

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB1007

Hearing Date: Friday February 05, 2016
Committee On: Judiciary
Introducer: Coash
One Liner: Change and provide provisions relating to protection of vulnerable adults and senior adults

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Chambers, Coash, Ebke, Krist, Morfeld, Seiler, Williams
Nay:
Absent:
Present Not Voting: 1 Senator Pansing Brooks

Verbal Testimony:

Proponents:
SEN. COLBY COASH
MARK COLLINS
JIM VAN LENT
MARK INTERMILL
CINDY KADAVY
BUB WINDLE

Representing:
INTRODUCER
NEBRASKA ATTORNEY GENERAL
FIRST NATIONAL BANK OF OMAHA
AARP
NEBRASKA HEALTH CARE ASSOCIATION
NE STATE BAR

Opponents:
SPIKE EICKHOLT

Representing:
NCDAA

Neutral:

Representing:

Summary of purpose and/or changes:

LB1007 would change provisions relating to protection of vulnerable adults and senior adults.

Section 1 would amend 28-101 to add sections 5 and 6 of this bill to the Nebraska Criminal Code.

Section 2 would amend 28-348 to add sections 5 and 6 of this bill to the Adult Protective Services Act.

Section 3 would amend 28-350 to apply the definitions in sections 5 and 6 of this bill to the Adult Protective Services Act.

Section 4 would amend 28-358 to change the definition of "exploitation" for purposes of the Adult Protective Services Act. The definition would add new language to expand the acts covered under the term. The amended definition would also apply to exploitation of a "senior adult", in addition to exploitation of a vulnerable adult, as follows:

Exploitation means the wrongful or unauthorized taking, withholding, appropriation, conversion, control, or use of money, funds, securities, assets, or any other property of a vulnerable adult or senior adult by any person by means of undue influence, breach of a fiduciary relationship, deception, extortion, intimidation, force or threat of force, isolation, or any

unlawful means or by the breach of a fiduciary duty by the guardian, conservator, agent under a power of attorney, trustee, or any other fiduciary of a vulnerable adult or senior adult.

Section 5 would create a new section to define the term "isolation" for purposes of the Adult Protective Services Act.

Section 6 would create a new section to define the term "senior adult" for purposes of the Adult Protective Services Act. "Senior adult" would mean any person 65 years of age or older.

Section 7 would amend 28-371 to change the definition of "vulnerable adult" for purposes of the Adult Protective Services Act.

Section 8 would amend 28-374 to clarify that the Department of Health and Human Services shall only investigate cases of alleged abuse, neglect, or exploitation of a vulnerable adult.

Section 9 would amend 28-386 to expand the offense of abuse, neglect, or exploitation of a vulnerable adult to apply to abuse, neglect, or exploitation of a senior adult, as well.

Section 10 would amend 29-110, the statute of limitations for criminal offenses. As amended, there would be no limit on the prosecutions for abuse, neglect, or exploitation of a vulnerable adult or senior adult. The language in subsection (17) would apply this change retroactively.

Section 11 would repeal the sections amended by this bill.

Explanation of amendments:

AM2116 would change sections 5, 9, and 10 of LB1007. This amendment would make no change to sections 1, 2, 3, 4, 6, 7, 8, and 11.

Section 5 of AM2116 would clarify that the term "isolation" does not apply to restrictions imposed because of medical isolation prescribed by a doctor, compliance with a protection order, or action of a nursing home administrator for protection of nursing home residents. The following new language can be found on page 2, lines 12-22 of AM2116:

Isolation means intentional acts (1) committed for the purpose of preventing, and which do prevent, a vulnerable adult or senior adult from having contact with family, friends, or concerned persons; (2) committed to prevent a vulnerable adult or senior adult from receiving his or her mail or telephone calls; (3) of physical or chemical restraint of a vulnerable adult or senior adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons; or (4) which restrict, place, or confine a vulnerable adult or senior adult in a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons, but not including medical isolation prescribed by a licensed physician caring for the vulnerable adult or senior adult. Isolation does not include (1) medical isolation prescribed by a licensed physician caring for the vulnerable adult or senior adult; (2) action taken in compliance with a harassment protection order issued pursuant to section 28-311.09, a valid foreign harassment protection order recognized under section 28-311.10, an order issued pursuant to section 42-924, an ex parte order issued pursuant to section 42-925, an order excluding a person from certain premises issued pursuant to section 42-357, a valid foreign protection order recognized pursuant to section 42-931; or (3) action authorized by an administrator of a nursing home pursuant to section 71-6021.

Section 9 of AM2116 would clarify that the offense of "abuse, neglect or exploitation of a vulnerable adult or senior adult" applies to senior adults, in addition to vulnerable adults. On page 3, line 22, after "vulnerable adult" the amendment would insert "or senior adult".

Section 10 of AM2116 would change the statute of limitations for a violation of 28-386 (abuse, neglect or exploitation of a vulnerable adult or senior adult) to 6 years. The current limit is three years, which is the "default" limit for felonies, under subsection (1) of 29-110. The green copy of the bill would have eliminated the statute of limitations for this offense. See AM2116, page 5, lines 22-28.

