

Assembly Bill No. 305–Committee on Health

and Human Services

CHAPTER.....

AN ACT relating to mental health; changing the name of the mental hygiene and mental retardation division of the department of human resources and the commission on mental health and mental retardation; changing the name of certain budget accounts and facilities of the division; and providing other matters properly relating thereto.

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

Section 1. NRS 433.003 is hereby amended to read as follows:

433.003 The legislature hereby declares that it is the intent of this
Title:

1. To eliminate ~~both~~ the forfeiture of any civil and legal rights of any person and the imposition of any legal disability on any person, based on an allegation of mental illness or mental retardation, by any method other than a separate judicial proceeding resulting in a determination of incompetency, wherein the civil and legal rights forfeited and the legal disabilities imposed are specifically stated; and

2. To charge the ~~mental hygiene and mental retardation division,~~
division of mental health and developmental services, and the division of child and family services, of the department with recognizing their duty to act in the best interests of their respective clients by placing them in the least restrictive environment.

Sec. 2. NRS 433.024 is hereby amended to read as follows:

433.024 “Administrator” means the administrator of the ~~mental
hygiene and mental retardation~~ division.

Sec. 3. NRS 433.047 is hereby amended to read as follows:

433.047 “Commission” means the commission on mental health and
~~mental retardation,~~ *developmental services*.

Sec. 4. NRS 433.084 is hereby amended to read as follows:

433.084 “Division” means the ~~mental hygiene and mental retardation~~
division of *mental health and developmental services* of the department.

Sec. 5. NRS 433.233 is hereby amended to read as follows:

433.233 1. The division facilities providing mental health services
are designated as:

- (a) Nevada mental health institute;
 - (b) ~~Las Vegas mental health center;~~
 - ~~—(c) Henderson mental health center;~~
 - ~~—(d) Reno mental health center;~~
 - ~~—(e)~~ *Southern Nevada adult mental health services;*
 - (c) Rural clinics; and
 - ~~[(f) The program for mentally disordered offenders.]~~
 - (d) *Lakes Crossing center*
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2. The division facilities providing services for mentally retarded persons are designated as:

- (a) Desert ~~{developmental center; and}~~ **regional center;**
- (b) Sierra ~~{developmental center.}~~ **regional center; and**
- (c) **Rural regional center.**

3. Division facilities established after July 1, 1981, must be named by the administrator, subject to the approval of the director of the department.

Sec. 6. NRS 433.279 is hereby amended to read as follows:

433.279 1. The division shall carry out a vocational and educational program for the certification of mental health-mental retardation technicians, including forensic technicians:

- (a) Employed by the division, or other employees of the division who perform similar duties, but are classified differently.
- (b) Employed by the division of child and family services of the department.

The program must be carried out in cooperation with the University and Community College System of Nevada.

2. A mental health-mental retardation technician is responsible to the director of the service in which his duties are performed. The director of a service may be a licensed physician, dentist, podiatric physician, psychiatrist, psychologist, rehabilitation therapist, social worker, registered nurse or other professionally qualified person. This section does not authorize a mental health-mental retardation technician to perform duties which require the specialized knowledge and skill of a professionally qualified person.

3. The division shall adopt regulations to carry out the provisions of this section.

4. As used in this section, "mental health-mental retardation technician" means an employee of the ~~{mental hygiene and mental retardation}~~ division **of mental health and developmental services** or the division of child and family services who, for compensation or personal profit, ~~{implements}~~ **carries out** procedures and techniques which involve cause and effect and which are used in the care, treatment and rehabilitation of mentally ill, emotionally disturbed or mentally retarded persons, and who has direct responsibility for:

- (a) Administering or ~~{implementing}~~ **carrying out** specific therapeutic procedures, techniques or treatments, excluding medical interventions, to enable clients to make optimal use of their therapeutic regime, their social and personal resources, and their residential care; or

- (b) The application of interpersonal and technical skills in the observation and recognition of symptoms and reactions of clients, for the accurate recording of such symptoms and reactions, and for carrying out treatments authorized by members of the interdisciplinary team that determines the treatment of the clients.

Sec. 7. NRS 433.431 is hereby amended to read as follows:

433.431 As used in this section and NRS 433.434, 433.444 and 433.454, unless the context otherwise requires:

1. “Client” means any person who seeks, on his own or another’s initiative, and can benefit from care, treatment or training in a division facility.

2. “Division facility” means any unit or subunit operated by:

(a) The ~~{mental hygiene and mental retardation}~~ division of *mental health and developmental services of* the department for the care, treatment and training of clients; or

(b) The division of child and family services of the department pursuant to NRS 433B.010 to 433B.350, inclusive.

Sec. 8. NRS 433.461 is hereby amended to read as follows:

433.461 “Facility” means any:

1. Unit or subunit operated by the ~~{mental hygiene and mental retardation}~~ division of *mental health and developmental services of* the department for the care, treatment and training of clients.

2. Unit or subunit operated by the division of child and family services of the department pursuant to NRS 433B.010 to 433B.350, inclusive.

3. Hospital, clinic or other institution operated by any public or private entity, for the care, treatment and training of clients.

Sec. 9. NRS 433.484 is hereby amended to read as follows:

433.484 Each client admitted for evaluation, treatment or training to a facility has the following rights ~~{ }~~ concerning care, treatment and training, a list of which must be prominently posted in all facilities providing those services and must be otherwise brought to the attention of the client by such additional means as prescribed by regulation:

1. To medical, psychosocial and rehabilitative care, treatment and training including prompt and appropriate medical treatment and care for physical and mental ailments and for the prevention of any illness or disability. All of that care, treatment and training must be consistent with standards of practice of the respective professions in the community and is subject to the following conditions:

(a) Before instituting a plan of care, treatment or training or carrying out any necessary surgical procedure, express and informed consent must be obtained in writing from:

(1) The client if he is 18 years of age or over or legally emancipated and competent to give that consent, and from his legal guardian, if any;

(2) The parent or guardian of a client under 18 years of age and not legally emancipated; or

(3) The legal guardian of a client of any age who has been adjudicated mentally incompetent;

(b) An informed consent requires that the person whose consent is sought be adequately informed as to:

(1) The nature and consequences of the procedure;

(2) The reasonable risks, benefits and purposes of the procedure; an

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(3) Alternative procedures available;

(c) The consent of a client as provided in paragraph (b) may be withdrawn by the client in writing at any time with or without cause;

(d) Even in the absence of express and informed consent, a licensed and qualified physician may render emergency medical care or treatment to any client who has been injured in an accident or who is suffering from an acute illness, disease or condition, if within a reasonable degree of medical certainty, delay in **the** initiation of emergency medical care or treatment would endanger the health of the client and if the treatment is immediately entered into the client's record of treatment, subject to the provisions of paragraph (e); and

(e) If the proposed emergency medical care or treatment is deemed by the chief medical officer of the facility to be unusual, experimental or generally occurring infrequently in routine medical practice, the chief medical officer shall request consultation from other physicians or practitioners of healing arts who have knowledge of the proposed care or treatment.

2. To be free from the application of any mechanical restraint, except if prescribed by a physician. If so prescribed, the restraint must be removed whenever the condition justifying its use no longer exists, and any use of a mechanical restraint, together with the reasons therefor, must be made a part of the client's record of treatment.

3. To consent to his transfer from one facility to another, except that the administrator of the ~~mental hygiene and mental retardation~~ division of **mental health and developmental services of** the department or his designee, or the administrator of the division of child and family services of the department or his designee, may order a transfer to be made whenever conditions concerning care, treatment or training warrant it. If the client in any manner objects to the transfer, the person ordering it must enter the objection and a written justification of the transfer in the client's record of treatment and immediately forward a notice of the objection to the administrator who ordered the transfer, and the commission shall review the transfer pursuant to subsection 3 of NRS 433.534.

4. Other rights concerning care, treatment and training as may be specified by regulation of the commission.

Sec. 10. NRS 433.524 is hereby amended to read as follows:

433.524 1. A client may perform labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone only if:

(a) The client voluntarily agrees to perform the labor;

(b) Engaging in the labor is not inconsistent with and does not interfere with the plan of services for the client;

(c) The person responsible for the client's treatment agrees to the plan of labor; and

(d) The amount of time or effort necessary to perform the labor is not excessive.

In no event may discharge or privileges be conditioned upon the performance of such labor.

2. A client who performs labor which contributes to the operation and maintenance of the facility for which the facility would otherwise employ someone must be adequately compensated and the compensation must be in accordance with applicable state and federal labor laws.

3. A client who performs labor other than that described in subsection 2 must be compensated an adequate amount if an economic benefit to another person or agency results from his labor.

4. The administrative officer of the facility may provide for compensation of a resident when he performs labor not governed by subsection 2 or 3.

5. This section does not apply to labor of a personal housekeeping nature or to labor performed as a condition of residence in a small group living arrangement.

6. One-half of any compensation paid to a client pursuant to this section is exempt from collection or retention as payment for services rendered by the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department or its facilities, or by the division of child and family services of the department or its facilities. Such *an* amount is also exempt from levy, execution, attachment, garnishment or any other remedies provided by law for the collection of debts.

Sec. 11. NRS 433.538 is hereby amended to read as follows:

433.538 As used in this section and NRS 433.539 to 433.543, inclusive, unless the context otherwise requires:

1. "Administrative officer" means a person with overall executive and administrative responsibility for a division facility.

2. "Client" means any person who seeks, on his own or another's initiative, and can benefit from care, treatment or training in a division facility.

3. "Division facility" means any unit or subunit operated by:

(a) The ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department for the care, treatment and training of clients; or

(b) The division of child and family services of the department pursuant to NRS 433B.010 to 433B.350, inclusive.

Sec. 12. NRS 433A.010 is hereby amended to read as follows:

433A.010 The provisions of this chapter apply to all mental health centers of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department and of the division of child and family services of the department. Such provisions apply to private institutions and facilities offering mental health services only when specified in the context.

Sec. 13. NRS 433A.013 is hereby amended to read as follows:

433A.013 “Administrator” means:

1. Except as otherwise provided in subsection 2, the administrator of the ~~the [mental hygiene and mental retardation]~~ division of *mental health and developmental services of* the department.

2. Regarding the provision of services for the mental health of children pursuant to NRS 433B.010 to 433B.350, inclusive, the administrator of the division of child and family services of the department.

Sec. 14. NRS 433A.015 is hereby amended to read as follows:

433A.015 “Division” means:

1. Except as otherwise provided in subsection 2, the ~~[mental hygiene and mental retardation]~~ division of *mental health and developmental services of* the department.

2. Regarding the provision of services for the mental health of children pursuant to NRS 433B.010 to 433B.350, inclusive, the division of child and family services of the department.

Sec. 15. NRS 433A.016 is hereby amended to read as follows:

433A.016 “Division facility” means:

1. Except as otherwise provided in subsection 2, any unit or subunit operated by the ~~[mental hygiene and mental retardation]~~ division of *mental health and developmental services of* the department for the care, treatment and training of clients.

2. Any unit or subunit operated by the division of child and family services of the department pursuant to NRS 433B.010 to 433B.350, inclusive.

Sec. 16. NRS 433A.017 is hereby amended to read as follows:

433A.017 “Medical director” means the chief medical officer of any program of the division ~~[for mental health or mental retardation.]~~ of *mental health and developmental services of the department.*

Sec. 17. NRS 433A.440 is hereby amended to read as follows:

433A.440 1. If any person involuntarily court-admitted to any division facility pursuant to NRS 433A.310 is found by the court not to be a resident of ~~[the State of Nevada]~~ *this state* and to be a resident of another ~~[place,]~~ *state*, he may be transferred to the state of his residence pursuant to NRS 433.444 if an appropriate institution of that state is willing to accept him.

2. The approval of the administrator of the ~~[mental hygiene and mental retardation]~~ division of *mental health and developmental services of* the department must be obtained before any transfer is made pursuant to subsection 1.

Sec. 18. NRS 433B.090 is hereby amended to read as follows:

433B.090 “Person professionally qualified in the field of psychiatric mental health” means:

1. A psychiatrist licensed to practice medicine in ~~[the State of Nevada]~~ *this state* and certified by the American Board of Psychiatry and Neurology;

2. A psychologist licensed to practice in this state;
3. A social worker who holds a master's degree in social work, is licensed by the state as a clinical social worker and is employed by the division;
4. A registered nurse who:
 - (a) Is licensed to practice professional nursing in this state;
 - (b) Holds a master's degree in the field of psychiatric nursing; and
 - (c) Is employed by the division or the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department; or
5. A marriage and family therapist licensed pursuant to chapter 641A of NRS.

Sec. 19. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The administrator shall:

- (a) Administer, in accordance with the policies established by the commission, the programs of the division for the mental health of children.
- (b) Appoint the administrative personnel necessary to operate the programs of the division for the mental health of children. The commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.
- (c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

2. If the administrator finds that it is necessary or desirable that any employee reside at a facility operated by the division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the governor.

3. The administrator may accept children referred to the division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The administrator may enter into agreements with the administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department for the care and treatment of clients of the division of child and family services at any facility operated by the *division of mental* ~~hygiene and mental retardation division.~~ *health and developmental services.*

Sec. 20. NRS 433B.140 is hereby amended to read as follows:

433B.140 The administrator shall:

1. Comply with any agreements made by the administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department pursuant to NRS 433.444; and
2. Accept for admission to a division facility any resident child of this state for whom written permission for return and admission to a division facility was given by the administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department pursuant to NRS 433.444.

Sec. 21. NRS 433B.190 is hereby amended to read as follows:

433B.190 1. The division shall adopt regulations to:

- (a) Provide for a more detailed definition of abuse of a client, consistent with the general definition given in NRS 433B.340;
- (b) Provide for a more detailed definition of neglect of a client, consistent with the general definition given in NRS 433B.340; and
- (c) Establish policies and procedures for reporting the abuse or neglect of a client.

2. The regulations adopted pursuant to this section must, to the extent possible and appropriate, be consistent with the regulations adopted by the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department pursuant to NRS 433.331.

Sec. 22. NRS 176.156 is hereby amended to read as follows:

176.156 1. The division shall disclose to the district attorney, the counsel for the defendant and the defendant the factual content of the report of the presentence investigation and the recommendations of the division and afford an opportunity to each party to object to factual errors and comment on the recommendations.

2. Unless otherwise ordered by a court, upon request, the division shall disclose the content of a report of a presentence investigation to a law enforcement agency of this state or a political subdivision thereof and to a law enforcement agency of the Federal Government for the limited purpose of performing their duties, including, but not limited to, conducting hearings that are public in nature.

3. Unless otherwise ordered by a court, upon request, the division shall disclose the content of a report of a presentence investigation to the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department of human resources for the limited purpose of performing its duties, including, without limitation, evaluating the mental health of:

- (a) A sex offender as defined in NRS 213.107; or
 - (b) An offender who has been determined to be mentally ill,
- to provide any report or information to the division.

4. Unless otherwise ordered by a court, upon request, the division shall disclose the content of a report of a presentence investigation to the state gaming control board for the limited purpose of performing its duties in the administration of the provisions of chapters 462 to 467, inclusive, of NRS.

5. Except for the disclosures required by subsections 1 to 4, inclusive, the report and its sources of information are confidential and must not be made a part of any public record.

Sec. 23. NRS 178.415 is hereby amended to read as follows:

178.415 1. Except as otherwise provided in this subsection, the court shall appoint two psychiatrists, two psychologists, or one psychiatrist and one psychologist, to examine the defendant. If the defendant is accused of a misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, or other person who is especially qualified by the division of

mental ~~[hygiene and mental retardation]~~ **health and developmental services** of the department of human resources, to examine the defendant.

2. At a hearing in open court, the judge shall receive the report of the examination and shall permit counsel for both sides to examine the person or persons appointed to examine the defendant. The prosecuting attorney and the defendant may introduce other evidence and cross-examine one another's witnesses.

3. The court shall then make and enter its finding of competence or incompetence.

Sec. 24. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society or that commitment is required for a determination of his ability to attain competence, the judge shall order the sheriff to convey him forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the administrator of the ~~[mental hygiene and mental retardation]~~ division of **mental health and developmental services** of the department of human resources for detention and treatment at a secure facility operated by ~~[the mental hygiene and mental retardation]~~ **that** division.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450 to 178.465, inclusive.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to attain competence, the judge shall order the defendant to report to the administrator as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to attain competence. The court may require the defendant to give bail for his periodic appearances before the administrator.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the sanity commission or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 3 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

Sec. 25. NRS 178.435 is hereby amended to read as follows:

178.435 The expenses of the examination and of the transportation of the defendant to and from the custody of the administrator of the ~~[mental~~

~~hygiene and mental retardation~~ division of *mental health and developmental services of* the department of human resources are in the first instance chargeable to the county or city from which he has been sent. But the county or city may recover the money from the estate of the defendant, from a relative legally bound to care for him or from the county or city of which he is a resident.

Sec. 26. NRS 178.450 is hereby amended to read as follows:

178.450 1. The administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department of human resources shall keep each defendant committed to his custody under NRS 178.425 or 178.460 under observation and shall have each defendant who has been ordered to report to him as an outpatient under those sections evaluated periodically.

2. The administrator shall notify in writing a judge of the court which committed the person and the prosecuting attorney of the county or city to which the person may be returned for further court action whether, in his opinion, upon medical consultation, the defendant is of sufficient mentality to be able to understand the nature of the criminal charge against him and, by reason thereof, is able to aid and assist his counsel in the defense interposed upon the trial or against the pronouncement of the judgment thereafter. The administrator shall submit such a notification, in the case of a person charged or convicted of a misdemeanor, within 3 months after the order for commitment or treatment and evaluation as an outpatient or for recommitment pursuant to paragraph (b) of subsection 3 of NRS 178.460, and at monthly intervals thereafter. In all other cases, the initial notification must be submitted within 6 months after the order and at 6-month intervals thereafter. If the administrator's opinion about the defendant is that he is not of sufficient mentality to understand the nature of the charge against him and assist in his own defense, the administrator shall also include in the notice his opinion whether:

(a) There is a substantial probability that the defendant will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) The defendant is at that time a danger to himself or to society.

3. The notice may be informal, but must contain:

(a) The name of the defendant and the county or city to which he may be returned for further court action.

(b) The circumstances under which he was committed to the custody of the administrator and the duration of his hospitalization, or the circumstances under which he was ordered to report to the administrator as an outpatient.

Sec. 27. NRS 178.455 is hereby amended to read as follows:

178.455 1. The judge, upon receiving the written notice of the administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of the department of human resources* that the defendant is of sufficient mentality to be placed upon

trial or receive pronouncement of judgment, or that he is not of sufficient mentality and there is no substantial probability that he will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future, shall, except as otherwise provided in subsection 4, within a period ~~to~~ not to exceed 20 days, impanel a sanity commission composed of three persons, each of whom is a psychiatrist or psychologist, but not including members of the medical staff of the ~~mental hygiene and mental retardation division,~~ **division of mental health and developmental services**, who, in the opinion of the judge, are qualified to examine the person with respect to his mental condition.

2. The sanity commission shall, within 20 days, examine the person designated by the judge in the order impaneling the commission, at such convenient place as the commission may direct. Upon the completion of the examination, the commission shall return to the judge its reports in writing, which must be signed by the respective members of the commission and contain, ~~among other things,~~ **without limitation**, specific findings and opinion upon:

(a) Whether the person is of sufficient mentality to understand the nature of the offense charged;

(b) Whether the person is of sufficient mentality to aid and assist counsel in the defense of the offense charged, or to show cause why judgment should not be pronounced; and

(c) If the person is not of sufficient mentality pursuant to paragraphs (a) and (b) to be placed upon trial or receive pronouncement of judgment, whether there is a substantial probability that he will attain competency in the foreseeable future.

3. Members of the sanity commission shall report individually. Copies of the reports must be sent to the administrator of the ~~mental hygiene and mental retardation~~ **division of mental health and developmental services** to be incorporated in the medical record of the person, to the office of the district attorney, and to the counsel for the outpatient or person committed.

4. In the case of a person charged or convicted of a misdemeanor, the judge shall, upon receipt of the notice set forth in NRS 178.450 from the administrator of the ~~mental health and mental retardation division;~~ **division of mental health and developmental services:**

(a) Send a copy of the administrator's notice to the prosecuting attorney and to the defendant's counsel;

(b) Without the assistance of a sanity commission, hold a hearing, if one is requested within 10 days after the notice is sent pursuant to paragraph (a), at which the attorneys may examine the administrator on his determination; and

(c) Within 10 days after the hearing, if any, or 20 days after the notice is sent if no hearing is requested, enter his finding of competence or incompetence in the manner set forth in subsection 3 of NRS 178.460.

Sec. 28. NRS 178.460 is hereby amended to read as follows:

178.460 1. If requested by the district attorney or counsel for the defendant within 10 days after the reports of the sanity commission are sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the sanity commission on their reports.

2. Within 10 days after the hearing or 20 days after the reports are sent, if no hearing is requested, the judge shall make and enter his finding of competence or incompetence, and if he finds the defendant to be incompetent:

(a) Whether there is substantial probability that the defendant will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) Whether the defendant is at that time a danger to himself or to society.

3. If the judge finds the defendant:

(a) Competent, ~~he~~ **the judge** shall, within 10 days, forward his finding to the prosecuting attorney and counsel for the defendant. Upon receipt thereof, the prosecuting attorney shall notify the sheriff of the county or chief of police of the city that the defendant has been found competent and arrange for the return of the defendant to that county or city for trial upon the offense there charged or the pronouncement of judgment, as the case may be. The defendant must not be returned more than 30 days before the date set for the trial or pronouncement of judgment which must be within 60 days ~~to~~ **after** the receipt of the findings of the sanity commission, or if the case is a misdemeanor, within 60 days after the judge received the notice from the administrator pursuant to subsection 1 of NRS 178.455.

(b) Incompetent, but there is **a** substantial probability that he will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is dangerous to himself or to society, ~~he~~ **the judge** shall recommit the defendant.

(c) Incompetent, but there is **a** substantial probability that he will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that he is not dangerous to himself or to society, ~~he~~ **the judge** shall order that the defendant remain an outpatient or be transferred to the status of an outpatient under the provisions of NRS 178.425.

(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, ~~he~~ **the judge** shall order the defendant released from custody or if the defendant is an outpatient, released from his obligations as an outpatient if, within 10 days, a petition is not filed to commit the person pursuant to NRS 433A.200. After the initial 10 days, the defendant may remain an outpatient or in custody under the provisions of this chapter only as long as the petition is pending unless the defendant is involuntarily committed pursuant to chapter 433A of NRS.

4. No person who is committed under the provisions of this chapter may be held in the custody of the administrator of the ~~{mental hygiene and mental retardation}~~ division *of mental health and developmental services of the department of human resources* longer than the longest period of incarceration provided for the crime or crimes with which he is charged. Upon expiration of the period, the defendant must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to chapter 433A of NRS is required.

Sec. 29. NRS 178.465 is hereby amended to read as follows:

178.465 The members of the sanity commission are entitled to receive reasonable compensation fixed by the judge impaneling the commission. The compensation is a charge against and must be paid by the ~~{mental hygiene and mental retardation}~~ division *of mental health and developmental services of the department of human resources* upon an order therefor signed by the judge and submitted to the administrator of the division. The administrator shall submit a claim for payment of the order in the manner provided by law. After the appropriation for this purpose is exhausted, money must be allocated to the ~~{mental hygiene and mental retardation}~~ division *of mental health and developmental services* out of the reserve for statutory contingency account upon approval by the state board of examiners, for payment of the compensation.

Sec. 30. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The board shall not release on parole a prisoner convicted of an offense listed in subsection 5 unless a panel consisting of:

(a) The administrator of the ~~{mental hygiene and mental retardation}~~ division *of mental health and developmental services of the department of human resources* or his designee;

(b) The director of the department of prisons or his designee; and

(c) A psychologist licensed to practice in this state or a psychiatrist licensed to practice medicine in this state, certifies that the prisoner was under observation while confined in an institution of the department of prisons and is not a menace to the health, safety or morals of others.

2. A prisoner who has been certified pursuant to subsection 1 and who returns for any reason to the custody of the department of prisons may not be paroled unless a panel recertifies him in the manner set forth in subsection 1.

3. The panel may revoke the certification of a prisoner certified pursuant to subsection 1 at any time.

4. This section does not create a right in any prisoner to be certified or continue to be certified. ~~{and no}~~ No prisoner may bring a cause of action against the state, its political subdivisions, agencies, boards, commissions, departments, officers or employees for not certifying or refusing to place a prisoner before a panel for certification pursuant to this section.

5. The provisions of this section apply to a prisoner convicted of any of the following offenses:

- (a) Sexual assault pursuant to NRS 200.366.
- (b) Statutory sexual seduction pursuant to NRS 200.368.
- (c) Battery with intent to commit sexual assault pursuant to NRS 200.400.
- (d) Abuse or neglect of a child pursuant to NRS 200.508.
- (e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.
- (f) Incest pursuant to NRS 201.180.
- (g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195.
- (h) Open or gross lewdness pursuant to NRS 201.210.
- (i) Indecent or obscene exposure pursuant to NRS 201.220.
- (j) Lewdness with a child pursuant to NRS 201.230.
- (k) Sexual penetration of a dead human body pursuant to NRS 201.450.
- (l) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive.
- (m) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

Sec. 31. NRS 217.450 is hereby amended to read as follows:

217.450 1. The commission on mental health and ~~mental retardation~~ **developmental services** shall advise the administrator of the division concerning the award of grants from the account for aid for victims of domestic violence.

2. The administrator of the division shall give priority to those applications for grants from the account for aid for victims of domestic violence submitted by organizations which offer the broadest range of services for the least cost within one or more counties. The administrator shall not approve the use of money from a grant to acquire any buildings.

3. The administrator of the division has the final authority to approve or deny an application for a grant. The administrator shall notify each applicant in writing of the action taken on its application within 45 days after the deadline for filing the application.

4. In determining the amount of money to be allocated for grants, the administrator of the division shall use the following formula:

(a) A basic allocation of \$7,000 must be made to provide services for residents of each county whose population is less than 100,000. For counties whose population is 100,000 or more, the basic allocation is \$35,000. These allocations must be increased or decreased for each fiscal year ending after June 30, 1990, by the same percentage that the amount deposited in the account during the preceding fiscal year, pursuant to NRS 122.060, is greater or less than the sum of \$791,000.

(b) Any additional revenue available in the account must be allocated to grants, on a per capita basis, for all counties whose population is 14,000 or more.

(c) Money remaining in the account after disbursement of grants does not revert and may be awarded in a subsequent year.

Sec. 32. NRS 232.300 is hereby amended to read as follows:

232.300 1. The department of human resources is hereby created.

2. The department consists of a director and the following divisions:

(a) Aging services division.

(b) Health division.

(c) ~~[Mental hygiene and mental retardation division.]~~ *Division of mental health and developmental services.*

(d) Welfare division.

(e) Division of child and family services.

(f) Division of health care financing and policy.

3. The department is the sole agency responsible for administering the provisions of law relating to its respective divisions.

Sec. 33. NRS 232.300 is hereby amended to read as follows:

232.300 1. The department of human resources is hereby created.

2. The department consists of a director and the following divisions:

(a) Aging services division.

(b) Health division.

(c) ~~[Mental hygiene and mental retardation division.]~~ *Division of mental health and developmental services.*

(d) Welfare division.

(e) Division of child and family services.

3. The department is the sole agency responsible for administering the provisions of law relating to its respective divisions.

Sec. 34. NRS 232.303 is hereby amended to read as follows:

232.303 1. There is hereby created in the department a commission on mental health and ~~[mental retardation]~~ *developmental services* consisting of seven members appointed by the governor, at least three of whom have training or experience in dealing with mental retardation.

2. The governor shall appoint:

(a) A psychiatrist licensed to practice medicine in this state, from a list of three candidates submitted by the Nevada Psychiatric Association;

(b) A psychologist licensed to practice in this state and experienced in clinical practice, from a list of four candidates two of whom are submitted by the Northern Nevada Association for Certified Psychologists and two of whom are submitted by the Southern Society for Certified Psychologists;

(c) A physician, other than a psychiatrist, licensed to practice medicine in this state and who has experience in dealing with mental retardation, from a list of three candidates submitted by the Nevada State Medical Association;

(d) A social worker who has a master's degree and has experience in dealing with mental illness or mental retardation, or both;

(e) A registered nurse licensed to practice in this state who has experience in dealing with mental illness or mental retardation, or both, from a list of three candidates submitted by the Nevada Nurses' Association;

(f) A representative of the general public who has a special interest in the field of mental health; and

(g) A representative of the general public who has a special interest in the field of mental retardation.

3. The governor shall appoint the chairman of the commission from among its members.

4. After the initial terms, each member shall serve a term of 4 years. If a vacancy occurs during a member's term, the governor shall appoint a person qualified under this section to replace that member for the remainder of the unexpired term.

Sec. 35. NRS 232.306 is hereby amended to read as follows:

232.306 1. The commission shall meet at the call of the chairman at least 6 times but not more than 12 times a year. A meeting may last for more than 1 day. A majority of the members of the commission constitutes a quorum and is required to transact any business of the commission.

2. Each member of the commission is entitled to receive a salary of not more than \$80, as fixed by the commission, for each day he is engaged in the business of the commission.

3. While engaged in the business of the commission, each member and employee of the commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. A person is ineligible for appointment to or continued service on the commission if he or his spouse owns an interest in or is employed by any enterprise or organization, whether or not conducted for profit, which derives 25 percent or more of its gross revenues from the ~~mental hygiene and mental retardation division.~~ **division of mental health and developmental services.**

Sec. 36. NRS 232.320 is hereby amended to read as follows:

232.320 1. Except as otherwise provided in subsection 2, the director:

(a) Shall appoint, with the consent of the governor, administrators of the divisions of the department, who are respectively designated as follows:

- (1) The administrator of the aging services division;
- (2) The administrator of the health division;
- (3) The state welfare administrator;
- (4) The administrator of the division of child and family services; and
- (5) The administrator of the division of health care financing and

policy.

(b) Shall administer, through the divisions of the department, the provisions of chapters 210, 423, 424, 425, 427A, 432A to 442, inclusive, 446 ~~[- 447, 449 and]~~ **to 450, inclusive,** of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, 422.580, 432.010 to 432.139, inclusive, 444.003 to 444.430, inclusive, and 445A.010 to 445A.050, inclusive, and all other provisions of law relating to the functions of the divisions of the department, but is not responsible for the clinical activities

of the health division or the professional line activities of the other divisions.

(c) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this state. The director shall revise the plan biennially and deliver a copy of the plan to the governor and the legislature at the beginning of each regular session. The plan must:

- (1) Identify and assess the plans and programs of the department for the provision of human services, and any duplication of those services by federal, state and local agencies;
- (2) Set forth priorities for the provision of those services;
- (3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the state and the Federal Government;
- (4) Identify the sources of funding for services provided by the department and the allocation of that funding;
- (5) Set forth sufficient information to assist the department in providing those services and in the planning and budgeting for the future provision of those services; and
- (6) Contain any other information necessary for the department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the department.

(d) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information to him regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which he deems necessary for his performance of the duties imposed upon him pursuant to this section.

(e) Has such other powers and duties as are provided by law.

2. The governor shall appoint the administrator of the ~~mental hygiene and mental retardation division.~~ **division of mental health and developmental services.**

Sec. 37. NRS 232.320 is hereby amended to read as follows:

232.320 1. Except as otherwise provided in subsection 2, the director:

(a) Shall appoint, with the consent of the governor, chiefs of the divisions of the department, who are respectively designated as follows:

- (1) The administrator of the aging services division;
- (2) The administrator of the health division;
- (3) The state welfare administrator; and
- (4) The administrator of the division of child and family services.

(b) Shall administer, through the divisions of the department, the provisions of chapters 210, 423, 424, 425, 427A, 432A to 442, inclusive, 446 ~~[, 447, 449 and]~~ **to 450 , inclusive,** of NRS, NRS 127.220 to 127.310, inclusive, 422.070 to 422.410, inclusive, 432.010 to 432.139, inclusive,

444.003 to 444.430, inclusive, and 445A.010 to 445A.050, inclusive, and all other provisions of law relating to the functions of the divisions of the department, but is not responsible for the clinical activities of the health division or the professional line activities of the other divisions.

(c) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this state. The director shall revise the plan biennially and deliver a copy of the plan to the governor and the legislature at the beginning of each regular session. The plan must:

- (1) Identify and assess the plans and programs of the department for the provision of human services, and any duplication of those services by federal, state and local agencies;
- (2) Set forth priorities for the provision of those services;
- (3) Provide for communication and the coordination of those services among nonprofit organizations, agencies of local government, the state and the Federal Government;
- (4) Identify the sources of funding for services provided by the department and the allocation of that funding;
- (5) Set forth sufficient information to assist the department in providing those services and in the planning and budgeting for the future provision of those services; and
- (6) Contain any other information necessary for the department to communicate effectively with the Federal Government concerning demographic trends, formulas for the distribution of federal money and any need for the modification of programs administered by the department.

(d) May, by regulation, require nonprofit organizations and state and local governmental agencies to provide information to him regarding the programs of those organizations and agencies, excluding detailed information relating to their budgets and payrolls, which he deems necessary for his performance of the duties imposed upon him pursuant to this section.

(e) Has such other powers and duties as are provided by law.

2. The governor shall appoint the administrator of the ~~mental hygiene and mental retardation division.~~ **division of mental health and developmental services.**

Sec. 38. NRS 289.240 is hereby amended to read as follows:

289.240 Forensic technicians and correctional officers employed by the ~~mental hygiene and mental retardation~~ division of **mental health and developmental services** of the department of human resources at facilities for mentally disordered offenders have the powers of peace officers when performing duties prescribed by the administrator of the division.

Sec. 39. NRS 353.351 is hereby amended to read as follows:

353.351 1. If the administrator of the ~~mental hygiene and mental retardation~~ division of **mental health and developmental services** of the department of human resources determines that current claims exceed the amount of money available because revenue from billed services has not

been collected, he may request from the director of the department of administration a temporary advance from the state general fund for the payment of authorized expenses.

2. The director of the department of administration shall notify the state controller and the fiscal analysis division of the legislative counsel bureau of his approval of a request made pursuant to subsection 1. The state controller shall draw his warrant upon receipt of the approval by the director of the department of administration.

3. An advance from the state general fund:

(a) May be approved by the director of the department of administration for the following budget accounts of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department of human resources:

- (1) ~~Residential placement fund;~~
- ~~—(2) Southern Nevada mental retardation services;]~~ *Rural regional center;*
- (2) *Desert regional center;* and
- (3) ~~[Northern Nevada mental retardation services.]~~ *Sierra regional center.*

(b) Is limited to 25 percent of the revenues expected to be received in the current fiscal year from any source other than legislative appropriation.

4. Any money which is temporarily advanced from the state general fund to an account pursuant to subsection 3 must be repaid by August 31 following the end of the immediately preceding fiscal year.

Sec. 40. NRS 395.070 is hereby amended to read as follows:

395.070 1. The interagency panel is hereby created. The panel is responsible for making recommendations concerning the placement of persons with disabilities who are eligible to receive benefits pursuant to this chapter. The panel consists of:

(a) The administrator of the division of child and family services of the department of human resources;

(b) The administrator of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services of* the department of human resources;

(c) The director of the department of human resources; and

(d) The superintendent of public instruction.

2. A member of the panel may designate a person to represent him at any meeting of the panel. The person designated may exercise all the duties, rights and privileges of the member he represents.

3. The panel shall:

(a) Every time a person with a disability is to be placed pursuant to subsection 2 of NRS 395.010 in a foster home or residential facility, meet to determine the needs of the person and the availability of homes or facilities under the authority of the department of human resources after a joint evaluation of that person is completed by the department of education and the department of human resources;

(b) Determine the appropriate placement of the person, giving priority to homes or facilities under the authority of the department of human resources over any home or facility located outside of this state; and

(c) Make a recommendation concerning the placement of the person.

Sec. 41. NRS 449.017 is hereby amended to read as follows:

449.017 1. Except as otherwise provided in subsection 2, "residential facility for groups" means an establishment that furnishes food, shelter, assistance and limited supervision to:

(a) Any aged, infirm, mentally retarded or handicapped person; or

(b) Four or more females during pregnancy or after delivery.

2. The term does not include:

(a) An establishment which provides care only during the day;

(b) A natural person who provides care for no more than two persons in his own home;

(c) A natural person who provides care for one or more persons related to him within the third degree of consanguinity or affinity; or

(d) A facility funded by the welfare division or the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department of human resources.

Sec. 42. NRS 502.077 is hereby amended to read as follows:

502.077 1. The division shall issue special fishing permits to the administrative head of:

(a) The Nevada mental health institute;

(b) ~~The Las Vegas mental health center;~~ *Southern Nevada adult mental health services;*

(c) The Northern Nevada children's home;

(d) The Southern Nevada children's home;

(e) The Nevada youth training center;

(f) The Caliente youth center;

(g) The Spring Mountain Youth Camp;

(h) The China Spring Youth Camp;

(i) Any facility which provides temporary foster care for children who are not delinquent; and

(j) Such other public or charitable institutions or organizations as are designated by regulations adopted by the commission, for use only by the members, patients or children of such institutions or organizations.

2. The permits:

(a) Must be in the possession of the officer or employee who is supervising a member, patient or child while he is fishing.

(b) Authorize a member, patient or child to fish in a legal manner if in the company of an officer or employee of one of the institutions listed in this section, or of an organization provided for by regulation, if the officer or employee has a valid Nevada fishing license.

(c) Must be issued pursuant and subject to regulations prescribed by the commission.

(d) Must contain the words “Nevada Special Fishing Permit” and the number of the permit printed on the face of the permit.

(e) May authorize no more than 15 members, patients or children, respectively, to fish.

3. Each institution or organization shall pay to the division an annual fee of \$15 for each permit issued to the institution or organization pursuant to this section. The division shall not issue more than two permits per year to each institution or organization.

4. It is unlawful for any person other than a member, patient or child in one of these organizations or institutions to fish with a permit issued by the division pursuant to this section.

Sec. 43. NRS 616A.205 is hereby amended to read as follows:

616A.205 Volunteer workers at a facility for inpatients of the ~~mental hygiene and mental retardation~~ division of *mental health and developmental services* of the department of human resources, while acting under the direction or authorization of the supervisor of volunteer services of such a facility, shall be deemed, for the purpose of chapters 616A to 616D, inclusive, of NRS, employees of the facility, receiving a wage of \$350 per month, and are entitled to the benefits of those chapters upon compliance therewith by the facility.

Sec. 44. NRS 617.135 is hereby amended to read as follows:

617.135 “Police officer” includes:

1. A sheriff, deputy sheriff, officer of a metropolitan police department or city policeman;
2. A chief, inspector, supervisor, commercial officer or trooper of the Nevada highway patrol;
3. A chief, investigator or agent of the investigation division of the department of motor vehicles and public safety;
4. An officer or investigator for the control of emissions from vehicles of the registration division of the department of motor vehicles and public safety;
5. An investigator of the bureau of enforcement of the registration division of the department of motor vehicles and public safety;
6. A member of the police department of the University and Community College System of Nevada;
7. A:
 - (a) Uniformed employee of; or
 - (b) Forensic specialist employed by,the department of prisons whose position requires regular and frequent contact with the offenders imprisoned and subjects the employee to recall in emergencies;
8. A parole and probation officer of the division of parole and probation of the department of motor vehicles and public safety; and

9. A forensic specialist or correctional officer employed by the ~~mental hygiene and mental retardation~~ division of **mental health and developmental services** of the department of human resources at facilities for mentally disordered offenders.

Sec. 45. 1. This section and sections 1 to 32, inclusive, 34, 35, 36, 38 to 44, inclusive, and 46 of this act become effective upon passage and approval.

2. Sections 33 and 37 of this act become effective at 12:01 a.m. on July 1, 1999.

3. Sections 32 and 36 of this act expire by limitation on July 1, 1999.

Sec. 46. The legislative counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, with respect to any section that is not amended by this act or is further amended by another act, appropriately change any reference to:

(a) "Commission on mental health and mental retardation" to

"commission on mental health and developmental services."

(b) "Desert developmental center" to "desert regional center."

(c) "Las Vegas mental health center" to "Southern Nevada adult mental health services."

(d) "Mental hygiene and mental retardation division" to "division of mental health and developmental services."

(e) "Northern Nevada mental retardation services" to "sierra regional center."

(f) "Program for mentally disordered offenders" to "Lakes Crossing center."

(g) "Residential placement fund" to "rural regional center."

(h) "Sierra developmental center" to "sierra regional center."

(i) "Southern Nevada mental retardation services" to "desert regional center."

2. In preparing supplements to the Nevada Administrative Code, appropriately change any reference to:

(a) "Commission on mental health and mental retardation" to "commission on mental health and developmental services."

(b) "Desert developmental center" to "desert regional center."

(c) "Las Vegas mental health center" to "Southern Nevada adult mental health services."

(d) "Mental hygiene and mental retardation division" to "division of mental health and developmental services."

(e) "Northern Nevada mental retardation services" to "sierra regional center."

(f) "Program for mentally disordered offenders" to "Lakes Crossing center."

(g) "Residential placement fund" to "rural regional center."

- (h) "Sierra developmental center" to "sierra regional center."
- (i) "Southern Nevada mental retardation services" to "desert regional center."

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