

ASSEMBLY BILL NO. 25—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 the conditional release of certain persons found to be incompetent. (BDR 14-295)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; authorizing a forensic facility to transport or request assistance from law enforcement in transporting a person on conditional release to the forensic facility under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides a procedure for a court to modify or terminate the
2 conditional release of certain persons found to be incompetent to stand trial or be
3 sentenced after such a person violates a condition of the release from commitment.
4 (NRS 178.464) This bill authorizes a forensic facility supervising a person on
5 conditional release to, without obtaining a court order, take the person into
6 protective custody and transport the person to the forensic facility or request that a
7 law enforcement agency take the person into protective custody and transport the
8 person to the forensic facility supervising the person if the forensic facility has
9 probable cause to believe that the person violated a condition of the release from
10 commitment and is a danger to himself or herself or others. This bill also requires
11 that, not later than 3 days after the person is taken into protective custody and
12 transported to the forensic facility, the court must hold a hearing to determine
13 whether to continue, modify or terminate the conditional release of the person,
14 unless the hearing is continued upon agreement by the counsel for the person and
15 the prosecuting attorney.



* A B 2 5 R 1 *

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

Section 1. NRS 178.464 is hereby amended to read as follows:

178.464 1. The Division shall notify the court which ordered the commitment of the person pursuant to NRS 178.461 if the person violates a condition of the release from commitment.

2. *If a forensic facility supervising a person on conditional release has probable cause to believe the person violated a condition of the release from commitment and is an imminent danger to himself or herself or others, the forensic facility may take the person into protective custody and transport the person to the forensic facility or may request that a law enforcement agency take the person into protective custody and transport the person to the forensic facility. If the forensic facility makes such a request, the law enforcement agency, as soon as practicable after receiving the request, may take the person into protective custody and transport the person to the forensic facility. Except as otherwise provided in this subsection, within 3 days after a person has been taken into protective custody and transported to the forensic facility pursuant to this subsection, the court shall hold a hearing to determine whether to continue, modify or terminate the conditional release of the person. The hearing may be continued not more than 10 days upon agreement by the counsel for the person and the prosecuting attorney.*

3. If the court is notified pursuant to subsection 1 of a violation, the court shall consult with the Division, the counsel for the person and the prosecuting attorney concerning the potential risk to the community that is posed by the noncompliance of the person with the conditions of release from commitment.

~~{3.—After}~~

4. *If the person on conditional release has not been transported to a forensic facility pursuant to subsection 2, after consulting with the persons required by subsection ~~{2}~~ 3 and considering the risks to the community, the court may issue a temporary order of detention to commit the person to custody for evaluation, pending the hearing described in subsection ~~{4}~~ 5. If the court issues such an order, the court must:*

(a) Order the sheriff to take the person:

(1) Into protective custody and transport the person to a forensic facility; or

(2) To a jail where the person must remain in protective custody; and

(b) Provide a copy of the order to the counsel for the person and the prosecuting attorney.



~~14.1~~ 5. Within 10 days after a person has been committed to the custody of the Administrator for evaluation pursuant to subsection ~~13.1~~ 4, the court shall hold a hearing to determine whether to continue, modify or terminate the conditional release of the defendant.

6. *As used in this section:*

(a) *“Forensic facility” has the meaning ascribed to it in NRS 175.539.*

(b) *“Law enforcement agency” means:*

(1) *The sheriff’s office of a county;*

(2) *A metropolitan police department; or*

(3) *A police department of an incorporated city.*

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

