

ASSEMBLY BILL NO. 287—ASSEMBLYMEN STEWART,
HICKEY, EISEN, HARDY AND KIRKPATRICK

MARCH 15, 2013

JOINT SPONSORS: SENATORS HARDY, GOICOECHEA;
HAMMOND AND WOODHOUSE

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 39-163)

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; requiring a peace officer to take into custody and deliver a person to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services in certain circumstances; removing the provision which generally requires a person and his or her responsible relatives to pay for certain costs relating to the person's involuntary admission to such a program; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law prescribes the process for initiating a petition for the involuntary
- 2 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 19** of this bill authorizes the unconditional release of such a person under certain circumstances.

Section 13 of this bill sets forth the requirements for participation in a program of community-based or outpatient services, including that: (1) 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 (2) the court must approve the written plan of treatment which has been developed for the person and submitted to the court.

Section 18 of this bill sets forth the process by which a professional responsible for providing or coordinating a program of community-based or outpatient services may petition the court to order a peace officer to take into custody and deliver a person who is involuntarily admitted to the program to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the person fails to participate in the program or otherwise fails to carry out the written plan of treatment developed for the person and submitted to the court.

Section 23 of this bill revises existing law which generally requires a person and his or her responsible relatives to pay for the actual cost of the treatment and services rendered during the person's involuntary admission to a division facility to require the same for an involuntary admission to a program of community-based or outpatient services. (NRS 433A.640) Responsible relatives include only the parent or legal guardian of a minor or the husband or wife of a person. (NRS 433A.610)

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;*



1 4. A program or service that assists in the dispensing or
2 monitoring of medication;

3 5. A program or service that provides counseling or therapy;

4 6. A service which provides screening tests to detect the
5 presence of alcohol or drugs;

6 7. A program of supervised living; or

7 8. Any combination of programs and services for persons
8 with mental illness.

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

11 Sec. 3. If a court determines pursuant to NRS 433A.310 that
12 a person should be involuntarily admitted to a program of
13 community-based or outpatient services, the court shall promptly
14 cause two or more persons professionally qualified in the field of
15 psychiatric mental health, which may include the person who filed
16 the petition for involuntary court-ordered admission pursuant to
17 NRS 433A.200 if he or she is so qualified, in consultation with the
18 person to be involuntarily admitted, to develop and submit to the
19 court a written plan prescribing a course of treatment and
20 enumerating the program of community-based or outpatient
21 services for the person. The plan must include, without limitation:

22 1. A description of the types of services in which the person
23 will participate;

24 2. The medications, if any, which the person must take and
25 the manner in which those medications will be administered;

26 3. The name of the person professionally qualified in the field
27 of psychiatric mental health who is responsible for providing or
28 coordinating the program of community-based or outpatient
29 services; and

30 4. Any other requirements which the court deems necessary.

31 Sec. 4. 1. Except as otherwise provided in subsection 3, any
32 person involuntarily admitted to a program of community-based or
33 outpatient services may be conditionally released from the
34 program when, in the judgment of the professional responsible for
35 providing or coordinating the program of community-based or
36 outpatient services, the conditional release is in the best interest of
37 the person and will not be detrimental to the public welfare. The
38 professional responsible for providing or coordinating the
39 program of community-based or outpatient services shall prescribe
40 the period for which the conditional release is effective. The
41 period must not extend beyond the last day of the court-ordered
42 period of admission to a program of community-based or
43 outpatient services pursuant to NRS 433A.310.

44 2. When a person is conditionally released pursuant to
45 subsection 1, the State of Nevada, the agents and employees of the



1 *State or a mental health facility, the professionals responsible for*
2 *providing or coordinating programs of community-based or*
3 *outpatient services and any other professionals providing mental*
4 *health services are not liable for any debts or contractual*
5 *obligations incurred, medical or otherwise, or damages caused by*
6 *the actions of the person who is released.*

7 3. *A person who is involuntarily admitted to a program of*
8 *community-based or outpatient services may be conditionally*
9 *released only if, at the time of the release, written notice is given to*
10 *the court which ordered the person to participate in the program*
11 *and to the district attorney of the county in which the proceedings*
12 *for admission were held.*

13 4. *Except as otherwise provided in subsection 6, the*
14 *professional responsible for providing or coordinating the*
15 *program of community-based or outpatient services shall order a*
16 *person who is conditionally released pursuant to subsection 1 to*
17 *resume participation in the program if the professional determines*
18 *that the conditional release is no longer appropriate because that*
19 *person presents a clear and present danger of harm to himself or*
20 *herself or others. Except as otherwise provided in this subsection,*
21 *the professional responsible for providing or coordinating the*
22 *program of community-based or outpatient services shall, at least*
23 *3 days before the issuance of the order to resume participation,*
24 *give written notice of the order to the court that admitted the*
25 *person to the program. If an emergency exists in which the person*
26 *presents an imminent threat of danger of harm to himself or*
27 *herself or others, the order must be submitted to the court not later*
28 *than 1 business day after the order is issued.*

29 5. *The court shall review an order submitted pursuant to*
30 *subsection 4 and the current condition of the person who was*
31 *ordered to resume participation in a program of community-based*
32 *or outpatient services at the next regularly scheduled hearing for*
33 *the review of petitions for involuntary admissions, but in no event*
34 *later than 5 judicial days after participation in the program is*
35 *resumed. The professional responsible for providing or*
36 *coordinating the program of community-based or outpatient*
37 *services to the person who was ordered to resume participation in*
38 *the program shall give written notice to that person and to his or*
39 *her attorney, if the person is represented by legal counsel, of the*
40 *time, date and place of the hearing and of the facts necessitating*
41 *that the person resume participation in the program.*

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



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

2 433A.011 As used in this chapter, unless the context otherwise
3 requires, the words and terms defined in NRS 433A.012 to
4 433A.018, inclusive, *and section 2 of this act* have the meanings
5 ascribed to them in those sections.

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

7 433A.115 1. As used in NRS 433A.115 to 433A.330,
8 inclusive, *and sections 3 and 4 of this act*, unless the context
9 otherwise requires, "person with mental illness" means any person
10 whose capacity to exercise self-control, judgment and discretion in
11 the conduct of the person's affairs and social relations or to care for
12 his or her personal needs is diminished, as a result of a mental
13 illness, to the extent that the person presents a clear and present
14 danger of harm to himself or herself or others, but does not include
15 any person in whom that capacity is diminished by epilepsy, mental
16 retardation, dementia, delirium, brief periods of intoxication caused
17 by alcohol or drugs, or dependence upon or addiction to alcohol or
18 drugs, unless a mental illness that can be diagnosed is also present
19 which contributes to the diminished capacity of the person.

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

23 (a) Acted in a manner from which it may reasonably be inferred
24 that, without the care, supervision or continued assistance of others,
25 the person will be unable to satisfy his or her need for nourishment,
26 personal or medical care, shelter, self-protection or safety, and if
27 there exists a reasonable probability that the person's death, serious
28 bodily injury or physical debilitation will occur within the next
29 following 30 days unless he or she is admitted to a mental health
30 facility pursuant to the provisions of NRS 433A.115 to 433A.330,
31 inclusive, *and sections 3 and 4 of this act* and adequate treatment is
32 provided to the person;

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

40 (c) Mutilated himself or herself, attempted or threatened to
41 mutilate himself or herself or committed acts in furtherance of a
42 threat to mutilate himself or herself, and if there exists a reasonable
43 probability that he or she will mutilate himself or herself unless the
44 person is admitted to a mental health facility pursuant to the



provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3 and 4 of this act* and adequate treatment is provided to the person.

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

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

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

Sec. 8. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after the certificate required pursuant to NRS 433A.170 and the examination required by paragraph (a) of subsection 1 of NRS 433A.165 have been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless, before the close of the business day on which the 72 hours expires, a written petition for an involuntary court-ordered admission *to a mental health facility* is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.



Sec. 9. NRS 433A.200 is hereby amended to read as follows:

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

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

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

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



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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 the person to a mental health facility or hospital where the person 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, the person may be allowed to remain in his or her home or other place of residence pending an ordered examination or examinations and to return to his or her home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his or her 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 an 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 or her 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. 11. 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 ~~H~~ *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. 12. NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The person alleged to be a person with mental illness or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if



1 he or she fails or refuses to obtain counsel, the court shall advise the
2 person and the person's guardian or next of kin, if known, of such
3 right to counsel and shall appoint counsel, who may be the public
4 defender or his or her deputy.

5 2. Any counsel appointed pursuant to subsection 1 must be
6 awarded compensation by the court for his or her services in an
7 amount determined by it to be fair and reasonable. The
8 compensation must be charged against the estate of the person for
9 whom the counsel was appointed or, if the person is indigent,
10 against the county where the person alleged to be a person with
11 mental illness last resided.

12 3. The court shall, at the request of counsel representing the
13 person alleged to be a person with mental illness in proceedings
14 before the court relating to involuntary court-ordered admission,
15 grant a recess in the proceedings for the shortest time possible, but
16 for not more than 5 days, to give the counsel an opportunity to
17 prepare his or her case.

18 4. Each district attorney or his or her deputy shall appear and
19 represent the State in all involuntary court-ordered admission
20 proceedings in the district attorney's county. The district attorney is
21 responsible for the presentation of evidence, if any, in support of the
22 involuntary court-ordered admission of a person to a mental health
23 facility *or to a program of community-based or outpatient services*
24 in proceedings held pursuant to NRS 433A.200 or 433A.210.

25 **Sec. 13.** NRS 433A.310 is hereby amended to read as follows:

26 433A.310 1. Except as otherwise provided in NRS
27 432B.6076 and 432B.6077, if the district court finds, after
28 proceedings for the involuntary court-ordered admission of a person
29 : ~~to a public or private mental health facility;~~

30 (a) That there is not clear and convincing evidence that the
31 person with respect to whom the hearing was held has a mental
32 illness or exhibits observable behavior such that the person is likely
33 to harm himself or herself or others if allowed his or her liberty ~~to~~
34 *or if not required to participate in a program of community-based*
35 *or outpatient services*, the court shall enter its finding to that effect
36 and the person must not be involuntarily ~~detained in such a~~
37 *facility;* *admitted to a public or private mental health facility or to*
38 *a program of community-based or outpatient services.*

39 (b) That there is clear and convincing evidence that the person
40 with respect to whom the hearing was held has a mental illness and,
41 because of that illness, is likely to harm himself or herself or others
42 if allowed his or her liberty ~~to~~ *or if not required to participate in a*
43 *program of community-based or outpatient services*, the court may
44 order the involuntary admission of the person for the most
45 appropriate course of treatment ~~to~~ *, including, without limitation,*



1 *admission to a public or private mental health facility or*
2 *participation in a program of community-based or outpatient*
3 *services.* The order of the court must be interlocutory and must not
4 become final if, within 30 days after the involuntary admission, the
5 person is unconditionally released pursuant to NRS 433A.390.

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

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

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

12 (c) *The person has a history of noncompliance with treatment*
13 *for mental illness;*

14 (d) *The person is capable of surviving safely in the community*
15 *in which he or she resides with available supervision;*

16 (e) *The court determines that, based on the person's history of*
17 *treatment for mental illness, the person needs to be admitted to a*
18 *program of community-based or outpatient services to prevent*
19 *further disability or deterioration of the person which is likely to*
20 *result in harm to himself or herself or others;*

21 (f) *The current mental status of the person or the nature of the*
22 *person's illness limits or negates his or her ability to make an*
23 *informed decision to seek treatment for mental illness voluntarily*
24 *or to comply with recommended treatment for mental illness;*

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

28 (h) *The court has approved a plan of treatment developed for*
29 *the person pursuant to section 3 of this act.*

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



~~13-1~~ 4. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment , *including involuntary admission to a program of community-based or outpatient services*, as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

~~14-1~~ 5. If the court issues an order involuntarily admitting a person to a public or private mental health facility *or to a program of community-based or outpatient services* pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

~~15-1~~ 6. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 14. NRS 433A.320 is hereby amended to read as follows:
433A.320 The order for involuntary court admission of any person to a *public or private* mental health facility ~~to a public or private, shall~~ *or to a program of community-based or outpatient services must* be accompanied by a clinical abstract, including a history of illness, diagnosis, treatment and the names of relatives or correspondents.

Sec. 15. NRS 433A.330 is hereby amended to read as follows:
433A.330 1. When ~~any~~ *an* involuntary court admission *to a mental health facility* is ordered under the provisions of this chapter, the involuntarily admitted person, together with the court orders and certificates of the physicians, certified psychologists or evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the county who shall:

(a) Transport the person; or

(b) Arrange for the person to be transported by:

(1) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(2) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,
↳ to the appropriate public or private mental health facility.



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2. No person with mental illness may be transported to the mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance.

Sec. 16. NRS 433A.350 is hereby amended to read as follows:

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

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

Sec. 17. NRS 433A.360 is hereby amended to read as follows:

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

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

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

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

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et



1 seq., or the Protection and Advocacy for Mentally Ill Individuals
2 Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator
3 deems it necessary for the proper care of the consumer.

4 (e) Information from the clinical records may be used for
5 statistical and evaluative purposes if the information is abstracted in
6 such a way as to protect the identity of individual consumers.

7 (f) To the extent necessary for a consumer to make a claim, or
8 for a claim to be made on behalf of a consumer for aid, insurance or
9 medical assistance to which the consumer may be entitled,
10 information from the records may be released with the written
11 authorization of the consumer or the consumer's guardian.

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

16 (1) The consumer is a consumer of that office and the
17 consumer or the consumer's legal representative or guardian
18 authorizes the release of the record; or

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

22 (I) Is unable to authorize the release of the record because
23 of the consumer's mental or physical condition; and

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

26 (h) The record must be released as provided in NRS 433.332 or
27 433B.200 and in chapter 629 of NRS.

28 2. As used in this section, "consumer" includes any person who
29 seeks, on the person's own or others' initiative, and can benefit
30 from, care, treatment and training in a private institution or facility
31 offering mental health services, ~~for~~ from treatment to competency
32 in a private institution or facility offering mental health services ~~H~~,
33 *or from a program of community-based or outpatient services.*

34 **Sec. 18.** NRS 433A.370 is hereby amended to read as follows:

35 433A.370 1. When a consumer committed by a court to a
36 division facility on or before June 30, 1975, or a consumer who is
37 judicially admitted on or after July 1, 1975, or a person who is
38 involuntarily detained pursuant to NRS 433A.145 to 433A.300,
39 inclusive, escapes from any division facility, or when a judicially
40 admitted consumer has not returned to a division facility from
41 conditional release after the administrative officer of the facility has
42 ordered the consumer to do so, any peace officer shall, upon written
43 request of the administrative officer or the administrative officer's
44 designee and without the necessity of a warrant or court order,



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1 apprehend, take into custody and deliver the person to such division
2 facility or another state facility.

3 2. *When a consumer who is judicially admitted to a program*
4 *of community-based or outpatient services fails to participate in*
5 *the program or otherwise fails to carry out the plan of treatment*
6 *developed pursuant to section 3 of this act, despite efforts by*
7 *the professional responsible for providing or coordinating the*
8 *program of community-based or outpatient services for the*
9 *consumer to solicit the consumer's compliance, the professional*
10 *may petition the court to issue an order requiring a peace officer*
11 *to take into custody and deliver the consumer to the appropriate*
12 *location for an evaluation by an evaluation team from the Division*
13 *pursuant to NRS 433A.240. The petition must be accompanied by:*

14 (a) *A copy of the order for involuntary admission;*

15 (b) *A copy of the plan of treatment submitted to the court*
16 *pursuant to section 3 of this act;*

17 (c) *A list that sets forth the specific provisions of the plan of*
18 *treatment which the consumer has failed to carry out; and*

19 (d) *A statement by the petitioner which explains how the*
20 *consumer's failure to participate in the program of community-*
21 *based or outpatient services or failure to carry out the plan of*
22 *treatment will likely cause the consumer to harm himself or*
23 *herself or others.*

24 3. *If the court determines that there is probable cause to*
25 *believe that the consumer is likely to harm himself or herself or*
26 *others if the consumer does not comply with the plan of treatment,*
27 *the court may issue an order requiring a peace officer to take into*
28 *custody and deliver the consumer to the appropriate location for*
29 *an evaluation by an evaluation team from the Division pursuant to*
30 *NRS 433A.240.*

31 4. Any person appointed or designated by the Director of the
32 Department to take into custody and transport ~~to a division facility~~
33 persons who have escaped , ~~or~~ failed to return ~~or failed to~~
34 ~~participate in a program of treatment~~ as described in ~~subsection 1~~
35 ~~this section~~ may participate in the apprehension and delivery of any
36 such person, but may not take the person into custody without a
37 warrant.

38 **Sec. 19.** NRS 433A.390 is hereby amended to read as follows:

39 433A.390 1. When a consumer, involuntarily admitted to a
40 mental health facility *or to a program of community-based or*
41 *outpatient services* by court order, is released at the end of the
42 ~~time~~ *period* specified pursuant to NRS 433A.310, written notice
43 must be given to the admitting court and to the consumer's legal
44 guardian at least 10 days before the release of the consumer. The
45 consumer may then be released without requiring further orders of



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

14 2. ~~{An involuntarily court-admitted}~~ A consumer *who is*
15 *involuntarily admitted to a mental health facility* may be
16 unconditionally released before the period specified in NRS
17 433A.310 when:

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

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

39 3. *A consumer who is involuntarily admitted to a program of*
40 *community-based or outpatient services may be unconditionally*
41 *released before the period specified in NRS 433A.310 when:*

42 (a) *The professional responsible for providing or coordinating*
43 *the program of community-based or outpatient services for the*
44 *consumer determines that the consumer has recovered from his or*
45 *her mental illness or has improved to such an extent that the*



1 *consumer is no longer considered to present a clear and present*
2 *danger of harm to himself or herself or others; and*

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

11 **Sec. 20.** NRS 433A.460 is hereby amended to read as follows:

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

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

29 **Sec. 21.** NRS 433A.580 is hereby amended to read as follows:

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

38 **Sec. 22.** NRS 433A.600 is hereby amended to read as follows:

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



1 *or professional responsible for providing or coordinating the*
2 *program of community-based or outpatient services, as applicable,*
3 may recover the amount due by civil action.

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

10 **Sec. 23.** NRS 433A.640 is hereby amended to read as follows:

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

17 2. If a person is admitted to a division facility *or program of*
18 *community-based or outpatient services* pursuant to a court order,
19 that person and his or her responsible relatives are responsible for
20 the payment of the actual cost of the treatment and services rendered
21 during his or her admission to the division facility *or program*
22 unless the investigation reveals that the person and his or her
23 *responsible* relatives are not capable of paying the full amount of
24 the costs.

25 3. *Once a court has ordered the admission of a person to a*
26 *program of community-based or outpatient services operated by*
27 *the Division, the professional responsible for providing or*
28 *coordinating the program shall make an investigation, pursuant to*
29 *the provisions of this chapter, to determine whether the person or*
30 *his or her responsible relatives pursuant to NRS 433A.610 are*
31 *capable of paying for all or a portion of the costs that will be*
32 *incurred during the period of admission.*

33 **Sec. 24.** NRS 433A.650 is hereby amended to read as follows:

34 433A.650 Determination of ability to pay pursuant to NRS
35 433A.640 shall include investigation of whether the consumer has
36 benefits due and owing to the consumer for the cost of his or her
37 treatment from third-party sources, such as Medicare, Medicaid,
38 social security, medical insurance benefits, retirement programs,
39 annuity plans, government benefits or any other financially
40 responsible third parties. The administrative officer of a division
41 mental health facility *or professional responsible for providing or*
42 *coordinating a program of community-based or outpatient services*
43 may accept payment for the cost of a consumer's treatment from the
44 consumer's insurance company, Medicare or Medicaid and other
45 similar third parties.



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1 **Sec. 25.** NRS 433A.660 is hereby amended to read as follows:

2 433A.660 1. If the consumer, his or her responsible relative
3 pursuant to NRS 433A.610, guardian or the estate neglects or
4 refuses to pay the cost of treatment to the division facility *or to the*
5 *program of community-based or outpatient services operated by*
6 *the Division* rendering service pursuant to the fee schedule
7 established under NRS 433.404 or 433B.250, as appropriate, the
8 State is entitled to recover by appropriate legal action all sums due,
9 plus interest.

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

14 **Sec. 26.** NRS 433A.715 is hereby amended to read as follows:

15 433A.715 1. A court shall seal all court records relating to
16 the admission and treatment of any person who was admitted,
17 voluntarily or as the result of a noncriminal proceeding, to a public
18 or private hospital ~~or~~, a mental health facility *or a program of*
19 *community-based or outpatient services* in this State for the
20 purpose of obtaining mental health treatment.

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

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

35 (a) A law enforcement agency must obtain or maintain
36 information concerning persons who have been admitted to a public
37 or private hospital ~~or~~, a mental health facility *or a program of*
38 *community-based or outpatient services* in this State pursuant to
39 state or federal law;

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

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



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

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

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

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

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

17 5. Upon its own order, any court of this State may inspect court
18 records that are sealed pursuant to this section without following the
19 procedure described in subsection 2 if the records are necessary and
20 relevant for the disposition of a matter pending before the court. The
21 court may allow a party in the matter to inspect the records without
22 following the procedure described in subsection 2 if the court deems
23 such inspection necessary and appropriate.

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

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

32 (b) A transfer of a firearm; or

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

35 7. As used in this section:

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

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



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

Sec. 27. NRS 433A.750 is hereby amended to read as follows:

433A.750 1. A person who:

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

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

is guilty of a category D felony and shall be punished as provided 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.

Sec. 28. This act becomes effective on July 1, 2013.

