

Steve Sisolak  
Governor



Richard Whitley  
Director

State of Nevada  
Department of Health and  
Human Services

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Vulnerable Adult Protection Orders

Aging Disability Services Division

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08/06/2020

*Helping people. It's who we are and what we do.*



# Agenda

1. Overview of Vulnerable Adult Population in Nevada
2. Existing Protection Orders in Nevada
3. Guardianship Law
4. Recommendations to Committee
5. Conclusion



# NRS 427A

- *Appointed by Governor Sisolak*
- *NRS 427A.123 Attorney for the Rights of Older Persons, Persons With a Physical Disability, an Intellectual Disability or a Related Condition*
  - Provide Education, Advocacy, Technical Assistance
  - Act as Legal Assistance Developer (Older Americans Act)
  - Statewide Guardianship Commission



# Definition of Vulnerable Person

"Vulnerable person" means a person who:

- 1. Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or
- 2. Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

*NRS 205.4629*



# Vulnerable Adults in Nevada

- According to US Census Data, approximately 16% of Nevadans are over age 65
  - Almost 9% of Nevadans under 60 have a disability
- As of May 31, 2020 approximately 7,399 adults are served by Developmental Services under ADSD.



# Expansion of Services



Effective July 1, 2019, Aging and Disability Services Division (ADSD) received legislative authority to receive and investigate reports of abuse, neglect, exploitation, isolation or abandonment for vulnerable adults age 18-59, in addition to persons 60 years and older, collectively referred to as vulnerable adults. The Elder Protective Services (EPS) program is now referred to as Adult Protective Services (APS). Adult Protective Services serves all of Nevada.



# A Growing Problem

- Elder abuse has been referred to as a “hidden epidemic” in the United States, with estimates that 1 out of every 10 people age 60 and older are victims of caregiver neglect, financial fraud and exploitation, and/or psychological, physical, and sexual abuse every year.
- Individuals with developmental disabilities are four to ten times more likely to be abused than their peers without disabilities
- APS continues to see increases in cases
  - SFY 19 7/1/18 to 6/30/19 – average open cases per month **545**; total open cases for the SFY 6,544
  - SFY 20 7/1/19 to 5/31/20 – average open cases per month **615**; total open cases 6,765 (not including June– projected 7,380)





# Protection Orders in Nevada

- Existing law in Nevada provides for several types of protective orders under NRS Chapter 33
  - Domestic Violence protective orders
  - Sexual Assault
  - Protection of Children
  - Protection Against Harassment in the Workplace
  - Protection Order for High Risk Behavior (*effective January 2020*)



# Protection Order Requirements

- Specific relationship must exist to obtain domestic violence protection order as outlined under NRS § 33.018, for example:
  - a spouse or ex-spouse,
  - someone with whom the abuser has a dating relationship,
  - someone with whom the abuser has a child in common, etc.
- Additionally, the conduct must meet the legal definition of domestic violence which includes assault, battery, strangulation, coercion, sexual assault, or a course of conduct geared towards harassment that can include such things as arson and burglary.



# Orders for Protection Against High Risk Behavior

- Effective January 2020, Nevada passed new legislation to obtain an order for protection for “high risk behavior”
  - Expanded definition of relationship to include an adverse party who is a “family or household member”
  - The order does not encompass types of abuse, neglect, exploitation or abandonment contemplated by other vulnerable adult protective orders



# Restrictions of Contact Under Guardianship

Nevada's guardianship statute provides a mechanism to restrict contact with individuals, it does not provide the immediate and limited relief that a protective order could permit.

- Guardianship must already be in place OR
- Petition for Guardianship must be filed and individual meets definition of "incapacitated" under NRS 159.019

Guardian can petition the court under NRS 159.332 to restrict communication and visitation only.



# Gaps in Safeguarding Vulnerable Adults

- The behavior and specific relationship required to seek existing orders is not typically present in cases of abuse, neglect, or exploitation of a vulnerable adult.
- A vulnerable adult protection order may be a less restrictive alternative to guardianship
  - For example, situations of mental and emotional abuse, abandonment, neglect, isolation, financial control, document control, property control, and other types of control by a person of trust or caregiver.

# Statewide Summary

- Currently, 18 states and territories have some form of protective order that provides relief to older persons and/or vulnerable adults.
  - In states that do not have a vulnerable adult protection order, such relief and orders are often incorporated into conservator or guardianship statutes. (*See, e.g. Massachusetts, Texas*)

# Recommendations

- The committee could propose amendments to NRS Chapter 33 to include a protection order for vulnerable adults.
  - The law should contain the following elements
    - Broad definition of vulnerable adult (over 60 or meets criteria under NRS 200.4629)
    - Allow Adult Protective Services, the vulnerable adult, or guardian to act as petitioners
      - Some states, such as Washington, allow any “interested person” to file a VAPO application. *RCW 74.34.110*

# Recommendations (Cont'd)

- Define judicial relief to include
  - Restraining conduct (abuse, neglect, abandonment, exploitation)
  - Restrain or prohibit physical access to a particular location
  - Restrain contact
  - Require an accounting
  - Restrain the transfer of property for a specified period
  - Any other proper judicial relief (for example, revocation of power of attorney, etc.)



Questions?

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# Acronyms

- APS – Adult Protective Services
- VAPO – Vulnerable Adult Protection Order