

ASSEMBLY BILL NO. 490—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 22, 2007

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the sealing of records concerning a person's admission to a hospital or mental health facility under certain circumstances. (BDR 39-1376)

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 mentally ill persons; requiring a court to seal 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 1 of this bill requires a court to seal all court and clinical 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. 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 and clinical 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 subsection 4, 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;

(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; or

(d) The person who is the subject of the records is being treated by a physician or licensed psychologist, and the physician or psychologist:

(1) Determines that it is necessary to obtain a copy of the person's records from the public or private hospital or mental health facility; and



1 (2) Agrees to use the records solely for the medical
2 treatment or medical analysis of the person.

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

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

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

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

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

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

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

26 (b) A transfer of a firearm; or

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

29 6. As used in this section:

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

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

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

41 Sec. 2. NRS 433A.701, 433A.703, 433A.705, 433A.707,
42 433A.709 and 433A.711 are hereby repealed.

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



LEADLINES OF REPEALED SECTIONS

- 433A.701 Definitions.
433A.703 Right to petition for sealing of records.
433A.705 Petition: Filing, contents and supplemental documents.
433A.707 Notice of hearing on petition.
433A.709 Hearing; determination; court order.
433A.711 Effect of sealing records; inspection after sealing.

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