

MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 13, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 9:11 a.m., Friday, March 13, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator James H. Bilbray
Senator Richard E. Blakemore
Senator Wilbur Faiss
Senator Virgil M. Getto

STAFF MEMBER PRESENT:

Joy-el McBride, Secretary

SENATE BILL NO. 313

Senator Neal appointed a subcommittee consisting of Mr. John Hawkins, Mr. Elmo Dericco, Mr. Burt Cooper, Mr. Bob Craddock, and a representative from Clark County to work out problems in SENATE BILL NO. 313. Senator Neal stated to come back to the committee in two weeks.

SENATE BILL NO. 375

Mr. Ben Cowan from the Clark County School District testified in support of SENATE BILL NO. 375. His testimony is EXHIBIT C.

Senator Kosinski asked Mr. Cowan if he was referring to three sources of funding, and Mr. Cowan replied he was asking for two; one is the basic school support and the other is the special education funds.

Senator Neal asked how many students are in the program in Clark County. Mr. Cowan said 150 last year and they were

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anticipating 175 for this year. At the present time, they are charging the parents of those students \$42.00 knowing that the program really costs \$437.00 per student, but they are receiving federal funds.

Senator Neal asked if they were dealing only with the program that extended past the 180 day school year, which costs an additional \$7.22 per student. Mr. Cowan stated they also included special education. They would prefer the special education unit be extended; a unit is a teacher.

Senator Faiss asked Mr. Cowan how many teachers are involved in the program. Mr. Cowan said 27.5 units; that includes teachers, a nurse, a physical therapist, an occupational therapist, a speech therapist, and a psychologist.

Senator Neal asked what the amount of federal funds they were receiving were and Mr. Cowan said this year they are getting \$62,574.00.

Mr. Ted Sanders from the State Department of Education testified in support of SENATE BILL NO. 375, however, he stated the department did not feel a change in statute was necessary as they had submitted a budgetary request which includes the funds asked for in the bill. He said there are seven districts in the state that offer programs similar to the one in Clark County. The department is concerned that the federal support behind this kind of program will be diminished and will reduce their capability to provide these essential services to the handicapped students.

Senator Kosinski asked how much money they were asking for in their budgetary request. Mr. Sanders stated the total fiscal impact would be for the first year, \$223,821.00, and for the second year, \$235,215.00.

Senator Kosinski asked why they had not asked for a change in the statute and Mr. Sanders said they had determined it was not necessary as the mechanism existed in the distributive school fund. They requested the discretionary units.

Senator Neal asked Mr. Sanders if he thought the bill was needed, and Mr. Sanders said the need to respond financially

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to the services beyond 180 days is there. The department has taken a different approach. If that approach is deemed appropriate by the legislature, SENATE BILL NO. 375 is not necessary. The money to do this is included in their request for distributive school funds. If this bill becomes law, the distributive school fund should be reduced by this small amount.

Senator Neal asked Mr. Cowan if he was aware that the State Board had included the funds in their budgetary request. Mr. Cowan said no and added as long as the money is available, he did not care how they got it, but feared if the money was not available, they would be compelled to provide the program.

Senator Neal asked if funds were provided for in the Education Department budget, did the school districts need the bill. Mr. Cowan said no.

Mr. Dick Wright, Washoe County School District, testified in support of SENATE BILL NO. 375, stating it would be a relief to the local school districts.

Senator Neal asked Mr. Wright if these funds were covered by the budgetary request from the State Department of Education, would they need the bill, and Mr. Wright said he would have to repeat Mr. Cowan's words that they need the money and if the money came from the education department budget, they would take it from that source.

Senator Bilbray stated that the bill vs. the Department of Education budgetary request does not equal the same amount of funds. Mr. Sanders stated that was correct. The difference is in the pupil support that would be missing.

Senator Bilbray asked what the status was on the budgetary request. Mr. Sanders said they have had hearings in the Assembly Ways and Means Committee and Senate Finance Committee. He was not able to give any indication on how the request was progressing.

Senator Neal asked Mr. Sanders what the difference was in the budgetary request and the bill in terms of funds. Mr. Sanders said the state board approach would fall short of what this bill would deliver in terms of state funds. In

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conjunction with the Board's intent for discretionary monies, the difference would not exist. Mr. Sanders said he would provide the committee with a memorandum from his office that would explain the difference in the two approaches.

SENATE BILL NO. 344

Mr. Tom Morton, owner and administrator of Sierra Health Care Center in Sparks, Nevada, also representing the Nevada Health Care Association, testified in opposition to SENATE BILL NO. 344, stating it was a duplication of existing federal regulations. He is not sure what the definition of "health and care facility" encompasses in this bill. Patient rights in health care facilities have been a part of the federal law for quite a few years.

Senator Kosinski asked what would happen if the federal government cut off the money for the ombudsman program and what protection the residents would have. Mr. Morton said there was not a mechanism for complaint prior to the ombudsman program. Now the Bureau of Health Facilities would be responsible for following through with the complaint.

Senator Kosinski stated that testimony at a previous hearing suggested to the committee that the Bureau of Health Facilities did not involve itself in a very aggressive investigation when they investigated health care facilities.

Mr. Morton said every complaint he has received via his facility has been investigated by the Health Division.

SENATE BILL NO. 345

Mr. Morton testified in opposition to SENATE BILL NO. 345, stating the bill is excessive and punitive. The definition of who could be appointed as a receiver is a problem area. The bill states the receiver needs to be a responsible person, but health care administration is not something that can be handled by just any responsible person. It is a professional field that requires training. The receiver within this bill is not responsible for his acts other than wantful misconduct. The receiver is allowed to make expenditures on behalf of correcting deficiencies or repairs up to \$3,000.00. If the receiver needs more than that, he has to

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go to the court. The receiver has the power to negate contracts that were legitimately and appropriately entered into on behalf of the facility. The receiver has the power to reduce rents or leases if they think they do not represent fair market value or if they think they are excessive.

SENATE BILL NO. 344

Ms. Pat Bates, representing the State Association of Drug and Alcohol Abuse Directors, testified in opposition to SENATE BILL NO. 344 stating under the terminology of "health and care facilities", there are numerous categories, alcohol and drug programs being one of them. She stated in Section 1, line 15, which reads, "To receive and send correspondence unopened", it would not be feasible to do that in alcohol and drug programs because of contraband that can be sent into the center. The second part they are concerned with is Section 1, lines 16 and 17, which reads, "To be treated with consideration and respect, including the right to privacy for visits..." They do allow visitation privileges, but they must be monitored because they do not know what kind of contraband comes with a visitor.

Mr. Orvis Reil, representing the Nevada Joint Legislative Committee of the Nevada Retired Teachers Association and the American Association of Retired Persons, testified in support of SENATE BILL NO. 344 and 345, stating that all but 15 percent of the patients in nursing homes are covered by federal funds. That 15 percent do not get the same treatment as far as the Bill of Rights is concerned.

Senator Bilbray asked Mr. Reil if it was the intent of the association when they sponsored the bill to include areas other than nursing homes. Mr. Reil stated nursing homes were their only concern.

Mr. Gerald Prindiville, representing the American Association of Retired Persons and the Nevada Retired Teachers Association, testified in support of SENATE BILL NO. 344 and 345, stating that one of the conditions of entrance to many nursing homes is that the potential patient sign away his rights as a citizen. He added nursing homes have a high turn-over of personnel and often capable employees use the opportunity as a training ground to get hospital employment as soon as they become

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reasonably capable, they leave and get a better paying job in a hospital.

Senator Bilbray referred to SENATE BILL NO. 344, Section 1, page 2, line 20, which reads "To leave the health and care facility against the advice of the physician..." and stated even if a person is extremely ill or incompetent, he could leave the facility. Senator Bilbray said the bill is probably needed, but needs to be amended.

SENATE BILL NO. 332

Mr. Patrick Pine, assistant Comptroller for Clark County, testified in opposition to SENATE BILL NO. 332. He stated they do support the concept of improved alcohol detoxification programs and treatment services, but as this bill is drafted, it is not a cost-effective way to go. The bill is not clear who would have to meet the intent of this proposal; either the county or a private individual.

Ms. Candace Fox, Director of Budget for Washoe County, representing the Board of County Commissioners of Washoe County, testified in opposition to SENATE BILL NO. 332, as it is written. They agree with the concept of an alcohol detoxification center, but the bill does not refer to any additional funding for the center. The board is concerned that no defined and additional source of funding, such as a tax on liquor, is addressed in the bill. Washoe County currently contributes over \$20,000 a year to various substance abuse institutions within Washoe County. The money comes out of the community support funds. The fiscal impact would be substantial to Washoe County if they had to develop and operate a facility such as this.

Mr. Mike Nash, program analyst for Washoe County from the Bureau of Alcohol and Drug Abuse, came forward to answer some questions that had been asked. He stated Reno averages 19.4 civil protective custody cases per day. They are in custody for 4 up to 48 hours. The standard procedure is to let them sleep from 4 to 6 hours and release them, unless they want treatment. If they want treatment, the people from Pat's Place will come get them. Mr. Nash's concern was these people have to be put in jail because there is no facility to take them to. The law states they should be taken for treat-

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ment if it is available.

Senator Getto asked Mr. Nash what percentage of the arrests that are made are alcohol related. Mr. Nash said Mr. Chuck Williams had testified in another hearing and said 70 percent of his arrests are alcohol related.

SENATE BILL NO. 260 (Exhibit D)

Senator Kosinski made a motion to Amend and re-refer Senate Bill No. 260 to the Committee on Human Resources and Facilities.

The motion was seconded by Senator Getto.

The motion carried unanimously.

There being no further business, the meetings was adjourned at 9:45 a.m.

Respectfully submitted:


Joy-el McBride, Secretary

APPROVED:


Senator Joe Neal, Chairman

DATE: March 23, 1981

SENATE AGENDA

EXHIBIT A

COMMITTEE MEETINGS

Committee on Human Resources and Facilities , Room 323 .

Day Friday , Date March 13 , Time 8:00 a.m. .

S. B. No. 375--Provides financial support for education of handicapped pupils for periods exceeding regular school year.

S. B. No. 332--Requires largest counties to provide facilities for alcohol abusers.

S. B. No. 344--Establishes certain rights for patients or residents of health and care facilities.

S. B. No. 345--Provides for appointment of receivers for certain health and care facilities to protect health and safety of residents.

S. B. No. 313--Requires that representation on board of association for interscholastic activities be in proportion to pupil enrollment.

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DATE: March 13, 1981

EXHIBIT B

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
McNutt, Ron	Teacher CARSON HS, 1551 Hwy 50 EAST	885-6500
Alcorn, SUE	Teacher CARSON HS 1551 Hwy 50 EAST	885-6500
McArdle, Dave	VICE PRIN CARSON HS 1551 Hwy 50 EAST	885-6500
TEO SANDERS	STATE DEPT OF EDUC	885-5700
Tom Morton	NEVADA HEALTH CARE ASSN.	359-5420
Carolyn Mann	Dir of MH MR	885-5943
Corrin E. Reed	NRTA/HARP - Nevada Joint State Legislative Comm	882-1675
Joyce Woodhouse	New St. Educ Assoc	882-5574
DAVID HAGEN	U.S. BREWERS ASSN	786-2366
CLAUDRE FOX	WASNOE COUNTY	785-4147
Bert Cowan	C.C. School Dist.	736-5471
RON ENGL	NIAA BOARD OF CONTROL	826-8790
DICK WRIGHT	WASHOE COUNTY SCHOOL DIST	322-7041
PATRICK TINS	CLARK COUNTY	883-5575
MARCOY FURBER	"	"
Ed Vogt	NUM - JAIL	APR 7509
Pat Bates	CSAN Council of Substance Abuse No	882-3945
Mike Nash	Bureau of Mental & Drug Abuse	885-4790
James Prindiville	HARP + NRTA	883-3455

DIVISION OF ADMINISTRATIVE/SPECIAL STUDENT SERVICES

Problem area: Providing an opportunity for handicapped students to participate in an appropriate program beyond the standard school calendar year of 180 days.

Nature of Problem: Extended School Year. Parents of moderate/severe/profound handicapped children are asking for school services that compare in extent and quality to that offered during the regular school calendar year. Current District policy limits such programs to those that are self-supporting. Some parents are demanding that services be at no expense to them. Providing these services beyond the regular school calendar year has been accomplished through a nominal tuition for all participants and by attracting special project funding to meet expenses of teachers, aides, related services (transportation, health, physical therapy, occupational therapy, speech therapy) not covered by tuitions collected.

Source of Problem: The impetus for parents to seek extended services comes from the "Education of All Handicapped Children Act, P.L. 94-142," Federal Court ruling in *Armstrong vs. Kline* (Pennsylvania) and Nevada State Board of Education rulings modifying or reversing hearing officer decisions in Due Process matters.

Possible Solution: The Nevada Department of Education was requested to develop guidelines for Districts to use in identifying students requiring additional service. These have not yet been developed. The Legislative Packet prepared by the District addresses State augmentation of local funding efforts in making certain that an appropriate program can be provided each year.

References: Section 504, Rehabilitation Act of 1973
P.L. 94-142, Education for All Handicapped Children Act of 1975
Armstrong vs. Kline (476 F. Supp. 583 [DEEPA, 1979])
Nevada Board of Education Ruling, Due Process Hearing Appeal
August 13, 1979
Nevada Board of Education Ruling, Due Process Hearing Appeal
June 26, 1980
Nevada Board of Education Ruling, Due Process Hearing Appeal
August 15, 1980

SENATE BILL NO. 260—COMMITTEE ON
HUMAN RESOURCES AND FACILITIES

FEBRUARY 18, 1981

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises procedures for admission to state facilities for
mentally ill and mentally retarded. (BDR 39-557)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to admission into facilities of the mental hygiene and mental
retardation division of the department of human resources; revising procedures
for voluntary and involuntary admission; adding procedural safeguards for per-
sons admitted or considered for admission; and providing other matters prop-
erly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,
do enact as follows:*

- 1 SECTION 1. Chapter 435 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this act.
3 SEC. 2. *An application or petition for voluntary or involuntary*
4 *admission of a mentally retarded person to a division facility must be*
5 *made on a form approved by the division and the attorney general. The*
6 *clerk of each district court in the state shall make the forms available to*
7 *any person upon request.*
8 SEC. 3. 1. *Be'ore any child may be admitted to a division facility,*
9 *the child's parent or guardian must apply to the administrative officer of*
10 *the facility to have the child evaluated by personnel of the facility who*
11 *are skilled in the diagnosis of mental retardation.*
12 2. *If the personnel determine that:*
13 (a) *The child is mentally retarded and may benefit from services*
14 *offered by the facility;*
15 (b) *Space is available in the facility; and*
16 (c) *The facility is designed and equipped to provide appropriate care,*
17 *treatment and training for the child,*
18 *the administrative officer of the facility may receive the child.*
19 3. *If the child or a responsible person on his behalf objects to the*
20 *admission, the person acting on the child's behalf or the administrative*
21 *officer of the facility may initiate proceedings for involuntary admission*
22 *of the child. In all other cases, the admission of a child to a division*
23 *facility as provided in this section is considered a voluntary admission.*
24 SEC. 4. *After a child has been admitted on a voluntary basis and is*
25 *receiving services from a division facility, the child's parent or guardian*
26 *may, at any time, request in writing that the child be discharged from the*

1 facility. Upon receiving such a request the administrative officer of the
2 facility shall discharge the child unless he determines that a discharge
3 would not be in the best interest of the child and initiates proceedings for
4 involuntary admission of the child. This section does not limit any
5 other power granted by this chapter to the administrative officer to dis-
6 charge a client from the facility.

7 **SEC. 5.** 1. Any person 18 years of age or older may apply to a divi-
8 sion facility for voluntary admission as a client.

9 2. The person may be admitted if personnel of the division facility,
10 after examining him, determine that he is mentally retarded and may
11 benefit from services offered by the facility, that space is available in the
12 facility and that the facility is designed and equipped to provide appro-
13 priate care, treatment and training for him.

14 **SEC. 6.** 1. If a person who is believed to be mentally retarded is not
15 capable of requesting his own admission to a division facility, or fails to
16 seek or refuses to accept admission to such a facility, a parent or guardian
17 of the person or other responsible person may initiate proceedings for
18 his involuntary admission.

19 2. Before initiating those proceedings, the person seeking the admis-
20 sion must obtain a written approval for the admission from the adminis-
21 trative officer of the division facility to which the proposed client would
22 be admitted.

23 3. The administrator shall, by regulation, establish standards and
24 procedures for the issuance of such an approval. The regulations may
25 include a provision permitting an observation and evaluation of the pro-
26 posed client at a division facility for not more than 48 hours.

27 4. After obtaining the approval, the parent, guardian or other person
28 may petition the district court of the county where the proposed client
29 resides. The petition must be accompanied by:

30 (a) A certificate signed by a physician or certified psychologist stating
31 that he has examined the proposed client and has concluded that the per-
32 son is mentally retarded and:

33 (1) That because of the mental retardation he is likely to harm him-
34 self or others; or

35 (2) That he is so gravely disabled by the mental retardation that he
36 is unable to maintain himself in a normal life situation without external
37 support;

38 (b) The written approval of the administrative officer of the division
39 facility for admission of the person to the facility; and

40 (c) A sworn statement by the petitioner that he has probable cause to
41 believe that the person is mentally retarded and:

42 (1) That because of the mental retardation he is likely to harm him-
43 self or others; or

44 (2) That he is so gravely disabled by the mental retardation that he
45 is unable to maintain himself in a normal life situation without external
46 support.

47 **SEC. 7.** Immediately after receiving the petition, the clerk of the dis-
48 trict court shall give the petition to the district judge, who shall have a
49 time and place set for a hearing on the petition. The hearing must be held
50 within 7 days after the date when the petition was filed unless the court

1 extends the time for good cause shown. The clerk of the court shall give
2 notice of the hearing to the person alleged to be mentally retarded, his
3 attorney if any, the petitioner and the administrative officer of the division
4 facility to which it is proposed that the person be admitted.

5 SEC. 8. 1. The district court shall, before commencing the hearing,
6 inform the person alleged to be mentally retarded of his right to apply for
7 voluntary admission and treatment pursuant to this chapter.

8 2. If the person requests voluntary admission, the court shall con-
9 duct a hearing to determine whether the person is capable of understand-
10 ing the consequences of voluntary admission and treatment. If the person
11 is found capable of understanding the consequences, the court shall dis-
12 miss the petition for involuntary admission and allow him to apply for
13 voluntary admission.

14 3. If the person refuses or fails to apply for voluntary admission, the
15 court shall proceed with a hearing to determine whether involuntary
16 admission should be authorized.

17 SEC. 9. 1. The person alleged to be mentally retarded, or any rela-
18 tive or friend acting on his behalf, is entitled to retain counsel to repre-
19 sent him in any proceeding before the district court relating to his
20 involuntary admission to a division facility.

21 2. If such counsel has not been retained, the court, before proceed-
22 ing, shall advise the person and his guardian, or the person's closest liv-
23 ing relative if such a relative can be located, of the person's right to have
24 counsel.

25 3. If the person fails to secure counsel, the court shall appoint coun-
26 sel to represent him. If the person is indigent, the counsel appointed may
27 be the public defender.

28 4. Any private counsel who is appointed by the court is entitled to
29 fair and reasonable compensation for his services. The compensation, if
30 not paid within a reasonable time, may be charged against the property
31 of the person he has represented. If the person is indigent, the compen-
32 sation of the public defender or other appointed counsel must be charged
33 against the county in which the person alleged to be mentally retarded
34 last resided.

35 5. The court shall, at the request of any counsel, grant a recess in
36 the proceedings for not more than 5 days to allow the counsel an oppor-
37 tunity to prepare his case.

38 SEC. 10. In the proceeding for involuntary admission of a person
39 alleged to be mentally retarded to a division facility:

40 1. The person must be present and may be allowed to testify on his
41 own behalf.

42 2. The court shall hear and consider all relevant testimony, including
43 the testimony of the physician or certified psychologist who signed the
44 certificate accompanying the petition and the testimony of any other per-
45 sons ordered by the court to examine or evaluate the person alleged to
46 be mentally retarded.

47 3. The court may require that an additional examination of the per-
48 son be made by a physician or certified psychologist, skilled in the
49 diagnosis of mental retardation, or may request a further examination
50 or evaluation of the person by personnel of the division facility to which

1 it is proposed that the person be admitted. Pending such an examination,
2 the court may allow the person alleged to be mentally retarded to remain
3 at his place of residence. One or more of the person's relatives or friends
4 may accompany him to any such examination.

5 4. The person alleged to be mentally retarded may obtain inde-
6 pendent evaluation and expert testimony concerning his condition and
7 may summon other witnesses.

8 5. Witnesses subpoenaed pursuant to this section must be paid the
9 same fees and mileage as are paid to witnesses in the courts of this state.

10 SEC. 11. 1. Upon completion of a hearing on involuntary admission
11 of a person to a division facility, if the court determines that the person
12 is mentally retarded and:

13 (a) That because of the mental retardation he is likely to harm him-
14 self or others, or that he is so gravely disabled by the mental retardation
15 that he is unable to maintain himself in a normal life situation without
16 external support;

17 (b) That there is no less restrictive alternative to admission to the
18 facility which would be in the best interest of the person; and

19 (c) That personnel of the facility have approved the proposed admis-
20 sion,

21 the court shall by written order certify that the person is eligible for
22 involuntary admission to the division facility for care, training and
23 treatment as a mentally retarded person.

24 2. A district court's certificate of eligibility for involuntary admis-
25 sion expires 12 months after the date of issuance. Before the date of
26 expiration, the administrator may petition the court to renew the certifi-
27 cate for an additional period of not more than 12 months. Each petition
28 for renewal must establish that the person continues to meet the con-
29 ditions set forth in subsection 1. A certificate may be renewed more
30 than once.

31 3. If a mentally retarded person is admitted to a division facility
32 involuntarily while he is a child, his certificate of eligibility for involun-
33 tary admission, or any renewal of that certificate, expires when he
34 reaches the age of 18 years. At that time he attains the status of a volun-
35 tary client and thereafter may be considered an involuntary client only
36 upon a newly issued certificate of eligibility for involuntary admission.

37 4. The certificate of eligibility does not require that the person be
38 admitted to the facility but authorizes the petitioning parent, guardian
39 or other responsible person to take the person to the division facility
40 and authorizes the administrative officer of the facility to receive the
41 person for training and treatment.

42 SEC. 12. 1. If the associate administrator for mental retardation
43 determines that it is in the best interest of a mentally retarded client,
44 he may discharge that client from any division facility, or place him on
45 convalescent leave.

46 2. If the administrative officer of a division facility determines that a
47 client in that facility no longer requires the services offered at a division
48 facility, he shall discharge that client.

49 3. A written notice of the discharge must be given to the client and
50 his attorney or other representative at least 10 days before the discharge.

1 4. Subsections 1 to 3, inclusive, apply to all clients, whether admitted
2 voluntarily or involuntarily.

3 5. If the client was admitted involuntarily, the administrator shall, at
4 least 10 days before the discharge, notify the district court which issued
5 the certificate of eligibility for the person's admission.

6 SEC. 13. NRS 435.077 is hereby amended to read as follows:

7 435.077 1. The administrator shall [establish] adopt regulations for
8 the transfer of mentally retarded persons from one facility to another
9 facility operated by the division.

10 2. Any mentally retarded person [committed by court order or
11 voluntarily] admitted to a facility operated by the division may be trans-
12 ferred from one facility to another [at the discretion] pursuant to those
13 regulations or upon order of the administrator. [without court order.

14 3. Subject to the provisions of subsection 4, when the associate
15 administrator for mental retardation determines that it is in the best
16 interest of the person, he may discharge, or place on convalescent leave,
17 any mentally retarded person in a facility operated by the division.

18 4. When a mentally retarded person is committed to a division facil-
19 ity by court order, the committing court shall be given 10 days' notice
20 prior to the discharge of such person.]

21 SEC. 14. NRS 435.081 is hereby amended to read as follows:

22 435.081 [1.] The administrator or his designee may receive a
23 mentally retarded [persons] person who is a resident of the State of
24 Nevada for services in a facility operated by the division [when:

25 (a)] if:

26 1. The person is mentally retarded as defined in NRS 433.174; [and

27 (b)] 2. Space is available in [a facility operated by the division
28 which] the facility; and

29 3. The facility is designed and equipped to provide appropriate care,
30 treatment and training for [mentally retarded persons.

31 2. A child may be voluntarily admitted upon application of one or
32 both parents or a guardian. An adult who has been adjudged incompetent
33 may be admitted upon application of a court-appointed guardian. A
34 legally competent adult may be admitted upon his own application.

35 3. A court may order an involuntary admission for services of any
36 person who had demonstrated behavior which indicates a clear and
37 present danger to himself or others, or which indicates that he is so
38 gravely disabled by mental retardation that he is unable to maintain him-
39 self in a normal life situation. The administrator shall be notified in
40 writing at least 7 days before any hearing at which the involuntary com-
41 mitment of a mentally retarded person is sought.

42 4. A child may be received, cared for and examined at a division
43 mental retardation facility for a period of not more than 90 days with-
44 out commitment, if the examination is ordered by a juvenile court hav-
45 ing jurisdiction of the minor in accordance with the provisions of
46 paragraph (c) of subsection 1 of NRS 62.200, in which event the
47 administrator or his designee shall report the result of the examination
48 to the juvenile court and shall detain the child until the further order of
49 the court, but not to exceed 15 days after the administrator's report.]
50 the person.

1 SEC. 15. NRS 435.085 is hereby amended to read as follows:

2 435.085 The administrative officer of a division facility may author-
3 ize the transfer of a mentally retarded person to a general hospital for
4 necessary diagnostic, medical or surgical services not available within
5 the division. All expenses incurred under this section [shall] *must* be
6 paid as follows:

7 1. In the case of a [judicially committed] mentally retarded [per-
8 son, such expenses shall] *child who has been admitted involuntarily, the*
9 *expenses must* be paid by his parents or guardian to the extent of their
10 reasonable financial ability as determined by the administrator, and the
11 remainder, of any, [shall be] *is* a charge upon the county of the [men-
12 tally retarded person's] last-known residence [:] *of the child;*

13 2. In the case of a mentally retarded [person] *child* admitted to a
14 division facility pursuant to NRS 435.010 to 435.030, inclusive, [such
15 expenses shall be] *the expenses are* a charge upon the county from
16 which a certificate was issued pursuant to subsection 2 of NRS 435.030;
17 [and]

18 3. In the case of a mentally retarded [person] *child* admitted to a
19 division facility upon voluntary application [as provided in NRS 435.-
20 081, such expenses shall] , *the expenses must* be paid by the parents
21 or guardian to the extent of their reasonable financial ability as deter-
22 mined by the administrator, and [for the remainder, if any,] the admin-
23 istrator shall explore all reasonable alternative sources [of payment.]
24 *for payment of the remainder, if any; and*

25 4. *In the case of a mentally retarded client who is 18 years of age*
26 *or older, the expenses may be charged against the property, if any, of*
27 *the client, and the administrator shall explore all reasonable alternative*
28 *sources for payment of the remainder, if any.*

29 SEC. 16. NRS 435.090 is hereby amended to read as follows:

30 435.090 1. [When any mentally retarded child is committed to a
31 division facility by a court of competent jurisdiction,] *If a court certifies*
32 *that a mentally retarded child is eligible for involuntary admission to*
33 *a division facility, the court shall examine the parent, parents or guard-*
34 *ian of [such] the child regarding the ability of [such] the parent, par-*
35 *ents or guardian or the estate of the child to contribute to the care,*
36 *support and maintenance of [such] the child while residing in [such]*
37 *the facility.*

38 2. If the court determines that the parent, parents or guardian of
39 the child is able to contribute, it shall enter an order prescribing the
40 amount to be contributed [.] *if the child is admitted to the facility.*

41 3. If the court determines that the estate of the child is able to
42 contribute, it shall enter an order requiring that a guardian of the estate
43 of the child be appointed, if there is none, and that the guardian of the
44 estate contribute the amount prescribed by the court from [such estate.]
45 *the estate if the child is admitted.*

46 4. If the parent, parents or guardian fail or refuse to comply with the
47 order of the court, the division is entitled to recover from the parent,
48 parents or guardian, by appropriate legal action, all sums due together
49 with interest.

1 SEC. 17. NRS 435.100 is hereby amended to read as follows:

2 435.100 1. [When] *If* any mentally retarded [person] *child who*
3 *has been admitted involuntarily* is transferred from one [care] facility
4 operated by the division to another, [care facility operated by the divi-
5 sion,] the parent, parents or guardian shall continue to contribute [such
6 amount] for the care, support and maintenance of [such person] *the*
7 *person such an amount* as may have previously been ordered by the
8 court [of competent jurisdiction committing such person.] *which certi-*
9 *fied that the person was eligible for involuntary admission.*

10 2. If no such order was entered by the [committing] court, the
11 division may petition [such] *the* court for an order requiring the parent,
12 parents or guardian to contribute.

13 3. Any order for contribution entered under the provisions of sub-
14 section 2 [shall] *must* be entered in the same manner and [have] *has*
15 the same effect as an order for contribution entered under the provisions
16 of NRS 435.090.

17 SEC. 18. NRS 435.340 is hereby amended to read as follows:

18 435.340 Neither voluntary *nor involuntary* admission, [nor judicial
19 commitment] nor any other procedure provided in this chapter, [shall
20 be construed as depriving] *deprives* a mentally retarded person of his
21 full civil and legal rights, [by any method other than] *except that such*
22 *rights may be limited in a separate judicial proceeding resulting in a*
23 *determination of incompetency wherein the civil and legal rights forfeit-*
24 *ed and the legal disabilities imposed are specifically stated.*

25 SEC. 19. NRS 435.360 is hereby amended to read as follows:

26 435.360 1. [No mentally retarded client may be detained in a divi-
27 sion facility after reaching the age of 18 unless:

28 (a) Such client makes voluntary application for services which the
29 division is designed and equipped to provide; or

30 (b) The division initiates proceedings, within 3 working days, for
31 commitment when such procedure can be shown to be in the client's
32 own best interest.

33 2. In no case shall the parents or relatives be] *The parents and*
34 *relatives of a mentally retarded client who is 18 years of age or older*
35 *are not* responsible for the costs of [further] *his* care and treatment
36 within a division facility. [of a mentally retarded client 18 years of age
37 or older.

38 3. Under subsection 1, the] 2. *The* client or his estate, when able,
39 may be required to contribute a reasonable amount toward the costs of
40 *his* care and treatment. Otherwise, the full costs of such services [shall]
41 *must* be borne by the state.

42 SEC. 20. NRS 433A.240 is hereby amended to read as follows:

43 433A.240 1. After the filing of a petition to commence proceed-
44 ings for involuntary court-ordered admission, [of a person pursuant to
45 NRS 433A.200 or 433A.210,] the court shall promptly cause two or
46 more physicians or certified psychologists, one of whom [shall] *must*
47 always be a physician, to examine the person alleged to be mentally ill,
48 or request [an evaluation from] *that* a multiple disciplinary team from
49 the division [of] *evaluate* the person alleged to be mentally ill.

50 2. For the purpose of conducting the examination of a person who

1 is not at a mental health facility under emergency admission, [pursuant
2 to NRS 433A.150,] the court may order a peace officer to take the
3 [individual] person into protective custody and transport him to a
4 mental health facility or hospital where he may be detained until a
5 hearing is had upon the petition. *Detention for this purpose must not*
6 *extend beyond a period of 30 calendar days. If the court has not acted*
7 *upon the petition before the expiration of the 30-day period, the person*
8 *must be released.*

9 3. Unless the [individual] person is admitted under an emergency
10 admission, [pursuant to NRS 433A.150,] he may be allowed to remain
11 in his home or other place of residence pending an ordered examination
12 or examinations and to return to his home or other place of residence
13 upon completion of the examination or examinations. The [individual]
14 person may be accompanied by one or more of his relations or friends
15 to the place of examination.

16 SEC. 21. NRS 433A.540 is hereby amended to read as follows:

17 433A.540 The administrator [is authorized to] may receive any
18 emotionally disturbed child for treatment in a treatment facility or any
19 other division facility if the child is a resident of the State of Nevada and
20 if:

21 1. The child is committed by court order to the custody of the
22 administrator or to a division facility; or

23 2. [The] Admission has been authorized by court order upon peti-
24 tion from the child's parent [, parents] or legal guardian. [makes appli-
25 cation for treatment for the child.]

26 SEC. 22. NRS 433A.560 is hereby amended to read as follows:

27 433A.560 [In any case involving an application from the child's
28 parent, parents or legal guardian,] 1. The parent or legal guardian of
29 a child may file with the court a petition seeking an order authorizing
30 admission of the child to a treatment facility.

31 2. After the petition is filed the court shall appoint a person to
32 represent the child. The person appointed must be compensated for his
33 services by the child's parent or legal guardian, but if that person is
34 indigent, the compensation must be a charge against the county of the
35 child's residence. The amount of compensation must be determined by
36 the court and must be a fair and reasonable amount for the services
37 rendered.

38 3. The court shall schedule a hearing on the petition and, after
39 hearing and considering all relevant evidence, may enter an order author-
40 izing the admission of the child to a treatment facility.

41 4. If admission is authorized by the court, the child [shall first]
42 must be examined and evaluated by the administrative officer or his staff
43 and may be admitted to [a treatment] the facility only if, in the judg-
44 ment of the administrative officer:

45 [1.] (a) The child can benefit from the treatment program; and

46 [2.] (b) Facilities and staff are available and adequate to meet the
47 child's needs.

48 SEC. 23. NRS 435.330 and 435.350 are hereby repealed.