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ACLU of Nevada

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TO: Assembly Committee on Health and Human Resources

FROM: Richard Siegel, Ph.D., President of American Civil Liberties Union

RE: Comments on S.B. 82

DATE: May 7, 2003

We at the ACLU of Nevada have consulted with diverse national experts in law and public health and with such local experts as Gregory Hayes, M.D. (a former county health administrator and now Professor of Health Ecology and Public Health at UNR). We offer important suggestions for further changes in S.B. 82 that are designed to remove questionable legal and policy elements of the coercive aspects of this bill.

Our primary objections involving proposed amendments are:

1. The present bill is characterized by its dominant use of a mental health involuntary commitment model that fits communicable disease quite poorly. For example, Sec. 24 allows courts to hear testimony of "any past actions of the person alleged to have been impacted." Past actions pertain to mental health issues, not contagion. This is not the only place where the inappropriate use of the mental health legal model creates a distorted bill. (120 day orders by a court are also related to mental health, not a contagion model).

ASSEMBLY HEALTH AND HUMAN SERVICES

DATE: 05/07 ROOM: 338 EXHIBIT D1-3

SUBMITTED BY: Richard Siegel

Please amend out the language in Section 24 on past actions.

2. The notation of "least restrictive environment", a superceding legal concept, appears in Sec. 29, on page 15. We ask for an amendment that places the need for least restrictive environment according to current medical practice at the beginning of the bill in Sec. 1, as a basic principle of the legislation. Courts will apply this standard, and our health officials should have it in mind from the start.
3. Sec. 24 notes courts must consider the rights and desires of the person(s) to not be isolated or quarantined. There must be added through an amendment stating such other pertinent constitutional and statutory rights involved, including (and not limited to) the:
 - Right to refuse treatment as indicated in federal and such other Nevada Law.
4. Sec. 24. Proposed involuntary court-ordered isolation or quarantine now runs 30 days with renewal by petitions by up to another 120 days at a time.
 - a. Please amend to 14 days or less the first and second orders. How long does any contagious disease last? Not 30-150 days.
5. Where the religious or conscience exemption for treatment in Sec. 24 as is placed in earlier drafts of this bill. Please amend to make these exemptions explicit for immunization and treatment.
6. Sec. 8 refers to 72 hour emergency isolation or quarantine with continuation before court order if there is a written petition for involuntary court-ordered isolation or quarantine. Please amend to note that

such authority for emergency or temporary quarantine need be subject to a right to seek immediate injunctive relief or other court intervention to secure the immediate liberty of the subject person.

7. Emergency isolation may be applied for by a physician's assistant or registered nurse as well as a physician. In the bill a physician's assistant can also be one of two clinicians seeking or reviewing an order for quarantine lasting 30 days or more. Why so if such people are limited in their practice of medicine under current law or require physician direction and/or supervision? We ask for an amendment to ensure that such authority to initiate liberty deprivations and serve as the needed medical expert in court be available only to physicians in relation to such restrictions of liberty.
8. Notice to spouse or legal guardian should be written back into the bill. This notice should reflect "good faith effort" and both telephone and written notice.

We ask for an amendment requiring clear obligations of courts and health authorities to notify family.

Thank you for your attention. We look forward to working with the committee on these issues.