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## Crimes; Mistreatment of Older Persons

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treatment or counseling in lieu of prosecution for the alleged offense.<sup>27</sup> This recommendation is discretionary with the district attorney,<sup>28</sup> and may be utilized either as an alternative or in addition to prosecution for the alleged offense.<sup>29</sup>

Existing law requires that specified persons<sup>30</sup> who suspect that a child is abused or neglected promptly report the suspected child abuse to the local office of the Welfare Division of the Department of Human Resources, an authorized county agency, or any police or sheriff's office to enable the agency or Welfare Division to investigate and, if necessary, institute remedial action.<sup>31</sup> The reporting requirement is mandatory under existing law.<sup>32</sup> Chapter 715 clarifies the language which requires reports to be made<sup>33</sup> and additionally requires that persons employed by or maintaining an agency or service for abused or neglected children also make reports to an agency or to the Welfare Division.<sup>34</sup>

Once a report has been made, existing law authorizes the distribution of information concerning the reports and investigations to authorized persons or agencies.<sup>35</sup> Under Chapter 715, agencies which are authorized by existing law to license foster homes, approve adoptive parents, and investigate persons applying for approval to adopt a child or become a foster parent<sup>36</sup> are also permitted to receive this information.<sup>37</sup>

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27. *See id.* §200.— 1.

28. *See id.*

29. *See id.* §200.— 2.

30. *See generally id.* §200.502 2 (requiring physicians, dentists, hospital administrators, nurses, attorneys, clergymen, school authorities, and teachers to make reports).

31. *See id.* §200.502 1.

32. *See id.*

33. *See id.*

34. *See id.* §200.502 2(f).

35. *See generally id.* §200.5045 3.

36. *See id.* §127.280 3.

37. *See id.* §200.5045 3.

## **Crimes; mistreatment of older persons**

N.R.S. §§200.—, 200.— (new).

AB 157 (Coulter); STATS 1981, Ch 611

In an attempt to provide additional protection to older persons, Chapter 611 requires that law enforcement officials, courts of competent jurisdiction, and state agencies providing human services are to

cooperate in furthering the state policy<sup>1</sup> of identifying the abuse,<sup>2</sup> neglect,<sup>3</sup> and exploitation<sup>4</sup> of persons sixty-two years of age or older.<sup>5</sup> In order to implement this policy, Chapter 611 requires that when there is reason to believe that an incident of abuse has occurred, a report concerning the incident must be made within three working days to the local office of the Welfare Division, the Aging Services Division of the Department of Human Resources, or to any police department or sheriff's office so long as the report is made to an agency other than the one alleged to have committed the act or omission.<sup>6</sup> Under Chapter 611, health care workers, including examining physicians and their assistants,<sup>7</sup> dentists,<sup>8</sup> hospital administrators who have been notified by attending physicians of alleged mistreatment,<sup>9</sup> and attorneys who acquire knowledge of the mistreatment from someone other than a client who may be accused of the conduct in question,<sup>10</sup> must make reports of any incident of mistreatment.<sup>11</sup> *Any person*, however, may submit a written or oral report to the appropriate agency.<sup>12</sup> Chapter 611 also requires that an oral report be reduced to writing as soon as possible<sup>13</sup> and that a copy of any report be forwarded to the Aging Services Division if not reported directly to that agency.<sup>14</sup> Reports are to contain the names and addresses of the older person,<sup>15</sup> the person responsible for his or her care,<sup>16</sup> and the person alleged to have mistreated the older person,<sup>17</sup> as well as information about the nature and extent of the injury,<sup>18</sup> and evidence of any previous injury.<sup>19</sup>

Chapter 611 also provides that reports concerning the mistreatment of older persons are confidential.<sup>20</sup> Information may only be released

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1. See N.R.S. §200.—.

2. See *id.* §200.— 1(a), (b).

3. See *id.* §200.— 3(a), (b).

4. See *id.* §200.— 2.

5. *Id.* §200.—.

6. See *id.* §200.— 1. See also *id.* §200.— 4 providing that evidence of mistreatment of an older person by one who holds a license issued pursuant to N.R.S. Chapters 630-641A inclusive be reported to the board which issued the license.

7. *Id.* §200.— 2(a), (c).

8. *Id.* §200.— 2(a).

9. *Id.* §200.— 2(b).

10. *Id.* §200.— 2(f).

11. *Id.* §200.— 2.

12. *Id.* §200.— 3.

13. *Id.* §200.— 1.

14. *Id.* §200.— 1.

15. *Id.* §200.— 2(a).

16. *Id.* §200.— 2(b).

17. *Id.* §200.— 2(c).

18. *Id.* §200.— 2(d).

19. *Id.* §200.— 2(e).

20. *Id.* §200.— 1.

pursuant to a criminal prosecution<sup>21</sup> or to the following persons or agencies: (1) physicians caring for the older person;<sup>22</sup> (2) an agency authorized to care for the older person;<sup>23</sup> (3) a district attorney or law enforcement official who needs the information in connection with an investigation of the older person's mistreatment;<sup>24</sup> (4) a court that has made an *in camera* determination that public disclosure is necessary for determination of an issue before it;<sup>25</sup> (5) a person doing bona fide research, although the identification of the subjects must remain confidential;<sup>26</sup> (6) a grand jury;<sup>27</sup> (7) a comparable authorized person or agency in another jurisdiction;<sup>28</sup> (8) a legal guardian of the older person if the guardian is not suspected of the mistreatment; and,<sup>29</sup> (9) the person named in the report as mistreated if he or she is competent.<sup>30</sup> Information in a report may be used pursuant to a criminal proceeding<sup>31</sup> and may not be excluded in any proceeding arising from a report of mistreatment of an older person by invoking any privilege including the attorney-client privilege or the doctor-patient privilege.<sup>32</sup>

A person making a good faith report is immune from civil or criminal liability.<sup>33</sup> Chapter 611 provides, however, that those who willfully release data concerning a report or investigation of the mistreatment of an older person, unless otherwise permitted,<sup>34</sup> and those who knowingly and willfully violate any provision of Chapter 611 are guilty of misdemeanors.<sup>35</sup> Furthermore, any adult who willfully causes or permits<sup>36</sup> an older person to experience unjustifiable physical or mental suffering as a result of neglect, abuse, or exploitation is guilty of a gross misdemeanor<sup>37</sup> and will be imprisoned in a state prison for a period of not less than one nor more than six years,<sup>38</sup> unless a more severe penalty is specified by law.<sup>39</sup> Finally, Chapter 611 provides that if substan-

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21. *Id.* §200.— 2(a).

22. *Id.* §200.— 3(a).

23. *Id.* §200.— 3(b).

24. *Id.* §200.— 3(c).

25. *Id.* §200.— 3(d).

26. *Id.* §200.— 3(e).

27. *Id.* §200.— 3(f).

28. *Id.* §200.— 3(g).

29. *Id.* §200.— 3(h).

30. *Id.* §200.— 3(i).

31. *Id.* §200.— 2(a).

32. *See id.* §200.— (privileges not applicable are those under Chapter 49 of N.R.S.).

33. *Id.* §200.—.

34. *See id.* §200.— 2.

35. *Id.* §§200.—; *see* 193.120 3 (definition of misdemeanor).

36. *See id.* §200.— 3 (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).

37. *Id.* §200.— 1.

38. *Id.* §200.— 2.

39. *Id.* §200.— 1.

tial bodily or mental harm results to the older person, the person responsible for the harm is to be imprisoned in state prison for not less than one year nor more than six years.<sup>40</sup>

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40. *Id.* §200.— 2.

## Crimes; punishment for assault with a deadly weapon and attempts

N.R.S. §§200.400, 200.471, 208.070 (amended).  
 AB 202 (Committee on Judiciary); STATS 1981, Ch 464  
 AB 203 (Committee on Judiciary); STATS 1981, Ch 64

Prior to the enactment of Chapter 64 a person convicted of an attempt<sup>1</sup> to commit a crime punishable by death or life imprisonment was subject to imprisonment for up to twenty years in the state prison.<sup>2</sup> No *minimum* sentence was specified, however, for the attempt of these crimes.<sup>3</sup> Chapter 64 provides that the sentence for the attempt of crimes punishable by death or life imprisonment, including attempted murder, shall not be less than one nor more than twenty years imprisonment in the state prison.<sup>4</sup> The specific inclusion of attempted murder codifies prior holdings of the Supreme Court of Nevada interpreting prior statutory law to include attempted murder.<sup>5</sup>

The legislature also enacted Chapter 464 which increases the penalty for assaults<sup>6</sup> committed with a deadly weapon.<sup>7</sup> Prior law treated assault with a deadly weapon as a gross misdemeanor,<sup>8</sup> thus mandating imprisonment in the county jail for not more than one year, or a fine not exceeding \$1,000, or both.<sup>9</sup> This crime is now punishable by imprisonment in the state prison for not less than one nor more than six years or by a fine not exceeding \$5,000, or both.<sup>10</sup> Chapter 464, how-

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1. N.R.S. §208.070 (an act done with intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime).

2. *See* REVISED LAWS OF NEVADA 1912, §6291, at 1811.

3. *Compare* N.R.S. §208.070 1 *with* REVISED LAWS OF NEVADA 1912, §6291, at 1811.

4. N.R.S. §208.070 1.

5. *See* *Graves v. Young*, 82 Nev. 433, 436, 420 P.2d 618, 620 (1966). *But see* *Ramos v. State*, 95 Nev. 251, 252, 592 P.2d 950, 951 (1979) (an individual cannot be convicted of attempted murder unless intent to kill is proven). *Cf.* N.R.S. §§200.010, 200.020 1, 200.020 2 (definition of murder and its elements).

6. *See* N.R.S. §200.400 1(a) (definition of assault).

7. *Compare* N.R.S. §200.471 2(b) *with* STATUTES OF NEVADA 1971, c. 612, §2, at 1384.

8. *See* STATUTES OF NEVADA 1971, c. 612, §2, at 1384 (enacting N.R.S. §200.471 2(b)).

9. *See* N.R.S. §193.140.

10. *Id.* §200.471 2(b).