

Amendment No. 837

Assembly Amendment to Assembly Bill No. 287 First Reprint (BDR 39-163)

Proposed by: Assemblyman Stewart

Amendment Box: Replaces Amendment No. 814.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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

RBL



Date: 5/23/2013

A.B. No. 287—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)



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:

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 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 ~~removes the provision~~ **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. **It 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;*
- 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 a person 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 person who filed the petition for involuntary court-ordered admission pursuant to NRS 433A.200 if he or she is so qualified, in consultation with the person to be involuntarily admitted, to develop and submit to the court a written plan prescribing a course of treatment and enumerating the program of community-*

1 *based or outpatient services for the person. The plan must include, without*
2 *limitation:*

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

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

21 *2. When a person is conditionally released pursuant to subsection 1, the*
22 *State of Nevada, the agents and employees of the State or a mental health facility,*
23 *the professionals responsible for providing or coordinating programs of*
24 *community-based or outpatient services and any other professionals providing*
25 *mental health services are not liable for any debts or contractual obligations*
26 *incurred, medical or otherwise, or damages caused by the actions of the person*
27 *who is released.*

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

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

47 *5. The court shall review an order submitted pursuant to subsection 4 and*
48 *the current condition of the person who was ordered to resume participation in a*
49 *program of community-based or outpatient services at the next regularly*
50 *scheduled hearing for the review of petitions for involuntary admissions, but in*
51 *no event later than 5 judicial days after participation in the program is resumed.*
52 *The professional responsible for providing or coordinating the program of*
53 *community-based or outpatient services to the person who was ordered to resume*

1 *participation in the program shall give written notice to that person and to his or*
2 *her attorney, if the person is represented by legal counsel, of the time, date and*
3 *place of the hearing and of the facts necessitating that the person resume*
4 *participation in the program.*

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

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

8 433A.011 As used in this chapter, unless the context otherwise requires, the
9 words and terms defined in NRS 433A.012 to 433A.018, inclusive, *and section 2*
10 *of this act* have the meanings ascribed to them in those sections.

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

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

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

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

34 (b) Attempted or threatened to commit suicide or committed acts in furtherance
35 of a threat to commit suicide, and if there exists a reasonable probability that the
36 person will commit suicide unless he or she is admitted to a mental health facility
37 pursuant to the 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; or

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

45 3. A person presents a clear and present danger of harm to others if, within
46 the immediately preceding 30 days, the person has, as a result of a mental illness,
47 inflicted or attempted to inflict serious bodily harm on any other person, or made
48 threats to inflict harm and committed acts in furtherance of those threats, and if
49 there exists a reasonable probability that he or she will do so again unless the
50 person is admitted to a mental health facility pursuant to the provisions of NRS
51 433A.115 to 433A.330, inclusive, *and sections 3 and 4 of this act* and adequate
52 treatment is provided to him or her.

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

2 433A.130 All applications and certificates for the admission of any person in
3 the State of Nevada to a mental health facility *or to a program of community-based*
4 *or outpatient services* under the provisions of this chapter shall be made on forms
5 approved by the Division and the Office of the Attorney General and furnished by
6 the clerks of the district courts in each county.

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

8 433A.150 1. Any person alleged to be a person with mental illness may,
9 upon application pursuant to NRS 433A.160 and subject to the provisions of
10 subsection 2, be detained in a public or private mental health facility or hospital
11 under an emergency admission for evaluation, observation and treatment.

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

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

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

28 433A.200 1. Except as otherwise provided in NRS 432B.6075, a proceeding
29 for an involuntary court-ordered admission of any person in the State of Nevada
30 may be commenced by the filing of a petition *for the involuntary admission to a*
31 *mental health facility or to a program of community-based or outpatient services*
32 with the clerk of the district court of the county where the person who is to be
33 treated resides. The petition may be filed by the spouse, parent, adult children or
34 legal guardian of the person to be treated or by any physician, psychologist, social
35 worker or registered nurse, by an accredited agent of the Department or by any
36 officer authorized to make arrests in the State of Nevada. The petition must be
37 accompanied:

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

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

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

50 (2) The person alleged to be a person with mental illness has refused to
51 submit to examination or treatment by a physician, psychiatrist or licensed
52 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.

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 he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right

1 to counsel and shall appoint counsel, who may be the public defender or his or her
2 deputy.

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

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

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

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

20 433A.310 1. Except as otherwise provided in NRS 432B.6076 and
21 432B.6077, if the district court finds, after proceedings for the involuntary court-
22 ordered admission of a person : ~~to a public or private mental health facility;~~

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

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

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

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

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

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

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

51 (e) *The court determines that, based on the person's history of treatment for*
52 *mental illness, the person needs to be admitted to a program of community-based*

1 *or outpatient services to prevent further disability or deterioration of the person*
2 *which is likely to result in harm to himself or herself or others;*

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

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

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

11 3. Except as otherwise provided in NRS 432B.608, an involuntary admission
12 pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6
13 months if not terminated previously by the medical director of the public or private
14 mental health facility as provided for in subsection 2 of NRS 433A.390 ~~or by the~~
15 ~~professional responsible for providing or coordinating the program of~~
16 ~~community-based or outpatient services as provided for in subsection 3 of NRS~~
17 ~~433A.390.~~ Except as otherwise provided in NRS 432B.608, at the end of the court-
18 ordered period of treatment, the Division, ~~for~~ any mental health facility that is not
19 operated by the Division *or a program of community-based or outpatient services*
20 may petition to renew the ~~detention~~ *involuntary admission* of the person for
21 additional periods not to exceed 6 months each. For each renewal, the petition must
22 set forth to the court specific reasons why further treatment would be in the
23 person's own best interests.

24 ~~3-4~~ 4. Before issuing an order for involuntary admission or a renewal
25 thereof, the court shall explore other alternative courses of treatment within the
26 least restrictive appropriate environment, *including involuntary admission to a*
27 *program of community-based or outpatient services*, as suggested by the
28 evaluation team who evaluated the person, or other persons professionally qualified
29 in the field of psychiatric mental health, which the court believes may be in the best
30 interests of the person.

31 ~~4-4~~ 5. If the court issues an order involuntarily admitting a person to a public
32 or private mental health facility *or to a program of community-based or outpatient*
33 *services* pursuant to this section, the court shall, notwithstanding the provisions of
34 NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a
35 record of such order to be transmitted to the Central Repository for Nevada Records
36 of Criminal History, along with a statement indicating that the record is being
37 transmitted for inclusion in each appropriate database of the National Instant
38 Criminal Background Check System.

39 ~~5-5~~ 6. As used in this section, "National Instant Criminal Background Check
40 System" has the meaning ascribed to it in NRS 179A.062.

41 Sec. 14. NRS 433A.320 is hereby amended to read as follows:

42 433A.320 The order for involuntary court admission of any person to a *public*
43 *or private* mental health facility ~~or to a program of community-based or outpatient~~
44 ~~services must~~ be accompanied by a clinical
45 abstract, including a history of illness, diagnosis, treatment and the names of
46 relatives or correspondents.

47 Sec. 15. NRS 433A.330 is hereby amended to read as follows:

48 433A.330 1. When ~~any~~ *an* involuntary court admission *to a mental health*
49 *facility* is ordered under the provisions of this chapter, the involuntarily admitted
50 person, together with the court orders and certificates of the physicians, certified
51 psychologists or evaluation team and a full and complete transcript of the notes of
52 the official reporter made at the examination of such person before the court, must
53 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.

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 ~~to~~ *or to a program of community-based or outpatient services*, each consumer ~~to~~ *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 ~~to~~ *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, ~~to~~ *or* private institution, ~~to~~ *or* facility offering mental health services *to* *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 seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the consumer.

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

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

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

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

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

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

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

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

2. As used in this section, "consumer" 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. 18. NRS 433A.370 is hereby amended to read as follows:

433A.370 1. When a consumer committed by a court to a division facility on or before June 30, 1975, or a consumer 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 consumer has not returned to a division facility from conditional release after the administrative officer of the facility has ordered the consumer 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 consumer 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 of treatment developed pursuant to section 3 of this act, despite efforts by the professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer to solicit the consumer's compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the consumer to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240. The petition must be accompanied by:*

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

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

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

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

3. *If the court determines that there is probable cause to believe that the consumer is likely to harm himself or herself or others if the consumer does not comply with the plan of treatment, the court may issue an order requiring a peace officer to take into custody and deliver the consumer to the appropriate location*

1 *for an evaluation by an evaluation team from the Division pursuant to NRS*
 2 *433A.240.*

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

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

9 433A.390 1. When a consumer, involuntarily admitted to a mental health
 10 facility *or to a program of community-based or outpatient services* by court order,
 11 is released at the end of the ~~time~~ *period* specified pursuant to NRS 433A.310,
 12 written notice must be given to the admitting court and to the consumer's legal
 13 guardian at least 10 days before the release of the consumer. The consumer may
 14 then be released without requiring further orders of the court. If the consumer has a
 15 legal guardian, the facility *or the professional responsible for providing or*
 16 *coordinating the program of community-based or outpatient services* shall notify
 17 the guardian before discharging the consumer from the facility ~~or program~~. The
 18 legal guardian has discretion to determine where the consumer will be released,
 19 taking into consideration any discharge plan proposed by the facility assessment
 20 team ~~or the professional responsible for providing or coordinating the program~~
 21 *of community-based or outpatient services*. If the legal guardian does not inform
 22 the facility *or professional* as to where the consumer will be released within 3 days
 23 after the date of notification, the facility *or professional* shall discharge the
 24 consumer according to its proposed discharge plan.

25 2. ~~An involuntarily court admitted~~ *A consumer who is involuntarily*
 26 *admitted to a mental health facility* may be unconditionally released before the
 27 period specified in NRS 433A.310 when:

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

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

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

48 (a) *The professional responsible for providing or coordinating the program*
 49 *of community-based or outpatient services for the consumer determines that the*
 50 *consumer has recovered from his or her mental illness or has improved to such*
 51 *an extent that the consumer is no longer considered to present a clear and*
 52 *present danger of harm to himself or herself or others; and*

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

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

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

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

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

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

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

433A.600 1. A person who is admitted to a division facility or to a program of community-based or outpatient services operated by the Division and not determined to be indigent and every responsible relative pursuant to NRS 433A.610 of the person shall be charged for the cost of treatment and is liable for that cost. If after demand is made for payment the person or his or her responsible relative fails to pay that cost, the administrative officer or professional responsible for providing or coordinating the program of community-based or outpatient services, as applicable, may recover the amount due by civil action.

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

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

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

2. If a person is admitted to a division facility or program of community-based or outpatient services pursuant to a court order, that person and his or her responsible relatives are responsible for the payment of the actual cost of the

treatment and services rendered during his or her admission to the division facility or program unless the investigation reveals that the person and his or her responsible relatives are not capable of paying the full amount of the costs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A transfer of a firearm; or

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

7. As used in this section:

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

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

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

Sec. 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.

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

6 3. A person who, without probable cause for believing another person to be
7 mentally ill, executes a petition, application or certificate pursuant to this chapter,
8 by which the person secures or attempts to secure the apprehension, hospitalization,
9 detention, *admission* or restraint of the person alleged to be mentally ill, or any
10 physician, psychiatrist, ~~for~~ licensed psychologist *or other person professionally*
11 *qualified in the field of psychiatric mental health* who knowingly makes any false
12 certificate or application pursuant to this chapter as to the mental condition of any
13 person is guilty of a category D felony and shall be punished as provided in NRS
14 193.130.

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