

ASSEMBLY BILL NO. 94—ASSEMBLYMAN STEWART

PREFILED JANUARY 19, 2011

Referred to Committee on Health and Human Services

SUMMARY—Authorizes the involuntary court-ordered admission of certain persons with mental illness to programs of community-based or outpatient services under certain circumstances. (BDR 39-273)

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 the involuntary court-ordered admission of certain persons with mental illness to programs 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 the involuntary court-ordered admission to a mental health facility of a person who is alleged to have a mental illness. Additionally, existing law specifies that if a court finds that a person has a mental illness and is likely to harm himself or herself or others if not treated, the court must place the person in the most appropriate course of treatment. (NRS 433A.115-433A.330) This bill authorizes the court to order the involuntary admission of such a person to a program of community-based or outpatient services if such a program is an appropriate course of treatment for that person.

Section 3 of this bill requires that: (1) a plan of treatment be developed by persons who are qualified in the field of psychiatric mental health, in consultation with the person who will receive the treatment; (2) the plan contain certain information relating to the course of treatment; and (3) the developers of the plan submit the plan to the court in writing.

Section 4 of this bill authorizes under certain circumstances both the conditional release of a person involuntarily admitted to a program of community-based or outpatient services and the revocation of such release, and **section 17** of this bill authorizes the unconditional release of such a person under certain circumstances.



Section 12 of this bill sets forth the requirements for participation in a program of community-based or outpatient services, including that the person who is admitted to the program must be 18 years of age or older and have a history of noncompliance with treatment for mental illness, and that the court must approve the written plan of treatment which has been submitted to the court.

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 NRS 433A.310 that the subject of a petition should be involuntarily admitted to a program of community-based or outpatient services, 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 program of 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*



1 *coordinating the program of community-based or outpatient*
2 *services; and*

3 *4. Any other requirements which the court deems necessary.*

4 **Sec. 4.** *1. Except as otherwise provided in subsection 3, any*
5 *person involuntarily admitted to a program of community-based or*
6 *outpatient services may be conditionally released from the*
7 *program when, in the judgment of the professional responsible for*
8 *providing or coordinating the program of community-based or*
9 *outpatient services, the conditional release is in the best interest of*
10 *the person and will not be detrimental to the public welfare. The*
11 *professional responsible for providing or coordinating the*
12 *program shall prescribe the period for which the conditional*
13 *release is effective. The period must not extend beyond the last day*
14 *of the court-ordered period of admission to a program of*
15 *community-based or outpatient services pursuant to*
16 *NRS 433A.310.*

17 *2. When a person is conditionally released pursuant to*
18 *subsection 1, the State of Nevada and the agents and employees of*
19 *the State are not liable for any debts or contractual obligations*
20 *incurred, medical or otherwise, or damages caused by the actions*
21 *of the person who is released.*

22 *3. A person who is involuntarily admitted to a program of*
23 *community-based or outpatient services may be conditionally*
24 *released only if, at the time of the release, written notice is given to*
25 *the court which ordered the person to participate in the program*
26 *and to the district attorney of the county in which the proceedings*
27 *for admission were held.*

28 *4. Except as otherwise provided in subsection 6, the*
29 *professional responsible for providing or coordinating the*
30 *program of community-based or outpatient services shall order a*
31 *person who is conditionally released pursuant to subsection 1 to*
32 *resume participation in the program of community-based or*
33 *outpatient services if the professional determines that the*
34 *conditional release is no longer appropriate because that person*
35 *presents a clear and present danger of harm to himself or herself*
36 *or others. Except as otherwise provided in this subsection, the*
37 *professional responsible for providing or coordinating the*
38 *program shall, at least 3 days before the issuance of the order to*
39 *resume participation, give written notice of the order to the court*
40 *that admitted the person to the program of community-based or*
41 *outpatient services. If an emergency exists in which the person*
42 *presents an imminent threat of danger of harm to himself or*
43 *herself or others, the order must be submitted to the court not later*
44 *than 1 business day after the order is issued.*



1 **5. The court shall review an order submitted pursuant to**
2 **subsection 4 and the current condition of the person who was**
3 **ordered to resume participation in a program of community-based**
4 **or outpatient services at the next regularly scheduled hearing for**
5 **the review of petitions for involuntary admissions, but in no event**
6 **later than 5 judicial days after participation is resumed. The**
7 **professional responsible for providing or coordinating the**
8 **program of community-based or outpatient services to the person**
9 **who was ordered to resume participation shall give written notice**
10 **to that person and to his or her attorney, if the person is**
11 **represented by legal counsel, of the time, date and place of the**
12 **hearing and of the facts necessitating that the person resume**
13 **participation in the program.**

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

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

17 433A.011 As used in this chapter, unless the context otherwise
18 requires, the words and terms defined in NRS 433A.012 to
19 433A.018, inclusive, **and section 2 of this act** have the meanings
20 ascribed to them in those sections.

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

22 433A.115 1. As used in NRS 433A.115 to 433A.330,
23 inclusive, **and sections 3 and 4 of this act**, unless the context
24 otherwise requires, "person with mental illness" means any person
25 whose capacity to exercise self-control, judgment and discretion in
26 the conduct of the person's affairs and social relations or to care for
27 his or her personal needs is diminished, as a result of a mental
28 illness, to the extent that the person presents a clear and present
29 danger of harm to himself or herself or others, but does not include
30 any person in whom that capacity is diminished by epilepsy, mental
31 retardation, dementia, delirium, brief periods of intoxication caused
32 by alcohol or drugs, or dependence upon or addiction to alcohol or
33 drugs, unless a mental illness that can be diagnosed is also present
34 which contributes to the diminished capacity of the person.

35 2. A person presents a clear and present danger of harm to
36 himself or herself if, within the immediately preceding 30 days, the
37 person has, as a result of a mental illness:

38 (a) Acted in a manner from which it may reasonably be inferred
39 that, without the care, supervision or continued assistance of others,
40 the person will be unable to satisfy his or her need for nourishment,
41 personal or medical care, shelter, self-protection or safety, and if
42 there exists a reasonable probability that the person's death, serious
43 bodily injury or physical debilitation will occur within the next
44 following 30 days unless he or she is admitted to a mental health
45 facility pursuant to the provisions of NRS 433A.115 to 433A.330,



1 inclusive, *and sections 3 and 4 of this act* and adequate treatment is
2 provided to the person;

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

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

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

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

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

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

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

44 (a) By a certificate of a physician, psychiatrist or licensed
45 psychologist stating that he or she has examined the person alleged



1 to be a person with mental illness and has concluded that the person
2 has a mental illness and, because of that illness, is likely to harm
3 himself or herself or others if allowed his or her liberty ~~§~~ *or if not
4 required to participate in a program of community-based or
5 outpatient services;* or

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

7 (1) The petitioner has, based upon the petitioner's personal
8 observation of the person alleged to be a person with mental illness,
9 probable cause to believe that the person has a mental illness and,
10 because of that illness, is likely to harm himself or herself or others
11 if allowed his or her liberty ~~§~~ *or if not required to participate in a
12 program of community-based or outpatient services;* and

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

16 2. Except as otherwise provided in NRS 432B.6075, if the
17 person to be treated is a minor and the petitioner is a person other
18 than a parent or guardian of the minor, the petition must, in addition
19 to the certificate or statement required by subsection 1, include a
20 statement signed by a parent or guardian of the minor that the parent
21 or guardian does not object to the filing of the petition.

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

23 433A.240 1. After the filing of a petition to commence
24 proceedings for the involuntary court-ordered admission of a person
25 pursuant to NRS 433A.200 or 433A.210, the court shall promptly
26 cause two or more physicians or licensed psychologists, one of
27 whom must always be a physician, to examine the person alleged to
28 be a person with mental illness, or request an evaluation by an
29 evaluation team from the Division of the person alleged to be a
30 person with mental illness.

31 2. To conduct the examination of a person who is not being
32 detained at a mental health facility or hospital under emergency
33 admission pursuant to an application made pursuant to NRS
34 433A.160, the court may order a peace officer to take the person
35 into protective custody and transport the person to a mental health
36 facility or hospital where the person may be detained until a hearing
37 is had upon the petition.

38 3. If the person is not being detained under an emergency
39 admission pursuant to an application made pursuant to NRS
40 433A.160, the person may be allowed to remain in his or her home
41 or other place of residence pending an ordered examination or
42 examinations and to return to his or her home or other place of
43 residence upon completion of the examination or examinations. The
44 person may be accompanied by one or more of his or her relations
45 or friends to the place of examination.



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

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

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

17 433A.250 1. The Administrator shall establish such
18 evaluation teams as are necessary to aid the courts under NRS
19 433A.240 and 433A.310 ~~H~~ *and section 3 of this act.*

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

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

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

27 433A.270 1. The person alleged to be a person with mental
28 illness or any relative or friend on the person's behalf is entitled to
29 retain counsel to represent the person in any proceeding before the
30 district court relating to involuntary court-ordered admission, and if
31 he or she fails or refuses to obtain counsel, the court shall advise the
32 person and the person's guardian or next of kin, if known, of such
33 right to counsel and shall appoint counsel, who may be the public
34 defender or his or her deputy.

35 2. Any counsel appointed pursuant to subsection 1 must be
36 awarded compensation by the court for his or her services in an
37 amount determined by it to be fair and reasonable. The
38 compensation must be charged against the estate of the person for
39 whom the counsel was appointed or, if the person is indigent,
40 against the county where the person alleged to be a person with
41 mental illness last resided.

42 3. The court shall, at the request of counsel representing the
43 person alleged to be a person with mental illness in proceedings
44 before the court relating to involuntary court-ordered admission,
45 grant a recess in the proceedings for the shortest time possible, but



1 for not more than 5 days, to give the counsel an opportunity to
2 prepare his or her case.

3 4. Each district attorney or his or her deputy shall appear and
4 represent the State in all involuntary court-ordered admission
5 proceedings in the district attorney's county. The district attorney is
6 responsible for the presentation of evidence, if any, in support of the
7 involuntary court-ordered admission of a person to a mental health
8 facility *or to participate in a program of community-based or*
9 *outpatient services* in proceedings held pursuant to NRS 433A.200
10 or 433A.210.

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

12 433A.310 1. Except as otherwise provided in NRS
13 432B.6076 and 432B.6077, if the district court finds, after
14 proceedings for the involuntary court-ordered admission of a person
15 : ~~to a public or private mental health facility;~~

16 (a) That there is not clear and convincing evidence that the
17 person with respect to whom the hearing was held has a mental
18 illness or exhibits observable behavior such that the person is likely
19 to harm himself or herself or others if allowed his or her liberty ~~or~~
20 *or if not required to participate in a program of community-based*
21 *or outpatient services*, the court shall enter its finding to that effect
22 and the person must not be involuntarily ~~detained in such a~~
23 ~~facility;~~ *admitted to a public or private mental health facility or to*
24 *a program of community-based or outpatient services.*

25 (b) That there is clear and convincing evidence that the person
26 with respect to whom the hearing was held has a mental illness and,
27 because of that illness, is likely to harm himself or herself or others
28 if allowed his or her liberty ~~or~~ *or if not required to participate in a*
29 *program of community-based or outpatient services*, the court may
30 order the involuntary admission of the person for the most
31 appropriate course of treatment ~~or~~ *, including, without limitation,*
32 *admission to a public or private mental health facility or*
33 *participation in a program of community-based or outpatient*
34 *services.* The order of the court must be interlocutory and must not
35 become final if, within 30 days after the involuntary admission, the
36 person is unconditionally released pursuant to NRS 433A.390.

37 2. *A court shall not admit a person to a program of*
38 *community-based or outpatient services unless:*

39 (a) *A program of community-based or outpatient services is*
40 *available in the community in which the person resides or is*
41 *otherwise made available to the person;*

42 (b) *The person is 18 years of age or older;*

43 (c) *The person has a history of noncompliance with treatment*
44 *for mental illness which has:*



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

5 (2) *Resulted in one or more acts of violent behavior toward*
6 *himself or herself or others or threats to harm himself or herself*
7 *or others within the immediately preceding 48 months, which*
8 *period does not include the 6 months immediately preceding the*
9 *date on which the petition is filed;*

10 (d) *The court determines that, as a result of a history of*
11 *noncompliance with treatment for mental illness, the person needs*
12 *to be admitted to a program of community-based or outpatient*
13 *services to prevent the relapse or deterioration of the person which*
14 *is likely to result in harm to himself or herself or others;*

15 (e) *The court determines that the person would benefit from a*
16 *program of community-based or outpatient services;*

17 (f) *The person is unlikely to voluntarily participate in a*
18 *program of treatment for mental illness;*

19 (g) *The program of community-based or outpatient services is*
20 *the least restrictive treatment which is in the best interest of the*
21 *person; and*

22 (h) *The court has approved a plan of treatment for the person*
23 *submitted pursuant to section 3 of this act.*

24 3. Except as otherwise provided in NRS 432B.608, an
25 involuntary admission pursuant to paragraph (b) of subsection 1
26 automatically expires at the end of 6 months if not terminated
27 previously by the medical director of the public or private mental
28 health facility as provided for in subsection 2 of NRS 433A.390 ~~or~~
29 *or by the professional responsible for providing or coordinating*
30 *the program of community-based or outpatient services as*
31 *provided for in subsection 3 of NRS 433A.390.* Except as otherwise
32 provided in NRS 432B.608, at the end of the court-ordered period of
33 treatment, the Division, ~~for~~ any mental health facility that is not
34 operated by the Division *or a program of community-based or*
35 *outpatient services* may petition to renew the ~~[detention]~~
36 *involuntary admission* of the person for additional periods not to
37 exceed 6 months each. For each renewal, the petition must set forth
38 to the court specific reasons why further treatment would be in the
39 person's own best interests.

40 ~~[3-]~~ 4. Before issuing an order for involuntary admission or a
41 renewal thereof, the court shall explore other alternative courses of
42 treatment within the least restrictive appropriate environment ,
43 *including involuntary admission to a program of community-*
44 *based or outpatient services,* as suggested by the evaluation team
45 who evaluated the person, or other persons professionally qualified



1 in the field of psychiatric mental health, which the court believes
2 may be in the best interests of the person.

3 ~~[4-]~~ 5. If the court issues an order involuntarily admitting a
4 person to a public or private mental health facility *or a program of*
5 *community-based or outpatient services* pursuant to this section,
6 the court shall, notwithstanding the provisions of NRS 433A.715,
7 cause, on a form prescribed by the Department of Public Safety, a
8 record of such order to be transmitted to the Central Repository for
9 Nevada Records of Criminal History, along with a statement
10 indicating that the record is being transmitted for inclusion in each
11 appropriate database of the National Instant Criminal Background
12 Check System.

13 ~~[5-]~~ 6. As used in this section, "National Instant Criminal
14 Background Check System" has the meaning ascribed to it in
15 NRS 179A.062.

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

17 433A.320 The order for involuntary court admission of any
18 person to a *public or private* mental health facility ~~[, public or~~
19 ~~private, shall]~~ *or to participate in a program of community-based*
20 *or outpatient services must* be accompanied by a clinical abstract,
21 including a history of illness, diagnosis, treatment and the names of
22 relatives or correspondents.

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

24 433A.350 1. Upon admission to any public or private mental
25 health facility ~~[,]~~ *or program of community-based or outpatient*
26 *services*, each client ~~[of the facility]~~ and the client's spouse and
27 legal guardian, if any, must receive a written statement outlining in
28 simple, nontechnical language all procedures for release provided by
29 this chapter, setting out all rights accorded to such a client by this
30 chapter and chapters 433 and 433B of NRS and, if the client has no
31 legal guardian, describing procedures provided by law for
32 adjudication of incompetency and appointment of a guardian for the
33 client.

34 2. Written information regarding the services provided by and
35 means of contacting the local office of an agency or organization
36 that receives money from the Federal Government pursuant to 42
37 U.S.C. §§ 10801 et seq., to protect and advocate the rights of
38 persons with mental illnesses must be posted in each public and
39 private mental health facility and *in each location in which a*
40 *program of community-based or outpatient services is provided*
41 *and must be* provided to each client ~~[of such a facility]~~ upon
42 admission.

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

44 433A.360 1. A clinical record for each client must be
45 diligently maintained by any division facility , ~~[or]~~ private



1 institution , ~~for~~ facility offering mental health services ~~for~~ *or*
2 *program of community-based or outpatient services.* The record
3 must include information pertaining to the client's admission, legal
4 status, treatment and individualized plan for habilitation. The
5 clinical record is not a public record and no part of it may be
6 released, except:

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

9 (b) The record must be released to physicians, attorneys and
10 social agencies as specifically authorized in writing by the client, the
11 client's parent, guardian or attorney.

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

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

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

25 (f) To the extent necessary for a client to make a claim, or for a
26 claim to be made on behalf of a client for aid, insurance or medical
27 assistance to which the client may be entitled, information from the
28 records may be released with the written authorization of the client
29 or the client's guardian.

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

34 (1) The client is a client of that office and the client or the
35 client's legal representative or guardian authorizes the release of the
36 record; or

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

40 (I) Is unable to authorize the release of the record because
41 of the client's mental or physical condition; and

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

44 (h) The record must be released as provided in NRS 433.332 or
45 433B.200 and in chapter 629 of NRS.



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2. As used in this section, "client" includes any person who seeks, on the person's 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 ~~for~~, *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 the client to do so, any peace officer shall, upon written request of the administrative officer or the administrative officer's 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 to 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, upon written request of the professional responsible for providing or coordinating the program of community-based or outpatient services for 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.*

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, ~~or~~ failed to return *or failed to participate in a program of treatment* as described in ~~subsection~~ *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 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 and to the client's legal guardian at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. If the client has a legal guardian, the facility *or the professional*



1 *responsible for providing or coordinating the program of*
2 *community-based or outpatient services* shall notify the guardian
3 before discharging the client from the facility ~~or program~~. The
4 legal guardian has discretion to determine where the client will be
5 released, taking into consideration any discharge plan proposed by
6 the facility assessment team ~~or professional responsible for~~
7 *providing or coordinating the program of community-based or*
8 *outpatient services*. If the legal guardian does not inform the facility
9 *or professional* as to where the client will be released within 3 days
10 after the date of notification, the facility *or professional* shall
11 discharge the client according to its proposed discharge plan.

12 2. ~~[An involuntarily court admitted]~~ A client *who is*
13 *involuntarily admitted to a mental health facility* may be
14 unconditionally released before the period specified in NRS
15 433A.310 when:

16 (a) An evaluation team established under NRS 433A.250 or two
17 persons professionally qualified in the field of psychiatric mental
18 health, at least one of them being a physician, determines that the
19 client has recovered from his or her mental illness or has improved
20 to such an extent that the client is no longer considered to present a
21 clear and present danger of harm to himself or herself or others; and

22 (b) Under advisement from the evaluation team or two persons
23 professionally qualified in the field of psychiatric mental health, at
24 least one of them being a physician, the medical director of the
25 mental health facility authorizes the release and gives written notice
26 to the admitting court and to the client's legal guardian at least 10
27 days before the release of the client. If the client has a legal
28 guardian, the facility shall notify the guardian before discharging the
29 client from the facility. The legal guardian has discretion to
30 determine where the client will be released, taking into
31 consideration any discharge plan proposed by the facility
32 assessment team. If the legal guardian does not inform the facility as
33 to where the client will be released within 3 days after the date of
34 notification, the facility shall discharge the client according to its
35 proposed discharge plan.

36 3. *A client who is involuntarily admitted to a program of*
37 *community-based or outpatient services may be unconditionally*
38 *released before the period specified pursuant to NRS 433A.310*
39 *when:*

40 (a) *The professional responsible for providing or coordinating*
41 *the program of community-based or outpatient services for the*
42 *client determines that the client has recovered from his or her*
43 *mental illness or has improved to such an extent that the client is*
44 *no longer considered to present a clear and present danger of*
45 *harm to himself or herself or others; and*



1 (b) Under advisement from an evaluation team established
2 under NRS 433A.250 or two persons professionally qualified in
3 the field of psychiatric mental health, at least one of them being a
4 physician, the professional responsible for providing or
5 coordinating the program of community-based or outpatient
6 services for the client authorizes the release and gives written
7 notice to the admitting court at least 10 days before the release of
8 the client.

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

10 433A.460 1. No person admitted to a public or private mental
11 health facility *or a program of community-based or outpatient*
12 *services* pursuant to this chapter shall, by reason of such admission,
13 be denied the right to dispose of property, marry, execute
14 instruments, make purchases, enter into contractual relationships,
15 vote and hold a driver's license, unless such person has been
16 specifically adjudicated incompetent by a court of competent
17 jurisdiction and has not been restored to legal capacity.

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

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

28 433A.580 No person may be admitted to a private hospital ~~or~~
29 *, a division mental health facility or a program of community-*
30 *based or outpatient services* pursuant to the provisions of this
31 chapter unless mutually agreeable financial arrangements relating to
32 the costs of treatment are made between the private hospital ~~, or~~
33 *division facility or professional responsible for providing or*
34 *coordinating a program of community-based or outpatient services*
35 and the client or person requesting his or her admission.

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

37 433A.600 1. A person who is admitted to a facility *or a*
38 *program of community-based or outpatient services* operated by
39 the Division and not determined to be indigent and every
40 responsible relative pursuant to NRS 433A.610 of the person shall
41 be charged for the cost of treatment and is liable for that cost. If
42 after demand is made for payment the person or his or her
43 responsible relative fails to pay that cost, the administrative officer
44 *or professional responsible for providing or coordinating the*



1 *program of community-based or outpatient services, as applicable,*
2 may recover the amount due by civil action.

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

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

10 433A.640 1. Once a court has ordered the admission of a
11 person to a division facility, the administrative officer shall make an
12 investigation, pursuant to the provisions of this chapter, to determine
13 whether the person or his or her responsible relatives pursuant to
14 NRS 433A.610 are capable of paying for all or a portion of the costs
15 that will be incurred during the period of admission.

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

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

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

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

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



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

2 433A.715 1. A court shall seal all court records relating to
3 the admission and treatment of any person who was admitted,
4 voluntarily or as the result of a noncriminal proceeding, to a public
5 or private hospital ~~for~~, a mental health facility *or a program of*
6 *community-based or outpatient services* in this State for the
7 purpose of obtaining mental health treatment.

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

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

22 (a) A law enforcement agency must obtain or maintain
23 information concerning persons who have been admitted to a public
24 or private hospital ~~for~~, a mental health facility *or a program of*
25 *community-based or outpatient services* in this State pursuant to
26 state or federal law;

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

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

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

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

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

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

44 (d) An authorized representative of the governmental entity
45 presents to the court a written authorization signed by the person



1 who is the subject of the records and notarized by a notary public or
2 judicial officer in which the person who is the subject of the records
3 consents to the inspection of the records.

4 5. Upon its own order, any court of this State may inspect court
5 records that are sealed pursuant to this section without following the
6 procedure described in subsection 2 if the records are necessary and
7 relevant for the disposition of a matter pending before the court. The
8 court may allow a party in the matter to inspect the records without
9 following the procedure described in subsection 2 if the court deems
10 such inspection necessary and appropriate.

11 6. Following the sealing of records pursuant to this section, the
12 admission of the person who is the subject of the records to the
13 public or private hospital , ~~for~~ mental health facility *or program of*
14 *community-based or outpatient services*, is deemed never to have
15 occurred, and the person may answer accordingly any question
16 related to its occurrence, except in connection with:

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

19 (b) A transfer of a firearm; or

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

22 7. As used in this section:

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

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

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

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

35 433A.750 1. A person who:

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

40 (b) Causes or conspires with or assists another to cause the
41 denial to any person of any right accorded to the person under this
42 chapter,

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



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

3. A person who, without probable cause for believing another person to be mentally ill, executes a petition, application or certificate pursuant to this chapter, by which the person secures or attempts to secure the apprehension, hospitalization, detention, *admission* or restraint of the person alleged to be mentally ill, or any physician, psychiatrist, ~~for~~ licensed psychologist *or other person professionally qualified in the field of psychiatric mental health* who knowingly makes any false certificate or application pursuant to this chapter as to the mental condition of any person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

