

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

**STATEMENT BY JAMES J. VILT, ESQ.
OF THE NEVADA DISABILITY ADVOCACY & LAW CENTER
REGARDING SENATE BILL NO. 264
TO THE SENATE COMMITTEE ON JUDICIARY**

April 2, 2003

This testimony is submitted on behalf of Nevada Disability Advocacy & Law Center (NDALC), Nevada's federally mandated, governor designated protection and advocacy system for individuals with disabilities. See the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. §10801 et seq); the Developmental Disabilities Assistance and Bill of Rights Act of 1975 (42 U.S.C. §6041 et seq); and the Protection and Advocacy for Individual Rights Program of the Rehabilitation Act of 1973 (29 U.S.C. §794e).

In enacting provisions of any reentry program, the State would be well advised to pay particular attention to its mentally ill population. According to the United States Department of Justice, sixteen (16%) of all state prison inmates have some form of mental illness¹. There is every reason to believe that the number of mentally ill inmates in Nevada Department of Correction (NDOC) facilities is on par with this statistic.

While there are a myriad of difficulties awaiting mentally ill and other disabled inmates leaving the prison system, the NDOC can and should, at a minimum, ensure that those with serious mental illness are enrolled in the federal entitlement programs that are designed to provide the supports they need. Far too many people with severe mental illnesses and disabilities unnecessarily lose their federal entitlements while in prison while others who qualify fail to apply due to the lack of timely assistance from prison personnel.

Many people with disabilities, including those with severe mental illness, are entitled to monthly income-support payments through two different federal programs: SSI for those with low incomes and SSDI for people who have worked and paid Social Security taxes. Some whose SSDI benefit is too low because they worked only a short time can qualify for both.

While a number of disabled individuals likely entered the criminal justice system already receiving benefits, those who have been incarcerated for a year or more must file a completely new application for SSI upon their release and must resubmit evidence of their disability. SSDI benefits will be suspended following a conviction and confinement in jail for 30 days or longer but benefits are not terminated and payment will resume upon verification that the person is no longer in a correctional facility.

¹ U.S. Department of Justice. 1999. Bureau of Justice Statistics. Special Report: Mental Health and Treatment of Inmates and Probationers. Ditton, PJ, Washington, D.C.: NJC

Those inmates who were not receiving benefits when sent to jail can apply for SSI or SSDI while incarcerated, however, most will require some assistance in obtaining the appropriate forms and gathering the necessary evidence. Since review of an application can take approximately three months, the inmate should apply as long as possible before his or her release date.

While jails receive federal payments when they supply information that results in the suspension/termination of SSI or SSDI benefits by informing the Social Security Administration (SSA) that a person is confined, they have no such incentive to advise the SSA when someone is released. Nevertheless, jails and prisons can enter into pre-release agreements with the local Social Security office and, NDALC submits, it might be cost effective to mandate that the NDOC do so².

The income provided by these federal entitlements may ultimately mean the difference between successful transition back into the community and decompensation and recidivism. Without some policy change ensuring access to these essential income supports for those entitled to them, the door out of the correctional system may very well become a revolving one.

² Pre-release agreements are formal, written agreements between the penal institutions and local Social Security offices. Essentially the prison will agree to: (1) notify SSA of inmates likely to meet SSI criteria who will be released within the next 30 days; (2) provide to SSA current medical evidence and nonmedical information that may support the inmate's claim; (3) provide to SSA the anticipated release date and notify SSA if that changes; and (4) notify SSA when the inmate is actually released. In return, SSA will: (1) train prison staff about SSI rules and application procedures; (2) provide a contact person at Social Security to assist prison staff; (3) process applications as quickly as possible; and (4) notify the prison of the decision on the inmate's eligibility.

D-2