

Senate Bill No. 60–Committee on Judiciary

CHAPTER.....

AN ACT relating to crimes; expanding the types of crimes that require the imposition of an additional criminal penalty for certain crimes committed intentionally or knowingly against an older or a vulnerable person; providing that persons convicted of these types of crimes may be liable for certain civil penalties to be recovered by the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the imposition of an additional penalty upon a person who commits certain crimes against a person 60 years of age or older or a vulnerable person, which must run consecutively with the sentence prescribed by statute for the crime. (NRS 193.167) **Section 1** of this bill expands the list of crimes against an older or a vulnerable person that require the imposition of the additional penalty. Specifically, **section 1** applies the additional penalty to the following forms of theft intentionally or knowingly committed against an older or vulnerable person: (1) controlling property of another with intent to deprive that person of the property; (2) the conversion of, unauthorized transfer of an interest in or unauthorized control of the property of another by a person who had the authority to possess the property only for a limited duration or use; or (3) obtaining the property or services of another by a material misrepresentation with intent to deprive the person of the property or services. **Section 1** also applies the additional penalty to a criminal deceptive trade practice committed intentionally or knowingly against an older or a vulnerable person. **Section 6** of this bill adds those theft and deceptive trade practice crimes to the list of crimes for which a person is also liable for a civil penalty, which may be recovered by the Attorney General. (NRS 228.280) Under existing law, a person convicted of those theft or deceptive trade practice crimes against an older or vulnerable person would also not be eligible for probation or release on parole until the person has paid at least 80 percent of the amount of restitution set by the court. (NRS 176A.120, 213.1216)

EXPLANATION – Matter in *bolded italics* is new; 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:

Section 1. NRS 193.167 is hereby amended to read as follows:
193.167 1. Except as otherwise provided in NRS 193.169,
any person who commits the crime of:

- (a) Murder;
- (b) Attempted murder;
- (c) Assault;
- (d) Battery;
- (e) Kidnapping;
- (f) Robbery;



- (g) Sexual assault;
- (h) Embezzlement of, or attempting or conspiring to embezzle, money or property of a value of \$650 or more;
- (i) Obtaining, or attempting or conspiring to obtain, money or property of a value of \$650 or more by false pretenses; or
- (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.

2. 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 , *any person who commits a criminal violation of paragraph (a), (b) or (c) of subsection 1 of NRS 205.0832 intentionally or knowingly against any person who is 60 years of age or older or against a vulnerable person or any person who commits a criminal violation of subsection 3 of NRS 598.0999 intentionally or knowingly 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.

3. In determining the length of the additional penalty imposed pursuant to this section, the court shall consider the following information:

- (a) The facts and circumstances of the crime or criminal violation;
 - (b) The criminal history of the person;
 - (c) The impact of the crime or criminal violation on any victim;
 - (d) Any mitigating factors presented by the person; and
 - (e) Any other relevant information.
- ➔ 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.



4. The sentence prescribed by this section:

(a) Must not exceed the sentence imposed for the crime or criminal violation; and

(b) Must run consecutively with the sentence prescribed by statute for the crime or criminal violation.

5. This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

6. As used in this section, “vulnerable person” has the meaning ascribed to it in NRS 200.5092.

Secs. 2-5. (Deleted by amendment.)

Sec. 6. NRS 228.280 is hereby amended to read as follows:

228.280 1. In addition to any criminal penalty, a person who is convicted of a crime against an older person or vulnerable person for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of NRS 193.167 ~~for~~, *of a violation of paragraph (a), (b) or (c) of subsection 1 of NRS 205.0832 against an older person or vulnerable person for which an additional term of imprisonment may be imposed pursuant to subsection 2 of NRS 193.167*, of the abuse, neglect, exploitation, isolation or abandonment of an older person or vulnerable person pursuant to NRS 200.5099 or 200.50995 *or of a violation of NRS 598.0999 for which an additional term of imprisonment may be imposed pursuant to subsection 2 of NRS 193.167*, is liable for a civil penalty to be recovered by the Attorney General in a civil action brought in the name of the State of Nevada:

(a) For the first offense, in an amount which is not less than \$5,000 and not more than \$20,000.

(b) For a second or subsequent offense, in an amount which is not less than \$10,000 and not more than \$30,000.

2. The Attorney General shall deposit any money collected for civil penalties pursuant to subsection 1 in equal amounts to:

(a) A separate account in the Fund for the Compensation of Victims of Crime created pursuant to NRS 217.260 to provide compensation to older persons or vulnerable persons who are:

(1) Victims of a crime for which an additional term of imprisonment may be imposed pursuant to paragraph (h), (i) or (j) of subsection 1 of *NRS 193.167 or a violation of paragraph (a), (b) or (c) of subsection 1 of NRS 205.0832 for which an additional term of imprisonment may be imposed pursuant to subsection 2 of NRS 193.167* ~~or~~ *or of a violation of NRS 598.0999 for which an additional term of imprisonment may be imposed pursuant to subsection 2 of NRS 193.167*; or



(2) Abused, neglected, exploited, isolated or abandoned in violation of NRS 200.5099 and 200.50995.

(b) The Account for the Unit for the Investigation and Prosecution of Crimes Against Older Persons or Vulnerable Persons created pursuant to NRS 228.285.

Sec. 7. The amendatory provisions of this act apply to offenses committed on or after the effective date of this act.

Sec. 8. This act becomes effective upon passage and approval.

