

ASSEMBLY BILL NO. 550—COMMITTEE ON JUDICIARY

MARCH 23, 2001

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing rights of clients of mental health facilities and procedures for detention and civil commitment of mentally ill persons. (BDR 39-1479)

FISCAL NOTE: Effect on Local Government: Yes. Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 1, 20) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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

AN ACT relating to mental health; restricting the authority of a mental health facility to override a client’s refusal of antipsychotic medication; making various changes to procedures for the detention and civil commitment of mentally ill persons; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 433 of NRS is hereby amended by adding thereto a
- 2 new section to read as follows:
- 3 *1. Except as otherwise provided in this section and notwithstanding*
- 4 *the provisions of NRS 433.484 to the contrary, a client has the right to*
- 5 *refuse at any time and in any manner the administration of any*
- 6 *antipsychotic medication.*
- 7 *2. An antipsychotic medication may be administered to a client*
- 8 *despite his refusal only:*
- 9 *(a) In an emergency situation in which immediate intervention is*
- 10 *necessary to:*
- 11 *(1) Protect the client from inflicting serious harm to himself;*
- 12 *(2) Prevent the client from inflicting serious harm to other persons;*
- 13 *or*
- 14 *(3) Prevent the irreversible deterioration in the mental or physical*
- 15 *condition of the client due to a psychotic episode; or*
- 16 *(b) Pursuant to a court order, issued after a full and fair adversarial*
- 17 *hearing, in which the court is satisfied by clear and convincing evidence*
- 18 *that:*



- 1       (1) *The client is incompetent to participate effectively in the*
- 2 *decision for his treatment;*
- 3       (2) *Treatment by antipsychotic medication is necessary to prevent a*
- 4 *significant and likely long-term deterioration in the mental condition of*
- 5 *the client or to prevent the likelihood of the client’s causing serious harm*
- 6 *to himself or other persons in the facility;*
- 7       (3) *A less intrusive, alternative treatment is not available; and*
- 8       (4) *The need of the client for treatment by antipsychotic medication*
- 9 *is sufficiently compelling to override any bona fide and legitimate*
- 10 *interest of the client in refusing the treatment.*
- 11       3. *The provisions of NRS 433A.270 apply to a hearing held pursuant*
- 12 *to subsection 2.*

13       **Sec. 2.** NRS 433.456 is hereby amended to read as follows:  
 14       433.456 As used in NRS 433.456 to 433.536, inclusive, *and section 1*  
 15 *of this act*, unless the context otherwise requires, the words and terms  
 16 defined in NRS 433.458 to 433.462, inclusive, have the meanings ascribed  
 17 to them in those sections.

18       **Sec. 3.** NRS 433.534 is hereby amended to read as follows:  
 19       433.534 1. The rights of a client enumerated in this chapter must not  
 20 be denied ~~except~~ *without clear and convincing evidence that the denial*  
 21 *of those rights is necessary* to protect the client’s health and safety or to  
 22 protect the health and safety of others, or both. Any denial of those rights  
 23 in any facility must be entered in the client’s record of treatment, and  
 24 notice of the denial must be forwarded to the administrative officer of the  
 25 facility. Failure to report denial of rights by an employee may be grounds  
 26 for dismissal.

27       2. If the administrative officer of a facility receives notice of a denial  
 28 of rights as provided in subsection 1, he shall cause a full report to be  
 29 prepared which must set forth in detail the factual circumstances  
 30 surrounding the denial. Such a report is confidential and must not be  
 31 disclosed. A copy of the report must be sent to the commission.

- 32       3. The commission:
- 33       (a) Shall receive reports of and may investigate apparent violations of
  - 34 the rights guaranteed by this chapter;
  - 35       (b) May act to resolve disputes relating to apparent violations;
  - 36       (c) May act on behalf of clients to obtain remedies for any apparent
  - 37 violations; and
  - 38       (d) Shall otherwise endeavor to safeguard the rights guaranteed by this
  - 39 chapter.

40       4. Pursuant to NRS 241.030, the commission may close any portion of  
 41 a meeting in which it considers the character, alleged misconduct or  
 42 professional competence of a person in relation to:

- 43       (a) The denial of the rights of a client; or
- 44       (b) The care and treatment of a client.

45 The provisions of this subsection do not require a meeting of the  
 46 commission to be closed to the public.

47       **Sec. 4.** NRS 433.5486 is hereby amended to read as follows:  
 48       433.5486 Notwithstanding the provisions of NRS 433.549 to  
 49 433.5503, inclusive, to the contrary, a facility may , *subject to any*



1 *additional restrictions applicable pursuant to section 1 of this act*, use or  
2 authorize the use of physical restraint, mechanical restraint or chemical  
3 restraint on a person with a disability who is a client if the facility is:

4 1. Accredited by a nationally recognized accreditation association or  
5 agency; or

6 2. Certified for participation in the Medicaid or Medicare  
7 program,  
8 only to the extent that the accreditation or certification allows the use of  
9 such restraint.

10 **Sec. 5.** NRS 433.5503 is hereby amended to read as follows:

11 433.5503 1. ~~Chemical~~ *Except as otherwise provided in section 1*  
12 *of this act, chemical* restraint may only be used on a person with a  
13 disability who is a client if:

14 (a) The client has been diagnosed as mentally ill, as defined in NRS  
15 433A.115, and is receiving mental health services from a facility;

16 (b) The chemical restraint is administered to the client while he is under  
17 the care of the facility;

18 (c) An emergency exists that necessitates the use of chemical restraint;

19 (d) A medical order authorizing the use of chemical restraint is obtained  
20 from the client's attending physician or psychiatrist;

21 (e) The physician or psychiatrist who signed the order required pursuant  
22 to paragraph (d) examines the client not later than 1 working day  
23 immediately after the administration of the chemical restraint; and

24 (f) The chemical restraint is administered by a person licensed to  
25 administer medication.

26 2. If chemical restraint is used on a person with a disability who is a  
27 client, the use of the procedure must be reported as a denial of rights  
28 pursuant to NRS 433.534, regardless of whether the use of the procedure is  
29 authorized by statute. The report must be made not later than 1 working  
30 day after the procedure is used.

31 **Sec. 6.** Chapter 433A of NRS is hereby amended by adding thereto  
32 the provisions set forth as sections 7 and 8 of this act.

33 **Sec. 7.** *"Magistrate" means:*

34 1. *A judge of the district court;*

35 2. *A judge of the municipal court;*

36 3. *A justice of the peace; or*

37 4. *Any other officer of the judicial branch of this state, whether or*  
38 *not he is an attorney, who presides over judicial proceedings.*

39 **Sec. 8.** 1. *A hearing required pursuant to NRS 433A.145,*  
40 *433A.150 or 433A.240 may be conducted by any magistrate.*

41 2. *Before the hearing is conducted, written or oral notice of the*  
42 *hearing must be given to the allegedly mentally ill person, his attorney, if*  
43 *known, the facility where the person is being detained and, if practicable,*  
44 *any person who applies pursuant to NRS 433A.160 for the emergency*  
45 *admission of the allegedly mentally ill person, the district attorney of the*  
46 *county where the person is being detained and the local office of an*  
47 *agency or organization that receives money from the Federal*  
48 *Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and*  
49 *advocate the rights of mentally ill persons.*



1     **3. At the hearing, the magistrate may only:**  
2     **(a) Authorize the continued detention of the person pending further**  
3     **action by the district court if the magistrate finds that, based upon clear**  
4     **and convincing evidence, there is probable cause to believe that the**  
5     **allegedly mentally ill person is a mentally ill person and, because of that**  
6     **illness, is likely to harm himself or others if allowed his liberty; or**  
7     **(b) Require the immediate release of the person if the magistrate does**  
8     **not make the finding set forth in paragraph (a).**

9     **Sec. 9.** NRS 433A.011 is hereby amended to read as follows:  
10     433A.011 As used in this chapter, unless the context otherwise  
11     requires, the words and terms defined in NRS 433A.012 to 433A.018,  
12     inclusive, **and section 7 of this act** have the meanings ascribed to them in  
13     those sections.

14     **Sec. 10.** NRS 433A.115 is hereby amended to read as follows:  
15     433A.115 1. As used in NRS 433A.120 to 433A.330, inclusive, **and**  
16     **section 8 of this act**, unless the context otherwise requires, “mentally ill  
17     person” means any person whose capacity to exercise self-control,  
18     judgment and discretion in the conduct of his affairs and social relations or  
19     to care for his personal needs is diminished, as a result of a mental illness,  
20     to the extent that he presents a clear and present danger of harm to himself  
21     or others, but does not include any person in whom that capacity is  
22     diminished by epilepsy, mental retardation, Alzheimer’s disease, brief  
23     periods of intoxication caused by alcohol or drugs, or dependence upon or  
24     addiction to alcohol or drugs, unless a mental illness that can be diagnosed  
25     is also present which contributes to the diminished capacity of the person.

26     2. A person presents a clear and present danger of harm to himself if,  
27     within the next preceding 30 days, he has, as a result of a mental illness:

28     (a) Acted in a manner from which it may reasonably be inferred that,  
29     without the care, supervision or continued assistance of others, he will be  
30     unable to satisfy his need for nourishment, personal or medical care,  
31     shelter, self-protection or safety, and if there exists a reasonable probability  
32     that his death, serious bodily injury or physical debilitation will occur  
33     within the next following 30 days unless he is admitted to a mental health  
34     facility pursuant to the provisions of NRS 433A.120 to 433A.330,  
35     inclusive, **and section 8 of this act**, and adequate treatment is provided to  
36     him;

37     (b) Attempted or threatened to commit suicide or committed acts in  
38     furtherance of a threat to commit suicide, and if there exists a reasonable  
39     probability that he will commit suicide unless he is admitted to a mental  
40     health facility pursuant to the provisions of NRS 433A.120 to 433A.330,  
41     inclusive, **and section 8 of this act**, and adequate treatment is provided to  
42     him; or

43     (c) Mutilated himself, attempted or threatened to mutilate himself or  
44     committed acts in furtherance of a threat to mutilate himself, and if there  
45     exists a reasonable probability that he will mutilate himself unless he is  
46     admitted to a mental health facility pursuant to the provisions of NRS  
47     433A.120 to 433A.330, inclusive, **and section 8 of this act**, and adequate  
48     treatment is provided to him.



1 3. A person presents a clear and present danger of harm to others if,  
2 within the next preceding 30 days, he has, as a result of a mental illness,  
3 inflicted or attempted to inflict serious bodily harm on any other person, or  
4 made threats to inflict harm and committed acts in furtherance of those  
5 threats, and if there exists a reasonable probability that he will do so again  
6 unless he is admitted to a mental health facility pursuant to the provisions  
7 of NRS 433A.120 to 433A.330, inclusive, *and section 8 of this act*, and  
8 adequate treatment is provided to him.

9 **Sec. 11.** NRS 433A.145 is hereby amended to read as follows:  
10 433A.145 1. If a mentally ill person is admitted to a public or private  
11 mental health facility or hospital as a voluntary client, the facility or  
12 hospital shall not change the status of the person to an emergency  
13 admission unless the hospital or facility receives, before the change in  
14 status is made, an application for an emergency admission pursuant to NRS  
15 433A.160 and the certificate of a psychiatrist, psychologist or physician  
16 pursuant to NRS 433A.170.

17 2. ~~1A~~ *Except as otherwise provided in subsection 3, a person whose*  
18 *status is changed pursuant to subsection 1 must not be detained in excess of*  
19 *48 hours, including weekends and holidays, after the change in status is*  
20 *made, unless within that period the continued detention of the person is*  
21 *authorized at a hearing conducted pursuant to section 8 of this act and a*  
22 *written petition is filed with the clerk of the district court pursuant to NRS*  
23 *433A.200.*

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

28 **Sec. 12.** NRS 433A.150 is hereby amended to read as follows:  
29 433A.150 1. Any *person alleged to be a* mentally ill person may ,  
30 *upon application pursuant to NRS 433A.160 and subject to the*  
31 *provisions of subsection 2*, be detained in a public or private mental health  
32 facility or hospital under an emergency admission for evaluation,  
33 observation and treatment . ~~subject to subsection 2.~~

34 2. Except as otherwise provided in subsection 3, a person admitted to a  
35 mental health facility or hospital under subsection 1 must not be detained  
36 in excess of ~~72~~ 48 hours, including ~~Saturdays and Sundays,~~ *weekends*  
37 *and holidays*, from the time of his admission unless within that period *the*  
38 *continued detention of the person is authorized at a hearing conducted*  
39 *pursuant to section 8 of this act and* a written petition for an involuntary  
40 court-ordered admission ~~has been~~ *is* filed with the clerk of the district  
41 court pursuant to NRS 433A.200.

42 3. If the ~~72-hour~~ period specified in subsection 2 expires on a day on  
43 which the office of the clerk of the district court is not open, the written  
44 petition must be filed ~~on or before the close of the business day next~~  
45 ~~preceding the expiration of that period, except that, if that business day is~~  
46 ~~the same day as that upon which the person was admitted, the petition must~~  
47 ~~be filed~~ on or before the close of the business day next following the  
48 expiration of that period.



1     **Sec. 13.** NRS 433A.160 is hereby amended to read as follows:  
 2     433A.160 1. ~~Application for an~~ *An application for the* emergency  
 3 admission of an allegedly mentally ill person for evaluation , ~~and~~  
 4 observation *and treatment under NRS 433A.145 or 433A.150* may only be  
 5 made by an accredited agent of the department, an officer authorized to  
 6 make arrests in the State of Nevada or a physician, psychologist, marriage  
 7 and family therapist, social worker or registered nurse. The agent, officer,  
 8 physician, psychologist, marriage and family therapist, social worker or  
 9 registered nurse may ~~take~~ :

10     (a) *Without a warrant:*  
 11     (1) *Take* an allegedly mentally ill person into custody ~~without a~~  
 12 ~~warrant~~ to apply for *the* emergency admission *of the person* for  
 13 evaluation, observation and treatment under NRS 433A.150 ; and ~~may~~  
 14 ~~transport~~  
 15     (2) *Transport* the *allegedly mentally ill* person ~~for arrange the~~  
 16 ~~transportation for him with a local law enforcement agency~~ to a public or  
 17 private mental health facility *or hospital* for that  
 18 purpose ~~+~~ ,  
 19 *only if the agent, officer, physician, psychologist, marriage and family*  
 20 *therapist, social worker or registered nurse has, based upon his personal*  
 21 *observation of the allegedly mentally ill person, probable cause to believe*  
 22 *that the person is a mentally ill person and, because of that illness, is*  
 23 *likely to harm himself or others if allowed his liberty.*

24     (b) *Apply to a magistrate for an order requiring any peace officer to:*  
 25     (1) *Take an allegedly mentally ill person into custody to allow the*  
 26 *applicant for the order to apply for the emergency admission of the*  
 27 *allegedly mentally ill person for evaluation, observation and treatment*  
 28 *under NRS 433A.150; and*  
 29     (2) *Transport the allegedly mentally ill person to a public or private*  
 30 *mental health facility or hospital for that purpose.*  
 31 *The magistrate may issue such an order only if he is satisfied that, based*  
 32 *upon a detailed clinical assessment of the allegedly mentally ill person by*  
 33 *a person professionally qualified in the field of psychiatric mental health,*  
 34 *there is probable cause to believe that the allegedly mentally ill person is*  
 35 *a mentally ill person and, because of that illness is likely to harm himself*  
 36 *or others if allowed his liberty.*

37     2. The application *for the emergency admission of an allegedly*  
 38 *mentally ill person for evaluation, observation and treatment* must reveal  
 39 the circumstances under which the person was taken into custody and the  
 40 reasons therefor.

41     3. For the purposes of subsection 1, “an accredited agent of the  
 42 department” means any person appointed or designated by the director of  
 43 the department to take into custody and transport to a mental health facility  
 44 pursuant to subsections 1 and 2 those persons in need of emergency  
 45 admission.

46     4. ~~Any person who has reason to believe that another person is~~  
 47 ~~mentally ill may apply to the district attorney of the county where the~~  
 48 ~~allegedly mentally ill person is found, and the district attorney may, if~~



1 ~~satisfied that as a result of mental illness the person is likely to harm~~  
2 ~~himself or others:~~

3 ~~— (a) Issue an order to any peace officer for the immediate apprehension~~  
4 ~~of the person and his transportation to a public or private mental health~~  
5 ~~facility; and~~

6 ~~— (b) Make application for the admission of the person under the~~  
7 ~~emergency admission provisions of NRS 433A.150.~~

8 ~~—5.]~~ Except as otherwise provided in this subsection, each person  
9 admitted to a public or private mental health facility or hospital under an  
10 emergency admission must be evaluated at the time of admission by a  
11 psychiatrist or a psychologist. If a psychiatrist or a psychologist is not  
12 available to conduct an evaluation at the time of admission, a physician  
13 may conduct the evaluation. Each such emergency admission must be  
14 approved by a psychiatrist.

15 **Sec. 14.** NRS 433A.170 is hereby amended to read as follows:

16 433A.170 Except as otherwise provided in this section, the  
17 administrative officer of a facility operated by the division or of any other  
18 public or private mental health facility or hospital shall not accept an  
19 application for an emergency admission under NRS ~~433A.150 and~~  
20 433A.160 unless that application is accompanied by a certificate of a  
21 psychiatrist or a licensed psychologist stating that he has examined the  
22 person alleged to be mentally ill and that he has concluded that ~~as a result~~  
23 ~~of mental illness~~ the person *is a mentally ill person and, because of that*  
24 *illness* is likely to harm himself or others ~~if allowed his liberty~~. If a  
25 psychiatrist or licensed psychologist is not available to conduct an  
26 examination, a physician may conduct the examination. The certificate  
27 required by this section may be obtained from a psychiatrist, licensed  
28 psychologist or physician who is employed by the public or private mental  
29 health facility *or hospital* to which the application is made.

30 **Sec. 15.** NRS 433A.180 is hereby amended to read as follows:

31 433A.180 *1.* No application *, assessment* or certificate authorized *or*  
32 *required* under NRS 433A.160 or 433A.170 may be considered if made by  
33 a psychiatrist, psychologist or physician who is related by blood or  
34 marriage to the allegedly mentally ill person, or who is financially  
35 interested in the facility in which the allegedly mentally ill person is to be  
36 detained.

37 *2.* No ~~application or~~ certificate of any examining person ~~authorized~~  
38 *required* under NRS 433A.170 may be considered unless it is based on  
39 personal observation and examination of the allegedly mentally ill person  
40 made by ~~such~~ *the* examining person not more than 72 hours ~~prior to the~~  
41 ~~making of the application or~~ *before making the* certificate. The certificate  
42 ~~shall~~ *must* set forth in detail the facts and reasons on which the  
43 examining person based his opinions and conclusions.

44 **Sec. 16.** NRS 433A.200 is hereby amended to read as follows:

45 433A.200 *1.* A proceeding for an involuntary court-ordered  
46 admission of any person in the State of Nevada may be commenced by the  
47 filing of a petition with the clerk of the district court of the county where  
48 the person who is to be treated resides. The petition may be filed by the  
49 spouse, parent, adult children or legal guardian of the person to be treated



1 or by any physician, psychologist, social worker or registered nurse, by an  
2 accredited agent of the department or by any officer authorized to make  
3 arrests in the State of Nevada. The petition must be accompanied:

4 (a) By a certificate of a physician, *psychiatrist* or licensed psychologist  
5 stating that he has examined the person alleged to be mentally ill and has  
6 concluded that ~~has a result of mental illness~~ the person *is a mentally ill*  
7 *person and, because of that illness* is likely to harm himself or others ~~if~~ *if*  
8 *allowed his liberty*; or

9 (b) By a sworn written statement by the petitioner that:  
10 (1) The petitioner has, *based upon his personal observation of the*  
11 *person alleged to be mentally ill*, probable cause to believe that the person  
12 is a mentally ill *person* and, because of that illness is likely to harm  
13 himself or others ~~if~~ *if allowed his liberty*; and

14 (2) The person *alleged to be mentally ill* has refused to submit to  
15 examination or treatment by a physician, psychiatrist or licensed  
16 psychologist.

17 2. If the person to be treated is a minor and the petitioner is a person  
18 other than a parent or guardian of the minor, the petition must, in addition  
19 to the certificate or statement required by subsection 1, include a statement  
20 signed by a parent or guardian of the minor that the parent or guardian does  
21 not object to the filing of the petition.

22 **Sec. 17.** NRS 433A.210 is hereby amended to read as follows:

23 433A.210 ~~1A~~ *In addition to the requirements of NRS 433A.200, a*  
24 petition filed *pursuant to that section* with the clerk of the district court to  
25 commence proceedings for involuntary court-ordered admission of a  
26 person pursuant to NRS *433A.145 or* 433A.150 must include ~~1~~:

27 ~~1. A~~ *a* certified copy of ~~the~~ :

28 *1. The application for the emergency admission of the person* made  
29 pursuant to NRS 433A.160 ~~with respect to the person detained;~~

30 ~~2. A petition executed by a psychiatrist, licensed psychologist or~~  
31 ~~physician certifying that he has examined the person alleged to be mentally~~  
32 ~~ill and has concluded that as a result of mental illness the person is likely to~~  
33 ~~harm himself or others; and~~

34 ~~3. If the person to be treated is a minor and the petitioner is a person~~  
35 ~~other than a parent or guardian of the minor, a statement signed by a parent~~  
36 ~~or guardian of the minor that the parent or guardian does not object to the~~  
37 ~~filing of the petition.~~ ; and

38 *2. The certificate regarding the person made pursuant to NRS*  
39 *433A.170.*

40 **Sec. 18.** NRS 433A.220 is hereby amended to read as follows:

41 433A.220 1. Immediately after he receives any petition filed  
42 pursuant to NRS 433A.200 , ~~for 433A.210,~~ the clerk of the district court  
43 shall transmit the petition to the appropriate district judge, who shall set a  
44 time, date and place for its hearing. ~~The date must be:~~

45 ~~(a) Within~~ *If, at the time the petition is received by the clerk, the*  
46 *subject of the petition:*

47 *(a) Is not being detained at a public or private mental health facility*  
48 *or hospital under emergency admission pursuant to NRS 433A.145 or*



\* A B 5 5 0 \*



1 **433A.150, the hearing must be held within** 14 calendar days after the date  
2 on which the petition is received by the clerk;

3 ~~{(b) If at the time the petition is received by the clerk the subject of the~~  
4 ~~petition was admitted to a hospital or public or private mental health~~  
5 ~~facility pursuant to NRS 433A.160, within 5 judicial days after the date on~~  
6 ~~which the petition is received by the clerk; or~~

7 ~~—(c) If the district attorney filed a petition for the emergency admission~~  
8 ~~of the subject of the petition,} or~~

9 **(b) Is being detained at a public or private mental health facility or**  
10 **hospital under emergency admission pursuant to NRS 433A.145 or**  
11 **433A.150, the hearing must be held** within 5 judicial days after the date on  
12 which the petition is received by the clerk.

13 2. The court shall give notice of the petition and of the time, date and  
14 place of any proceedings thereon to the subject of the petition, his attorney,  
15 if known, the petitioner, the district attorney of the county in which the  
16 court has its principal office, the local office of an agency or organization  
17 that receives money from the Federal Government pursuant to 42 U.S.C.  
18 §§ 10801 et seq., to protect and advocate the rights of **mentally ill** persons  
19 ~~{with mental illnesses}~~ and the administrative office of any public or  
20 private mental health facility in which the subject of the petition is  
21 detained.

22 **Sec. 19.** NRS 433A.240 is hereby amended to read as follows:

23 433A.240 1. After the filing of a petition to commence proceedings  
24 for **the** involuntary court-ordered admission of a person pursuant to NRS  
25 433A.200 , ~~{or 433A.210,}~~ the court shall promptly cause two or more  
26 physicians or licensed psychologists, one of whom must always be a  
27 physician, to examine the person alleged to be mentally ill, or request an  
28 evaluation by an evaluation team from the division of the person alleged to  
29 be mentally ill.

30 2. To conduct the examination of a person who is not **being detained**  
31 at a mental health facility **or hospital** under emergency admission pursuant  
32 to NRS **433A.145 or** 433A.150, the court may order a peace officer to take  
33 the person into protective custody and transport him to a mental health  
34 facility or hospital where he may be detained . ~~{until a hearing is had upon~~  
35 ~~the petition.~~

36 ~~—3.— Unless}~~ **The person must not be detained pursuant to this**  
37 **subsection in excess of 48 hours, including weekends and holidays, from**  
38 **the time of his admission unless within that period the continued**  
39 **detention of the person is authorized at a hearing conducted pursuant to**  
40 **section 8 of this act.**

41 3. If the person is ~~{admitted}~~ **not being detained** under an emergency  
42 admission pursuant to NRS **433A.145 or** 433A.150, he may be allowed to  
43 remain in his home or other place of residence pending an ordered  
44 examination or examinations and to return to his home or other place of  
45 residence upon completion of the examination or examinations. The person  
46 may be accompanied by one or more of his relations or friends to the place  
47 of examination.



1 4. ~~{Except as otherwise provided in this subsection, each}~~ *Each*  
2 physician and licensed psychologist who examines a person pursuant to  
3 subsection 1 shall ~~{, not}~~:

4 (a) *Not* later than 48 hours before ~~{the}~~ a hearing set pursuant to  
5 *paragraph (a) of subsection 1 of NRS 433A.220; or*

6 (b) *Not* later than 24 hours before a hearing set pursuant to  
7 *paragraph (b) of subsection 1 of NRS 433A.220,*

8 submit to the court in writing a summary of his findings and evaluation  
9 regarding the person alleged to be mentally ill. ~~{If the person alleged to be~~  
10 ~~mentally ill is admitted under an emergency admission pursuant to NRS~~  
11 ~~433A.150, the written findings and evaluation must be submitted to the~~  
12 ~~court not later than 24 hours before the hearing set pursuant to paragraph~~  
13 ~~(b) of subsection 1 of NRS 433A.220.}~~

14 **Sec. 20.** NRS 433A.270 is hereby amended to read as follows:

15 433A.270 1. The allegedly mentally ill person or any relative or  
16 friend on his behalf is entitled to retain counsel to represent him in *any*  
17 *hearing conducted pursuant to section 8 of this act and* any proceeding  
18 before the district court relating to involuntary court-ordered admission ~~{}~~  
19 and, if he fails or refuses to obtain counsel, the *magistrate conducting the*  
20 *hearing pursuant to section 8 of this act or the* court shall advise him and  
21 his guardian or next of kin, if known, of such right to counsel and shall  
22 appoint counsel, who may be the public defender or his deputy.

23 2. Any counsel appointed pursuant to subsection 1 ~~{shall}~~ *must* be  
24 awarded compensation by the *magistrate or* court for his services in an  
25 amount determined by ~~{it}~~ *the magistrate or court* to be fair and  
26 reasonable. The compensation ~~{shall}~~ *must* be charged against the estate of  
27 the person for whom the counsel was appointed ~~{}~~ or, if the person is  
28 indigent, ~~{the compensation shall be charged}~~ against the county where the  
29 allegedly mentally ill person last resided.

30 3. The court shall, at the request of any counsel ~~{}~~ *in proceedings*  
31 *before the court relating to involuntary court-ordered admission,* grant a  
32 recess in the proceedings for not more than 5 days to give the counsel an  
33 opportunity to prepare his case. *This subsection does not apply to a*  
34 *hearing conducted pursuant to section 8 of this act.*

35 4. Each district attorney or his deputy shall appear and represent the  
36 state in all involuntary court-ordered admission proceedings in his county.  
37 The district attorney is responsible for the presentation of evidence, if any,  
38 in support of the involuntary court-ordered admission of a person to a  
39 mental health facility in proceedings held pursuant to NRS 433A.200 . ~~{or~~  
40 ~~433A.210.}~~

41 **Sec. 21.** NRS 433A.310 is hereby amended to read as follows:

42 433A.310 1. If the district court finds, after proceedings for the  
43 involuntary court-ordered admission of a person to a public or private  
44 mental health facility:

45 (a) That there is not clear and convincing evidence that the person with  
46 respect to whom the hearing was held is *a* mentally ill *person* or exhibits  
47 observable behavior such that he is likely to harm himself or others if  
48 allowed ~~{to remain at}~~ *his* liberty, the court shall enter its finding to that  
49 effect and the person must not be involuntarily detained in such a facility.



1 (b) That there is clear and convincing evidence that the person with  
2 respect to whom the hearing was held is *a* mentally ill *person* and, because  
3 of that illness, is likely to harm himself or others if allowed ~~to remain at~~  
4 *his* liberty, the court may order the involuntary admission of the person for  
5 the most appropriate course of treatment. The order of the court must be  
6 interlocutory and must not become final if, within 30 days after the  
7 involuntary admission, the person is unconditionally released pursuant to  
8 NRS 433A.390.

9 2. An involuntary admission pursuant to paragraph (b) of subsection 1  
10 automatically expires at the end of 6 months if not terminated previously  
11 by the medical director of the public or private mental health facility as  
12 provided for in subsection 2 of NRS 433A.390. At the end of the court-  
13 ordered period of treatment, the division or any ~~nondivision~~ mental health  
14 facility *that is not operated by the division* may petition to renew the  
15 detention of the person for additional periods not to exceed 6 months each.  
16 For each renewal, the petition must set forth to the court specific reasons  
17 why further treatment would be in the person’s own best interests.

18 3. Before issuing an order for involuntary admission or a renewal  
19 thereof, the court shall explore other alternative courses of treatment within  
20 the least restrictive appropriate environment as suggested by the evaluation  
21 team who evaluated the person, or other persons professionally qualified in  
22 the field of psychiatric mental health, which the court believes may be in  
23 the best interests of the person.

24 **Sec. 22.** NRS 433A.370 is hereby amended to read as follows:  
25 433A.370 1. When a client committed by a court to a division  
26 facility on or before June 30, 1975, or a client who is judicially admitted on  
27 or after July 1, 1975, or a person who is involuntarily detained pursuant to  
28 NRS ~~433A.150~~ *433A.145* to 433A.300, inclusive, *and section 8 of this*  
29 *act*, escapes from any division facility, or when a judicially admitted client  
30 has not returned to a division facility from conditional release after the  
31 administrative officer of the facility has ordered him to do so, any peace  
32 officer shall, upon written request of the administrative officer or his  
33 designee and without the necessity of a warrant or court order, apprehend,  
34 take into custody and deliver the person to such division facility or another  
35 state facility.

36 2. Any person appointed or designated by the director of the  
37 department to take into custody and transport to a division facility persons  
38 who have escaped or failed to return as described in subsection 1 may  
39 participate in the apprehension and delivery of any such person, but may  
40 not take the person into custody without a warrant.

41 **Sec. 23.** NRS 3.223 is hereby amended to read as follows:  
42 3.223 1. Except if the child involved is subject to the jurisdiction of  
43 an Indian tribe pursuant to the Indian Child Welfare Act of 1978, ~~§~~ 25  
44 U.S.C. §§ 1901 et seq., ~~§~~ in each judicial district in which it is  
45 established, the family court has original, exclusive jurisdiction in any  
46 proceeding:

47 (a) Brought pursuant to chapter 31A, 62, 123, 125, 125A, 125B, 125C,  
48 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to the extent  
49 that a specific statute authorizes the use of any other judicial or



1 administrative procedure to facilitate the collection of an obligation for  
2 support.

3 (b) Brought pursuant to NRS 442.255 and 442.2555 to request the court  
4 to issue an order authorizing an abortion.

5 (c) For judicial approval of the marriage of a minor.

6 (d) Otherwise within the jurisdiction of the juvenile court.

7 (e) To establish the date of birth, place of birth or parentage of a minor.

8 (f) To change the name of a minor.

9 (g) For a judicial declaration of the sanity of a minor.

10 (h) To approve the withholding or withdrawal of life-sustaining  
11 procedures from a person as authorized by law.

12 (i) *Brought pursuant to section 1 of this act to obtain a court order for*  
13 *the administration of any antipsychotic medication.*

14 (j) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an  
15 involuntary court-ordered admission to a mental health facility.

16 2. The family court, where established, and the justices' court have  
17 concurrent jurisdiction over actions for the issuance of a temporary or  
18 extended order for protection against domestic violence.

19 3. The family court, where established, and the district court, have  
20 concurrent jurisdiction over any action for damages brought pursuant to  
21 NRS 41.134 by a person who suffered injury as the proximate result of an  
22 act that constitutes domestic violence.

23 **Sec. 24.** NRS 449.780 is hereby amended to read as follows:

24 449.780 1. ~~Chemical~~ *Except as otherwise provided in section 1 of*  
25 *this act, chemical* restraint may only be used on a person with a disability  
26 who is a patient at a facility if:

27 (a) The patient has been diagnosed as mentally ill, as defined in NRS  
28 433A.115, and is receiving mental health services from a facility;

29 (b) The chemical restraint is administered to the patient while he is  
30 under the care of the facility;

31 (c) An emergency exists that necessitates the use of chemical restraint;

32 (d) A medical order authorizing the use of chemical restraint is obtained  
33 from the patient's attending physician or psychiatrist;

34 (e) The physician or psychiatrist who signed the order required pursuant  
35 to paragraph (d) examines the patient not later than 1 working day  
36 immediately after the administration of the chemical restraint; and

37 (f) The chemical restraint is administered by a person licensed to  
38 administer medication.

39 2. If chemical restraint is used on a person with a disability who is a  
40 patient, the use of the procedure must be reported as a denial of rights  
41 pursuant to NRS 449.786, regardless of whether the use of the procedure is  
42 authorized by statute. The report must be made not later than 1 working  
43 day after the procedure is used.

44 **Sec. 25.** NRS 449.781 is hereby amended to read as follows:

45 449.781 Notwithstanding the provisions of NRS 449.777 to 449.780,  
46 inclusive, to the contrary, a facility may , *subject to any additional*  
47 *restrictions applicable pursuant to section 1 of this act*, use or authorize  
48 the use of physical restraint, mechanical restraint or chemical restraint on a  
49 person with a disability who is a patient if the facility is:



- 1 1. Accredited by a nationally recognized accreditation association or
- 2 agency; or
- 3 2. Certified for participation in the Medicaid or Medicare
- 4 program,
- 5 only to the extent that the accreditation or certification allows the use of
- 6 such restraint.
- 7 **Sec. 26.** The amendatory provisions of this act do not apply to actions
- 8 taken before October 1, 2001.
- 9 **Sec. 27.** The provisions of subsection 1 of NRS 354.599 do not apply
- 10 to any additional expenses of a local government that are related to the
- 11 provisions of this act.

