
ASSEMBLY BILL NO. 181—ASSEMBLYMEN HORNE, DONDERO LOOP,
ANDERSON, CARRILLO; AIZLEY, BROOKS, GOICOECHEA,
HANSEN, HOGAN, MASTROLUCA, MUNFORD, NEAL,
SEGERBLOM AND SMITH

FEBRUARY 16, 2011

JOINT SPONSORS: SENATORS BREEDEN AND LEE

Referred to Committee on Judiciary

SUMMARY—Provides for the involuntary civil commitment of
sexually dangerous persons. (BDR 39-95)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§ 15)
(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 sexually dangerous persons; providing for the
involuntary civil commitment of sexually dangerous
persons; requiring the Division of Mental Health and
Developmental Services of the Department of Health
and Human Services to adopt certain regulations; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Federal law authorizes a federal district court to order the civil commitment of
2 a person found to be mentally ill and a danger sexually to the public. (18 U.S.C. §
3 4248) Additionally, the United States Supreme Court recently upheld a federal law
4 authorizing the civil commitment of sexually dangerous persons. (*United States v.*
5 *Comstock*, 130 S. Ct. 1949 (2010))

6 **Section 15** of this bill authorizes a district attorney to file a petition seeking the
7 civil commitment of a sexually dangerous person, which means a person who has
8 been convicted of a sexually dangerous offense, who suffers from a mental disorder
9 and who is dangerous to the public because the person is likely to commit a
10 sexually dangerous offense. **Section 17** of this bill requires a court, within 72 hours
11 after a district attorney files such a petition, to hold a hearing to determine whether
12 probable cause exists to believe that the person is a sexually dangerous person. If
13 the court determines that such probable cause exists, the court is required to



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14 schedule a hearing before a jury to determine whether the person is a sexually
15 dangerous person. **Section 19** of this bill requires the district attorney to prove by
16 clear and convincing evidence that the person is a sexually dangerous person. If the
17 jury unanimously finds that the person is a sexually dangerous person and that the
18 person requires commitment, the court must enter an order committing the person
19 to the custody of a program for the treatment of sexually dangerous persons
20 established by the Division of Mental Health and Developmental Services of the
21 Department of Health and Human Services. If the jury finds that the person is a
22 sexually dangerous person but does not unanimously find that the person should be
23 civilly committed, the court must order the person to be placed in an alternative
24 course of treatment to be administered by the Division.

25 **Section 22** of this bill requires the Division to select a qualified professional to
26 evaluate the mental health of a person committed to its custody pursuant to this bill
27 at least once each year. **Section 23** of this bill provides that if through the
28 evaluation or at any other time during the period of commitment the Administrator
29 of the Division determines that the person no longer suffers from a mental disorder,
30 the person is no longer dangerous to the public and the person is suitable for
31 conditional release to an alternative course of treatment, the court must hold a
32 hearing to determine whether the person should be released. **Section 24** of this bill
33 authorizes a person committed to the custody of the Division pursuant to this bill to
34 file a request for release not more than once every 6 months.

35 **Section 31** of this bill requires the Division to adopt regulations: (1)
36 establishing a program for the secure commitment of persons found to be sexually
37 dangerous persons; (2) establishing alternative courses of treatment; and (3)
38 determining the professional qualifications required to evaluate a person alleged to
39 be a sexually dangerous person.

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

1 **Section 1.** NRS 433.384 is hereby amended to read as follows:
2 433.384 ~~Money~~ *Except as otherwise provided by specific*
3 *statute, money* to carry out the provisions of chapters 433 to 436,
4 inclusive, of NRS must be provided by legislative appropriation
5 from the State General Fund, and paid out on claims as other claims
6 against the State are paid. All claims relating to a division facility
7 individually must be approved by the administrative officer of such
8 facility before they are paid.

9 **Sec. 2.** Chapter 433A of NRS is hereby amended by adding
10 thereto the provisions set forth as sections 3 to 31, inclusive, of this
11 act.

12 **Sec. 3.** *As used in sections 3 to 31, inclusive, of this act,*
13 *unless the context otherwise requires, the words and terms defined*
14 *in sections 4 to 14, inclusive, of this act have the meanings*
15 *ascribed to them in those sections.*

16 **Sec. 4.** *“Alternative course of treatment” or “course of*
17 *treatment” means an alternative course of treatment established*
18 *by the Division pursuant to subsection 2 of section 31 of this act*



1 *which is conducted in an environment that is less restrictive than*
2 *the environment of the program.*

3 **Sec. 5.** *“Convicted” or “conviction” includes, without*
4 *limitation, an adjudication or judgment from a court having*
5 *jurisdiction over juveniles if the adjudication or judgment involved*
6 *an act that, if committed by an adult, would be a sexually*
7 *dangerous offense.*

8 **Sec. 6.** *“Court” means the district court having jurisdiction*
9 *over a proceeding pursuant to sections 3 to 31, inclusive, of this*
10 *act.*

11 **Sec. 7.** *“Likely to commit a sexually dangerous offense”*
12 *means that it is more probable than not that a person will commit*
13 *such an offense.*

14 **Sec. 8.** *“Mental disorder” means a congenital or acquired*
15 *condition affecting the emotional or volitional capacity of a person*
16 *which predisposes that person to the commission of sexually*
17 *dangerous offenses. The term includes, without limitation, mental*
18 *disorders and personality disorders that are listed in the most*
19 *recent edition of the Diagnostic and Statistical Manual of Mental*
20 *Disorders published by the American Psychiatric Association.*

21 **Sec. 9.** *“Petition” means a petition filed by a district attorney*
22 *pursuant to section 15 of this act alleging that the person named*
23 *in the petition is a sexually dangerous person.*

24 **Sec. 10.** *“Program” means the program for the treatment of*
25 *sexually dangerous persons established by the Division pursuant*
26 *to subsection 1 of section 31 of this act.*

27 **Sec. 11.** *“Qualified professional” means a person who*
28 *possesses the professional qualifications established by the*
29 *Division pursuant to subsection 3 of section 31 of this act to*
30 *evaluate a person alleged to be a sexually dangerous person.*

31 **Sec. 12.** *“Sexually dangerous offense” means:*

32 *1. Murder of the first degree committed in the perpetration or*
33 *attempted perpetration of sexual assault or of sexual abuse or*
34 *sexual molestation of a child under the age of 14 years pursuant to*
35 *paragraph (b) of subsection 1 of NRS 200.030.*

36 *2. Sexual assault pursuant to NRS 200.366.*

37 *3. Battery with the intent to commit sexual assault pursuant*
38 *to NRS 200.400.*

39 *4. An offense concerning pornography involving a minor*
40 *pursuant to NRS 200.710 to 200.730, inclusive.*

41 *5. An attempt to commit an offense described in subsections 1*
42 *to 4, inclusive.*

43 *6. An offense that is determined to be sexually motivated*
44 *pursuant to NRS 175.547.*



1 7. An offense committed in another jurisdiction that, if
2 committed in this state, would be an offense described in this
3 section, including, without limitation, an offense that was
4 prosecuted in:

5 (a) A tribal court; or

6 (b) A court of the United States or the Armed Forces of the
7 United States.

8 8. Any other offense described in NRS 179D.097 if, during
9 the commission of the offense, the offender engaged in or
10 attempted to engage in:

11 (a) Sexual penetration of a child under the age of 12 years; or

12 (b) Nonconsensual sexual penetration of any other person.

13 **Sec. 13.** "Sexually dangerous person" means a person who:

14 1. Has been convicted of a sexually dangerous offense;

15 2. Suffers from a mental disorder; and

16 3. Is dangerous to the public because the person is likely to
17 commit a sexually dangerous offense.

18 **Sec. 14.** "Sexually motivated" means that one of the reasons
19 for the commission of a sexually dangerous offense was sexual
20 gratification.

21 **Sec. 15.** 1. If a district attorney has reasonable cause to
22 believe that a person is a sexually dangerous person, the district
23 attorney may file a petition in the district court alleging that the
24 person is a sexually dangerous person.

25 2. A petition must contain sufficient facts to support the
26 allegation of the district attorney that the person is a sexually
27 dangerous person.

28 3. The district attorney must notify the person of the district
29 attorney's intention to file such a petition not later than 1 year
30 before the person:

31 (a) Completes a sentence for a sexually dangerous offense; or

32 (b) Completes a term of confinement as a juvenile for a
33 sexually dangerous offense.

34 **Sec. 16.** 1. The person named in a petition may retain
35 counsel to represent him or her in all proceedings held before the
36 court pursuant to sections 3 to 31, inclusive, of this act. If the
37 person is indigent and requests counsel, the court shall appoint
38 counsel, who may be the public defender or his or her deputy, to
39 represent the person in all such proceedings before the court.

40 2. The court shall award compensation to counsel appointed
41 pursuant to subsection 1 for services in an amount determined by
42 the court to be fair and reasonable. Compensation for appointed
43 counsel must be charged against the county in which the petition
44 is filed.



1 3. *The district attorney who filed the petition or a deputy*
2 *district attorney shall represent the State in all proceedings that*
3 *are held pursuant to sections 3 to 31, inclusive, of this act.*

4 **Sec. 17.** *1. Not later than 72 hours after a petition is filed,*
5 *the court shall hold a hearing to determine whether probable*
6 *cause exists to believe that the person named in the petition is a*
7 *sexually dangerous person. Upon the request of counsel for the*
8 *person named in the petition, the court shall grant a recess in the*
9 *hearing to give counsel an opportunity to prepare for the hearing.*
10 *The recess must not exceed 5 days.*

11 2. *If, at the conclusion of the hearing, the court determines*
12 *that such probable cause exists, the court shall:*

13 (a) *Order that the person named in the petition be taken into*
14 *custody and detained at a mental health facility for examination*
15 *by a qualified professional.*

16 (b) *Schedule a hearing to be held before a jury pursuant to*
17 *section 18 of this act to determine whether the person named in*
18 *the petition is a sexually dangerous person. The hearing must be*
19 *held not later than:*

20 (1) *Sixty days after the finding of probable cause is made;*
21 *and*

22 (2) *Sixty days before the person:*

23 (I) *Completes a sentence for a sexually dangerous*
24 *offense; or*

25 (II) *Completes a term of confinement as a juvenile for a*
26 *sexually dangerous offense.*

27 **Sec. 18.** *1. A hearing to determine whether a person is a*
28 *sexually dangerous person must be held before a jury of*
29 *12 persons.*

30 2. *The court may direct that not more than four jurors in*
31 *addition to the regular jury be called and impaneled to sit as*
32 *alternate jurors. The court shall replace a regular juror who*
33 *becomes unable or disqualified to perform his or her duties with*
34 *an alternate juror in the order in which the alternate jurors were*
35 *called. If an alternate juror is required to replace a regular juror*
36 *after the jury has retired to consider its verdict, the judge shall*
37 *recall the jury, seat the alternate and resubmit the decision*
38 *regarding the petition to the jury.*

39 3. *The district attorney and the person named in the petition*
40 *may each exercise three peremptory challenges in the*
41 *impanelment of the regular jury. If alternate jurors are to be*
42 *impaneled, the district attorney and the person named in the*
43 *petition have one additional peremptory challenge that may be*
44 *used only against an alternate juror.*



1 **Sec. 19. 1.** *To prove that the person named in the petition is*
2 *a sexually dangerous person, the district attorney must prove by*
3 *clear and convincing evidence that the person named in the*
4 *petition:*

- 5 (i) *Has been convicted of a sexually dangerous offense;*
- 6 (ii) *Suffers from a mental disorder; and*
- 7 (iii) *Is dangerous to the public because the person is likely to*
8 *commit a sexually dangerous offense.*

9 ↪ *For the purposes of this subsection, a certified copy of a*
10 *conviction is prima facie evidence of that conviction.*

11 **2.** *To prove that the person named in the petition requires*
12 *commitment to the program, the district attorney must prove by*
13 *clear and convincing evidence that an alternative course of*
14 *treatment:*

- 15 (i) *Is not in the best interests of the person; or*
- 16 (ii) *Will not adequately protect the public.*

17 **3.** *The jury must reach a unanimous verdict to find that the*
18 *person named in the petition:*

- 19 (i) *Is a sexually dangerous person; and*
- 20 (ii) *Requires commitment to the program.*

21 **4.** *If the jury finds by unanimous verdict that the person*
22 *named in the petition is a sexually dangerous person and that the*
23 *person requires commitment to the program, the court shall enter*
24 *an order committing the person to the custody of the program.*

25 **5.** *If the jury finds by unanimous verdict that the person*
26 *named in the petition is a sexually dangerous person but does not*
27 *reach a unanimous verdict that the person requires commitment to*
28 *the program, the court shall enter an order that the person be*
29 *conditionally released to undergo an alternative course of*
30 *treatment pursuant to the provisions of sections 28 and 29 of this*
31 *act.*

32 **6.** *If the jury does not reach a unanimous verdict that the*
33 *person named in the petition is a sexually dangerous person, the*
34 *court shall enter an order that the person be released from prison*
35 *or detention upon the person's normal discharge date.*

36 **Sec. 20.** *In all proceedings that are held pursuant to sections*
37 *3 to 31, inclusive, of this act:*

38 **1.** *The court, within its discretion, may hear and consider all*
39 *relevant evidence, including, without limitation, the testimony of:*

- 40 (i) *Qualified professionals who have examined the person*
41 *named in the petition;*
- 42 (ii) *Experts or other qualified persons retained by the person*
43 *named in the petition; and*
- 44 (iii) *Other witnesses.*



1 2. *Except as otherwise provided in subsection 3 of section 24*
2 *of this act, the person named in the petition must be present and,*
3 *at the discretion of the court, may testify.*

4 3. *A witness who is subpoenaed to testify must be paid the*
5 *same fees and mileage as are paid to a witness in the courts of this*
6 *state.*

7 **Sec. 21.** *If the person named in the petition is subjected to an*
8 *examination by a qualified professional pursuant to sections 3 to*
9 *31, inclusive, of this act:*

10 1. *The person may retain experts or other qualified persons to*
11 *perform another examination on his or her behalf.*

12 2. *The Division shall allow an expert or other qualified*
13 *person retained by the person named in the petition to have*
14 *reasonable access to the person named in the petition and to all*
15 *relevant medical and psychological records and reports at least 30*
16 *days before any hearing.*

17 3. *If the person named in the petition is indigent, upon his or*
18 *her request or the request of his or her counsel, the court shall*
19 *assist the person named in the petition in obtaining an expert or*
20 *other qualified person to perform an examination or to testify on*
21 *behalf of the person named in the petition.*

22 **Sec. 22.** 1. *If a person is committed to the custody of the*
23 *program, the Division shall select a qualified professional to*
24 *conduct a complete examination of the person at least once each*
25 *year to evaluate his or her mental condition. The qualified*
26 *professional selected by the Division must have access to all*
27 *records concerning the person committed.*

28 2. *In conducting the examination, the qualified professional*
29 *selected by the Division shall consider whether conditional release*
30 *to an alternative course of treatment is in the best interests of the*
31 *person committed and whether such conditional release will*
32 *adequately protect the public.*

33 3. *Upon completion of the examination of the person*
34 *committed, the qualified professional selected by the Division shall*
35 *prepare a report of all conclusions regarding the mental condition*
36 *of the person committed and shall submit that report to the*
37 *Administrator. The Administrator shall provide a copy of the*
38 *report to the court.*

39 **Sec. 23.** 1. *If the Administrator determines, as a result of*
40 *an annual examination or at any other time during the period of*
41 *commitment, that a person committed to the custody of the*
42 *program:*

43 (a) *No longer suffers from a mental disorder;*

44 (b) *Is no longer dangerous to the public; and*



1 (c) *Is suitable for conditional release to an alternative course*
2 *of treatment,*

3 *↳ the Administrator, within 5 days after the determination, shall*
4 *file with the court a certified request for release of the person*
5 *committed and shall provide a copy of the certified request for*
6 *release to the person committed and to the district attorney.*

7 2. *The court shall hold a hearing on the merits of a certified*
8 *request for release not later than 45 days after the date on which*
9 *the certified request for release is filed.*

10 3. *The court shall conduct a hearing on the merits of a*
11 *certified request for release pursuant to the provisions of sections*
12 *26 and 27 of this act.*

13 **Sec. 24.** 1. *A person committed to the custody of the*
14 *program may file an uncertified request for release with the court*
15 *not more than once every 6 months. If the court determines that*
16 *an uncertified request for release filed by a person committed does*
17 *not comply with the provisions of this subsection, the court shall*
18 *summarily deny the uncertified request for release without a*
19 *hearing.*

20 2. *Except as otherwise provided in subsection 1, if an*
21 *uncertified request for release is filed with the court, the court*
22 *shall schedule a hearing to show cause not later than 30 days after*
23 *the date the uncertified request for release is filed.*

24 3. *The person committed may be represented by counsel at*
25 *the hearing to show cause, but the person committed may not be*
26 *present at the hearing.*

27 4. *At the hearing to show cause, the court shall determine*
28 *whether probable cause exists to believe that the mental condition*
29 *or the dangerousness of the person committed has so changed that*
30 *a hearing on the merits of the uncertified request for release is*
31 *warranted.*

32 5. *If, at the hearing to show cause, the court determines that*
33 *probable cause exists to believe that the mental condition or the*
34 *dangerousness of the person committed has so changed that a*
35 *hearing on the merits of the uncertified request for release is*
36 *warranted, the court shall schedule a hearing on the merits of the*
37 *uncertified request for release not later than 45 days after the date*
38 *of the determination of the court.*

39 6. *The court shall conduct a hearing on the merits of an*
40 *uncertified request for release pursuant to the provisions of*
41 *sections 26 and 27 of this act.*

42 **Sec. 25.** 1. *The Administrator shall file an uncertified*
43 *request for release on behalf of a person committed to the custody*
44 *of the program if during the immediately preceding 12 months:*



1 (a) *The person committed did not file an uncertified request*
2 *for release; and*

3 (b) *The Administrator did not file a certified request for*
4 *release of the person committed.*

5 2. *An uncertified request for release filed pursuant to*
6 *subsection 1 shall be deemed an uncertified request for release*
7 *filed pursuant to section 24 of this act, and the court shall proceed*
8 *in accordance with the provisions of that section.*

9 **Sec. 26.** 1. *A hearing on the merits of a certified or*
10 *uncertified request for release must be conducted in the same*
11 *manner as a hearing to determine whether the person is a sexually*
12 *dangerous person pursuant to section 18 of this act, and the*
13 *person must be afforded the same rights as are provided in a*
14 *hearing to determine whether a person is a sexually dangerous*
15 *person.*

16 2. *The district attorney may request, not later than 30 days*
17 *before the date of a hearing on the merits of a certified or*
18 *uncertified request for release, that the person committed submit*
19 *to an examination by a qualified professional selected by the*
20 *district attorney.*

21 **Sec. 27.** *At a hearing on the merits of a certified or*
22 *uncertified request for release:*

23 1. *To prove that the person committed remains a sexually*
24 *dangerous person, the district attorney must prove by clear and*
25 *convincing evidence that the person committed:*

26 (a) *Continues to suffer from a mental disorder; and*

27 (b) *Continues to be dangerous to the public because he or she*
28 *is likely to commit a sexually dangerous offense.*

29 2. *To prove that the person committed requires continued*
30 *commitment to the program, the district attorney must prove by*
31 *clear and convincing evidence that an alternative course of*
32 *treatment:*

33 (a) *Is not in the best interests of the person committed; or*

34 (b) *Will not adequately protect the public.*

35 3. *The jury must reach a unanimous verdict to find that the*
36 *person committed:*

37 (a) *Remains a sexually dangerous person; and*

38 (b) *Requires continued commitment to the program.*

39 4. *If the jury finds by unanimous verdict that the person*
40 *committed remains a sexually dangerous person and that the*
41 *person requires continued commitment to the program, the court*
42 *shall enter an order denying the certified or uncertified request for*
43 *release.*

44 5. *If the jury finds by unanimous verdict that the person*
45 *committed remains a sexually dangerous person but does not*



1 reach a unanimous verdict that the person requires continued
2 commitment to the program, the court shall enter an order that the
3 person be conditionally released to undergo an alternative course
4 of treatment pursuant to the provisions of sections 28 and 29 of
5 this act.

6 6. If the jury does not reach a unanimous verdict that the
7 person committed remains a sexually dangerous person, the court
8 shall enter an order that the person be released.

9 **Sec. 28.** 1. If the court enters an order conditionally
10 releasing a person to undergo an alternative course of treatment,
11 the court shall impose conditions on the person to ensure that the
12 person complies with the alternative course of treatment and to
13 protect the public.

14 2. If the district attorney has reasonable cause to believe that
15 a person conditionally released to undergo an alternative course
16 of treatment has violated a condition imposed by the court, the
17 district attorney shall request that the court hold a hearing to
18 determine if such a violation has occurred.

19 3. Upon receipt of a request by the district attorney for a
20 hearing on an alleged violation, the court shall order that the
21 person be taken into custody and detained at a mental health
22 facility until a hearing on the alleged violation is held. The court
23 shall hold the hearing on the alleged violation not later than
24 5 days after the date on which the person is taken into custody.

25 4. If the court determines at the hearing that the person
26 violated a condition imposed by the court, the court shall enter an
27 order committing the person to the custody of the program.

28 5. If the court determines at the hearing that the person did
29 not violate a condition imposed by the court, the court shall enter
30 an order reinstating the conditional release of the person. As part
31 of such an order, the court may:

- 32 (a) Select a different course of treatment for the person;
33 (b) Modify the conditions imposed on the person; or
34 (c) Impose additional conditions on the person.

35 **Sec. 29.** 1. If a person is conditionally released to undergo
36 an alternative course of treatment, the court shall hold a hearing
37 once each year, and may hold a hearing more often, to determine
38 whether the person requires continued participation in an
39 alternative course of treatment.

40 2. At the conclusion of the hearing, the court may:

- 41 (a) Release the person from participating in an alternative
42 course of treatment;
43 (b) Select a different course of treatment for the person;
44 (c) Modify the conditions imposed on the person; or
45 (d) Impose additional conditions on the person.



1 **Sec. 30.** *An appeal may be taken from a judgment or an*
2 *order of the court entered pursuant to sections 3 to 31, inclusive,*
3 *of this act in the same manner and under the same circumstances*
4 *as an appeal taken from a civil case originating in a district court.*

5 **Sec. 31.** *1. The Division shall adopt regulations*
6 *establishing a program for the treatment of sexually dangerous*
7 *persons, including regulations:*

8 *(a) Specifying guidelines for the treatment and care of persons*
9 *committed to the custody of the program;*

10 *(b) Ensuring that persons committed to the custody of the*
11 *program are securely confined and that appropriate procedures*
12 *are followed to protect the safety of persons in the custody of the*
13 *program and the safety of the public; and*

14 *(c) Providing that a person committed to the custody of the*
15 *program must be allowed to:*

16 *(1) Wear his or her own clothing and to keep and use his or*
17 *her personal possessions, except when the deprivation of such*
18 *possessions is necessary for his or her treatment, protection or*
19 *safety, for the protection or safety of others or for the protection of*
20 *property within the facility;*

21 *(2) Have access to reasonable space for the storage of*
22 *personal possessions, within the limitations of the facility;*

23 *(3) Have approved visitors, within reasonable limitations;*

24 *(4) Have reasonable access to a telephone to make and*
25 *receive telephone calls;*

26 *(5) Have reasonable access to materials to write letters; and*

27 *(6) Receive and send correspondence through the mail,*
28 *within reasonable limitations.*

29 **2.** *The Division shall adopt regulations establishing*
30 *alternative courses of treatment. An alternative course of*
31 *treatment may include reasonable periods of confinement and*
32 *restrictions on movement.*

33 **3.** *The Division shall adopt regulations establishing the*
34 *professional qualifications that are required for a person to be a*
35 *qualified professional for the purpose of evaluating sexually*
36 *dangerous persons.*

37 **4.** *The Division shall, in conjunction with the Department of*
38 *Corrections, make mental health facilities available for persons*
39 *committed to the custody of the program or ordered to undergo*
40 *alternative courses of treatment.*

41 **Sec. 32.** NRS 433A.010 is hereby amended to read as follows:

42 433A.010 The provisions of ~~[this chapter]~~ *NRS 433A.010 to*
43 *433A.750, inclusive,* apply to all mental health centers of the
44 Division of Mental Health and Developmental Services of
45 the Department and of the Division of Child and Family Services of



1 the Department. Such provisions apply to private institutions and
2 facilities offering mental health services only when specified in the
3 context.

4 **Sec. 33.** NRS 433A.011 is hereby amended to read as follows:

5 433A.011 As used in ~~[this chapter,]~~ *NRS 433A.010 to*
6 *433A.750, inclusive*, unless the context otherwise requires, the
7 words and terms defined in NRS 433A.012 to 433A.018, inclusive,
8 have the meanings ascribed to them in those sections.

9 **Sec. 34.** NRS 433A.130 is hereby amended to read as follows:

10 433A.130 All applications and certificates for the admission of
11 any person in the State of Nevada to a mental health facility under
12 the provisions of ~~[this chapter shall]~~ *NRS 433A.010 to 433A.750,*
13 *inclusive, must* be made on forms approved by the Division and the
14 Office of the Attorney General and furnished by the clerks of the
15 district courts in each county.

16 **Sec. 35.** NRS 433A.300 is hereby amended to read as follows:

17 433A.300 Witnesses subpoenaed under the provisions of ~~[this~~
18 ~~chapter shall]~~ *NRS 433A.010 to 433A.750, inclusive, must* be paid
19 the same fees and mileage as are paid to witnesses in the courts of
20 the State of Nevada.

21 **Sec. 36.** NRS 433A.330 is hereby amended to read as follows:

22 433A.330 1. When any involuntary court admission is
23 ordered under the provisions of ~~[this chapter,]~~ *NRS 433A.010 to*
24 *433A.750, inclusive*, the involuntarily admitted person, together
25 with the court orders and certificates of the physicians, certified
26 psychologists or evaluation team and a full and complete transcript
27 of the notes of the official reporter made at the examination of such
28 person before the court, must be delivered to the sheriff of the
29 county who shall:

30 (a) Transport the person; or

31 (b) Arrange for the person to be transported by:

32 (1) A system for the nonemergency medical transportation of
33 persons whose operation is authorized by the Nevada Transportation
34 Authority; or

35 (2) If medically necessary, an ambulance service that holds a
36 permit issued pursuant to the provisions of chapter 450B of NRS,
37 to the appropriate public or private mental health facility.

38 2. No person with mental illness may be transported to the
39 mental health facility without at least one attendant of the same sex
40 or a relative in the first degree of consanguinity or affinity being in
41 attendance.

42 **Sec. 37.** NRS 433A.350 is hereby amended to read as follows:

43 433A.350 1. Upon admission to any public or private mental
44 health facility, each client of the facility and the client's spouse and
45 legal guardian, if any, must receive a written statement outlining in



1 simple, nontechnical language all procedures for release provided by
2 ~~{this chapter.}~~ *NRS 433A.010 to 433A.750, inclusive*, setting out all
3 rights accorded to such a client by ~~{this}~~ chapter ~~{and chapters}~~ 433
4 *of NRS, NRS 433A.010 to 433A.750, inclusive*, and *chapter* 433B
5 of NRS and, if the client has no legal guardian, describing
6 procedures provided by law for adjudication of incompetency and
7 appointment of a guardian for the client.

8 2. Written information regarding the services provided by and
9 means of contacting the local office of an agency or organization
10 that receives money from the Federal Government pursuant to 42
11 U.S.C. §§ 10801 et seq., to protect and advocate the rights of
12 persons with mental illnesses must be posted in each public and
13 private mental health facility and provided to each client of such a
14 facility upon admission.

15 **Sec. 38.** NRS 433A.460 is hereby amended to read as follows:

16 433A.460 1. No person admitted to a public or private mental
17 health facility pursuant to ~~{this chapter shall.}~~ *NRS 433A.010 to*
18 *433A.750, inclusive, may*, by reason of ~~{such}~~ *that* admission, be
19 denied the right to dispose of property, marry, execute instruments,
20 make purchases, enter into contractual relationships, vote and hold a
21 driver's license, unless ~~{such}~~ *the* person has been specifically
22 adjudicated incompetent by a court of competent jurisdiction and
23 has not been restored to legal capacity.

24 2. If the responsible physician of the mental health facility in
25 which any person is detained is of the opinion that ~~{such}~~ *the* person
26 is unable to exercise any of the aforementioned rights, the
27 responsible physician shall immediately notify the person and the
28 person's attorney, legal guardian, spouse, parents or other nearest-
29 known adult relative, and the district court of that fact.

30 **Sec. 39.** NRS 433A.470 is hereby amended to read as follows:

31 433A.470 A person adjudicated by a court to be a person with
32 mental incompetence who is admitted to a public or private mental
33 health facility may have a guardian appointed either by the
34 admitting court or by the district court of the county wherein the
35 mental health facility is located, on the application of any interested
36 person or, in the case of an indigent, on the application of the district
37 attorney of the county wherein the mental health facility is located.
38 The provisions of chapter 159 of NRS shall govern the appointment
39 and administration of guardianships created pursuant to ~~{this~~
40 ~~chapter.}~~ *NRS 433A.010 to 433A.750, inclusive.*

41 **Sec. 40.** NRS 433A.580 is hereby amended to read as follows:

42 433A.580 No person may be admitted to a private hospital or
43 division mental health facility pursuant to the provisions of ~~{this~~
44 ~~chapter}~~ *NRS 433A.010 to 433A.750, inclusive*, unless mutually
45 agreeable financial arrangements relating to the costs of treatment



1 are made between the private hospital or division facility and the
2 client or person requesting his or her admission.

3 **Sec. 41.** NRS 433A.610 is hereby amended to read as follows:

4 433A.610 1. When a person is admitted to a division facility
5 or hospital under one of the various forms of admission prescribed
6 by law, the parent or legal guardian of a person with mental illness
7 who is a minor or the husband or wife of a person with mental
8 illness, if of sufficient ability, and the estate of the person with
9 mental illness, if the estate is sufficient for the purpose, shall pay the
10 cost of the maintenance for the person with mental illness, including
11 treatment and surgical operations, in any hospital in which the
12 person is hospitalized under the provisions of ~~[this chapter.]~~ **NRS**
13 **433A.010 to 433A.750, inclusive:**

14 (a) To the administrative officer if the person is admitted to a
15 division facility; or

16 (b) In all other cases, to the hospital rendering the service.

17 2. If a person or an estate liable for the care, maintenance and
18 support of a committed person neglects or refuses to pay the
19 administrative officer or the hospital rendering the service, the State
20 is entitled to recover, by appropriate legal action, all money owed to
21 a division facility or which the State has paid to a hospital for the
22 care of a committed person, plus interest at the rate established
23 pursuant to NRS 99.040.

24 **Sec. 42.** NRS 433A.640 is hereby amended to read as follows:

25 433A.640 1. Once a court has ordered the admission of a
26 person to a division facility, the administrative officer shall make an
27 investigation, pursuant to the provisions of ~~[this chapter.]~~ **NRS**
28 **433A.010 to 433A.750, inclusive,** to determine whether the person
29 or his or her responsible relatives pursuant to NRS 433A.610 are
30 capable of paying for all or a portion of the costs that will be
31 incurred during the period of admission.

32 2. If a person is admitted to a division facility pursuant to a
33 court order, that person and his or her responsible relatives are
34 responsible for the payment of the actual cost of the treatment and
35 services rendered during his or her admission to the division facility
36 unless the investigation reveals that the person and his or her
37 relatives are not capable of paying the full amount of the costs.

38 **Sec. 43.** NRS 433A.740 is hereby amended to read as follows:

39 433A.740 Any public officer or employee who transports or
40 delivers or assists in transporting or delivering or detains or assists
41 in detaining any person pursuant to the provisions of ~~[this chapter~~
42 ~~shall not be]~~ **NRS 433A.010 to 433A.750, inclusive, is not** rendered
43 civilly or criminally liable thereby unless it is shown that ~~[such]~~ **the**
44 officer or employee acted maliciously or in bad faith or that his or
45 her negligence resulted in bodily harm to ~~[such]~~ **the** person.



1 **Sec. 44.** NRS 433A.750 is hereby amended to read as follows:

2 433A.750 1. A person who:

3 (a) Without probable cause for believing a person to be mentally
4 ill causes or conspires with or assists another to cause the
5 involuntary court-ordered admission of the person under ~~[this~~
6 ~~chapter.]~~ *NRS 433A.010 to 433A.750, inclusive;* or

7 (b) Causes or conspires with or assists another to cause the
8 denial to any person of any right accorded to the person under ~~[this~~
9 ~~chapter.]~~ *NRS 433A.010 to 433A.750, inclusive,*

10 ↳ is guilty of a category D felony and shall be punished as provided
11 in NRS 193.130.

12 2. Unless a greater penalty is provided in subsection 1, a
13 person who knowingly and willfully violates any provision of ~~[this~~
14 ~~chapter]~~ *NRS 433A.010 to 433A.750, inclusive,* regarding the
15 admission of a person to, or discharge of a person from, a public or
16 private mental health facility is guilty of a gross misdemeanor.

17 3. A person who, without probable cause for believing another
18 person to be mentally ill, executes a petition, application or
19 certificate pursuant to ~~[this chapter.]~~ *NRS 433A.010 to 433A.750,*
20 *inclusive,* by which the person secures or attempts to secure the
21 apprehension, hospitalization, detention or restraint of the person
22 alleged to be mentally ill, or any physician, psychiatrist or licensed
23 psychologist who knowingly makes any false certificate or
24 application pursuant to ~~[this chapter]~~ *NRS 433A.010 to 433A.750,*
25 *inclusive,* as to the mental condition of any person is guilty of a
26 category D felony and shall be punished as provided in
27 NRS 193.130.

28 **Sec. 45.** NRS 433B.260 is hereby amended to read as follows:

29 433B.260 1. Physicians and other professional staff
30 employed within any division facility must receive a reasonable fee
31 for evaluations, examinations or court testimony when directed by
32 the court to perform those services, singularly or as a member of an
33 evaluation team established pursuant to ~~[chapter 433A of NRS.]~~
34 *NRS 433A.010 to 433A.750, inclusive.*

35 2. If the evaluation or testimony is provided while the
36 physician or other professional person is acting as an employee of a
37 division facility, the fee must be received by the division facility at
38 which he or she is employed.

39 **Sec. 46.** NRS 433B.350 is hereby amended to read as follows:

40 433B.350 1. Nothing in this chapter purports to deprive any
41 person of any legal rights without due process of law.

42 2. Unless the context clearly indicates otherwise, the provisions
43 of NRS 433.456 to 433.543, inclusive, 433.545 to 433.551,
44 inclusive, and ~~[chapter 433A of NRS]~~ *433A.010 to 433A.750,*



1 *inclusive*, apply to all persons subject to the provisions of this
2 chapter.

3 **Sec. 47.** NRS 160.160 is hereby amended to read as follows:

4 160.160 1. In any proceeding under the laws of this State for
5 involuntary court-ordered admission of a person alleged to be
6 mentally ill or otherwise in need of confinement in a hospital or
7 other institution for his or her care, the court may order the
8 admission of that person to the Department of Veterans Affairs or
9 another agency of the Federal Government, whenever:

10 (a) It is determined, after such adjudication of the status of that
11 person as may be required by ~~chapter 433A of NRS,~~ *NRS*
12 *433A.010 to 433A.750, inclusive*, that involuntary court-ordered
13 admission to a hospital for mental disease or another institution is
14 necessary for safekeeping or treatment; and

15 (b) It appears that the person is eligible for care or treatment by
16 the Department of Veterans Affairs or any other agency that has
17 facilities available and that the person is eligible for care or
18 treatment therein.

19 2. The person whose involuntary court-ordered admission is
20 sought must be personally served with notice of the pending
21 proceeding in the manner provided by ~~chapter 433A of NRS,~~ *NRS*
22 *433A.010 to 433A.750, inclusive*. This chapter does not affect that
23 person's right to appear and be heard in the proceedings.

24 **Sec. 48.** NRS 178.460 is hereby amended to read as follows:

25 178.460 1. If requested by the district attorney or counsel for
26 the defendant within 10 days after the report by the Administrator or
27 the Administrator's designee is sent to them, the judge shall hold a
28 hearing within 10 days after the request at which the district attorney
29 and the defense counsel may examine the members of the treatment
30 team on their report.

31 2. If the judge orders the appointment of a licensed psychiatrist
32 or psychologist who is not employed by the Division to perform an
33 additional evaluation and report concerning the defendant, the cost
34 of the additional evaluation and report is a charge against the
35 county.

36 3. Within 10 days after the hearing or 10 days after the report is
37 sent, if no hearing is requested, the judge shall make and enter a
38 finding of competence or incompetence, and if the judge finds the
39 defendant to be incompetent:

40 (a) Whether there is substantial probability that the defendant
41 can receive treatment to competency and will attain competency to
42 stand trial or receive pronouncement of judgment in the foreseeable
43 future; and

44 (b) Whether the defendant is at that time a danger to himself or
45 herself or to society.



1 4. If the judge finds the defendant:

2 (a) Competent, the judge shall, within 10 days, forward the
3 finding to the prosecuting attorney and counsel for the defendant.
4 Upon receipt thereof, the prosecuting attorney shall notify the
5 sheriff of the county or chief of police of the city that the defendant
6 has been found competent and prearrange with the facility for the
7 return of the defendant to that county or city for trial upon the
8 offense there charged or the pronouncement of judgment, as the case
9 may be.

10 (b) Incompetent, but there is a substantial probability that the
11 defendant can receive treatment to competency and will attain
12 competency to stand trial or receive pronouncement of judgment in
13 the foreseeable future and finds that the defendant is dangerous to
14 himself or herself or to society, the judge shall recommit the
15 defendant and may order the involuntary administration of
16 medication for the purpose of treatment to competency.

17 (c) Incompetent, but there is a substantial probability that the
18 defendant can receive treatment to competency and will attain
19 competency to stand trial or receive pronouncement of judgment in
20 the foreseeable future and finds that the defendant is not dangerous
21 to himself or herself or to society, the judge shall order that the
22 defendant remain an outpatient or be transferred to the status of an
23 outpatient under the provisions of NRS 178.425.

24 (d) Incompetent, with no substantial probability of attaining
25 competency in the foreseeable future, the judge shall order the
26 defendant released from custody or, if the defendant is an outpatient,
27 released from any obligations as an outpatient if, within 10 judicial
28 days, the prosecuting attorney has not filed a motion pursuant to
29 NRS 178.461 or if, within 10 judicial days, a petition is not filed to
30 commit the person pursuant to NRS 433A.200. After the initial 10
31 judicial days, the person may remain an outpatient or in custody
32 under the provisions of this chapter only as long as the motion or
33 petition is pending unless the person is committed to the custody of
34 the Administrator pursuant to NRS 178.461 or involuntarily
35 committed pursuant to ~~chapter 433A of NRS.~~ **NRS 433A.010 to**
36 **433A.750, inclusive.**

37 5. Except as otherwise provided in subsection 4 of NRS
38 178.461, no person who is committed under the provisions of this
39 chapter may be held in the custody of the Administrator or the
40 Administrator's designee longer than the longest period of
41 incarceration provided for the crime or crimes with which the
42 person is charged or 10 years, whichever period is shorter. Upon
43 expiration of the applicable period provided in this section,
44 subsection 4 of NRS 178.461 or subsection 4 of NRS 178.463, the
45 person must be returned to the committing court for a determination



1 as to whether or not involuntary commitment pursuant to ~~chapter~~
2 ~~433A of NRS~~ *NRS 433A.010 to 433A.750, inclusive*, is required.

3 **Sec. 49.** NRS 432B.6078 is hereby amended to read as
4 follows:

5 432B.6078 1. Not later than 5 days after a child who is in the
6 custody of an agency which provides child welfare services has
7 been admitted to a facility pursuant to NRS 432B.6076, the agency
8 which provides child welfare services shall inform the child of his or
9 her legal rights and the provisions of NRS 432B.607 to 432B.6085,
10 inclusive, 433.456 to 433.543, inclusive, ~~and~~ 433.545 to 433.551,
11 inclusive, ~~and chapters 433A~~ *433A.010 to 433A.750, inclusive*,
12 and *chapter* 433B of NRS and, if the child or the child's attorney
13 desires, assist the child in requesting the court to authorize a second
14 examination by an evaluation team that includes a physician,
15 psychiatrist or licensed psychologist who are not employed by,
16 connected to or otherwise affiliated with the facility other than a
17 physician, psychiatrist or licensed psychologist who performed an
18 original examination which authorized the court to order the
19 admission of the child to the facility. A second examination must be
20 conducted not later than 5 business days after the court authorizes
21 the examination.

22 2. If the court authorizes a second examination of the child, the
23 examination must:

24 (a) Include, without limitation, an evaluation concerning
25 whether the child should remain in the facility and a
26 recommendation concerning the appropriate placement of the child
27 which must be provided to the facility; and

28 (b) Be paid for by the governmental entity that is responsible for
29 the agency which provides child welfare services, if such payment is
30 not otherwise provided by the State Plan for Medicaid.

31 **Sec. 50.** NRS 432B.6082 is hereby amended to read as
32 follows:

33 432B.6082 In addition to the personal rights set forth in NRS
34 432B.607 to 432B.6085, inclusive, 433.456 to 433.543, inclusive,
35 ~~and~~ 433.545 to 433.551, inclusive, ~~and chapters 433A~~ *433A.010*
36 *to 433A.750, inclusive*, and *chapter* 433B of NRS, a child who is in
37 the custody of an agency which provides child welfare services and
38 who is admitted to a facility has the following personal rights, a list
39 of which must be prominently posted in all facilities providing
40 evaluation, treatment or training services to such children and must
41 be otherwise brought to the attention of the child by such additional
42 means as prescribed by regulation:

43 1. To receive an education as required by law; and



1 2. To receive an allowance from the agency which provides
2 child welfare services in an amount equivalent to any allowance
3 required to be provided to children who reside in foster homes.

4 **Sec. 51.** NRS 432B.6085 is hereby amended to read as
5 follows:

6 432B.6085 1. Nothing in this chapter purports to deprive any
7 person of any legal rights without due process of law.

8 2. Unless the context clearly indicates otherwise, the provisions
9 of NRS 432B.607 to 432B.6085, inclusive, 433.456 to 433.543,
10 inclusive, ~~and~~ 433.545 to 433.551, inclusive, ~~and chapters 433A]~~
11 **433A.010 to 433A.750, inclusive,** and *chapter* 433B of NRS apply
12 to all children who are in the custody of an agency which provides
13 child welfare services.

14 **Sec. 52.** NRS 450.470 is hereby amended to read as follows:

15 450.470 1. If the county hospital is located at the county seat,
16 the board of hospital trustees shall, at all times, provide a suitable
17 room that may be used for the examination of persons who are
18 alleged to have mental illness and who are to be brought before the
19 judge of the district court for proceedings to determine the issue of
20 involuntary court-ordered admission as provided in ~~chapter 433A~~
21 ~~of NRS.]~~ **NRS 433A.010 to 433A.750, inclusive.** This section does
22 not prohibit or limit the examination of persons alleged to have
23 mental illness at a private hospital as provided in ~~chapter 433A of~~
24 ~~NRS.]~~ **NRS 433A.010 to 433A.750, inclusive.**

25 2. The board of trustees of such a county hospital, in
26 cooperation with the local law enforcement agencies, may provide a
27 suitable room that may be used for the custodial supervision of
28 persons who are alleged to:

- 29 (a) Have mental illness; or
30 (b) Be dangerous to themselves or others.

31 **Sec. 53.** The amendatory provisions of sections 3 to 31,
32 inclusive, of this act apply to all persons convicted of a sexually
33 dangerous offense, as that term is defined in section 12 of this act,
34 whether or not:

35 1. The offense was committed before, on or after October 1,
36 2011;

37 2. The person was sentenced for the offense before, on or after
38 October 1, 2011; or

39 3. The person was released from confinement before, on or
40 after October 1, 2011.

41 **Sec. 54.** The provisions of NRS 354.599 do not apply to any
42 additional expenses of a local government that are related to the
43 provisions of this act.

