

SENATE BILL NO. 487—COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 23, 2015

Referred to Committee on Judiciary

SUMMARY—Requires counties to pay for the expense of the commitment of certain persons to the Division of Public and Behavioral Health of the Department of Health and Human Services. (BDR 14-1161)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 criminal procedure; requiring counties to pay for the expense of the commitment of certain persons to the Division of Public and Behavioral Health of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a court dismisses the proceedings against a defendant who is charged with any category A felony or a certain category B felony because the court finds that the defendant is incompetent with no substantial probability of attaining competency in the foreseeable future, the prosecuting attorney is authorized to file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 178.461) This bill provides that any expense for the commitment of such a person that is not recovered by the Division must be paid by the county in which the person last resided or, if the person did not reside in this State, in the county in which the indictment was found or the information filed.



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

Section 1. NRS 178.461 is hereby amended to read as follows:

178.461 1. If the proceedings against a defendant who is charged with any category A felony or a category B felony listed in subsection 6 are dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 10 judicial days after the dismissal, file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator pursuant to subsection 3. The court shall hold the hearing within 10 judicial days after the motion is filed with the court.

2. If the prosecuting attorney files a motion pursuant to subsection 1, the prosecuting attorney shall, not later than the date on which the prosecuting attorney files the motion, request from the Division a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility. The Division shall provide the requested comprehensive risk assessment to the court, the prosecuting attorney and counsel for the person not later than three judicial days before the hearing.

3. At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the person has a mental disorder, that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility, the court may order:

(a) The sheriff to take the person into protective custody and transport the person to a forensic facility; and

(b) That the person be committed to the custody of the Administrator and kept under observation until the person is eligible for conditional release pursuant to NRS 178.463 or until the maximum length of commitment described in subsection 4 has expired.

4. The length of commitment of a person pursuant to subsection 3 must not exceed 10 years, including any time that the person has been on conditional release pursuant to NRS 178.463.

5. At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

6. The provisions of subsection 1 apply to any of the following category B felonies:

(a) Voluntary manslaughter pursuant to NRS 200.050;

(b) Mayhem pursuant to NRS 200.280;

(c) Kidnapping in the second degree pursuant to NRS 200.330;

(d) Assault with a deadly weapon pursuant to NRS 200.471;

(e) Battery with a deadly weapon pursuant to NRS 200.481;

(f) Aggravated stalking pursuant to NRS 200.575;



- 1 (g) First degree arson pursuant to NRS 205.010;
- 2 (h) Burglary with a deadly weapon pursuant to NRS 205.060;
- 3 (i) Invasion of the home with a deadly weapon pursuant to
- 4 NRS 205.067;
- 5 (j) Any category B felony involving the use of a firearm; and
- 6 (k) Any attempt to commit a category A felony.

7 *7. Any expense for the commitment of a person pursuant to*
8 *this section that is not recovered by the Division pursuant to NRS*
9 *433A.610 must be paid by the county in which the person last*
10 *resided or, if the person did not reside in this State, in the county*
11 *in which the indictment was found or the information filed. Each*
12 *county shall pay to the Division all expenses required pursuant to*
13 *this subsection according to a schedule established by the*
14 *Division, which must require payment on at least a quarterly basis.*

15 **Sec. 2.** The provisions of NRS 354.599 do not apply to any
16 additional expenses of a local government that are related to the
17 provisions of this act.

18 **Sec. 3.** This act becomes effective on July 1, 2015.

