

Assembly Bill No. 490–Committee on
Health and Human Services

CHAPTER.....

AN ACT relating to mentally ill persons; requiring a court to seal certain records relating to a person admitted to a public or private mental health facility or hospital under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person who has been admitted to a mental health facility to file a petition to seal court and clinical records relating to his admission and treatment. (NRS 433A.703) If the court finds that the person has recovered or his illness is in substantial remission, the court must seal all court and clinical records relating to the person's admission and treatment. (NRS 433A.709) The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred. (NRS 433A.711) **Section 2** of this bill repeals these provisions relating to petitioning a court to seal court and clinical records. (NRS 433A.701-433A.711)

Section 1 of this bill requires a court to seal all court records relating to the admission and treatment of a person who has been admitted to a public or private hospital or mental health facility for the purpose of obtaining mental health treatment, either voluntarily or as the result of a noncriminal proceeding. However, under **section 1**, a court may order the inspection of these records under certain circumstances if the court holds a hearing and the person who is seeking to inspect the records provides notice of the hearing to the person who is the subject of the records. A governmental entity may inspect court records sealed pursuant to **section 1** without following these procedures if the governmental entity has made a conditional offer of certain employment concerning public safety to the person and that person provides written consent to the inspection of the records. A court may, upon its own order, inspect records sealed pursuant to **section 1** without following these procedures if the records are necessary and relevant for the disposition of a matter pending before the court. The effect of the sealing of such records is that the person's admission is deemed never to have occurred and the person may answer any question relating to the admission as if the admission had never occurred, except under certain circumstances.

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A court shall seal all court records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital or mental health facility in this State for the purpose of obtaining mental health treatment.



2. Except as otherwise provided in subsections 4 and 5, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a time for a hearing of the matter. The petitioner must provide notice of the hearing and a copy of the petition to the person who is the subject of the records. If the person who is the subject of the records wishes to oppose the petition, the person must appear before the court at the hearing. If the person appears before the court at the hearing, the court must provide the person an opportunity to be heard on the matter.

3. After the hearing described in subsection 2, the court may order the inspection of records that are sealed pursuant to this section if:

(a) A law enforcement agency must obtain or maintain information concerning persons who have been admitted to a public or private hospital or mental health facility in this State pursuant to state or federal law;

(b) A prosecuting attorney or an attorney who is representing the person who is the subject of the records in a criminal action requests to inspect the records; or

(c) The person who is the subject of the records petitions the court to permit the inspection of the records by a person named in the petition.

4. A governmental entity is entitled to inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if:

(a) The governmental entity has made a conditional offer of employment to the person who is the subject of the records;

(b) The position of employment conditionally offered to the person concerns public safety, including, without limitation, employment as a firefighter or peace officer;

(c) The governmental entity is required by law, rule, regulation or policy to obtain the mental health records of each individual conditionally offered the position of employment; and

(d) An authorized representative of the governmental entity presents to the court a written authorization signed by the person who is the subject of the records and notarized by a notary public or judicial officer in which the person who is the subject of the records consents to the inspection of the records.

5. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records



are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

6. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or private hospital or mental health facility is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

7. As used in this section:

(a) "Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires. As used in this paragraph, "fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) "Seal" means placing records in a separate file or other repository not accessible to the general public.

Sec. 2. NRS 433A.701, 433A.703, 433A.705, 433A.707, 433A.709 and 433A.711 are hereby repealed.

Sec. 3. This act becomes effective on July 1, 2007.

