

Amendment No. 850

Senate Amendment to Assembly Bill No. 369 First Reprint (BDR 38-717)

Proposed by: Committee on Human Resources and Education**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
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Amend section 1, page 1, line 2, by deleting “11,” and inserting “17,”.

Amend sec. 2, page 1, line 4, by deleting “11,” and inserting “17,”.

Amend sec. 2, page 1, line 6, by deleting “*and 4*” and inserting:

“*to 6, inclusive,*”.

Amend the bill as a whole by renumbering sec. 3 as sec. 4 and adding a new section designated sec. 3, following sec. 2, to read as follows:

“**Sec. 3.** “*Emotionally disturbed child*” has the meaning ascribed to it in NRS 433B.080.”.

Amend sec. 3, page 1, by deleting lines 8 and 9 and inserting:

“**Sec. 4.** “*Facility*” means a psychiatric hospital or facility which provides residential treatment for mental illness that has a unit in the hospital or facility capable of being locked to prevent an emotionally disturbed child from leaving the hospital or facility.”.

YMG/LH

Date: 5/25/2005

A.B. No. 369—Establishes certain procedures and requirements for admission of children who are in custody of agencies which provide child welfare services to mental health facilities.



Amend the bill as a whole by renumbering sec. 4 as sec. 6 and adding a new section designated sec. 5, following sec. 3, to read as follows:

“Sec. 5. “Person professionally qualified in the field of psychiatric mental health” has the meaning ascribed to it in NRS 433A.018.”.

Amend the bill as a whole by renumbering sections 5 through 10 as sections 9 through 14 and adding new sections designated sections 7 and 8, following sec. 4, to read as follows:

“Sec. 7. A proceeding for a court-ordered admission of a child alleged to be an emotionally disturbed child who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

1. By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be emotionally disturbed and has concluded that the child is emotionally disturbed and, because of that condition is likely to harm himself or others if allowed his liberty; or

2. By a sworn written statement by the petitioner that:

(a) The petitioner has, based upon his personal observation of the child alleged to be emotionally disturbed, probable cause to believe that the child is emotionally disturbed and, because of that condition is likely to harm himself or others if allowed his liberty; and

(b) The child alleged to be emotionally disturbed has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

Sec. 8. 1. *Except as otherwise provided in section 9 of this act, if the court finds, after proceedings for the court-ordered admission of a child alleged to be an emotionally disturbed child who is in the custody of an agency which provides child welfare services to a facility:*

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

(b) *That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child 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 admission, the child is unconditionally released from the facility pursuant to section 16 of this act.*

2. *Before issuing an order for 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 child, or other persons professionally qualified in the field of psychiatric mental health, which, the court believes may be in the best interests of the child.*

Amend sec. 5, page 2, line 3, after "1." by inserting:

"An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has

petitioned the court for the court-ordered admission of the child to a facility pursuant to section 7 of this act.

2. If a petition for the court-ordered admission of a child filed pursuant to section 7 of this act is accompanied by the information described in subsection 2 of section 7 of this act, the court shall order a psychological evaluation of the child.

3.”.

Amend sec. 5, page 2, line 4, by deleting:

“NRS 433A.200 for the involuntary” and inserting:

“section 7 of this act for the”.

Amend sec. 5, page 2, line 7, by deleting:

“3 of NRS 433A.310” and inserting:

“2 of section 8 of this act”.

Amend sec. 5, page 2, line 13, by deleting *“2;”* and inserting *“4;”*.

Amend sec. 5, page 2, line 18, after *“professionals”* by inserting:

“or any adult caretakers”.

Amend sec. 5, page 2, by deleting line 20 and inserting:

“4. If a petition for the court-ordered admission of”.

Amend sec. 5, page 2, line 22, by deleting *“NRS 433A.200:”* and inserting:

“section 7 of this act:”.

Amend sec. 5, page 2, line 24, by deleting *“involuntary”*.

Amend sec. 5, page 2, by deleting lines 32 through 36.

Amend sec. 6, page 2, by deleting lines 39 and 40 and inserting:

“been admitted to a facility pursuant to section 8 of this act, the agency which provides child welfare services shall”.

Amend sec. 6, page 2, line 41, by deleting:

“rights pursuant to NRS 433.472” and inserting:

“legal rights and the provisions of NRS 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and sections 2 to 17, inclusive, of this act”.

Amend sec. 6, pages 2 and 3, by deleting lines 44 and 45 on page 2 and lines 1 and 2 on page 3, and inserting:

“that includes a physician, psychiatrist or licensed psychologist other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility.”.

Amend sec. 7, page 3, line 12, by deleting “NRS 433A.310” and inserting:

“sections 8 and 12 of this act”.

Amend sec. 7, page 3, line 13, by deleting “involuntary”.

Amend sec. 7, page 3, line 19, by deleting:

“social worker or teacher” and inserting:

“licensed clinical social worker or other professional or any adult caretaker”.

Amend sec. 7, page 3, line 26, by deleting “involuntary” and inserting “court-ordered”.

Amend sec. 8, page 3, line 30, by deleting “involuntary”.

Amend sec. 8, page 3, lines 32 and 33, by deleting:

“NRS 433A.310, the involuntary” and inserting:

“section 8 of this act, the”.

Amend sec. 8, page 3, line 35, by deleting “*NRS 433A.390.*” and inserting:

“section 16 of this act.”

Amend sec. 8, page 3, line 39, by deleting “*detention*” and inserting “*admission*”.

Amend sec. 9, page 4, line 1, by deleting “*involuntarily*”.

Amend sec. 9, page 4, line 2, by deleting “*NRS 433A.310*” and inserting:

“section 8 of this act”.

Amend sec. 9, page 4, line 7, by deleting “*involuntarily*”.

Amend sec. 9, page 4, line 8, by deleting “*NRS 433A.310*” and inserting:

“section 8 of this act”.

Amend sec. 9, page 4, line 9, by deleting “*8*” and inserting “*12*”.

Amend sec. 10, page 4, line 26, by deleting “*433.482,*” and inserting:

“433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and sections 2 to 17, inclusive, of this act,”.

Amend the bill as a whole by renumbering sec. 11 as sec. 17 and adding new sections designated sections 15 and 16, following sec. 10, to read as follows:

“Sec. 15. 1. Except as otherwise provided in subsection 3, any child who is admitted to a facility by a court pursuant to section 8 of this act may be conditionally released from the facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the child and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment specified pursuant to section 12 of this act.

2. *When a child is conditionally released pursuant to subsection 1, the State or a county, or any of its agents or employees, are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the child.*

3. *A child who was admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him and to the attorney of the agency which provides child welfare services that initiated the proceedings for admission.*

4. *Except as otherwise provided in subsection 6, the administrative officer of a facility or his designee shall order a child who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that child's treatment team who is professionally qualified in the field of psychiatric mental health determine that the conditional release is no longer appropriate because that child presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the child to the facility. If an emergency exists in which the child presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court not later than 1 business day after the order is issued.*

5. *The court shall review an order submitted pursuant to subsection 4 and the current condition of the child who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for court-ordered admissions, but in no event later than 5 judicial days after the child is returned to the facility. The administrative officer or his designee shall give written notice to the agency which provides child welfare services, the child who was*

ordered to return to the facility and to the child's attorney of the time, date and place of the hearing and of the facts necessitating that child's return to the facility.

6. The provisions of subsection 4 do not apply if the period of conditional release has expired.

Sec. 16. 1. When a child who is admitted to a facility by a court pursuant to section 8 of this act is released at the end of the court-ordered period of treatment specified pursuant to section 12 of this act, written notice must be given to the admitting court at least 10 days before the release of the child. The child may then be released without requiring further orders of the court.

2. A child who is admitted to a facility by a court pursuant to section 8 of this act may be unconditionally released before the court-ordered period of treatment specified in section 12 of this act when:

(a) An evaluation team, including, without limitation, an evaluation team that conducts an examination pursuant to section 10 of this act, or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the child has recovered from his emotional disturbance or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the facility authorizes the release and gives written notice to the admitting court at least 10 days before the release of the child.”.

Amend sec. 11, page 4, line 42, by deleting “**11**,” and inserting “**17**,”.

Amend the bill as a whole by renumbering sec. 12 as sec. 19 and adding a new section designated sec. 18, following sec. 11, to read as follows:

“**Sec. 18.** NRS 433A.200 is hereby amended to read as follows:

433A.200 1. ~~[A]~~ *Except as otherwise provided in section 7 of this act, 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 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]~~ *Except as otherwise provided in section 7 of this act, 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.”.

Amend sec. 12, page 5, line 2, by deleting “*section 5*” and inserting:

“*sections 8 and 9*”.

Amend sec. 12, page 5, lines 20 and 25, by deleting “8” and inserting “12”.

Amend the bill as a whole by deleting sections 13 and 14 and renumbering sec. 15 as sec. 20.

Amend the title of the bill to read as follows:

“AN ACT relating to children; authorizing an agency which provides child welfare services to file a petition for the court-ordered admission to certain facilities of a child who is alleged to be an emotionally disturbed child and who is in the custody of the agency; requiring a court which is hearing such a petition to place the child in a less restrictive environment under certain circumstances; establishing a maximum period of days for which such children may be ordered by a court to be admitted to certain facilities; establishing certain rights for such children who are admitted to certain facilities; establishing procedures for the conditional and unconditional release of such children under certain circumstances; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Establishes certain procedures and requirements for court-ordered admission of emotionally disturbed children who are in custody of agencies which provide child welfare services to certain facilities. (BDR 38-717)”.