

Amendment No. 310

Assembly Amendment to Assembly Bill No. 307 (BDR 16-743)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION | | Initial and Date | | SENATE ACTION | | Initial and Date | | | |
|-----------------|--------------------------|------------------|--------------------------|---------------|--------------|--------------------------|------|--------------------------|-------|
| Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ | Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |
| Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) green bold italic underlining is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold underlining is newly added transitory language.



ASSEMBLY BILL NO. 307—ASSEMBLYMEN HORNE, SPRINKLE, HEALEY, PIERCE; AIZLEY, ELLIOT ANDERSON, BENITEZ-THOMPSON, CARLTON, CARRILLO, COHEN, HOGAN, LIVERMORE, MUNFORD, NEAL AND SWANK

MARCH 15, 2013

JOINT SPONSORS: SENATORS SEGERBLOM; ATKINSON AND FORD

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing victims of crime. (BDR 16-743)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to victims of crime; ~~providing certain definitions relating to~~ **repealing and replacing certain provisions relating to** the ~~assistance~~ **treatment** of victims of sexual assault; ~~authorizing a guardian ad litem to apply to the Fund for Compensation of Victims of Crime on behalf of a minor; revising provisions governing the payment of compensation from the Fund; authorizing certain persons to apply for treatment for emotional trauma as a result of a sexual assault;~~ **revising various provisions relating to the medical and psychological treatment of victims of sexual assault and certain other persons;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Existing law authorizes certain victims of crime to apply to receive compensation from the Fund for Compensation of Victims of Crime. (NRS 217.100, 217.260) Section 4 of this bill clarifies that a guardian ad litem may submit such an application on a minor’s behalf.~~

~~Existing law provides that a compensation officer of the Department of Administration may award compensation from the Fund to or for the benefit of a victim of certain crimes or to certain other persons associated with such a victim. (NRS 217.160) Section 5 of this bill provides that payment from the Fund may include the reimbursement of a county for costs associated with certain examinations of victims of sexual assault.~~

~~Existing law prohibits the compensation of a victim, from the Fund, who was not a citizen of the United States or who was not lawfully entitled to reside in the United States at the time of the incident upon which the claim for compensation is based. (NRS 217.220) Section 6 of this bill removes the prohibition on the compensation of such persons.~~

Existing law requires a county to pay any costs incurred for the medical care for any physical injuries resulting from a sexual assault that occurs within the county. (NRS 217.300) Existing law also requires any costs incurred by a hospital for: (1) the examination of the victim of a sexual offense; or (2) the initial medical care of the victim, to be charged to the

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17 county in whose jurisdiction the offense was committed. (NRS 449.244) **Section 14** of this
 18 bill repeals NRS 449.244 and replaces the provisions in **sections ~~8 and~~ 9 and 10** of this bill.
 19 ~~[Section 8 also provides that certain examinations of a victim of sexual assault must be paid~~
 20 ~~by the county.]~~

21 Existing law : **(1)** authorizes a victim of a sexual assault, or the spouse of the victim who
 22 suffers emotional distress, to submit an affidavit and apply to the board of county
 23 commissioners in the county where the sexual assault occurred for certain treatment at county
 24 expense ~~;~~ **and (2) authorizes a victim of a sexual assault who has suffered emotional**
 25 **trauma to select a relative or close friend to receive counseling with the victim under**
 26 **certain circumstances.** (NRS 217.310) ~~[Sections 2 and 9 12 of this bill expand the list of~~
 27 ~~persons who may seek treatment for emotional distress to include a member of the victim's~~
 28 ~~immediate family.]~~ **Section 10 of this bill provides that a victim of a sexual assault must**
 29 **file a report with the appropriate law enforcement agency or submit to a forensic**
 30 **medical examination before the victim, spouse, relative or close friend may receive such**
 31 **treatment.**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** ~~[Chapter 217 of NRS is hereby amended by adding thereto the~~
 2 ~~provisions set forth as sections 2 and 3 of this act.]~~ **(Deleted by amendment.)**

3 **Sec. 2.** ~~["Eligible person" means a member of the victim's immediate~~
 4 ~~family, including, without limitation, the victim's spouse or intimate partner,~~
 5 ~~parent, brother, sister, child or any other person living in the household of that~~
 6 ~~person and related to that person by blood or marriage.]~~ **(Deleted by**
 7 **amendment.)**

8 **Sec. 3.** ~~["Victim of sexual assault" means a victim of an attempted sexual~~
 9 ~~offense or a sexual offense pursuant to NRS 200.366.]~~ **(Deleted by amendment.)**

10 **Sec. 4.** ~~[NRS 217.100 is hereby amended to read as follows:~~
 11 ~~217.100 1. Any person eligible for compensation under the provisions of~~
 12 ~~NRS 217.010 to 217.270, inclusive, may apply to the Board for such compensation.~~
 13 ~~Where the person entitled to make application is:~~

14 ~~(a) A minor, the application may be made on his or her behalf by a parent, [or]~~
 15 ~~guardian [.] or guardian ad litem.~~

16 ~~(b) Mentally incompetent, the application may be made on his or her behalf by~~
 17 ~~a parent, guardian or other person authorized to administer his or her estate.~~

18 ~~2. The applicant must submit with his or her application the reports, if~~
 19 ~~reasonably available, from all physicians who, at the time of or subsequent to the~~
 20 ~~victim's injury or death, treated or examined the victim in relation to the injury for~~
 21 ~~which compensation is claimed.]~~ **(Deleted by amendment.)**

22 **Sec. 5.** ~~[NRS 217.160 is hereby amended to read as follows:~~
 23 ~~217.160 1. The compensation officer may order the payment of~~
 24 ~~compensation:~~

25 ~~(a) To or for the benefit of the victim [.] , including to any county for~~
 26 ~~reimbursement of costs associated with a forensic medical examination pursuant~~
 27 ~~to NRS 217.300.~~

28 ~~(b) If the victim has suffered personal injury, to any person responsible for the~~
 29 ~~maintenance of the victim who has suffered pecuniary loss or incurred expenses as~~
 30 ~~a result of the injury.~~

31 ~~(c) If the victim dies, to or for the benefit of any one or more of the dependents~~
 32 ~~of the victim.~~

33 ~~(d) To a minor who is a member of the household or immediate family of a~~
 34 ~~victim of a battery which constitutes domestic violence pursuant to NRS 33.018~~

1 ~~who needs an assessment, a psychological evaluation or psychological counseling~~
2 ~~for emotional trauma suffered by the minor as a result of the battery.~~

3 ~~(e) To a member of the victim's household or immediate family for~~
4 ~~psychological counseling for emotional trauma suffered by the member as a result~~
5 ~~of the crime of murder as defined in NRS 200.010.~~

6 ~~2. As used in this section:~~

7 ~~(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of~~
8 ~~NRS 200.481.~~

9 ~~(b) "Household" means an association of persons who live in the same home or~~
10 ~~dwelling and who:~~

11 ~~(1) Have significant personal ties to the victim; or~~

12 ~~(2) Are related by blood, adoption or marriage, within the first degree of~~
13 ~~consanguinity or affinity.~~

14 ~~(c) "Immediate family" means persons who are related by blood, adoption or~~
15 ~~marriage, within the first degree of consanguinity or affinity.] (Deleted by~~
16 ~~amendment.)~~

17 **Sec. 6.** ~~[NRS 217.220 is hereby amended to read as follows:~~

18 ~~217.220 1. Except as otherwise provided in subsections 2 and 3,~~
19 ~~compensation must not be awarded if the victim:~~

20 ~~(a) Was injured or killed as a result of the operation of a motor vehicle, boat or~~
21 ~~airplane unless the vehicle, boat or airplane was used as a weapon in a deliberate~~
22 ~~attempt to harm the victim or unless the driver of the vehicle injured a pedestrian,~~
23 ~~violated any of the provisions of NRS 484C.110 or the use of the vehicle was~~
24 ~~punishable pursuant to NRS 484C.430 or 484C.440;~~

25 ~~(b) [Was not a citizen of the United States or was not lawfully entitled to reside~~
26 ~~in the United States at the time the incident upon which the claim is based occurred~~
27 ~~or the victim is unable to provide proof that the victim was a citizen of the United~~
28 ~~States or was lawfully entitled to reside in the United States at that time;~~

29 ~~(c)] Was a coconspirator, codefendant, accomplice or adult passenger of the~~
30 ~~offender whose crime caused the victim's injuries;~~

31 ~~[(d)] (e) Was injured or killed while serving a sentence of imprisonment in a~~
32 ~~prison or jail;~~

33 ~~[(e)] (d) Was injured or killed while living in a facility for the commitment or~~
34 ~~detention of children who are adjudicated delinquent pursuant to title 5 of NRS; or~~

35 ~~[(f)] (e) Fails to cooperate with law enforcement agencies. Such cooperation~~
36 ~~does not require prosecution of the offender.~~

37 ~~2. Paragraph (a) of subsection 1 does not apply to a minor who was physically~~
38 ~~injured or killed while being a passenger in the vehicle of an offender who violated~~
39 ~~NRS 484C.110 or is punishable pursuant to NRS 484C.430 or 484C.440.~~

40 ~~3. A victim who is a relative of the offender or who, at the time of the~~
41 ~~personal injury or death of the victim, was living with the offender in a continuing~~
42 ~~relationship may be awarded compensation if the offender would not profit by the~~
43 ~~compensation of the victim.~~

44 ~~4. The compensation officer may deny an award if the compensation officer~~
45 ~~determines that the applicant will not suffer serious financial hardship. In~~
46 ~~determining whether an applicant will suffer serious financial hardship, the~~
47 ~~compensation officer shall not consider:~~

48 ~~(a) The value of the victim's dwelling;~~

49 ~~(b) The value of one motor vehicle owned by the victim; or~~

50 ~~(c) The savings and investments of the victim up to an amount equal to the~~
51 ~~victim's annual salary.] (Deleted by amendment.)~~

1 **Sec. 7.** ~~NRS 217.280 is hereby amended to read as follows:~~

2 ~~217.280 As used in NRS 217.280 to 217.350, inclusive, ["victim of sexual~~
 3 ~~assault" means a person who has been sexually assaulted as defined by NRS~~
 4 ~~200.366 or a person upon whom a sexual assault has been attempted.] and sections~~
 5 ~~2 and 3 of this act unless the context otherwise requires, the words and terms~~
 6 ~~defined in sections 2 and 3 of this act have the meanings ascribed to them in~~
 7 ~~those sections.] (Deleted by amendment.)~~

8 **Sec. 8.** ~~NRS 217.290 is hereby amended to read as follows:~~

9 ~~217.290 The board of county commissioners of each county shall provide by~~
 10 ~~ordinance for the counseling and medical treatment of victims of sexual assault and~~
 11 ~~the counseling of eligible persons in accordance with the provisions of NRS~~
 12 ~~217.280 to 217.350, inclusive [.] , and sections 2 and 3 of this act.] (Deleted by~~
 13 ~~amendment.)~~

14 **Sec. 9.** NRS 217.300 is hereby amended to read as follows:

15 217.300 1. The county in whose jurisdiction a sexual assault is committed
 16 shall ~~pay~~ :

17 (a) *Pay* any costs incurred for medical care for any physical injuries resulting
 18 from the *sexual* assault which is provided to the victim not later than 72 hours after
 19 the victim first arrives for treatment.

20 (b) *Pay any costs incurred by a hospital for health care provider for the*
 21 *forensic medical examination of the victim.*

22 2. *Any costs incurred pursuant to subsection 1:*

23 (a) *Must not be charged directly to the victim of sexual assault.*

24 (b) *Must be charged to the county in whose jurisdiction the offense was*
 25 *committed.*

26 3. *The filing of a report with the appropriate law enforcement agency must*
 27 *not be a prerequisite to qualify for a forensic medical examination pursuant to*
 28 *this section.*

29 4. *The costs associated with a forensic medical examination must not be*
 30 *included in the costs for medical treatment pursuant to NRS 217.310.*

31 5. *As used in this section ~~f~~*

32 ~~(a) "Forensic" , "forensic medical examination" means an examination by a~~
 33 ~~health care provider to obtain evidence from a victim of sexual assault.~~

34 ~~(b) "Health care provider" has the meaning ascribed to it in NRS 439.583.]~~

35 **Sec. 10.** NRS 217.310 is hereby amended to read as follows:

36 217.310 1. If any victim of sexual assault requires medical treatment for
 37 physical injuries as a result of the sexual assault, in addition to any initial
 38 emergency medical care provided, or if any victim or spouse of such a victim
 39 ~~feligible person~~ suffers emotional trauma as a result of the sexual assault, the
 40 victim or spouse feligible person may, upon submitting an affidavit as required by
 41 subsection 2, apply to the board of county commissioners in the county where the
 42 sexual assault occurred for treatment at county expense.

43 2. The board shall approve an application for treatment upon receiving an
 44 affidavit from the applicant declaring that:

45 (a) The applicant is a victim of sexual assault or spouse of such a victim; ~~an~~
 46 ~~eligible person;~~

47 (b) The sexual assault occurred in the county; and

48 (c) The victim requires medical treatment for physical injuries, or the victim or
 49 spouse feligible person has suffered emotional trauma, as a result of the sexual
 50 assault.

51 3. A victim who has suffered emotional trauma may select a relative or close
 52 friend to receive counseling with the victim if the counselor agrees that such

1 companionship will be helpful to the victim. If the victim's application for
 2 treatment is approved, counseling for the relative or friend must also be approved.

3 4. ~~[[The] [Unless the victim has submitted to a forensic medical examination~~
 4 ~~pursuant to NRS 217.300, the filing of] A victim must file a report with the~~
 5 appropriate law enforcement agency ~~[+]~~ or submit to a forensic medical
 6 examination pursuant to NRS 217.300 as a prerequisite for the victim or any
 7 other person eligible to qualify for treatment under the provisions of this section.

8 5. *Whenever costs are incurred by a hospital for treatment which has been*
 9 *approved by the board of county commissioners pursuant to this section for the*
 10 *victim of a sexual assault and any other person eligible for treatment, the costs of*
 11 *the treatment, not to exceed \$1,000, must be charged to the county which*
 12 *authorized the treatment. Any remainder must be handled the same as other*
 13 *hospital costs.*

14 **Sec. 11.** ~~[NRS 217.320 is hereby amended to read as follows:~~

15 ~~217.320 1. Upon approval by the board of county commissioners as~~
 16 ~~provided in NRS 217.310, medical treatment for the victim's physical injuries or~~
 17 ~~treatment in the form of psychological, psychiatric and marital counseling for the~~
 18 ~~victim [, the victim's spouse and] *or any other eligible person must be made*~~
 19 ~~available at a county hospital or other facility with which the board may contract~~
 20 ~~for the purpose of providing such treatment.~~

21 ~~2. Any costs for treatment provided pursuant to this section, not exceeding~~
 22 ~~\$1,000 [,] *per person*, shall be paid by the county which authorized the treatment.]~~
 23 ~~(Deleted by amendment.)~~

24 **Sec. 12.** ~~[NRS 217.330 is hereby amended to read as follows:~~

25 ~~217.330 1. The board of county commissioners shall require the~~
 26 ~~psychologist, psychiatrist or counselor treating a victim of sexual assault or [the~~
 27 ~~victim's spouse] *any other eligible person* for emotional trauma suffered as a result~~
 28 ~~of the sexual assault to certify from time to time that the counseling relates to the~~
 29 ~~sexual assault and that the victim or [spouse] *eligible person* still suffers from the~~
 30 ~~effects of the emotional trauma which resulted from the sexual assault.~~

31 ~~2. If the person providing the treatment fails to make the certification upon~~
 32 ~~request by the board, the board may order the treatment terminated.] (Deleted by~~
 33 ~~amendment.)~~

34 **Sec. 13.** ~~[NRS 217.340 is hereby amended to read as follows:~~

35 ~~217.340 No order for treatment pursuant to NRS 217.310 and 217.320 may be~~
 36 ~~made by the board of county commissioners unless:~~

37 ~~1. The application for treatment is made within 60 days after the date of the~~
 38 ~~sexual assault; [or]~~

39 ~~2. The sexual assault was reported to the police within [3] 7 days after its~~
 40 ~~occurrence, or if the offense could not reasonably have been reported within that~~
 41 ~~period, within [3] 7 days after the time when a report could reasonably have been~~
 42 ~~made [.] ; or~~

43 ~~3. *The victim submits to a forensic medical examination pursuant to NRS*~~
 44 ~~*217.300. Any such examination must be conducted within 7 days after the date of*~~
 45 ~~*the sexual assault.] (Deleted by amendment.)*~~

46 **Sec. 14.** NRS 449.244 is hereby repealed.

TEXT OF REPEALED SECTION

449.244 Certain costs for examination or treatment of victims of sexual offenses to be charged to county.

1. Any costs incurred by a hospital for:

(a) The examination of the victim of a sexual offense, when the examination is performed for the purposes of gathering evidence for possible prosecution of the person who committed the offense; or

(b) Initial emergency medical care for the victim,

↪ must not be charged directly to the victim. The costs must be charged to the county in whose jurisdiction the offense was committed.

2. Whenever costs are incurred by a hospital for treatment which has been approved by the board of county commissioners pursuant to NRS 217.310 for the victim of a sexual assault and any other person eligible for treatment, the costs of the treatment, not to exceed \$1,000, must be charged to the county which authorized the treatment. Any remainder must be handled the same as other hospital costs.