

Assembly Bill No. 550—Committee on Judiciary

CHAPTER.....

AN ACT relating to health; making various changes to procedures for the detention and civil commitment of mentally ill persons; expanding the rights of patients of certain health care facilities; 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 433A.150 is hereby amended to read as follows:

433A.150 1. Any *person alleged to be a* mentally ill person may , *upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2,* be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment. ~~{subject to subsection 2-}~~

2. Except as otherwise provided in subsection 3, a person admitted to a mental health facility or hospital under subsection 1 must ~~{not be detained in excess of}~~ *be released within* 72 hours, including ~~{Saturdays and Sundays,}~~ *weekends and holidays,* from the time of his admission unless within that period a written petition for an involuntary court-ordered admission ~~{has been}~~ *is* filed with the clerk of the district court pursuant to NRS 433A.200 ~~{-}~~ *, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.*

3. If the ~~{72-hour}~~ period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed ~~{on or before the close of the business day next preceding the expiration of that period, except that, if that business day is the same day as that upon which the person was admitted, the petition must be filed}~~ on or before the close of the business day next following the expiration of that period.

**Sec. 2.** NRS 433A.160 is hereby amended to read as follows:

433A.160 1. ~~{Application for an}~~ *Except as otherwise provided in subsection 2, an application for the* emergency admission of an allegedly mentally ill person for evaluation , ~~{and}~~ observation *and treatment* may only be made by an accredited agent of the department, an officer authorized to make arrests in the State of Nevada or a physician, psychologist, marriage and family therapist, social worker or registered nurse. The agent, officer, physician, psychologist, marriage and family therapist, social worker or registered nurse may ~~{take}~~ :

*(a) Without a warrant:*

*(1) Take* an allegedly mentally ill person into custody ~~{without a warrant}~~ to apply for *the* emergency admission *of the person* for evaluation, observation and treatment ~~{under 433A.150 and may: —(a)} ; and~~

*(2) Transport the allegedly mentally ill* person ~~{-or-}~~ ~~{(b) Arrange}~~ *to a public or private mental health facility or hospital for that purpose, or arrange* for the person to be transported by:

~~{(1)}~~ *(1)* A local law enforcement agency;

~~{2}~~ (II) A system for the nonemergency medical transportation of persons whose operation is authorized by the transportation services authority; or

~~{3}~~ (III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS . ~~f~~

~~to a public or private mental health facility for that purpose.} only if the agent, officer, physician, psychologist, marriage and family therapist, social worker or registered nurse has, based upon his personal observation of the allegedly mentally ill person, probable cause to believe that the person is a mentally ill person and, because of that illness, is likely to harm himself or others if allowed his liberty.~~

*(b) Apply to a district court for an order requiring:*

*(1) Any peace officer to take an allegedly mentally ill person into custody to allow the applicant for the order to apply for the emergency admission of the allegedly mentally ill person for evaluation, observation and treatment; and*

*(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport the allegedly mentally ill person to a public or private mental health facility or hospital for that purpose.*

*The district court may issue such an order only if it is satisfied that there is probable cause to believe that the allegedly mentally ill person is a mentally ill person and, because of that illness is likely to harm himself or others if allowed his liberty.*

*2. An application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment may be made by a spouse, parent, adult child or legal guardian of the person. The spouse, parent, adult child or legal guardian and any other person who has a legitimate interest in the allegedly mentally ill person may apply to a district court for an order described in paragraph (b) of subsection 1.*

*3. The application for the emergency admission of an allegedly mentally ill person for evaluation, observation and treatment must reveal the circumstances under which the person was taken into custody and the reasons therefor.*

~~{3}~~ *4. As used in subsection 1, "an accredited agent of the department" means any person appointed or designated by the director of the department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.*

~~{4. Any person who has reason to believe that another person is mentally ill may apply to the district attorney of the county where the allegedly mentally ill person is found, and the district attorney may, if satisfied that as a result of mental illness the person is likely to harm himself or others:~~

~~—(a) Issue an order to any peace officer for the immediate apprehension of the person and his transportation to a public or private mental health facility; and~~

~~—(b) Apply for the admission of the person under the emergency admission provisions of NRS 433A.150.}~~

5. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

**Sec. 3.** NRS 433A.170 is hereby amended to read as follows:

433A.170 Except as otherwise provided in this section, the administrative officer of a facility operated by the division or of any other public or private mental health facility or hospital shall not accept an application for an emergency admission under NRS ~~433A.150 and~~ 433A.160 unless that application is accompanied by a certificate of a psychiatrist or a licensed psychologist stating that he has examined the person alleged to be mentally ill and that he has concluded that ~~as a result of mental illness~~ the person *is a mentally ill person and, because of that illness* is likely to harm himself or others ~~if allowed his liberty~~. If a psychiatrist or licensed psychologist is not available to conduct an examination, a physician may conduct the examination. The certificate required by this section may be obtained from a psychiatrist, licensed psychologist or physician who is employed by the public or private mental health facility *or hospital* to which the application is made.

**Sec. 4.** NRS 433A.200 is hereby amended to read as follows:

433A.200 1. A proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, psychologist, social worker or registered nurse, by an accredited agent of the department or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, *psychiatrist* or licensed psychologist stating that he has examined the person alleged to be mentally ill and has concluded that ~~as a result of mental illness~~ the person *is a mentally ill person and, because of that illness* is likely to harm himself or others ~~if allowed his liberty~~; or

(b) By a sworn written statement by the petitioner that:

(1) The petitioner has, *based upon his personal observation of the person alleged to be mentally ill*, probable cause to believe that the person is *a* mentally ill *person* and, because of that illness is likely to harm himself or others ~~if allowed his liberty~~; and

(2) The person *alleged to be mentally ill* has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, the petition must, in addition to the certificate or statement required by subsection 1, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

**Sec. 5.** NRS 433A.210 is hereby amended to read as follows:

433A.210 ~~1. A~~ *In addition to the requirements of NRS 433A.200, a petition filed pursuant to that section with the clerk of the district court to commence proceedings for involuntary court-ordered admission of a person pursuant to NRS 433A.145 or 433A.150 must include:*

~~1. A~~ *a certified copy of the:*

*1. The application for the emergency admission of the person made pursuant to NRS 433A.160 with respect to the person detained; and*

*2. A petition executed by a psychiatrist, licensed psychologist or physician certifying that he, including, without limitation, a sworn statement that:*

*(a) He has examined the person alleged to be mentally ill and has concluded that as a result of mental illness the person is likely to harm himself or others; and*

~~3. If the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition;~~

*(b) In his opinion, there is a reasonable degree of certainty that the person alleged to be mentally ill suffers from a mental illness;*

*(c) Based on his personal observation of the person alleged to be mentally ill and other facts set forth in the petition, the person poses a risk of imminent harm to himself or others; and*

*(d) In his opinion, involuntary admission of the person alleged to be mentally ill to a mental health facility or hospital is medically necessary to prevent the person from harming himself or others.*

**Sec. 6.** NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be:

~~(a) Within 14 calendar days after the date on which the petition is received by the clerk;~~

~~(b) If at the time the petition is received by the clerk the subject of the petition was admitted to a hospital or public or private mental health facility pursuant to NRS 433A.160, within 5 judicial days after the date on which the petition is received by the clerk; or~~

~~(c) If the district attorney filed a petition for the emergency admission of the subject of the petition, within 5 judicial days after the date on which the petition is received by the clerk.~~

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of *mentally ill* persons ~~with mental illnesses~~ and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

*3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate.*

**Sec. 7.** NRS 433A.240 is hereby amended to read as follows:

433A.240 1. After the filing of a petition to commence proceedings for *the* involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to examine the person alleged to be mentally ill, or request an evaluation by an evaluation team from the division of the person alleged to be mentally ill.

2. To conduct the examination of a person who is not *being detained* at a mental health facility *or hospital* under emergency admission pursuant to *an application made pursuant to* NRS ~~433A.150,~~ *433A.160*, the court may order a peace officer to take the person into protective custody and transport him to a mental health facility or hospital where he may be detained until a hearing is had upon the petition.

3. ~~Unless~~ *If* the person is ~~admitted~~ *not being detained* under an emergency admission pursuant to *an application made pursuant to* NRS ~~433A.150,~~ *433A.160*, he may be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his relations or friends to the place of examination.

4. Except as otherwise provided in this subsection, each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, not later than 48 hours before the hearing set pursuant to NRS 433A.220, submit to the court in writing a summary of his findings and evaluation regarding the person alleged to be mentally ill. If the person alleged to be mentally ill is admitted under an emergency admission pursuant to *an application made pursuant to* NRS ~~433A.150,~~ *433A.160*, the written findings and evaluation must be submitted to the court not later than 24 hours before the hearing set pursuant to ~~paragraph (b) of~~ subsection 1 of NRS 433A.220.

**Sec. 8.** NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The allegedly mentally ill person or any relative or friend on his behalf is entitled to retain counsel to represent him in any proceeding before the district court relating to involuntary court-ordered admission, and if he fails or refuses to obtain counsel, the court shall advise him and his guardian or next of kin, if known, of such right to counsel and shall appoint counsel, who may be the public defender or his deputy.

2. Any counsel appointed pursuant to subsection 1 ~~shall~~ *must* be awarded compensation by the court for his services in an amount determined by it to be fair and reasonable. The compensation ~~shall~~ *must* be charged against the estate of the person for whom the counsel was appointed ~~or~~ *,* if the person is indigent, ~~the compensation shall be charged~~ against the county where the allegedly mentally ill person last resided.

3. The court shall, at the request of ~~any counsel,~~ *counsel representing the allegedly mentally ill person in proceedings before the*

*court relating to involuntary court-ordered admission*, grant a recess in the proceedings for *the shortest time possible, but for* not more than 5 days, to give the counsel an opportunity to prepare his case.

4. Each district attorney or his deputy shall appear and represent the state in all involuntary court-ordered admission proceedings in his county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered admission of a person to a mental health facility in proceedings held pursuant to NRS 433A.200 or 433A.210.

**Sec. 9.** NRS 433A.310 is hereby amended to read as follows:

433A.310 1. If the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held is *a* mentally ill *person* or exhibits observable behavior such that he is likely to harm himself or others if allowed ~~to remain at~~ *his* liberty, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held is *a* mentally ill *person* and, because of that illness, is likely to harm himself or others if allowed ~~to remain at~~ *his* liberty, the court may order the involuntary admission of the person for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. An involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. At the end of the court-ordered period of treatment, the division or any ~~nondivision~~ mental health facility *that is not operated by the division* may petition to renew the detention of the person for additional periods not to exceed 6 months each. For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

**Sec. 10.** NRS 433A.370 is hereby amended to read as follows:

433A.370 1. When a client committed by a court to a division facility on or before June 30, 1975, or a client who is judicially admitted on or after July 1, 1975, or a person who is involuntarily detained pursuant to NRS ~~433A.150~~ *433A.145* to 433A.300, inclusive, escapes from any division facility, or when a judicially admitted client has not returned to a division facility from conditional release after the administrative officer of the facility has ordered him to do so, any peace officer shall, upon written request of the administrative officer or his designee and without the

necessity of a warrant or court order, apprehend, take into custody and deliver the person to such division facility or another state facility.

2. Any person appointed or designated by the director of the department to take into custody and transport to a division facility persons who have escaped or failed to return as described in subsection 1 may participate in the apprehension and delivery of any such person, but may not take the person into custody without a warrant.

**Sec. 11.** NRS 449.710 is hereby amended to read as follows:

449.710 Every patient of a medical facility, facility for the dependent or home for individual residential care has the right to:

1. Receive information concerning any other medical or educational facility or facility for the dependent associated with the facility at which he is a patient which relates to his care.

2. Obtain information concerning the professional qualifications or associations of the persons who are treating him.

3. Receive the name of the person responsible for coordinating his care in the facility or home.

4. Be advised if the facility in which he is a patient proposes to perform experiments on patients which affect his own care or treatment.

5. Receive from his physician a complete and current description of his diagnosis, plan for treatment and prognosis in terms which he is able to understand. If it is not medically advisable to give this information to the patient, the physician shall:

(a) Provide the information to an appropriate person responsible for the patient; and

(b) Inform that person that he shall not disclose the information to the patient.

6. Receive from his physician the information necessary for him to give his informed consent to a procedure or treatment. Except in an emergency, this information must not be limited to a specific procedure or treatment and must include:

(a) A description of the significant medical risks involved;

(b) Any information on alternatives to the treatment or procedure if he requests that information;

(c) The name of the person responsible for the procedure or treatment; and

(d) The costs likely to be incurred for the treatment or procedure and any alternative treatment or procedure.

7. Examine the bill for his care and receive an explanation of the bill, whether or not he is personally responsible for payment of the bill.

8. Know the regulations of the facility or home concerning his conduct at the facility or home.

**9. *Receive, within reasonable restrictions as to time and place, visitors of his choosing, including, without limitation, friends and members of his family.***

**Sec. 12.** The amendatory provisions of this act do not apply to actions taken before October 1, 2001.

**Sec. 13.** The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

**Sec. 14.** 1. This section and sections 1 and 3 to 13, inclusive, of this act become effective on October 1, 2001.

2. Section 2 of this act becomes effective at 12:01 a.m. on October 1, 2001.