

ASSEMBLY BILL NO. 91—ASSEMBLYWOMAN BENITEZ-THOMPSON

PREFILED JANUARY 7, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the admission of persons with certain mental conditions to and the release of such persons from certain facilities. (BDR 39-665)

FISCAL NOTE: Effect on Local Government: No.
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; expanding the list of persons authorized to file an application for the emergency admission of a person alleged to be a person with mental illness and a petition for the involuntary admission of such a person to certain facilities or programs; expanding the list of persons authorized to complete a certificate stating that certain persons admitted to certain mental health facilities or hospitals are not persons with mental illness; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines "person with mental illness" as a person whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others. (NRS 433A.115) Existing law authorizes certain persons to file an application for the emergency admission of a person alleged to be a person with mental illness to certain facilities. (NRS 433A.160) **Section 1** of this bill expands the list of persons who are authorized to file such an application to include a physician assistant.

Under existing law, a licensed physician on the medical staff of certain facilities may release a person alleged to be a person with mental illness who has been admitted on an emergency basis if a licensed physician on the medical staff of the facility completes a certificate stating that the person admitted is not a person with a mental illness. (NRS 433A.195) **Sections 2 and 3** of this bill authorize a physician assistant, psychologist, social worker or registered nurse



to complete such a certificate while still requiring a licensed physician on the medical staff of the facility to release the person.

Existing law authorizes the spouse or a parent, adult child or legal guardian of a person and certain other persons to file a petition for the involuntary court-ordered admission of a person alleged to be a person with mental illness to a mental health facility or to a program of community-based or outpatient services. (NRS 433A.200) **Section 4** of this bill further authorizes a physician assistant to file such a petition.

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

Section 1. NRS 433A.160 is hereby amended to read as follows:

433A.160 1. Except as otherwise provided in subsection 2, an application for the emergency admission of a person alleged to be a person with mental illness for evaluation, observation and treatment may only be made by an accredited agent of the Department, an officer authorized to make arrests in the State of Nevada or a physician, *physician assistant*, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse. The agent, officer, physician, *physician assistant*, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse may:

(a) Without a warrant:

(1) Take a person alleged to be a person with mental illness into custody to apply for the emergency admission of the person for evaluation, observation and treatment; and

(2) Transport the person alleged to be a person with mental illness to a public or private mental health facility or hospital for that purpose, or arrange for the person to be transported by:

(I) A local law enforcement agency;

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

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421; or

(IV) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

only if the agent, officer, physician, *physician assistant*, psychologist, marriage and family therapist, clinical professional counselor, social worker or registered nurse has, based upon his or her personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a



1 mental illness and, because of that illness, is likely to harm himself
2 or herself or others if allowed his or her liberty.

3 (b) Apply to a district court for an order requiring:

4 (1) Any peace officer to take a person alleged to be a person
5 with mental illness into custody to allow the applicant for the order
6 to apply for the emergency admission of the person for evaluation,
7 observation and treatment; and

8 (2) Any agency, system or service described in subparagraph
9 (2) of paragraph (a) to transport the person alleged to be a person
10 with mental illness to a public or private mental health facility or
11 hospital for that purpose.

12 ➤ The district court may issue such an order only if it is satisfied
13 that there is probable cause to believe that the person has a mental
14 illness and, because of that illness, is likely to harm himself or
15 herself or others if allowed his or her liberty.

16 2. An application for the emergency admission of a person
17 alleged to be a person with mental illness for evaluation, observation
18 and treatment may be made by a spouse, parent, adult child or legal
19 guardian of the person. The spouse, parent, adult child or legal
20 guardian and any other person who has a legitimate interest in the
21 person alleged to be a person with mental illness may apply to a
22 district court for an order described in paragraph (b) of subsection 1.

23 3. The application for the emergency admission of a person
24 alleged to be a person with mental illness for evaluation, observation
25 and treatment must reveal the circumstances under which the person
26 was taken into custody and the reasons therefor.

27 4. Except as otherwise provided in this subsection, each person
28 admitted to a public or private mental health facility or hospital
29 under an emergency admission must be evaluated at the time of
30 admission by a psychiatrist or a psychologist. If a psychiatrist or a
31 psychologist is not available to conduct an evaluation at the time of
32 admission, a physician may conduct the evaluation. Each such
33 emergency admission must be approved by a psychiatrist.

34 5. As used in this section, "an accredited agent of the
35 Department" means any person appointed or designated by the
36 Director of the Department to take into custody and transport to a
37 mental health facility pursuant to subsections 1 and 2 those persons
38 in need of emergency admission.

39 **Sec. 2.** NRS 433A.195 is hereby amended to read as follows:

40 433A.195 A licensed physician on the medical staff of a
41 facility operated by the Division or of any other public or private
42 mental health facility or hospital may release a person admitted
43 pursuant to NRS 433A.160 upon completion of a certificate which
44 meets the requirements of NRS 433A.197 signed by a licensed
45 physician on the medical staff of the facility or hospital , *a*



physician assistant, psychologist, social worker or registered nurse or an accredited agent of the Department stating that he or she has personally observed and examined the person and that he or she has concluded that the person is not a person with a mental illness.

Sec. 3. NRS 433A.197 is hereby amended to read as follows:

433A.197 1. An application or certificate authorized under subsection 1 of NRS 433A.160 or NRS 433A.170 or 433A.195 must not be considered if made by a psychiatrist, psychologist , ~~for~~ physician , *physician assistant, social worker or registered nurse* who is related by blood or marriage within the first degree of consanguinity or affinity to the person alleged to be a person with mental illness, or who is financially interested in the facility in which the person alleged to be a person with mental illness is to be detained.

2. An application or certificate of any examining person authorized under NRS 433A.170 must not be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by such examining person not more than 72 hours prior to the making of the application or certificate. The certificate required pursuant to NRS 433A.170 must set forth in detail the facts and reasons on which the examining person based his or her opinions and conclusions.

3. A certificate authorized pursuant to NRS 433A.195 must not be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by the examining physician ~~and~~ , *physician assistant, psychologist, social worker, registered nurse or accredited agent of the Department.* The certificate authorized pursuant to NRS 433A.195 must ~~{set forth}~~ *describe* in detail the facts and reasons on which the examining physician , *physician assistant, psychologist, social worker, registered nurse or accredited agent of the Department* based his or her opinions and conclusions.

Sec. 4. 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, *physician assistant*, 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 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 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. 5. This act becomes effective upon passage and approval.

