

LEGAL RIGHTS

In order to protect the legal rights of older persons, the Legislature can do many things. They include revising elder abuse laws to better protect victims and make prosecuting the crimes more effective; regulating private, for-profit guardians; and expanding the requirement of mandatory reporting of elder abuse to include more professionals, e.g. real estate brokers and salespeople.

Need: According to the U.S. Census Bureau, 2011 Poverty Data, over one million people in Nevada qualify for free or low-cost legal services because they live on less than 200% of the poverty level. Ninety percent of these Nevadans live in Washoe and Clark County. That means that 100,000 live in rural and frontier counties, some of which have over 50% of their population who are older than 65. Providing access to legal services for the elderly strengthens their independence and decreases the risk of their exploitation and institutionalization, improving the quality of their lives and saving the taxpayers' money.

Potential Model: Many states have elder abuse laws that are more specific than those of Nevada. In Nevada, physical abuse includes sexual abuse. If the laws were more specific, it would allow for varying levels of proof necessary for prosecution. For instance, Nevada's law requires that to be prosecuted for the physical abuse of an older adult, the level of proof is "willful and unjustified." This prevents the prosecution of a caregiver who accidentally causes an injury to the person they are caring for but it also means that sexual abuse must also be proved to be willful and unjustified. This is a very difficult level for prosecutors to prove in sex abuse cases involving adults.

Additionally, in Nevada, private, for-profit guardians whose wards are not related to them are regulated by the courts. There are provisions in the law to appoint a non-related guardian without having a background check or providing a bond if the court can justify doing so. Other states require non-related guardians to be tested on state law, get a full background check, and get a license before they can be appointed by the court. This would professionalize this service, as well as protect the most vulnerable older people in Nevada.

In recent years, while other states were expanding their mandatory reporter lists, Nevada eliminated some professionals. The statutes for reporting elder abuse should be at least as strong as for the reporting of child abuse.

Benefits: Changes in the elder abuse, mandatory reporting and guardianship laws would provide more protections against abuse, neglect, isolation and exploitation for Nevada's elders; more prosecution of cases, including against serial offenders; and more accountability of private, for-profit guardians.

Implementation: In order to accomplish these recommendations, the Legislature will have to change statutes. Advocates and practitioners will work to bring suggested language, and will need willing legislators to help get the BDR's introduced, heard and passed.

