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FOURTH REPRINT

A.B. 378

ASSEMBLY BILL NO. 378—ASSEMBLYWOMAN HANSEN

MARCH 21, 2019

JOINT SPONSORS: SENATORS HAMMOND AND PICKARD

Referred to Committee on Education

SUMMARY—Makes various changes relating to the transportation and admission of certain persons alleged to be a danger to themselves or others to certain facilities or hospitals. (BDR 34-711)

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 mental health; requiring the model plan for the management of a crisis, emergency or suicide involving a school to include a plan for responding to a pupil with a mental illness; clarifying that consent from any parent or legal guardian of a person is not necessary for the emergency admission of that person; requiring a person who applies for the emergency admission of a child to attempt to obtain the consent of a parent or guardian of the child and maintain documentation of such an attempt; requiring the notification of a parent or guardian of a child of the emergency admission of the child; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the Department of Education to develop a model plan for
- 2 the management of a suicide or a crisis or emergency that involves a public or
- 3 private school and requires immediate action. (NRS 388.253) Existing law requires
- 4 the development of a plan to be used by all public schools in a school district or a
- 5 charter school in responding to a crisis or emergency, which must include the plans,
- 6 procedures and information included in the model plan developed by the
- 7 Department. (NRS 388.243) Existing law authorizes the emergency admission of a
- 8 person who is determined to present a clear and present danger of harm to himself,
- 9 herself or others as a result of mental illness to a public or private mental health



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facility or hospital for evaluation, observation and treatment. (NRS 433A.150) Existing law authorizes certain persons to make an application for such an emergency admission, including an officer authorized to make arrests in this State. (NRS 433A.160) **Section 1** of this bill requires the model plan to include a procedure for responding to a pupil who is determined to present a clear and present danger of harm to himself or herself or others as a result of mental illness, including: (1) utilizing mobile mental health crisis response units, where available; and (2) transporting the pupil to a mental health facility or hospital for admission. **Section 5** of this bill requires the Department of Education to: (1) collaborate with the Department of Health and Human Services, consult with interested persons and consider the due process rights of pupils and parents when developing such procedures. The Department of Education is also required to provide periodic reports to and receive input from the Legislative Committee on Health Care concerning the development of the procedures and to collect data about the utilization of the procedures once developed.

Section 2 of this bill clarifies that such a facility or hospital may accept for emergency admission any person for whom a proper application for emergency admission has been made, regardless of whether any parent or legal guardian of the person has consented to such admission. **Section 2.2** of this bill requires a person, other than a parent or guardian, who applies for the emergency admission of a person who is less than 18 years of age to attempt to obtain the consent of a parent or guardian to make the application when practicable. **Section 2.2** requires the person who makes the application or his or her employer, if applicable, to maintain documentation of each such attempt.

Existing law requires the administrative officer of a mental health facility to ask a person who is admitted to the facility on an emergency basis for permission to notify a family member, friend or other person. If the person provides such permission, the administrator is required to notify the family member, friend or other person. If permission is not given, the administrator is prohibited from notifying another person of the emergency admission in most circumstances. (NRS 433A.190, as amended by section 14 of Assembly Bill No. 85 of the 2019 Legislative Session) **Section 4** of this bill limits the application of these provisions to the emergency admission of a person who is at least 18 years of age. **Section 1.3** of this bill requires a mental health facility or hospital to notify a parent or guardian within 24 hours of the emergency admission of a person who is less than 18 years of age. **Section 1.6** of this bill makes conforming changes.

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

Section 1. NRS 388.253 is hereby amended to read as follows:
388.253 1. The Department shall, with assistance from other state agencies, including, without limitation, the Division of Emergency Management, the Investigation Division, and the Nevada Highway Patrol Division of the Department of Public Safety, develop a model plan for the management of:
(a) A suicide; or
(b) A crisis or emergency that involves a public school or a private school and that requires immediate action.
2. The model plan must include, without limitation, a procedure for:



(a) In response to a crisis or emergency:

(1) Coordinating the resources of local, state and federal agencies, officers and employees, as appropriate;

(2) Accounting for all persons within a school;

(3) Assisting persons within a school in a school district, a charter school or a private school to communicate with each other;

(4) Assisting persons within a school in a school district, a charter school or a private school to communicate with persons located outside the school, including, without limitation, relatives of pupils and relatives of employees of such a school, the news media and persons from local, state or federal agencies that are responding to a crisis or an emergency;

(5) Assisting pupils of a school in the school district, a charter school or a private school, employees of such a school and relatives of such pupils and employees to move safely within and away from the school, including, without limitation, a procedure for evacuating the school and a procedure for securing the school;

(6) Reunifying a pupil with his or her parent or legal guardian;

(7) Providing any necessary medical assistance;

(8) Recovering from a crisis or emergency;

(9) Carrying out a lockdown at a school; and

(10) Providing shelter in specific areas of a school;

(b) Providing specific information relating to managing a crisis or emergency that is a result of:

(1) An incident involving hazardous materials;

(2) An incident involving mass casualties;

(3) An incident involving an active shooter;

(4) An outbreak of disease;

(5) Any threat or hazard identified in the hazard mitigation plan of the county in which the school district is located, if such a plan exists; or

(6) Any other situation, threat or hazard deemed appropriate;

(c) Providing pupils and staff at a school that has experienced a crisis, emergency or suicide with access to counseling and other resources to assist in recovering from the crisis, emergency or suicide; ~~and~~

(d) Evacuating pupils and employees of a charter school to a designated space within an identified public middle school, junior high school or high school in a school district that is separate from the general population of the school and large enough to accommodate the charter school, and such a space may include, without limitation, a gymnasium or multipurpose room of the public school ~~and~~; *and*



(e) *Responding to a pupil who is determined to be a person with mental illness, as defined in NRS 433A.115, including, without limitation:*

(1) *Utilizing mobile mental health crisis response units, where available, before transporting the pupil to a public or private mental health facility pursuant to subparagraph (2); and*

(2) *Transporting the pupil to a public or private mental health facility or hospital for admission pursuant to NRS 433A.150.*

3. In developing the model plan, the Department shall consider the plans developed pursuant to NRS 388.243 and 394.1687 and updated pursuant to NRS 388.245 and 394.1688.

4. The Department shall require a school district to ensure that each public school in the school district identified pursuant to paragraph (d) of subsection 2 is prepared to allow a charter school to evacuate to the school when necessary in accordance with the procedure included in the model plan developed pursuant to subsection 1. A charter school shall hold harmless, indemnify and defend the school district to which it evacuates during a crisis or an emergency against any claim or liability arising from an act or omission by the school district or an employee or officer of the school district.

5. The Department may disseminate to any appropriate local, state or federal agency, officer or employee, as the Department determines is necessary:

(a) The model plan developed by the Department pursuant to subsection 1;

(b) A plan developed pursuant to NRS 388.243 or updated pursuant to NRS 388.245;

(c) A plan developed pursuant to NRS 394.1687 or updated pursuant to NRS 394.1688; and

(d) A deviation approved pursuant to NRS 388.251 or 394.1692.

6. The Department shall, at least once each year, review and update as appropriate the model plan developed pursuant to subsection 1.

Sec. 1.3. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

As soon as practicable but not more than 24 hours after the emergency admission of a person alleged to be a person with mental illness who is under 18 years of age, the administrative officer of the public or private mental health facility shall give notice of such admission in person, by telephone or facsimile and by certified mail to the parent or legal guardian of that person.



Sec. 1.6. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act*, unless the context otherwise requires, “person with mental illness” means any 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 a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, intellectual disability, dementia, delirium, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

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

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person’s death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and section 1.3 of this act* and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility or required to participate in a program of community-based or outpatient services pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive,



1 *and section 1.3 of this act* and adequate treatment is provided to the
2 person.

3 3. A person presents a clear and present danger of harm to
4 others if, within the immediately preceding 30 days, the person has,
5 as a result of a mental illness, inflicted or attempted to inflict serious
6 bodily harm on any other person, or made threats to inflict harm and
7 committed acts in furtherance of those threats, and if there exists a
8 reasonable probability that he or she will do so again unless the
9 person is admitted to a mental health facility or required to
10 participate in a program of community-based or outpatient services
11 pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive,
12 *and section 1.3 of this act* and adequate treatment is provided to
13 him or her.

14 **Sec. 2.** NRS 433A.150 is hereby amended to read as follows:

15 433A.150 1. ~~[Any]~~ *Except as otherwise provided in this*
16 *subsection, a* person alleged to be a person with mental illness may,
17 upon application pursuant to NRS 433A.160 and subject to the
18 provisions of subsection 2, be detained in a public or private mental
19 health facility or hospital under an emergency admission for
20 evaluation, observation and treatment ~~[]~~, *regardless of whether*
21 *any parent or legal guardian of the person has consented to the*
22 *admission.*

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

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

42 **Sec. 2.2.** NRS 433A.160 is hereby amended to read as
43 follows:

44 433A.160 1. Except as otherwise provided in subsection 2,
45 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 mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty.

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

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

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

➤ The district court may issue such an order only if it is satisfied that there is 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.



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

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

4. To the extent practicable, a person who applies for the emergency admission of a person who is less than 18 years of age to a public or private mental health facility or hospital, other than a parent or guardian, shall attempt to obtain the consent of the parent or guardian before making the application. The person who applies for the emergency admission or, if the person makes the application within the scope of his or her employment, the employer of the person, shall maintain documentation of each such attempt until the person who is the subject of the application reaches at least 23 years of age.

5. Except as otherwise provided in this subsection, each person admitted to a public or private mental health facility or hospital under an emergency admission must be evaluated at the time of admission by a psychiatrist or a psychologist. If a psychiatrist or a psychologist is not available to conduct an evaluation at the time of admission, a physician or an advanced practice registered nurse who has the training and experience prescribed by the State Board of Nursing pursuant to NRS 632.120 may conduct the evaluation. Each such emergency admission must be approved by a psychiatrist.

~~§~~ 6. As used in this section, "an accredited agent of the Department" means any person appointed or designated by the Director of the Department to take into custody and transport to a mental health facility pursuant to subsections 1 and 2 those persons in need of emergency admission.

Sec. 2.5. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. Section 14 of Assembly Bill No. 85 of this session is hereby amended to read as follows:

Sec. 14. NRS 433A.190 is hereby amended to read as follows:

433A.190 1. The administrative officer of a public or private mental health facility shall ensure that, within 24 hours of the emergency admission of a person alleged to be a person in a mental health crisis pursuant to NRS 433A.150 ~~§~~



who is at least 18 years of age, the person is asked to give permission to provide notice of the emergency admission to a family member, friend or other person identified by the person.

2. If a person alleged to be a person in a mental health crisis *who is at least 18 years of age* gives permission to notify a family member, friend or other person of the emergency admission, the administrative officer shall ensure that:

(a) The permission is recorded in the medical record of the person; and

(b) Notice of the admission is promptly provided to the family member, friend or other person in person or by telephone, facsimile, other electronic communication or certified mail.

3. Except as otherwise provided in subsections 4 and 5, if a person alleged to be a person in a mental health crisis *who is at least 18 years of age* does not give permission to notify a family member, friend or other person of the emergency admission of the person, notice of the emergency admission must not be provided until permission is obtained.

4. If a person alleged to be a person in a mental health crisis *who is at least 18 years of age* is not able to give or refuse permission to notify a family member, friend or other person of the emergency admission, the administrative officer of the mental health facility may cause notice as described in paragraph (b) of subsection 2 to be provided if the administrative officer determines that it is in the best interest of the person in a mental health crisis.

5. If a guardian has been appointed for a person alleged to be a person in a mental health crisis *who is at least 18 years of age* or the person has executed a durable power of attorney for health care pursuant to NRS 162A.700 to 162A.865, inclusive, or appointed an attorney-in-fact using an advance directive for psychiatric care pursuant to NRS 449A.600 to 449A.645, inclusive, the administrative officer of the mental health facility must ensure that the guardian, agent designated by the durable power of attorney or the attorney-in-fact, as applicable, is promptly notified of the admission as described in paragraph (b) of subsection 2, regardless of whether the person alleged to be a person in a mental health crisis has given permission to the notification.

Sec. 5. 1. When developing procedures for the model plan relating to paragraph (e) of subsection 2 of NRS 388.253, as amended by section 1 of this act, the Department of Education shall:



1 (a) Collaborate with the Department of Health and Human
2 Services;

3 (b) Engage stakeholders, including, without limitation, parents
4 and guardians of pupils and child advocates to obtain meaningful,
5 open and transparent input concerning the procedures;

6 (c) Consider the due process rights of pupils and parents and
7 guardians of pupils; and

8 (d) Provide periodic reports to and receive input from the
9 Legislative Committee on Health Care.

10 2. The Department of Education shall collect relevant data
11 concerning the utilization of the procedures described in subsection
12 1 when developed.

13 **Sec. 6.** This act becomes effective upon passage and approval.

