

SENATE BILL NO. 221—SENATORS JONES, FORD,
KIHUEN, SEGERBLOM AND SPEARMAN

MARCH 7, 2013

Referred to Committee on Health and Human Services

SUMMARY—Makes certain changes relating to persons with mental illness. (BDR 14-943)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 persons with mental illness; requiring a court to transmit within 5 business days certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; requiring certain persons to request a background check before transferring a firearm to another person under certain circumstances; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a court to transmit to the Central Repository for Nevada
2 Records of Criminal History a record of any court order, judgment, plea or verdict
3 concerning the involuntary admission of a person to a mental health facility, the
4 appointment of a guardian for a person with a mental defect, a finding that a person
5 is incompetent to stand trial, a verdict acquitting a defendant by reason of insanity
6 or a plea or finding of guilty but mentally ill, along with a statement that the record
7 is being transmitted for inclusion in all appropriate databases of the National Instant
8 Criminal Background Check System. (NRS 159.0593, 174.035, 175.533, 175.539,
9 178.425, 433A.310) **Sections 1-4, 7 and 11** of this bill require such records to be
10 transmitted to the Central Repository within 5 business days.



Existing law authorizes a private person who wishes to transfer a firearm to another person to request the Central Repository to perform a background check on the person who wishes to acquire the firearm. (NRS 202.254) **Section 8** of this bill requires a private person who wishes to transfer a firearm to another person who does not hold a permit to carry a concealed firearm to request that either: (1) the Central Repository perform a background check; or (2) a federal firearms dealer submit a request for a background check to the Central Repository. **Section 8** also provides that a private person may not transfer a firearm to another person unless the private person: (1) has received notification from the Central Repository that receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law; or (2) has not received notification from the Central Repository regarding the request within 3 business days after making the request.

Existing law prohibits certain persons from possessing or having custody or control of a firearm. (NRS 202.360) **Section 9** of this bill: (1) prohibits a person who has been reported by a psychiatrist or a licensed psychologist to have a mental illness and who, because of that illness, is likely to harm himself or herself or others, from having possession, custody or control of a firearm for a period of 6 months; and (2) requires a psychiatrist or licensed psychologist to report such a person to a local law enforcement agency.

Existing law prohibits a person from selling or otherwise disposing of any firearm or ammunition to another person if he or she has actual knowledge that the other person: (1) is under indictment for, or has been convicted of, a felony; (2) is a fugitive from justice; (3) has been adjudicated as mentally ill or has been committed to a mental health facility; or (4) is illegally or unlawfully in the United States. (NRS 202.362) **Section 10** of this bill prohibits a person from selling or otherwise disposing of any firearm or ammunition to another person if he or she has reasonable cause to believe that the other person meets any of those listed conditions or if the other person is otherwise prohibited from possessing a firearm.

Existing law provides that a patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the patient and the patient's psychologist or doctor. (NRS 49.209, 49.225) **Sections 5 and 6** of this bill provide exceptions to the privilege for certain determinations which are now required pursuant to this bill.

Existing law: (1) designates the Division of Mental Health and Developmental Services of the Department of Health and Human Services as the official state agency for developing and administering outpatient mental health services; and (2) requires the Division to perform certain functions relating to mental health. (NRS 436.123) **Section 12** of this bill requires the Division to assist and consult with local governments and all law enforcement agencies in this State in providing community mental health services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 174.035 is hereby amended to read as follows:
174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.
2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the



1 form prescribed in NRS 174.063. If a plea of guilty or guilty but
2 mentally ill is made orally, the court shall not accept such a plea or a
3 plea of nolo contendere without first addressing the defendant
4 personally and determining that the plea is made voluntarily with
5 understanding of the nature of the charge and consequences of the
6 plea.

7 3. With the consent of the court and the district attorney, a
8 defendant may enter a conditional plea of guilty, guilty but mentally
9 ill or nolo contendere, reserving in writing the right, on appeal from
10 the judgment, to a review of the adverse determination of any
11 specified pretrial motion. A defendant who prevails on appeal must
12 be allowed to withdraw the plea.

13 4. A plea of guilty but mentally ill must be entered not less
14 than 21 days before the date set for trial. A defendant who has
15 entered a plea of guilty but mentally ill has the burden of
16 establishing the defendant's mental illness by a preponderance of
17 the evidence. Except as otherwise provided by specific statute, a
18 defendant who enters such a plea is subject to the same criminal,
19 civil and administrative penalties and procedures as a defendant who
20 pleads guilty.

21 5. The defendant may, in the alternative or in addition to any
22 one of the pleas permitted by subsection 1, plead not guilty by
23 reason of insanity. A plea of not guilty by reason of insanity must be
24 entered not less than 21 days before the date set for trial. A
25 defendant who has not so pleaded may offer the defense of insanity
26 during trial upon good cause shown. Under such a plea or defense,
27 the burden of proof is upon the defendant to establish by a
28 preponderance of the evidence that:

29 (a) Due to a disease or defect of the mind, the defendant was in a
30 delusional state at the time of the alleged offense; and

31 (b) Due to the delusional state, the defendant either did not:

32 (1) Know or understand the nature and capacity of his or her
33 act; or

34 (2) Appreciate that his or her conduct was wrong, meaning
35 not authorized by law.

36 6. If a defendant refuses to plead or if the court refuses to
37 accept a plea of guilty or guilty but mentally ill or if a defendant
38 corporation fails to appear, the court shall enter a plea of not guilty.

39 7. A defendant may not enter a plea of guilty or guilty but
40 mentally ill pursuant to a plea bargain for an offense punishable as a
41 felony for which:

42 (a) Probation is not allowed; or

43 (b) The maximum prison sentence is more than 10 years,



1 ➡ unless the plea bargain is set forth in writing and signed by the
2 defendant, the defendant's attorney, if the defendant is represented
3 by counsel, and the prosecuting attorney.

4 8. If the court accepts a plea of guilty but mentally ill pursuant
5 to this section, the court shall cause, *within 5 business days after*
6 *acceptance of the plea*, on a form prescribed by the Department of
7 Public Safety, a record of that plea to be transmitted to the Central
8 Repository for Nevada Records of Criminal History along with a
9 statement indicating that the record is being transmitted for
10 inclusion in each appropriate database of the National Instant
11 Criminal Background Check System.

12 9. As used in this section:

13 (a) "Disease or defect of the mind" does not include a disease or
14 defect which is caused solely by voluntary intoxication.

15 (b) "National Instant Criminal Background Check System" has
16 the meaning ascribed to it in NRS 179A.062.

17 **Sec. 2.** NRS 175.533 is hereby amended to read as follows:

18 175.533 1. During a trial, upon a plea of not guilty by reason
19 of insanity, the trier of fact may find the defendant guilty but
20 mentally ill if the trier of fact finds all of the following:

21 (a) The defendant is guilty beyond a reasonable doubt of an
22 offense;

23 (b) The defendant has established by a preponderance of the
24 evidence that due to a disease or defect of the mind, the defendant
25 was mentally ill at the time of the commission of the offense; and

26 (c) The defendant has not established by a preponderance of the
27 evidence that the defendant is not guilty by reason of insanity
28 pursuant to subsection 5 of NRS 174.035.

29 2. Except as otherwise provided by specific statute, a defendant
30 who is found guilty but mentally ill is subject to the same criminal,
31 civil and administrative penalties and procedures as a defendant who
32 is found guilty.

33 3. If the trier of fact finds a defendant guilty but mentally ill
34 pursuant to subsection 1, the court shall cause, *within 5 business*
35 *days after the finding*, on a form prescribed by the Department of
36 Public Safety, a record of the finding to be transmitted to the Central
37 Repository for Nevada Records of Criminal History, along with a
38 statement indicating that the record is being transmitted for
39 inclusion in each appropriate database of the National Instant
40 Criminal Background Check System.

41 4. As used in this section:

42 (a) "Disease or defect of the mind" does not include a disease or
43 defect which is caused solely by voluntary intoxication.

44 (b) "National Instant Criminal Background Check System" has
45 the meaning ascribed to it in NRS 179A.062.



1 **Sec. 3.** NRS 175.539 is hereby amended to read as follows:

2 175.539 1. Where on a trial a defense of insanity is
3 interposed by the defendant and the defendant is acquitted by reason
4 of that defense, the finding of the jury pending the judicial
5 determination pursuant to subsection 2 has the same effect as if the
6 defendant were regularly adjudged insane, and the judge must:

7 (a) Order a peace officer to take the person into protective
8 custody and transport the person to a forensic facility for detention
9 pending a hearing to determine the person's mental health;

10 (b) Order the examination of the person by two psychiatrists,
11 two psychologists, or one psychiatrist and one psychologist who are
12 employed by a division facility; and

13 (c) At a hearing in open court, receive the report of the
14 examining advisers and allow counsel for the State and for the
15 person to examine the advisers, introduce other evidence and cross-
16 examine witnesses.

17 2. If the court finds, after the hearing:

18 (a) That there is not clear and convincing evidence that the
19 person is a person with mental illness, the court must order the
20 person's discharge; or

21 (b) That there is clear and convincing evidence that the person is
22 a person with mental illness, the court must order that the person be
23 committed to the custody of the Administrator of the Division of
24 Mental Health and Developmental Services of the Department of
25 Health and Human Services until the person is discharged or
26 conditionally released therefrom in accordance with NRS 178.467 to
27 178.471, inclusive.

28 ➔ The court shall issue its finding within 90 days after the
29 defendant is acquitted.

30 3. The Administrator shall make the reports and the court shall
31 proceed in the manner provided in NRS 178.467 to 178.471,
32 inclusive.

33 4. If the court accepts a verdict acquitting a defendant by
34 reason of insanity pursuant to this section, the court shall cause,
35 *within 5 business days after accepting the verdict,* on a form
36 prescribed by the Department of Public Safety, a record of that
37 verdict to be transmitted to the Central Repository for Nevada
38 Records of Criminal History, along with a statement indicating that
39 the record is being transmitted for inclusion in each appropriate
40 database of the National Instant Criminal Background Check
41 System.

42 5. As used in this section, unless the context otherwise
43 requires:

44 (a) "Division facility" has the meaning ascribed to it in
45 NRS 433.094.



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(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and dangerous to himself or herself or to society and that commitment is required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or the Administrator's designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders the defendant's release or until the defendant is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or herself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or the Administrator's designee as an outpatient for treatment, if it might be beneficial, and for a determination of the defendant's ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for any periodic appearances before the Administrator or the Administrator's designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or the Administrator's designee or, if the defendant is charged with a misdemeanor, the judge finds the defendant capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an



1 outpatient pursuant to paragraph (d) of subsection 4 of NRS
2 178.460, the proceedings against the defendant which were
3 suspended must be dismissed. No new charge arising out of the
4 same circumstances may be brought after a period, equal to the
5 maximum time allowed by law for commencing a criminal action
6 for the crime with which the defendant was charged, has lapsed
7 since the date of the alleged offense.

8 6. If a defendant is found incompetent pursuant to this section,
9 the court shall cause, *within 5 business days after the finding*, on a
10 form prescribed by the Department of Public Safety, a record of that
11 finding to be transmitted to the Central Repository for Nevada
12 Records of Criminal History, along with a statement indicating that
13 the record is being transmitted for inclusion in each appropriate
14 database of the National Instant Criminal Background Check
15 System.

16 7. As used in this section, "National Instant Criminal
17 Background Check System" has the meaning ascribed to it in
18 NRS 179A.062.

19 **Sec. 5.** NRS 49.213 is hereby amended to read as follows:

20 49.213 There is no privilege pursuant to NRS 49.209 or
21 49.211:

22 1. For communications relevant to an issue in a proceeding to
23 hospitalize the patient for mental illness, if the psychologist in the
24 course of diagnosis or treatment has determined that the patient
25 requires hospitalization.

26 2. *For communications relevant to any determination made*
27 *pursuant to NRS 202.360.*

28 3. For communications relevant to an issue of the treatment of
29 the patient in any proceeding in which the treatment is an element of
30 a claim or defense.

31 ~~13-1~~ 4. If disclosure is otherwise required by state or federal
32 law.

33 ~~14-1~~ 5. For communications relevant to an issue in a
34 proceeding to determine the validity of a will of the patient.

35 ~~15-1~~ 6. If there is an immediate threat that the patient will harm
36 himself or herself or other persons.

37 ~~16-1~~ 7. For communications made in the course of a court-
38 ordered examination of the condition of a patient with respect to the
39 specific purpose of the examination unless the court orders
40 otherwise.

41 ~~17-1~~ 8. For communications relevant to an issue in an
42 investigation or hearing conducted by the Board of Psychological
43 Examiners if the treatment of the patient is an element of that
44 investigation or hearing.



~~18-1~~ 9. For communications relevant to an issue in a proceeding relating to the abuse or neglect of a person with a disability or a person who is legally incompetent.

Sec. 6. NRS 49.245 is hereby amended to read as follows:

49.245 There is no privilege under NRS 49.225 or 49.235:

1. For communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

2. *For communications relevant to any determination made pursuant to NRS 202.360.*

3. As to communications made in the course of a court-ordered examination of the condition of a patient with respect to the particular purpose of the examination unless the court orders otherwise.

~~13-1~~ 4. As to written medical or hospital records relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

~~14-1~~ 5. In a prosecution or mandamus proceeding under chapter 441A of NRS.

~~15-1~~ 6. As to any information communicated to a physician in an effort unlawfully to procure a dangerous drug or controlled substance, or unlawfully to procure the administration of any such drug or substance.

~~16-1~~ 7. As to any written medical or hospital records which are furnished in accordance with the provisions of NRS 629.061.

~~17-1~~ 8. As to records that are required by chapter 453 of NRS to be maintained.

~~18-1~~ 9. If the services of the physician are sought or obtained to enable or aid a person to commit or plan to commit fraud or any other unlawful act in violation of any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS which the person knows or reasonably should know is fraudulent or otherwise unlawful.

Sec. 7. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause , *within 5 business days after issuing the order*, a record of the 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



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1 inclusion in each appropriate database of the National Instant
2 Criminal Background Check System.

3 2. As used in this section:

4 (a) "National Instant Criminal Background Check System" has
5 the meaning ascribed to it in NRS 179A.062.

6 (b) "Person with a mental defect" means a person who, as a
7 result of marked subnormal intelligence, mental illness,
8 incompetence, condition or disease, is:

9 (1) A danger to himself or herself or others; or

10 (2) Lacks the capacity to contract or manage his or her own
11 affairs.

12 **Sec. 8.** NRS 202.254 is hereby amended to read as follows:

13 202.254 1. A private person who wishes to transfer a firearm
14 to another person ~~may,~~ *who is not a permittee shall*, before
15 transferring the firearm, request that ~~the~~ :

16 (a) *The Central Repository for Nevada Records of Criminal*
17 *History perform a background check on the person who wishes to*
18 *acquire the firearm* ~~it~~ ; or

19 (b) *A holder of a federal firearms license submit a request to*
20 *perform a background check on the person who wishes to acquire*
21 *the firearm to the Central Repository.*

22 2. The person who requests the information pursuant to
23 subsection 1 ~~shall~~ :

24 (a) *Shall* provide the Central Repository with identifying
25 information about the person who wishes to acquire the firearm.

26 (b) *Shall not transfer a firearm to the person who wishes to*
27 *acquire the firearm until:*

28 (1) *The person has received notification pursuant to*
29 *subsection 3 that the information available to the Central*
30 *Repository indicates that the receipt of a firearm by the person*
31 *who wishes to acquire the firearm would not violate a state or*
32 *federal law; or*

33 (2) *The person who requests the information has not*
34 *received notification from the Central Repository regarding the*
35 *request within 3 business days after making the request.*

36 3. Upon receiving a request from a private person *or a licensed*
37 *dealer* pursuant to subsection 1 and the identifying information
38 required pursuant to subsection 2, the Central Repository shall
39 within ~~5~~ *3* business days after receiving the request:

40 (a) Perform a background check on the person who wishes to
41 acquire the firearm; and

42 (b) Notify the person who requests the information whether the
43 information available to the Central Repository indicates that the
44 receipt of a firearm by the person who wishes to acquire the firearm
45 would violate a state or federal law.



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4. If the person who requests the information does not receive notification from the Central Repository regarding the request within ~~15~~ 3 business days after making the request, the person may presume that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law.

5. The Central Repository may charge a reasonable fee for performing a background check and notifying a person of the results of the background check pursuant to this section.

6. The failure of a person to ~~request the Central Repository to perform a background check pursuant to~~ *comply with the provisions of* this section before transferring a firearm to another person does not give rise to any civil cause of action.

7. *A person who transfers a firearm to another person in violation of this section:*

(a) Is prohibited from possessing a firearm for a period of 2 years after the date of the conviction; and

(b) Is guilty of a gross misdemeanor.

8. *As used in this section:*

(a) "Background check" includes a report from the National Instant Criminal Background Check System.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(c) "Permittee" means a holder of a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive.

Sec. 9. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(b) Is a fugitive from justice; or

(c) Is an unlawful user of, or addicted to, any controlled substance.

➔ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:



1 (a) Has been adjudicated as mentally ill or has been committed
2 to any mental health facility; or

3 (b) Is illegally or unlawfully in the United States.

4 ➤ A person who violates the provisions of this subsection is guilty
5 of a category D felony and shall be punished as provided in
6 NRS 193.130.

7 3. *A person shall not, for a period of 6 months, own or have*
8 *in his or her possession or under his or her custody or control a*
9 *firearm if the person has been determined by a psychiatrist or a*
10 *licensed psychologist to be a person with mental illness who,*
11 *because of that illness, is likely to harm himself or herself or*
12 *others. A person who violates the provisions of this subsection is*
13 *guilty of a category D felony and shall be punished as provided in*
14 *NRS 193.130.*

15 4. *A psychiatrist or a licensed psychologist shall immediately*
16 *report to a local law enforcement agency the identity of a person*
17 *subject to subsection 3. The 6-month period set forth in subsection*
18 *3 commences on the date that the psychiatrist or licensed*
19 *psychologist reports to a local law enforcement agency the identity*
20 *of the person with mental illness. The prohibition set forth in*
21 *subsection 3 does not apply unless the psychiatrist or licensed*
22 *psychologist reports to a local law enforcement agency the identity*
23 *of the person.*

24 5. *Upon receipt of the report from the psychiatrist or licensed*
25 *psychologist pursuant to subsection 4, the local law enforcement*
26 *agency shall notify by certified mail, return receipt requested, the*
27 *person who is identified in the report made pursuant to subsection*
28 *4 of the following:*

29 (a) *That he or she is prohibited from possessing or having*
30 *custody or control of a firearm for a period of 6 months*
31 *commencing on the date that the psychiatrist or licensed*
32 *psychologist reports to the local law enforcement agency the*
33 *identity of the person. The notice must state the date when the*
34 *prohibition commences and ends.*

35 (b) *That he or she may petition the district court in the county*
36 *where the person resides for an order that he or she may possess*
37 *or have custody or control of a firearm. At the time the petition is*
38 *filed, the clerk of the court shall set a hearing and notify the*
39 *person and the district attorney. The people of the State must be*
40 *named as the respondent in the proceeding and must be*
41 *represented by the district attorney.*

42 6. *If the court finds by a preponderance of the evidence that*
43 *the person would be likely to use firearms in a safe and lawful*
44 *manner, the court shall order that the person may possess or have*
45 *custody or control of a firearm.*



1 *7. A psychiatrist or licensed psychologist who provides a*
2 *report pursuant to this section is immune from civil liability for*
3 *making any report required by this section.*

4 **8.** As used in this section:

5 (a) "Controlled substance" has the meaning ascribed to it in 21
6 U.S.C. § 802(6).

7 (b) "Firearm" includes any firearm that is loaded or unloaded
8 and operable or inoperable.

9 **Sec. 10.** NRS 202.362 is hereby amended to read as follows:

10 202.362 1. Except as otherwise provided in subsection 3, a
11 person within this State shall not sell or otherwise dispose of any
12 firearm or ammunition to another person if he or she has ~~actual~~
13 ~~knowledge~~ *reasonable cause to believe* that the other person:

14 (a) Is under indictment for, or has been convicted of, a felony in
15 this or any other state, or in any political subdivision thereof, or of a
16 felony in violation of the laws of the United States of America,
17 unless the other person has received a pardon and the pardon does
18 not restrict his or her right to bear arms; *or*

19 (b) ~~Is a fugitive from justice;~~

20 ~~—(c) Has been adjudicated as mentally ill or has been committed~~
21 ~~to any mental health facility; or~~

22 ~~—(d) Is illegally or unlawfully in the United States.]~~ *Is prohibited*
23 *from possessing a firearm pursuant to NRS 202.360.*

24 2. A person who violates the provisions of subsection 1 is
25 guilty of a category B felony and shall be punished by imprisonment
26 in the state prison for a minimum term of not less than 1 year and a
27 maximum term of not more than 10 years, and may be further
28 punished by a fine of not more than \$10,000.

29 3. This section does not apply to a person who sells or disposes
30 of any firearm or ammunition to:

31 (a) A licensed importer, licensed manufacturer, licensed dealer
32 or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not
33 precluded from dealing in firearms or ammunition; or

34 (b) A person who has been granted relief from the disabilities
35 imposed by federal laws pursuant to 18 U.S.C. § 925(c) or
36 NRS 179A.163.

37 *4. For the purposes of this section, a person has "reasonable*
38 *cause to believe" if, in light of all the surrounding facts and*
39 *circumstances which are known or which reasonably should be*
40 *known to the person at the time, a reasonable person would*
41 *believe, under those facts and circumstances, that an act,*
42 *transaction, event, situation or condition exists, is occurring or*
43 *has occurred.*



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

2 433A.310 1. Except as otherwise provided in NRS
3 432B.6076 and 432B.6077, if the district court finds, after
4 proceedings for the involuntary court-ordered admission of a person
5 to a public or private mental health facility:

6 (a) That there is not clear and convincing evidence that the
7 person with respect to whom the hearing was held has a mental
8 illness or exhibits observable behavior such that the person is likely
9 to harm himself or herself or others if allowed his or her liberty, the
10 court shall enter its finding to that effect and the person must not be
11 involuntarily detained in such a facility.

12 (b) That there is clear and convincing evidence that the person
13 with respect to whom the hearing was held has a mental illness and,
14 because of that illness, is likely to harm himself or herself or others
15 if allowed his or her liberty, the court may order the involuntary
16 admission of the person for the most appropriate course of
17 treatment. The order of the court must be interlocutory and must not
18 become final if, within 30 days after the involuntary admission, the
19 person is unconditionally released pursuant to NRS 433A.390.

20 2. Except as otherwise provided in NRS 432B.608, an
21 involuntary admission pursuant to paragraph (b) of subsection 1
22 automatically expires at the end of 6 months if not terminated
23 previously by the medical director of the public or private mental
24 health facility as provided for in subsection 2 of NRS 433A.390.
25 Except as otherwise provided in NRS 432B.608, at the end of the
26 court-ordered period of treatment, the Division or any mental health
27 facility that is not operated by the Division may petition to renew
28 the detention of the person for additional periods not to exceed 6
29 months each. For each renewal, the petition must set forth to the
30 court specific reasons why further treatment would be in the
31 person's own best interests.

32 3. Before issuing an order for involuntary admission or a
33 renewal thereof, the court shall explore other alternative courses of
34 treatment within the least restrictive appropriate environment as
35 suggested by the evaluation team who evaluated the person, or other
36 persons professionally qualified in the field of psychiatric mental
37 health, which the court believes may be in the best interests of the
38 person.

39 4. If the court issues an order involuntarily admitting a person
40 to a public or private mental health facility pursuant to this section,
41 the court shall, notwithstanding the provisions of NRS 433A.715,
42 cause, *within 5 business days after issuing the order*, on a form
43 prescribed by the Department of Public Safety, a record of ~~such~~
44 *the* order to be transmitted to the Central Repository for Nevada
45 Records of Criminal History, along with a statement indicating that



* S B 2 2 1 *

1 the record is being transmitted for inclusion in each appropriate
2 database of the National Instant Criminal Background Check
3 System.

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

7 **Sec. 12.** NRS 436.123 is hereby amended to read as follows:

8 436.123 The Division is designated as the official state agency
9 responsible for developing and administering preventive and
10 outpatient mental health services, subject to administrative
11 supervision by the Director of the Department. It shall function in
12 the following areas:

13 1. Assisting and consulting with local health authorities , *local*
14 *governments and all law enforcement agencies in this State* in
15 providing community mental health services, which services may
16 include prevention, rehabilitation, case finding, diagnosis and
17 treatment of persons with mental illness, and consultation and
18 education for groups and individuals regarding mental health.

19 2. Coordinating mental health functions with other state
20 agencies.

21 3. Participating in and promoting the development of facilities
22 for training personnel necessary for implementing such services.

23 4. Collecting and disseminating information pertaining to
24 mental health.

25 5. Performing such other acts as are necessary to promote
26 mental health in the State.

