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EXPLANATION OF S.B. 403

(Prepared by the Legal Division)

This bill establishes certification requirements for a person who provides evaluations or reports to a court regarding competency of a defendant to stand trial or receive pronouncement of judgment.

Section 1 of the bill amends chapter 178 of NRS to provide a new section that requires a person who provides reports or evaluations to the court concerning the competency of a defendant to stand trial or receive pronouncements of judgment to be certified by the Division of Mental Health and Developmental Services of the Department of Human Resources. The persons who provide such reports are psychiatric social workers in the case of misdemeanors, and licensed psychiatrists and psychologists in the case of felonies. This section requires those persons to take an examination for certification from the Division of Mental Health and Developmental Services, and obtain continuing education as required by the Division. The Division is required to adopt regulations setting forth the requirements for certification, for continuing education and for fees that may be charged for the issuance and renewal of a certificate.

Section 2 of the bill amends NRS 178.415, which provides for the court appointment of a person to examine a defendant for competency, to require a court to appoint only a person who has been certified pursuant to section 1.

Section 3 of the bill amends NRS 178.455, which provides procedures for evaluating certain defendants following a finding of incompetence, to require that any psychiatrist or psychologist appointed by the Division to evaluate a defendant is certified pursuant to section 1.

Section 4 of the bill provides a transitory provision requiring the Division to adopt regulations by not later than December 31, 2003, and to begin administering examinations for certification by not later than March 1, 2004.

Section 5 of the bill provides that this act becomes effective on July 1, 2003, for the purposes of adopting regulations, and on July 1, 2004, for all other purposes.