who isolates an older person or a vulnerable
20 person is guilty:

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

22 (b) For any subsequent offense, of a category B felony and shall
23 be punished by imprisonment in the state prison for a minimum
24 term of not less than 2 years and a maximum term of not more than
25 10 years, and may be further punished by a fine of not more than
26 \$5,000.

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

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

41 8. In addition to any other penalty imposed against a person for
42 a violation of any provision of NRS 200.5091 to 200.50995,
43 inclusive, the court shall order the person to pay restitution.

44 9. As used in this section:



- 1 (a) "Allow" means to take no action to prevent or stop the abuse
2 or neglect of an older person or a vulnerable person if the person
3 knows or has reason to know that the older person or vulnerable
4 person is being abused or neglected.
- 5 (b) "Permit" means permission that a reasonable person would
6 not grant and which amounts to a neglect of responsibility attending
7 the care and custody of an older person or a vulnerable person.
- 8 (c) "Substantial mental harm" means an injury to the intellectual
9 or psychological capacity or the emotional condition of an older
10 person or a vulnerable person as evidenced by an observable and
11 substantial impairment of the ability of the older person or
12 vulnerable person to function within his or her normal range of
13 performance or behavior.

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