
ASSEMBLY BILL NO. 37—COMMITTEE ON HEALTH
AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
CHILDREN, YOUTH AND FAMILIES)

PREFILED FEBRUARY 4, 2005

Referred to Committee on Health and Human Services

SUMMARY—Transfers duties relating to mental health of children from Division of Child and Family Services of Department of Human Resources to Division of Mental Health and Developmental Services of Department. (BDR 39-669)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 mental health; providing for the transfer of duties relating to the mental health of children from the Division of Child and Family Services of the Department of Human Resources to the Division of Mental Health and Developmental Services of the Department; revising provisions governing the discharge of a child from a facility of the Division of Mental Health and Developmental Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the Division of Child and Family Services of the
2 Department of Human Resources to administer the facilities and programs for
3 mental health services for children. (Chapter 433B of NRS)
4 This bill transfers the authority to the Division of Mental Health and
5 Developmental Services of the Department.
6 This bill requires the administrative officer or his designee of a treatment
7 facility or other division facility to begin planning for the discharge of a child from
8 the facility as soon as the child is admitted to the facility. The facility must release a
9 child to an appropriate placement not later than 48 hours after the child has
10 stabilized and is no longer in need of treatment.



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

Section 1. NRS 433.327 is hereby amended to read as follows:
433.327 Every employee of the Division ~~[, and every person employed by the Division of Child and Family Services of the Department pursuant to NRS 433B.010 to 433B.350, inclusive,]~~ is entitled to submit written information or requests directly to the Commission or its individual members, or appear before it with its permission, but the Commission shall not interfere with the procedures for resolving the grievances of employees in the classified service of the State.

Sec. 2. NRS 433.431 is hereby amended to read as follows:

433.431 As used in NRS 433.431 to 433.454, inclusive, 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, treatment to competency, or training in a division facility.

2. "Division facility" means any unit or subunit operated by ~~[~~
~~—(a) The Division of Mental Health and Developmental Services of the Department]~~ *the Division* 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. 3. NRS 433.461 is hereby amended to read as follows:

433.461 "Facility" means any:

1. Unit or subunit operated by the 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. 4. NRS 433.538 is hereby amended to read as follows:

433.538 As used in NRS 433.538 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, treatment to competency or training in a division facility.



3. "Division facility" means any unit or subunit operated by ~~the~~
~~(a) The Division of Mental Health and Developmental Services~~
~~of the Department]~~ **the Division** 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. 5. NRS 433.554 is hereby amended to read as follows:

433.554 1. An employee of a public or private mental health
facility or any other person, except a client, who:

(a) Has reason to believe that a client of the Division or of a
private facility offering mental health services has been or is being
abused or neglected and fails to report it;

(b) Brings intoxicating beverages or a controlled substance into
any division facility occupied by clients unless specifically
authorized to do so by the administrative officer or a staff physician
of the facility;

(c) Is under the influence of liquor or a controlled substance
while employed in contact with clients, unless in accordance with a
lawfully issued prescription;

(d) Enters into any transaction with a client involving the
transfer of money or property for personal use or gain at the expense
of the client; or

(e) Contrives the escape, elopement or absence of a client,
➤ is guilty of a misdemeanor, in addition to any other penalties
provided by law.

2. In addition to any other penalties provided by law, an
employee of a public or private mental health facility or any other
person, except a client, who willfully abuses or neglects a client:

(a) For a first violation that does not result in substantial bodily
harm to the client, is guilty of a gross misdemeanor.

(b) For a first violation that results in substantial bodily harm to
the client, is guilty of a category B felony.

(c) For a second or subsequent violation, is guilty of a category
B felony.

➤ A person convicted of a category B felony pursuant to this
section shall be punished by imprisonment in the state prison for a
minimum term of not less than 1 year and a maximum term of not
more than 6 years, or by a fine of not more than \$5,000, or by both
fine and imprisonment.

3. A person who is convicted pursuant to this section is
ineligible for 5 years for appointment to or employment in a position
in the state service and, if he is an officer or employee of the State,
he forfeits his office or position.



4. A conviction pursuant to this section is, when applicable, grounds for disciplinary action against the person so convicted and the facility where the violation occurred. The Division may recommend to the appropriate agency or board the suspension or revocation of the professional license, registration, certificate or permit of a person convicted pursuant to this section.

5. For the purposes of this section:

(a) "Abuse" means any willful and unjustified infliction of pain, injury or mental anguish upon a client, including, but not limited to:

(1) The rape, sexual assault or sexual exploitation of the client;

(2) The use of any type of aversive intervention;

(3) Except as otherwise provided in NRS 433.5486, a violation of NRS 433.549; and

(4) The use of physical, chemical or mechanical restraints or the use of seclusion in violation of federal law.

➤ Any act which meets the standard of practice for care and treatment does not constitute abuse.

(b) "Client" includes any person who seeks, on his own or others' initiative, and can benefit from, care, treatment and training in a public or private institution or facility offering mental health services, or from treatment to competency in a public or private institution or facility offering mental health services. ~~[The term includes a client of the Division of Child and Family Services of the Department.]~~

(c) "Neglect" means any omission to act which causes injury to a client or which places the client at risk of injury, including, but not limited to, the failure to follow:

(1) An appropriate plan of treatment to which the client has consented; and

(2) The policies of the facility for the care and treatment of clients.

➤ Any omission to act which meets the standard of practice for care and treatment does not constitute neglect.

(d) "Standard of practice" means the skill and care ordinarily exercised by prudent professional personnel engaged in health care.

Sec. 6. 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 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.



1 **Sec. 7.** NRS 433A.011 is hereby amended to read as follows:
2 433A.011 As used in this chapter, unless the context otherwise
3 requires, ~~[the words and terms defined in NRS 433A.012 to~~
4 ~~433A.018, inclusive, have the meanings ascribed to them in those~~
5 ~~sections.]~~ *“client” means any person who seeks, on his own or*
6 *another’s initiative, and can benefit from, care, treatment,*
7 *treatment to competency or training provided by the Division.*

8 **Sec. 8.** Chapter 433B of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 1. *Upon the admission of a child to a treatment facility or any*
11 *other division facility pursuant to the provisions of this chapter,*
12 *the administrative officer of the facility or his designee shall begin*
13 *immediately to commence planning for the discharge of the child*
14 *from the facility.*

15 2. *A treatment facility or any other division facility shall*
16 *release a child to an appropriate placement not later than 48*
17 *hours after the administrative officer of the facility or his designee*
18 *determines that the child has stabilized and is no longer in need of*
19 *treatment.*

20 **Sec. 9.** NRS 433B.130 is hereby amended to read as follows:

21 433B.130 1. The Administrator shall:

22 (a) Administer, in accordance with the policies established by
23 the Commission, the programs of the Division for the mental health
24 of children.

25 (b) Appoint the administrative personnel necessary to operate
26 the programs of the Division for the mental health of children. The
27 Commission must approve the credentials, training and experience
28 of deputy administrators and administrative officers appointed for
29 this purpose.

30 (c) Delegate to the administrative officers the power to appoint
31 medical, technical, clerical and operational staff necessary for the
32 operation of any division facilities.

33 2. If the Administrator finds that it is necessary or desirable
34 that any employee reside at a facility operated by the Division or
35 receive meals at such a facility, perquisites granted or charges for
36 services rendered to that person are at the discretion of the
37 Governor.

38 3. The Administrator may accept children referred to the
39 Division for treatment pursuant to the provisions of NRS 458.290 to
40 458.350, inclusive.

41 ~~[4. The Administrator may enter into agreements with the~~
42 ~~Administrator of the Division of Mental Health and Developmental~~
43 ~~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 Health and Developmental Services.}]~~

Sec. 10. 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 Division ~~[of Mental Health and Developmental Services of the Department]~~ pursuant to NRS 433.331.

Sec. 11. NRS 433B.333 is hereby amended to read as follows:

433B.333 1. A mental health consortium is hereby established in each of the following jurisdictions:

(a) A county whose population is 100,000 or more; and

(b) The region consisting of all counties whose population ~~[are]~~ *is* less than 100,000.

2. In a county whose population is 100,000 or more, such a consortium must consist of at least the following persons appointed by the Administrator:

(a) A representative of the Division;

(b) A representative of the agency which provides child welfare services;

(c) A representative of the Division of Health Care Financing and Policy of the Department;

(d) A representative of the board of trustees of the school district in the county;

(e) A representative of the local juvenile probation department;

(f) A representative of the local chamber of commerce or business community;

(g) A private provider of mental health care;

(h) A provider of foster care; and

(i) A parent of an emotionally disturbed child.

3. In the region consisting of counties whose population ~~[are]~~ *is* less than 100,000, such a consortium must consist of at least the following persons appointed by the Administrator:

(a) a representative of the Division ; ~~[of Mental Health and Developmental Services of the Department];]~~

(b) A representative of the agency which provides child welfare services in the region;



(c) A representative of the Division of Health Care Financing and Policy of the Department;

(d) A representative of the boards of trustees of the school districts in the region;

(e) A representative of the local juvenile probation departments;

(f) A representative of the chambers of commerce or business community in the region;

(g) A private provider of mental health care;

(h) A provider of foster care; and

(i) A parent of an emotionally disturbed child.

Sec. 12. NRS 232.400 is hereby amended to read as follows:

232.400 1. The purposes of the Division are to:

(a) Provide a comprehensive state system for the coordination and provision of services to children and families who need assistance relating to juvenile justice and the care ~~[, welfare and mental health]~~ and *welfare* of children.

(b) Aid in the preservation, rehabilitation and reunification of families.

(c) Ensure that children are placed in the least restrictive environment available which is appropriate to their needs.

(d) Coordinate and provide services for youth who are in need of residential care or in need of treatment or both.

2. In accomplishing its purposes, the Division shall:

(a) Establish and coordinate a system for:

(1) The diagnosis and assessment of the needs of particular children and families, including those in need of multiple services;

(2) The referral of children and families to appropriate services; and

(3) The management and monitoring of cases in which children and families are referred to multiple services.

(b) Plan and coordinate the provision of services for the support of families to:

(1) Maintain the integrity of families;

(2) Ensure that children are not unnecessarily removed from their homes; and

(3) Ensure that families are reunited as soon as practicable after the removal of children from their homes.

(c) Ensure that a sufficient range of services is available to provide care and treatment to children and families in the least restrictive setting appropriate to their needs.

(d) Work closely with other governmental agencies and with public and private agencies providing the same or similar services.

3. The Division shall develop standards for carrying out programs aimed toward the prevention of delinquent acts of children



1 and programs for the treatment of those brought to its attention. It
2 shall assist in the development of programs for the predelinquent
3 children whose behavior tends to lead them into contact with law
4 enforcement agencies.

5 4. The Division shall develop and assist in carrying out
6 programs for the diversion of juveniles out of the judicial system
7 and programs for the aftercare of juveniles who have been released
8 from state institutions, who have been brought before the juvenile
9 court or family court or have otherwise come into contact with law
10 enforcement agencies. The Administrator of the Division shall
11 observe and evaluate the success of those programs.

12 **Sec. 13.** NRS 232.440 is hereby amended to read as follows:

13 232.440 1. The Administrator shall appoint, with the
14 approval of the Director, a chief of each of the bureaus in the
15 Division. The chiefs are designated respectively as:

16 (a) The Superintendent of the Nevada Youth Training Center;

17 (b) The Superintendent of the Caliente Youth Center;

18 (c) The Superintendent of the Northern Nevada Children's
19 Home;

20 (d) The Superintendent of the Southern Nevada Children's
21 Home;

22 (e) The Chief of the Bureau of Services for Child Care; and

23 (f) The Chief of the Youth Parole Bureau.

24 2. The Administrator is responsible for the administration,
25 through the Division, of the provisions of chapters 63, 423 and 424
26 of NRS, NRS 127.220 to 127.310, inclusive, 232.400 to 232.465,
27 inclusive, **and** 432.010 to 432.085, inclusive, ~~and 433B.010 to~~
28 ~~433B.350, inclusive,~~ and all other provisions of law relating to the
29 functions of the Division, but is not responsible for the professional
30 activities of the components of the Division except as specifically
31 provided by law.

32 **Sec. 14.** NRS 433A.012, 433A.013, 433A.014, 433A.015,
33 433A.016, 433A.017, 433A.018, 433B.030, 433B.060, 433B.090
34 and 433B.140 are hereby repealed.

35 **Sec. 15.** 1. Any facility designated or established as a
36 division facility of the Division of Child and Family Services of the
37 Department of Human Resources pursuant to the provisions of NRS
38 433B.110 becomes a division facility of the Division of Mental
39 Health and Developmental Services of the Department of Human
40 Resources on July 1, 2005.

41 2. Any regulations adopted by the Division of Child and
42 Family Services pursuant to the provisions of NRS 433B.190 shall
43 be deemed to be the regulations of, and may be enforced and



1 amended by, the Division of Mental Health and Developmental
2 Services.

3 3. Any contracts or agreements entered into by the Division of
4 Child and Family Services pursuant to the provisions of NRS
5 433B.210 or 433B.220 are binding upon the Division of Mental
6 Health and Developmental Services. Such contracts or other
7 agreements may be enforced by the Division of Mental Health and
8 Developmental Services.

9 4. Any fee schedule established by the Division of Child and
10 Family Services pursuant to the provisions of NRS 433B.250
11 remains in effect until a new fee schedule is established by the
12 Division of Mental Health and Developmental Services.

13 5. Any member of a mental health consortium established
14 pursuant to the provisions of NRS 433B.333 who was appointed to
15 the consortium as a representative of the Division of Child and
16 Family Services remains a member of the consortium until replaced
17 by a representative of the Division of Mental Health and
18 Developmental Services in accordance with the provisions of NRS
19 433B.333, as amended by section 11 of this act.

20 6. All administrative personnel employed by the Division of
21 Child and Family Services pursuant to the provisions of NRS
22 433B.130 become employees of the Division of Mental Health and
23 Developmental Services on July 1, 2005.

24 7. Any physician who is employed by the Division of Child
25 and Family Services within a division facility pursuant to the
26 provisions of NRS 433B.150 becomes an employee of the Division
27 of Mental Health and Developmental Services on July 1, 2005.

28 8. The Director of the Department of Human Resources shall
29 identify any other employees of the Division of Child and Family
30 Services whose duties are transferred pursuant to the provisions of
31 sections 1 to 14, inclusive, of this act from the Division of Child and
32 Family Services to the Division of Mental Health and
33 Developmental Services and shall cause the transfer of such of those
34 employees as he determines necessary to the Division of Mental
35 Health and Developmental Services.

36 **Sec. 16.** This act becomes effective on July 1, 2005.

TEXT OF REPEALED SECTIONS

433A.012 “Administrative officer” defined.
“Administrative officer” means a person with overall executive and



administrative responsibility for those state or nonstate facilities for mental health or mental retardation designated by the Administrator.

433A.013 “Administrator” defined. “Administrator” means:

1. Except as otherwise provided in subsection 2, the Administrator of the 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.

433A.014 “Client” defined. “Client” means any person who seeks, on his own or another’s initiative, and can benefit from, care, treatment, treatment to competency or training provided by the Division.

433A.015 “Division” defined. “Division” means:

1. Except as otherwise provided in subsection 2, the 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.

433A.016 “Division facility” defined. “Division facility” means:

1. Except as otherwise provided in subsection 2, any unit or subunit operated by the 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.

433A.017 “Medical director” defined. “Medical director” means the chief medical officer of any program of the Division of Mental Health and Developmental Services of the Department.

433A.018 “Person professionally qualified in the field of psychiatric mental health” defined. “Person professionally qualified in the field of psychiatric mental health” means:

1. A psychiatrist licensed to practice medicine in this State who is 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

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS.

433B.030 "Administrator" defined. "Administrator" means the Administrator of the Division.

433B.060 "Division" defined. "Division" means the Division of Child and Family Services.

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

1. A psychiatrist licensed to practice medicine in 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 Division of Mental Health and Developmental Services of the Department; or

5. A marriage and family therapist licensed pursuant to chapter 641A of NRS.

433B.140 Coordination with Administrator of Division of Mental Health and Developmental Services of the Department: Compliance with agreements; acceptance of clients. The Administrator shall:

1. Comply with any agreements made by the Administrator of the 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 Division of Mental Health and Developmental Services of the Department pursuant to NRS 433.444.



