

SENATE BILL NO. 94—COMMITTEE ON HUMAN
RESOURCES AND FACILITIES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON
HEALTH CARE (NRS 439B.200))

FEBRUARY 12, 2003

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides for medical treatment in medical facility other than hospital under certain circumstances for certain allegedly mentally ill persons and for medical treatment for certain persons who are under influence of controlled substance. (BDR 39-745)

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

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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 health; requiring under certain circumstances that an allegedly mentally ill person be admitted to a medical facility other than a hospital before his emergency admission to a mental health facility; requiring the Division of Mental Health and Developmental Services of the Department of Human Resources to adopt regulations prescribing the appropriate type of medical facility; authorizing peace officers to deliver certain persons found in any public place under the influence of a controlled substance to certain facilities for observation and care; providing for the medical treatment of certain persons who are under the influence of a controlled substance who are arrested or taken into custody by a peace officer; providing that persons involved in certain acts relating to persons who are under the influence of a controlled substance who are arrested or taken into custody are immune from civil liability under certain circumstances; and providing other matters properly relating thereto.



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

1 **Section 1.** NRS 433A.165 is hereby amended to read as
2 follows:
3 433A.165 1. Before an allegedly mentally ill person may be
4 transported to a public or private mental health facility pursuant to
5 NRS 433A.160, he must:
6 (a) First be examined by a licensed physician or physician
7 assistant or an advanced practitioner of nursing to determine
8 whether the person has a medical problem, other than a psychiatric
9 problem, which requires immediate treatment; and
10 (b) If such treatment is required, *the person must* be admitted
11 ~~to~~ *for the appropriate medical care:*
12 (1) To a hospital ~~for the appropriate medical care.~~ *if the*
13 *person is in need of emergency services or care; or*
14 (2) *To another appropriate medical facility if the person is*
15 *not in need of emergency services or care.*
16 2. The cost of the examination must be paid by the county in
17 which the allegedly mentally ill person resides if services are
18 provided at a county hospital located in that county or a hospital *or*
19 *other medical facility* designated by that county, unless the cost is
20 voluntarily paid by the allegedly mentally ill person or on his behalf,
21 by his insurer or by a state or federal program of medical assistance.
22 3. The county may recover all or any part of the expenses paid
23 by it, in a civil action against:
24 (a) The person whose expenses were paid;
25 (b) The estate of that person; or
26 (c) A responsible relative as prescribed in NRS 433A.610, to the
27 extent that financial ability is found to exist.
28 4. The cost of treatment, including hospitalization, for an
29 indigent must be paid pursuant to NRS 428.010 by the county in
30 which the allegedly mentally ill person resides.
31 5. *The Division shall adopt regulations to carry out the*
32 *provisions of this section, including, without limitation,*
33 *regulations that:*
34 (a) *Define “emergency services or care” as that term is used in*
35 *this section; and*
36 (b) *Prescribe the type of medical facility that a person may be*
37 *admitted to pursuant to subparagraph (2) of paragraph (b) of*
38 *subsection 1.*
39 6. *As used in this section, “medical facility” has the meaning*
40 *ascribed to it in NRS 449.0151.*



1 **Sec. 2.** Chapter 458 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *If a peace officer arrests or takes into custody a person*
4 *who is found in any public place unlawfully under the influence*
5 *of a controlled substance and in such a condition that he is unable*
6 *to exercise care for his health or safety or the health or safety of*
7 *other persons, the peace officer may deliver the person to a*
8 *licensed facility for the treatment of persons who abuse controlled*
9 *substances or other appropriate facility for observation and care.*

10 2. *A person who is unlawfully under the influence of a*
11 *controlled substance who is arrested or taken into custody by a*
12 *peace officer must immediately be taken to a secure detoxification*
13 *unit or other appropriate medical facility if his condition appears*
14 *to require emergency medical treatment. Upon release from the*
15 *detoxification unit or medical facility, the person must*
16 *immediately be remanded to the custody of the apprehending*
17 *peace officer and the criminal proceedings proceed as prescribed*
18 *by law.*

19 3. *Every peace officer and other public employee or agency*
20 *acting pursuant to this section is performing a discretionary*
21 *function or duty.*

22 4. *A person, including, without limitation, a private agency or*
23 *an employee of a private agency is immune from civil liability*
24 *based upon any act or failure to act by the person in carrying out*
25 *the provisions of this section, unless the act or failure to act was*
26 *the result of the gross negligence or intentional or reckless*
27 *misconduct of the person.*

28 5. *As used in this section, "secure detoxification unit"*
29 *includes, without limitation, a detoxification unit in which the*
30 *staff of the detoxification unit ensures the security of the*
31 *detoxification unit.*

32 **Sec. 3.** NRS 458.010 is hereby amended to read as follows:

33 458.010 As used in NRS 458.010 to 458.350, inclusive, *and*
34 *section 2 of this act*, unless the context requires otherwise:

35 1. "Administrator" means the Administrator of the Health
36 Division.

37 2. "Alcohol and drug abuse program" means a project
38 concerned with education, prevention and treatment directed toward
39 achieving the mental and physical restoration of alcohol and drug
40 abusers.

41 3. "Alcohol and drug abuser" means a person whose
42 consumption of alcohol or other drugs, or any combination thereof,
43 interferes with or adversely affects his ability to function socially or
44 economically.



1 4. "Alcoholic" means any person who habitually uses alcoholic
2 beverages to the extent that he endangers the health, safety or
3 welfare of himself or any other person or group of persons.

4 5. "Board" means the State Board of Health.

5 6. "Civil protective custody" means a custodial placement of a
6 person to protect his health or safety. Civil protective custody does
7 not have any criminal implication.

8 7. "Detoxification technician" means a person who is certified
9 by the Health Division to provide screening for the safe withdrawal
10 from alcohol and other drugs.

11 8. "Facility" means a physical structure used for the education,
12 prevention and treatment, including mental and physical restoration,
13 of alcohol and drug abusers.

14 9. "Health Division" means the Health Division of the
15 Department of Human Resources.

16 **Sec. 4.** NRS 458.031 is hereby amended to read as follows:

17 458.031 The Health Division shall administer the provisions of
18 NRS 458.010 to 458.350, inclusive, *and section 2 of this act* as the
19 sole agency of the State of Nevada for that purpose.

20 **Sec. 5.** NRS 458.055 is hereby amended to read as follows:

21 458.055 1. To preserve the confidentiality of any information
22 concerning persons applying for or receiving any services pursuant
23 to NRS 458.010 to 458.350, inclusive, *and section 2 of this act* the
24 Health Division may establish and enforce rules governing the
25 confidential nature, custody, use and preservation of the records,
26 files and communications filed with the Health Division.

27 2. Wherever information concerning persons applying for and
28 receiving any services pursuant to NRS 458.010 to 458.350,
29 inclusive, *and section 2 of this act* is furnished to or held by any
30 other government agency or a public or private institution, the use of
31 that information by the agency or institution is subject to the rules
32 established by the Health Division pursuant to subsection 1.

33 3. Except as otherwise provided in NRS 442.300 to 442.330,
34 inclusive, and 449.705 and chapter 629 of NRS and except for
35 purposes directly connected with the administration of NRS 458.010
36 to 458.350, inclusive, *and section 2 of this act* a person shall not
37 disclose, use or authorize the disclosure of any confidential
38 information concerning a person receiving services pursuant to NRS
39 458.010 to 458.350, inclusive ~~H~~, *and section 2 of this act*.

40 **Sec. 6.** NRS 458.097 is hereby amended to read as follows:

41 458.097 1. Money received by the Health Division pursuant
42 to NRS 369.174 must be used to increase services for the prevention
43 of alcohol *and drug* abuse and alcoholism and for the detoxification
44 and rehabilitation of *alcohol and drug* abusers. In allocating the



1 money for the increase of services, the Health Division shall give
2 priority to:

3 ~~1-1~~ (a) The areas where there exists a shortage of services for
4 the treatment of alcoholism and alcohol abuse. The Health Division
5 shall determine the areas of shortage on the basis of data available
6 from state and local agencies, data contained in the comprehensive
7 state plan for alcohol and drug abuse programs, and other
8 appropriate data.

9 ~~2-1~~ (b) The needs of counties to provide ~~civil~~ :

10 (1) *Civil* protective custody, pursuant to NRS 458.270, for
11 persons who are found in public places while under the influence of
12 alcohol ~~1-1~~; and

13 (2) *Secure detoxification units or other appropriate*
14 *facilities for persons who are arrested or taken into custody while*
15 *under the influence of a controlled substance.*

16 ~~3-1~~ (c) Alcohol and drug abuse programs that are primarily
17 directed toward the prevention of such abuse.

18 2. *As used in this section, "secure detoxification unit" has the*
19 *meaning ascribed to it in section 2 of this act.*

20 **Sec. 7.** NRS 458.115 is hereby amended to read as follows:

21 458.115 Money to carry out the provisions of NRS 458.010 to
22 458.350, inclusive, *and section 2 of this act* must be provided by
23 direct legislative appropriation from the State General Fund and
24 paid out on claims as other claims against the State are paid. All
25 claims must be approved by the Administrator before they are paid.

26 **Sec. 8.** This bill becomes effective upon passage and approval.

