

ASSEMBLY BILL NO. 24—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE DIVISION OF PUBLIC AND
BEHAVIORAL HEALTH OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to a forensic facility to which certain offenders and defendants with a mental illness may be committed. (BDR 14-292)

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; revising provisions relating to a forensic facility to which certain offenders and defendants with a mental illness may be committed; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a court finds a 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 and attain competence, the defendant may be committed for detention and treatment at a secure facility of the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 178.425) If the court dismisses criminal charges against such a defendant because the court determines that the defendant is incompetent, with no substantial probability of attaining competence in the foreseeable future and the court makes certain other findings related to the defendant's dangerousness, the court may order the defendant to be committed to a forensic facility of the Division. (NRS 178.461)

Existing law also provides that if a defendant is acquitted by reason of insanity, the defendant may be detained in a forensic facility of the Division. (NRS 175.539) This bill revises the definition of a forensic facility in which those defendants may be detained.



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

Section 1. NRS 175.539 is hereby amended to read as follows:

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

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

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

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

2. If the court finds, after the hearing:

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

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

➡ The court shall issue its finding within 90 days after the defendant is acquitted.

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

4. If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, within 5 business days after accepting the verdict, on a form prescribed by the Department of Public Safety, a record of that verdict 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 inclusion in each appropriate database of the National Instant Criminal Background Check System.



1 5. As used in this section, unless the context otherwise
2 requires:

3 (a) “Division facility” has the meaning ascribed to it in
4 NRS 433.094.

5 (b) “Forensic facility” means a secure facility of the Division of
6 Public and Behavioral Health of the Department of Health and
7 Human Services *or unit thereof, designated by the Division as*
8 *appropriate for the evaluation and treatment* for offenders and
9 defendants with mental disorders ~~H~~ *as defined in NRS 178.3985.*
10 The term includes, without limitation, Lakes Crossing Center.

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

13 (d) “Person with mental illness” has the meaning ascribed to it
14 in NRS 178.3986.

15 **Sec. 2.** This act becomes effective upon passage and approval.

