

Amendment No. 547

Assembly Amendment to Assembly Bill No. 368 (BDR 39-155)

Proposed by: Assembly Committee on Judiciary**Amendment Box:** Replaces Amendment No. 410.**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

RBL



Date: 4/20/2009

A.B. No. 368—Authorizes courts to admit involuntarily certain persons to programs for community-based or outpatient services under certain circumstances. (BDR 39-155)



ASSEMBLY BILL NO. 368--ASSEMBLYMEN STEWART, HARDY; CHRISTENSEN,
CLABORN, GUSTAVSON, HAMBRICK, MUNFORD, SETTELMAYER AND
WOODBURY

MARCH 16, 2009

Referred to Committee on Judiciary

SUMMARY—Authorizes courts to ~~[admit involuntarily]~~ **require the involuntary participation of** certain persons ~~[to] in programs [for] of~~ community-based or outpatient services under certain circumstances. (BDR 39-155)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; authorizing courts to ~~[admit involuntarily]~~ **require the involuntary participation of** certain persons suffering from mental illness ~~[to] in programs [for] of~~ community-based or outpatient services under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the process for initiating a petition for an involuntary court-ordered admission to a mental health facility of a person alleged to be a person with mental illness. Under existing law, the courts must place the person in the most appropriate course of treatment. (NRS 433A.115-433A.330) This bill ~~[amends the existing authority of]~~ **further authorizes** the courts which hear petitions for involuntary admission to ~~[provide that a court may involuntarily admit]~~ **require** a person to **participate in** a program of community-based or outpatient services if such program is appropriate for that person ~~[and certain conditions are satisfied]~~. **Section 12** of this bill sets forth the requirements for participation in community-based or outpatient services, including that the person be 18 years of age or older, the person have a history of noncompliance with treatment for mental health and the court approves a plan of treatment for the person. (NRS 433A.310). **In addition, a person may not be ordered to participate in such a program unless such a program is available and the county has appropriated sufficient funds to pay for the proceedings.** **Section 3** of this bill prescribes the contents of a plan of treatment and requires the plan to be developed by persons who are qualified in the mental health field in consultation with the person who is the subject of the plan. **Section 4 of this bill provides for the conditional release of a person who has been ordered to participate in a program of community-based or outpatient services, and for the revocation of the conditional release.**

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 the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“Program of community-based or outpatient services” means care, treatment and training provided to persons with mental illness, including, without limitation:*

- 1. A program or service for the treatment of abuse of alcohol;*
- 2. A program or service for the treatment of abuse of drugs;*
- 3. A program of general education or vocational training;*
- 4. A program or service that assists in the dispensing or monitoring of medication;*
- 5. A program or service that provides counseling or therapy;*
- 6. A service which provides screening tests to detect the presence of alcohol or drugs;*
- 7. A program of supervised living; or*
- 8. Any combination of programs and services for persons with mental illness.*

• The term does not include care, treatment and training provided to residents of a mental health facility.

Sec. 3. *If a court determines pursuant to subsection 1 of NRS 433A.310 that the subject of a petition should be involuntarily ~~admitted~~ required to participate in a program of community-based or outpatient services ~~and~~ and all the conditions set forth in subsection 2 of NRS 433A.310 are satisfied, the court shall promptly cause two or more persons professionally qualified in the field of psychiatric mental health, which may include the petitioner if the petitioner is so qualified, in consultation with the subject of the petition, to develop and submit to the court a written plan prescribing a course of treatment and enumerating the community-based or outpatient services for the subject of the petition. The plan must include, without limitation:*

- 1. A description of the types of services in which the subject of the petition will participate;*
- 2. The medications, if any, which the subject of the petition must take and the manner in which those medications will be administered;*
- 3. The name of the person professionally qualified in the field of psychiatric mental health who is responsible for providing or coordinating the community-based or outpatient services; and*
- 4. Any other requirements deemed necessary by the court.*

Sec. 4. *1. Except as otherwise provided in subsection 3, any person involuntarily ~~admitted~~ required to participate in a program of community-based or outpatient services may be conditionally released from the program when, in the judgment of the professional responsible for providing or coordinating the community-based or outpatient services, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The professional 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 admission~~ during which the person is required to participate in a program of community-based or outpatient services pursuant to NRS 433A.310.*

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual

1 obligations, medical or otherwise, incurred or damages caused by the actions of
2 the person who is released.

3 3. A person who is involuntarily ~~admitted~~ required to participate in a
4 program of community-based or outpatient services may be conditionally released
5 only if, at the time of the release, written notice is given to the court which
6 ordered him to participate in the program and to the district attorney of the
7 county in which the proceedings for admission were held.

8 4. Except as otherwise provided in subsection 6, the professional
9 responsible for providing or coordinating the community-based or outpatient
10 services shall order a person who is conditionally released pursuant to subsection
11 1 to resume participation in the community-based or outpatient services if the
12 professional determines that the conditional release is no longer appropriate
13 because that person presents a clear and present danger of harm to himself or
14 others. Except as otherwise provided in this subsection, the professional shall, at
15 least 3 days before the issuance of the order to resume participation, give written
16 notice of the order to the court that ~~admitted~~ required the person to participate
17 in the program of community-based or outpatient services. If an emergency exists
18 in which the person presents an imminent threat of danger of harm to himself or
19 others, the order must be submitted to the court not later than 1 business day
20 after the order is issued.

21 5. The court shall review an order submitted pursuant to subsection 4 and
22 the current condition of the person who was ordered to resume participation in a
23 program of community-based or outpatient services at its next regularly
24 scheduled hearing for the review of petitions for involuntary admissions, but in
25 no event later than 5 judicial days after participation is resumed. The
26 professional responsible for providing or coordinating the community-based or
27 outpatient services to the person who was ordered to resume participation shall
28 give written notice to that person and to his attorney, if the person is represented,
29 of the time, date and place of the hearing and of the facts necessitating that the
30 person resume participation in the program.

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

33 **Sec. 5.** NRS 433A.011 is hereby amended to read as follows:

34 433A.011 As used in this chapter, unless the context otherwise requires, the
35 words and terms defined in NRS 433A.012 to 433A.018, inclusive, and section 2
36 of this act have the meanings ascribed to them in those sections.

37 **Sec. 6.** NRS 433A.115 is hereby amended to read as follows:

38 433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, and
39 sections 3 and 4 of this act, unless the context otherwise requires, "person with
40 mental illness" means any person whose capacity to exercise self-control, judgment
41 and discretion in the conduct of his affairs and social relations or to care for his
42 personal needs is diminished, as a result of a mental illness, to the extent that he
43 presents a clear and present danger of harm to himself or others, but does not
44 include any person in whom that capacity is diminished by epilepsy, mental
45 retardation, Alzheimer's disease, brief periods of intoxication caused by alcohol or
46 drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness
47 that can be diagnosed is also present which contributes to the diminished capacity
48 of the person.

49 2. A person presents a clear and present danger of harm to himself if, within
50 the next preceding 30 days, he has, as a result of a mental illness:

51 (a) Acted in a manner from which it may reasonably be inferred that, without
52 the care, supervision or continued assistance of others, he will be unable to satisfy
53 his need for nourishment, personal or medical care, shelter, self-protection or

1 safety, and if there exists a reasonable probability that his death, serious bodily
2 injury or physical debilitation will occur within the next following 30 days unless
3 he is admitted to a mental health facility pursuant to the provisions of NRS
4 433A.115 to 433A.330, inclusive, *and sections 3 and 4 of this act* and adequate
5 treatment is provided to him;

6 (b) Attempted or threatened to commit suicide or committed acts in furtherance
7 of a threat to commit suicide, and if there exists a reasonable probability that he will
8 commit suicide unless he is admitted to a mental health facility pursuant to the
9 provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3 and 4 of this*
10 *act* and adequate treatment is provided to him; or

11 (c) Mutilated himself, attempted or threatened to mutilate himself or
12 committed acts in furtherance of a threat to mutilate himself, and if there exists a
13 reasonable probability that he will mutilate himself unless he is admitted to a
14 mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330,
15 inclusive, *and sections 3 and 4 of this act* and adequate treatment is provided to
16 him.

17 3. A person presents a clear and present danger of harm to others if, within
18 the next preceding 30 days, he has, as a result of a mental illness, inflicted or
19 attempted to inflict serious bodily harm on any other person, or made threats to
20 inflict harm and committed acts in furtherance of those threats, and if there exists a
21 reasonable probability that he will do so again unless he is admitted to a mental
22 health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive,
23 *and sections 3 and 4 of this act* and adequate treatment is provided to him.

24 **Sec. 7.** NRS 433A.130 is hereby amended to read as follows:

25 433A.130 All applications and certificates for the admission of any person in
26 the State of Nevada to a mental health facility *or ~~for~~ for the participation of any*
27 *person in the State of Nevada in a program of community-based or outpatient*
28 *services* under the provisions of this chapter shall be made on forms approved by
29 the Division and the Office of the Attorney General and furnished by the clerks of
30 the district courts in each county.

31 **Sec. 8.** NRS 433A.200 is hereby amended to read as follows:

32 433A.200 1. Except as otherwise provided in NRS 432B.6075, a proceeding
33 for an involuntary court-ordered admission of any person in the State of Nevada *or*
34 *for the involuntary participation of any person in the State of Nevada in a*
35 *program of community-based or outpatient services* may be commenced by the
36 filing of a petition with the clerk of the district court of the county where the person
37 who is to be treated resides. The petition may be filed by the spouse, parent, adult
38 children or legal guardian of the person to be treated or by any physician,
39 psychologist, social worker or registered nurse, by an accredited agent of the
40 Department or by any officer authorized to make arrests in the State of Nevada. The
41 petition must be accompanied:

42 (a) By a certificate of a physician, psychiatrist or licensed psychologist stating
43 that he has examined the person alleged to be a person with mental illness and has
44 concluded that the person has a mental illness and, because of that illness, is likely
45 to harm himself or others if allowed his liberty *or if he is not required to*
46 *participate in a program of community-based or outpatient services;* or

47 (b) By a sworn written statement by the petitioner that:

48 (1) The petitioner has, based upon his personal observation of the person
49 alleged to be a person with mental illness, probable cause to believe that the person
50 has a mental illness and, because of that illness, is likely to harm himself or others
51 if allowed his liberty *or if he is not required to participate in a program of*
52 *community-based or outpatient services;* and

(2) The person alleged to be a person with mental illness has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. Except as otherwise provided in NRS 432B.6075, 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.

Sec. 9. NRS 433A.240 is hereby amended to read as follows:

433A.240 1. After the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person or for the involuntary court-ordered participation of a person in a program of community-based or outpatient services pursuant to NRS 433A.200 or 433A.210, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to examine the person alleged to be a person with mental illness, or request an evaluation by an evaluation team from the Division of the person alleged to be a person with mental illness.

2. To conduct the examination of a person who is not being detained at a mental health facility or hospital under emergency admission pursuant to an application made pursuant to NRS 433A.160, the court may order a peace officer to take the person into protective custody and transport him to a mental health facility or hospital where he may be detained until a hearing is had upon the petition.

3. If the person is not being detained under an emergency admission pursuant to an application made pursuant to NRS 433A.160, he may be allowed to remain in his home or other place of residence pending an ordered examination or examinations and to return to his home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his relations or friends to the place of examination.

4. *Each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, in conducting such examination, consider the least restrictive treatment appropriate for the person.*

5. Except as otherwise provided in this subsection, each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, not later than 48 hours before the hearing set pursuant to NRS 433A.220, submit to the court in writing a summary of his findings and evaluation regarding the person alleged to be a person with mental illness. If the person alleged to be a person with mental illness is admitted under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the written findings and evaluation must be submitted to the court not later than 24 hours before the hearing set pursuant to subsection 1 of NRS 433A.220.

Sec. 10. NRS 433A.250 is hereby amended to read as follows:

433A.250 1. The Administrator shall establish such evaluation teams as are necessary to aid the courts under NRS 433A.240 and 433A.310 ~~and~~ *and section 3 of this act.*

2. Each team must be composed of a psychiatrist and other persons professionally qualified in the field of psychiatric mental health who are representative of the Division, selected from personnel in the Division.

3. Fees for the evaluations must be established and collected as set forth in NRS 433.414 or 433B.260, as appropriate.

Sec. 10.5. NRS 433A.260 is hereby amended to read as follows:

433A.260 1. In counties where the examining personnel required pursuant to NRS 433A.240 are not available, proceedings for involuntary court-ordered admission or involuntary court-ordered participation of a person in a program of

1 community-based or outpatient services shall be conducted in the nearest county
2 having such examining personnel available in order that there be minimum delay.

3 2. The entire expense of proceedings for involuntary court-ordered admission
4 and for involuntary court-ordered participation in a program of community-
5 based or outpatient services shall be paid by the county in which the application is
6 filed, except that where the person to be admitted or to be required to participate
7 last resided in another county of the state, the expense shall be charged to and
8 payable by such county of residence.

9 Sec. 11. NRS 433A.270 is hereby amended to read as follows:

10 433A.270 1. The person alleged to be a person with mental illness or any
11 relative or friend on his behalf is entitled to retain counsel to represent him in any
12 proceeding before the district court relating to involuntary court-ordered admission
13 or involuntary court-ordered participation in a program of community-based
14 or outpatient services, and if he fails or refuses to obtain counsel, the court shall
15 advise him and his guardian or next of kin, if known, of such right to counsel and
16 shall appoint counsel, who may be the public defender or his deputy.

17 2. Any counsel appointed pursuant to subsection 1 must be awarded
18 compensation by the court for his services in an amount determined by it to be fair
19 and reasonable. The compensation must be charged against the estate of the person
20 for whom the counsel was appointed or, if the person is indigent, against the county
21 where the person alleged to be a person with mental illness last resided.

22 3. The court shall, at the request of counsel representing the person alleged to
23 be a person with mental illness in proceedings before the court relating to
24 involuntary court-ordered admission, grant a recess in the proceedings for the
25 shortest time possible, but for not more than 5 days, to give the counsel an
26 opportunity to prepare his case.

27 4. Each district attorney or his deputy shall appear and represent the State in
28 all involuntary court-ordered admission proceedings or proceedings for
29 involuntary court-ordered participation in a program of community-based or
30 outpatient services in his county. The district attorney is responsible for the
31 presentation of evidence, if any, in support of the involuntary court-ordered
32 admission of a person to a mental health facility or ~~to participate~~ the involuntary
33 court-ordered participation of a person in a program of community-based or
34 outpatient services in proceedings held pursuant to NRS 433A.200 or 433A.210.

35 Sec. 12. NRS 433A.310 is hereby amended to read as follows:

36 433A.310 1. Except as otherwise provided in subsection 2 or NRS
37 432B.6076 and 432B.6077, if the district court finds, after proceedings for the
38 involuntary court-ordered admission of a person ~~to a public or private mental~~
39 health facility; or for the involuntary court-ordered participation of a person in a
40 program of community-based or outpatient services;

41 (a) That there is not clear and convincing evidence that the person with respect
42 to whom the hearing was held has a mental illness or exhibits observable behavior
43 such that he is likely to harm himself or others if allowed his liberty or if he is
44 not required to participate in a program of community-based or outpatient
45 services, the court shall enter its finding to that effect and the person must not be
46 involuntarily ~~detained in such a facility;~~ admitted to a public or private mental
47 health facility or required to participate in a program of community-based or
48 outpatient services.

49 (b) That there is clear and convincing evidence that the person with respect to
50 whom the hearing was held has a mental illness and, because of that illness, is
51 likely to harm himself or others if allowed his liberty or if he is not required to
52 participate in a program of community-based or outpatient services, the court may
53 order the involuntary admission of the person for the most appropriate course of

1 treatment ~~[] including, without limitation, admission to a public or private~~
2 ~~mental health facility~~ or may order the involuntary participation by the person in
3 a program of community-based or outpatient services. The order of the court must
4 be interlocutory and must not become final if, within 30 days after the involuntary
5 admission ~~[] or the involuntary participation,~~ the person is unconditionally
6 released pursuant to NRS 433A.390.

7 2. A court shall not ~~[admit]~~ order the involuntary participation of a person
8 ~~[] in a program of community-based or outpatient services unless:~~

9 (a) A program of community-based or outpatient services is available in the
10 community in which the person resides or is otherwise made available to the
11 person;

12 (b) The county has appropriated sufficient funds to pay for the proceedings
13 for the involuntary court-ordered participation of the person in such a program
14 as required pursuant to NRS 433A.260;

15 (c) The person is 18 years of age or older;

16 ~~[]~~ (d) The person has a history of noncompliance with treatment for
17 mental illness which has:

18 (1) Been a significant factor in the need for his hospitalization within the
19 preceding 36 months, which period does not include the 6 months immediately
20 preceding the date on which the petition is filed; or

21 (2) Resulted in one or more acts of violent behavior toward himself or
22 others or threats to harm himself or others within the immediately preceding 48
23 months, which period does not include the 6 months immediately preceding the
24 date on which the petition is filed;

25 ~~[]~~ (e) The court determines that, as a result of a history of noncompliance
26 with treatment for mental illness, the subject of the petition needs to be admitted
27 to a program of community-based or outpatient services to prevent the relapse or
28 deterioration of the subject of the petition which is likely to result in harm to
29 himself or others;

30 ~~[]~~ (f) The court determines that the subject of the petition would benefit
31 from participation in a program of community-based or outpatient services;

32 ~~[]~~ (g) The person is unlikely to voluntarily participate in a program of
33 treatment for mental illness;

34 ~~[]~~ (h) The program of community-based or outpatient services is the least
35 restrictive treatment which is in the best interest of the person; and

36 ~~[]~~ (i) The court has approved a plan of treatment for the person submitted
37 pursuant to section 3 of this act.

38 3. Except as otherwise provided in NRS 432B.608, an involuntary admission
39 or involuntary participation in a program of community-based or outpatient
40 services pursuant to paragraph (b) of subsection 1 automatically expires at the end
41 of 6 months if not terminated previously by the medical director of the public or
42 private mental health facility as provided for in subsection ~~[2]~~ 3 of NRS 433A.390
43 ~~[]~~ or by the professional responsible for providing or coordinating the
44 community-based or outpatient services ~~[]~~ , as applicable. Except as otherwise
45 provided in NRS 432B.608, at the end of the court-ordered period of treatment, the
46 Division, ~~[]~~ any mental health facility that is not operated by the Division or a
47 program of community-based or outpatient services may petition to renew the
48 ~~[detention]~~ involuntary admission or participation of the person for additional
49 periods not to exceed 6 months each. For each renewal, the petition must set forth
50 to the court specific reasons why further treatment would be in the person's own
51 best interests.

52 ~~[3-]~~ 4. Before issuing an order for involuntary admission or a renewal
53 thereof, the court shall explore other alternative courses of treatment within the

1 least restrictive appropriate environment, including ,without limitation, an order
2 for the involuntary ~~admission to~~ participation in a program of community-based
3 or outpatient services, as suggested by the evaluation team who evaluated the
4 person, or other persons professionally qualified in the field of psychiatric mental
5 health, which the court believes may be in the best interests of the person.

6 **Sec. 13.** NRS 433A.320 is hereby amended to read as follows:

7 433A.320 The order for involuntary court admission of any person to a public
8 or private mental health facility ~~[,public or private, shall] or [to participate] for~~
9 involuntary participation in a program of community-based or outpatient services
10 must be accompanied by a clinical abstract, including a history of illness, diagnosis,
11 treatment and the names of relatives or correspondents.

12 **Sec. 14.** NRS 433A.350 is hereby amended to read as follows:

13 433A.350 1. Upon admission to any public or private mental health facility
14 ~~[] or upon the commencement of involuntary participation in a program of~~
15 community-based or outpatient services, each client ~~[of the facility]~~ and the
16 client's spouse and legal guardian, if any, must receive a written statement outlining
17 in simple, nontechnical language all procedures for release provided by this
18 chapter, setting out all rights accorded to such a client by this chapter and chapters
19 433 and 433B of NRS and, if the client has no legal guardian, describing
20 procedures provided by law for adjudication of incompetency and appointment of a
21 guardian for the client.

22 2. Written information regarding the services provided by and means of
23 contacting the local office of an agency or organization that receives money from
24 the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and
25 advocate the rights of persons with mental illnesses must be posted in each public
26 and private mental health facility and in each location in which community-based
27 or outpatient services are provided and must be provided to each client ~~[of such a~~
28 ~~facility]~~ upon admission [] or commencement of participation, as applicable.

29 **Sec. 15.** NRS 433A.360 is hereby amended to read as follows:

30 433A.360 1. A clinical record for each client must be diligently maintained
31 by any division facility, ~~[or] private institution, [or] facility offering mental health~~
32 ~~services [] or program offering community-based or outpatient services.~~ The
33 record must include information pertaining to the client's admission [] or
34 participation, legal status, treatment and individualized plan for habilitation. The
35 clinical record is not a public record and no part of it may be released, except:

36 (a) If the release is authorized or required pursuant to NRS 439.538.

37 (b) The record must be released to physicians, attorneys and social agencies as
38 specifically authorized in writing by the client, his parent, guardian or attorney.

39 (c) The record must be released to persons authorized by the order of a court of
40 competent jurisdiction.

41 (d) The record or any part thereof may be disclosed to a qualified member of
42 the staff of a division facility, an employee of the Division or a member of the staff
43 of an agency in Nevada which has been established pursuant to the Developmental
44 Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.,
45 or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C.
46 §§ 10801 et seq., when the Administrator deems it necessary for the proper care of
47 the client.

48 (e) Information from the clinical records may be used for statistical and
49 evaluative purposes if the information is abstracted in such a way as to protect the
50 identity of individual clients.

51 (f) To the extent necessary for a client to make a claim, or for a claim to be
52 made on behalf of a client for aid, insurance or medical assistance to which he may

be entitled, information from the records may be released with the written authorization of the client or his guardian.

(g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The client is a client of that office and he or his legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a client was received by the office or there is probable cause to believe that the client has been abused or neglected and the client:

(I) Is unable to authorize the release of the record because of his mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

(h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, "client" includes any person who seeks, on his own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, ~~for~~ from treatment to competency in a private institution or facility offering mental health services ~~to~~, or from a program of community-based or outpatient services.

Sec. 16. NRS 433A.370 is hereby amended to read as follows:

433A.370 1. When a client committed by a court to a division facility on or before June 30, 1975, or a client who is judicially admitted on or after July 1, 1975, or a person who is involuntarily detained pursuant to NRS 433A.145 to 433A.300, inclusive, escapes from any division facility, or when a judicially admitted client has not returned to a division facility from conditional release after the administrative officer of the facility has ordered him to do so, any peace officer shall, upon written request of the administrative officer or his designee and without the necessity of a warrant or court order, apprehend, take into custody and deliver the person to such division facility or another state facility.

2. *When a client who is judicially ~~admitted~~ required to participate in a program of community-based or outpatient services fails to participate in the program or otherwise fails to carry out the plan developed pursuant to section 3 of this act, any peace officer ~~shall~~ may, upon written request of the professional services of the client ~~and without the necessity of a warrant or court order, apprehend, take into custody and deliver the person to the location for the program of community-based or outpatient services.~~, apply for the emergency admission of the person pursuant to NRS 433A.160.*

3. Any person appointed or designated by the Director of the Department to take into custody and transport ~~to a division facility~~ persons who have escaped, ~~for~~ failed to return or failed to participate in a program of treatment as described in ~~subsection 1~~ subsections 1 and 2 may participate in the apprehension and delivery of any such person, but may not take the person into custody without a warrant.

Sec. 17. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility or *involuntarily required to participate in a program of community-based or outpatient services* by court order, is released at the end of the ~~time~~ period specified pursuant to NRS 433A.310, written notice must be given to the ~~admitting~~ court *that admitted the client or required the client to participate in the program* at least 10 days before the release of the client. The client may then be released without requiring further orders of the court.

2. ~~[(An involuntarily court-admitted)]~~ A client *who is involuntarily admitted to a mental health facility* may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness 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 mental health facility authorizes the release and gives written notice to the admitting court at least 10 days before the release of the client.

3. A client *who is involuntarily* ~~admitted]~~ *required to participate in a program of community-based or outpatient services may be unconditionally released before the period specified pursuant to NRS 433A.310 when:*

(a) *The professional responsible for providing or coordinating the community-based or outpatient services for the client determines that the client has recovered from his mental illness 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 an evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the professional responsible for providing or coordinating the community-based or outpatient services for the client authorizes the release and gives written notice to the admitting court at least 10 days before the release of the client.*

Sec. 18. NRS 433A.460 is hereby amended to read as follows:

433A.460 1. No person admitted to a public or private mental health facility *or required to participate in a program of community-based or outpatient services* pursuant to this chapter shall, by reason of such admission, be denied the right to dispose of property, marry, execute instruments, make purchases, enter into contractual relationships, vote and hold a driver's license, unless such person has been specifically adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

2. If the responsible physician of the mental health facility in which any person is detained *or the professional responsible for providing or coordinating the community-based or outpatient services for a person, as applicable,* is of the opinion that such person is unable to exercise any of the aforementioned rights, the responsible physician *or other responsible professional, as applicable,* shall immediately notify the person and the person's attorney, legal guardian, spouse, parents or other nearest-known adult relative, and the district court of that fact.

Sec. 19. NRS 433A.580 is hereby amended to read as follows:

433A.580 No person may be admitted to a private hospital ~~for~~, a division mental health facility *or required to participate in a program of community-based or outpatient services* pursuant to the provisions of this chapter unless mutually agreeable financial arrangements relating to the costs of treatment are made between the private hospital, ~~for~~ division facility *or provider of community-based or outpatient services* and the client or person requesting his admission.

Sec. 20. NRS 433A.600 is hereby amended to read as follows:

433A.600 1. A person who is admitted to a facility *or required to participate in a program of community-based or outpatient services* operated by the Division and not determined to be indigent and every responsible relative

1 pursuant to NRS 433A.610 of the person shall be charged for the cost of treatment
2 and is liable for that cost. If after demand is made for payment the person or his
3 responsible relative fails to pay that cost, the administrative officer *or other*
4 *professional responsible for providing or coordinating the community-based or*
5 *outpatient services, as applicable*, may recover the amount due by civil action.

6 2. All sums received ~~[by the administrative officer of a facility operated by~~
7 ~~the Division]~~ pursuant to subsection 1 must be deposited in the State Treasury and
8 may be expended by the Division for the support of that facility *or program* in
9 accordance with the allotment, transfer, work program and budget provisions of
10 NRS 353.150 to 353.245, inclusive.

11 **Sec. 21.** NRS 433A.640 is hereby amended to read as follows:

12 433A.640 1. Once a court has ordered the admission of a person to a
13 division facility, the administrative officer shall make an investigation, pursuant to
14 the provisions of this chapter, to determine whether the person or his responsible
15 relatives pursuant to NRS 433A.610 are capable of paying for all or a portion of the
16 costs that will be incurred during the period of admission.

17 2. *Once a court has ordered ~~the admission of~~ a person to participate in a*
18 *program of community-based or outpatient services operated by the Division, the*
19 *professional responsible for providing or coordinating the community-based or*
20 *outpatient services shall make an investigation, pursuant to the provisions of this*
21 *chapter, to determine whether the person or his responsible relatives pursuant to*
22 *NRS 433A.610 are capable of paying for all or a portion of the costs that will be*
23 *incurred during the period of admission.*

24 3. If a person is admitted to a division facility *or required to participate in a*
25 *program of community-based or outpatient services operated by the Division*
26 pursuant to a court order, that person and his responsible relatives are responsible
27 for the payment of the actual cost of the treatment and services rendered during his
28 admission ~~[to the division facility]~~ unless the investigation reveals that the person
29 and his relatives are not capable of paying the full amount of the costs.

30 **Sec. 22.** NRS 433A.660 is hereby amended to read as follows:

31 433A.660 1. If the client, his responsible relative pursuant to NRS
32 433A.610, guardian or the estate neglects or refuses to pay the cost of treatment to
33 the division facility *or to the program of community-based or outpatient services*
34 *operated by the Division* rendering service pursuant to the fee schedule established
35 under NRS 433.404 or 433B.250, as appropriate, the State is entitled to recover by
36 appropriate legal action all sums due, plus interest.

37 2. Before initiating such legal action, the division facility *or program, as*
38 *applicable*, shall demonstrate efforts at collection, which may include contractual
39 arrangements for collection through a private collection agency.

40 **Sec. 23.** NRS 433A.715 is hereby amended to read as follows:

41 433A.715 1. A court shall seal all court records relating to the admission
42 and treatment of any person who was admitted, voluntarily or as the result of a
43 noncriminal proceeding, to a public or private hospital ~~or~~ ~~or a~~ mental health facility
44 *or who was required to participate in a program of community-based or*
45 *outpatient services* in this State for the purpose of obtaining mental health
46 treatment.

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

1 person appears before the court at the hearing, the court must provide the person an
2 opportunity to be heard on the matter.

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

5 (a) A law enforcement agency must obtain or maintain information concerning
6 persons who have been admitted to a public or private hospital ~~or~~ ~~to a~~ mental
7 health facility *or required to participate in a program of community-based or*
8 *outpatient services* in this State pursuant to state or federal law;

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

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

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

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

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

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

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

28 5. Upon its own order, any court of this State may inspect court records that
29 are sealed pursuant to this section without following the procedure described in
30 subsection 2 if the records are necessary and relevant for the disposition of a matter
31 pending before the court. The court may allow a party in the matter to inspect the
32 records without following the procedure described in subsection 2 if the court
33 deems such inspection necessary and appropriate.

34 6. Following the sealing of records pursuant to this section, the admission of
35 the person who is the subject of the records to the public or private hospital ~~or~~ ~~to a~~
36 mental health facility *or to the program of community-based or outpatient services*
37 ~~or~~ is deemed never to have occurred, and the person may answer accordingly any
38 question related to its occurrence, except in connection with:

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

41 (b) A transfer of a firearm; or

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

43 7. As used in this section:

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

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

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

1 **Sec. 24.** NRS 433A.750 is hereby amended to read as follows:

2 433A.750 1. A person who:

3 (a) Without probable cause for believing a person to be mentally ill causes or
4 conspires with or assists another to cause the involuntary court-ordered admission
5 of the person under this chapter; or

6 (b) Causes or conspires with or assists another to cause the denial to any person
7 of any right accorded to him under this chapter,

8 ➤ is guilty of a category D felony and shall be punished as provided in
9 NRS 193.130.

10 2. Unless a greater penalty is provided in subsection 1, a person who
11 knowingly and willfully violates any provision of this chapter regarding the
12 admission of a person to, or discharge of a person from, a public or private mental
13 health facility *or regarding the involuntary participation of a person in a program*
14 *of community-based or outpatient services* is guilty of a gross misdemeanor.

15 3. A person who, without probable cause for believing another person to be
16 mentally ill, executes a petition, application or certificate pursuant to this chapter,
17 by which the person secures or attempts to secure the apprehension, hospitalization,
18 detention, *admission* or restraint of the person alleged to be mentally ill ~~or~~ *or to*
19 *secure his participation in a program of community-based or outpatient services,*
20 or any physician, psychiatrist, ~~or~~ licensed psychologist *or other person*
21 *professionally qualified in the field of psychiatric and mental health* who
22 knowingly makes any false certificate or application pursuant to this chapter as to
23 the mental condition of any person is guilty of a category D felony and shall be
24 punished as provided in NRS 193.130.