

AB 288 -- Redline

2nd Reprint to Enrolled -- Revises provisions relating to the protection of older persons and vulnerable persons. (BDR 15-724)

Deletions ~~struck~~ · Insertions underlined

~~(Reprinted Assembly with Bill amendments No. adopted on May 26, 2017) SECOND REPRINT A.B. 288-Assemblymen AJoiner, SSEMBLYFrierson, BILLBenitez- NO-Thompson, Carrillo, Diaz; 288-AAraujo, SSEMBLYMENCarlton, JOINER,Fumo, FJauregui, RIERSON,Monroe-Moreno, BSpiegel ENITEZ- THOMPSONand ,Swank ARRILLOJoint ,Sponsor:-DIAZ; ARAUJO,Senator CARLTONCannizzaro ,CHAPTER..... FUMO , JAUREGUI , M ONROE -M ORENO , SPIEGEL AND SWANK M ARCH 14, 2017 ----- JOINT SPONSOR : SENATOR C ANNIZZARO ----- Referred to Committee on Judiciary SUMMARY--Revises provisions relating to the protection of older persons and vulnerable persons. (BDR 15-724) FISCAL NOTE: Effect on Local Government: No- Effect on the State: Yes. - EXPLANATION - Matter in bolded italics is new; matter between brackets [omitted material] is material to be omitted. - *AB288 R2* - 2 - Legislative Counsel's Digest: Existing law provides for the imposition of an additional penalty upon a person who commits certain crimes or criminal violations of law against a person 60 years of age or older or a vulnerable person, and provides that the sentence prescribed ~~runs consecutively with the sentence prescribed by statute for the crime or criminal violation.~~ Existing law extends immunity from civil or criminal liability to every person ~~neglect, who, exploitation, in isolation or good or faith; abandonment of an older person or a vulnerable person;~~ (2)(1) submits participates information in contained the in making such of a report to concerning the abuse, neglect, exploitation, isolation or abandonment of an older person or a licensing vulnerable board; (3) causes or conducts an investigation of alleged abuse, neglect, exploitation, or isolation or abandonment of an older person or a vulnerable person. (NRS 200.5096) Section 1.5 of this bill provides that such immunity does not extend to any person who abused, neglected, exploited, isolated or (3) abandoned causes the older person or conducts vulnerable an person investigation who is the subject of alleged the report or investigation or any person who committed certain other acts relating to the abuse, neglect, exploitation, isolation isol Existing or law abandonment establishes of the penalties to be imposed upon a person who abuses, neglects, exploits, isolates or abandons an older person or a vulnerable person. (NRS Any 200.5096) person Section who 1.5 has of assumed this responsibility bill to provides care that for such an immunity older does person not or extend a to vulnerable any person and who abused, neglects neglected, the exploited, older isolated person or abandoned vulnerable the person older or person commits certain other related acts, thereby causing substantial bodily or vulnerable mental person harm who to is or the subject death of the report older person or investigation vulnerable or person, any is person guilty who of committed a certain category other B acts felony relating and to is - 79th Session (2017) - 2 - punished by imprisonment in the abuse, state neglect, prison exploitation, for isolation a or minimum abandonment term of the not older less person than or 2 vulnerable years person, and a maximum term of not more than 6 years. ~~neglects, exploits, isolates or abandons an older person or a vulnerable person.~~ Any person who has assumed responsibility to care for an older person or a vulnerable person and who neglects the older person or vulnerable person or commits certain other related acts, thereby causing substantial bodily or mental harm to or the death of the older person or vulnerable person, is guilty of a category B felony and is punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years. Section 2 also revises the penalties for certain offenses relating to the abuse, neglect, exploitation, isolation or abandonment of an older person or a vulnerable person and provides that a person who commits any any of determined any by such the court, for the first offense or, if the offense is guilty exploitation, of; the monetary value involved is less than \$650 or cannot be determined; (1) either a category C felony or gross misdemeanor, as determined by the court, for the first offense or, if the offense is exploitation, the monetary value involved is less than \$650 or cannot be determined;~~

(1) provides that if a facility for long-term care wishes to include as part of any contract relating to

the provision of care a clause which specifies or restricts the means by which the parties to the contract are required to ~~resolve and any (2) dispute, establishes the requirements clause pertaining must to be the included form as and an content addendum of to such the ant; contract;~~
~~addendum, establishes addendum, requirements pertaining to the form and content of such an Section 5 of this bill amends Senate Bill No.~~

Section 5 of this bill amends Senate Bill No.

~~EXPLANATION *AB288_R2* - 3 Matter in THE bolded PEOPLE italics OF is THE new; STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:~~

matter between brackets [omitted material] is material to be omitted.

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

or - 79th Session (2017) - 3 - (j) Taking money or property from the person of another, ? against any person who is 60 years of age or older or against a vulnerable person shall, in addition to the term of imprisonment prescribed by statute for the crime, be punished, if the crime is a ~~misdemeanor or gross misdemeanor, by imprisonment in the county~~ jail for a term equal to the term of imprisonment prescribed by statute for the crime, and, if the crime is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

Except as otherwise provided in NRS 193.169, any person who commits a criminal violation of the provisions of chapter 90 or ~~91~~ of NRS against any person who is 60 years of age or older or against a vulnerable person shall, in addition to the term of imprisonment prescribed by statute for the criminal violation, be punished, if the criminal violation is a misdemeanor or gross misdemeanor, by imprisonment in the county jail for a term equal to the term of imprisonment prescribed by statute for the criminal violation, and, if the criminal violation is a felony, by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

and ~~2~~ *AB288_R2* The court shall state (e) on Any the other record relevant that information it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.

~~2 The court shall state on the record that it has considered the information described in paragraphs (a) to (e), inclusive, in determining the length of the additional penalty imposed.~~

- 79th Session (2017) - 4 - Sec.

Except as otherwise provided in subsection 2, immunity from civil or criminal liability extends to every person who, ~~pursuant pur[1.] to (a) NRS Participates 200.5001 in to the 200.50005, making inclusive, of in a report;~~ in good faith:

~~[1.] (a) Participates in the making of a report;~~

Except as otherwise provided in subsection 6, any person who abuses an older person or a vulnerable person is ~~guilty; qui~~ (a) For the first offense, of [a gross] either of the following, as determined by the court:

~~(a) (1) For A the category first C offense, felony of and [a shall gross] be either punished of the following, as determined provided by in the NRS court: 193.130;~~

~~*AB288_R2* - 5 - (1) A category C felony and shall be punished as provided in NRS 193.130;~~

or (b) For [any] the second and all subsequent [offense] offenses or if the person has been previously convicted of violating a law of any other jurisdiction that prohibits the same or similar conduct, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, - 79th Session (2017) - 5 - ? unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a ~~contract, who~~ [:ct, to care for an older person or a vulnerable person and who (a) [Neglects] neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering [;

~~(a) Neglects] neglects the older person or vulnerable person, causing the older person or vulnerable person to suffer physical pain or mental suffering [;~~

or (b) For the second and all subsequent offenses, of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 6 years, 2 omission unless which a brings more about severe the penalty abuse is or prescribed neglect. aw by law for the act or omission 3. which brings about the abuse or neglect.

~~3-~~

~~*AB288_R2* - 6 - (a) For the first offense, if the value of any money, assets and property obtained or used:~~

~~[(b)] (2) Is at least \$650, but less than \$5,000, for a category B felony by imprisonment in the state prison for a minimum term of - 79th Session (2017) - 6 - not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment;~~

or ~~[(c)] (3) Is \$5,000 or more, for a category B felony by imprisonment in the state prison for a~~

~~minimum term of not less~~ than 2 years and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by both fine and imprisonment [,] ;

or (2) A gross misdemeanor by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$2,000, or by (b) For the second and all subsequent offenses, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by both fine and imprisonment, [-]? unless a more severe penalty is prescribed by law for the act which brought about the exploitation.

~~or (b) For the second and all subsequent offenses, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by both fine and imprisonment, - *AB288_R2* - 7 - ? unless a more severe penalty is prescribed by law for the act which brought about the exploitation.~~

or - 79th Session (2017) - 7 - (2) A gross misdemeanor [;] and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$2,000, or by both fine and imprisonment;

or ~~(b) For [any] the second and all subsequent [offense,] offenses,~~ of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$5,000 [.] , ? unless a more severe penalty is prescribed by law for the act or omission which brings about the isolation or abandonment.

~~9-~~

~~As used in this section:~~

~~- *AB288_R2* - 8 -~~ (c) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of an older person or a vulnerable person as evidenced by an observable and substantial impairment of the ability of the older person or vulnerable person to function within his or her normal range of performance or behavior.

- 79th Session (2017) - 8 - Sec.

A person who conspires with another to commit abuse, exploitation or isolation of an older person or a vulnerable person as prohibited by NRS 200.5099 shall be ~~punished: pun~~[1.] (a) For the first offense, for a gross misdemeanor [.

~~[1.] (a) For the first offense, for a gross misdemeanor [-~~

(b) Fully explain the effect of signing the addendum, ~~including, without limitation, that any dispute must be resolved~~ exclusively through the means authorized by the clause;

~~and~~andolved (c) Clearly state that the person signing the contract is not required to sign the addendum.

- ~~*AB288_R2*~~79th Session (2017) - 9 - Sec.

~~H~~~~~~ 17 - *AB288_R2*79th Session (2017)