Study of the Feasibility of Adopting a Program of Outpatient Civil Commitment for Persons Who are Mentally Ill

Legislative Counsel Bureau

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STUDY OF THE FEASIBILITY OF ADOPTING A PROGRAM OF OUTPATIENT CIVIL COMMITMENT FOR PERSONS WHO ARE MENTALLY ILL

BULLETIN NO. 99-8

JANUARY 1999

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SUMMARY OF RECOMMENDATIONS

This summary presents the recommendations approved by the Legislative Commission's Committee to Study the Feasibility of Adopting a Program of Outpatient Civil Commitment for the Mentally Ill (S.C.R. 60). The committee will submit these proposals to the 70th Session of the Nevada Legislature.

RECOMMENDATIONS REQUIRING LEGISLATIVE ACTION

Convalescent Leave Protocol

1. **Amend *Nevada Revised Statutes* (NRS) 433A.370, 433A.380, and 433A.390 to allow for persons who have been involuntarily committed to a mental health facility to be placed on convalescent or conditional leave for a period not to exceed six months. This proposal is designed to allow for a patient's release from the hospital into a community setting and provides for case manager intervention and possible rehospitalization if necessary. (BDR 39--169)**

Involuntary Commitment Proceedings

2. **Draft and enact legislation that authorizes judges to consider past mentally ill behavior when determining if an individual should be involuntarily committed. Additionally, upon involuntary commitment, recommend that the mentally ill individual be required to participate in a treatment program. (BDR 39--171)**

Formation of a Mental Health Interim Committee

3. **Draft and enact legislation to direct the Legislative Commission to appoint an interim committee to continue the study of the mental health services provided in this state. (BDR R--170)**

RECOMMENDATIONS CONCERNING FUNDING OF MENTAL HEALTH SERVICES AND PROGRAMS

Expansion of Community-Based, Outpatient Programs

4. **Include a statement in the final report supporting the vision of the Mental Hygiene and Mental Retardation Division (MH/MR Division) of the Department of Human Resources (DHR) to continue to expand community-based, outpatient programs and services for the mentally ill. These services include, but would not be limited to, community outreach; case management; crisis intervention; educational and vocational services; halfway or transitional housing; medication clinics; treatment for individuals with co-occurring mental illness and substance abuse problems (dual diagnosis) provided in conjunction with the Bureau of Alcohol and Drug Abuse of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation; and Programs for Assertive Community Treatment (PACT). Additionally, encourage the MH/MR Division to conduct a series of evaluations on the above-referenced community-based programs to better gauge efficiency and effectiveness.**

Medication Crisis Units

5. **Include a statement in the final report encouraging the MH/MR Division to consider the possibility of establishing a mobile medication unit to assist noninstitutionalized mentally ill individuals with medication requirements. Additionally, the MH/MR Division is encouraged to work with local governmental and private entities regarding the establishment of such a unit.**

Educational Programs

6. **Include a statement in the final report encouraging the MH/MR Division and the Division of Child and Family Services in the DHR to develop training programs, particularly for professionals who work with children, regarding mental illness and its warning signs.**

REPORT TO THE 70TH SESSION OF THE NEVADA LEGISLATURE BY THE LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY THE FEASIBILITY OF ADOPTING A PROGRAM OF OUTPATIENT CIVIL COMMITMENT FOR PERSONS WHO ARE MENTALLY ILL

I. INTRODUCTION

The 69th Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 60 (File No. 146, *Statutes of Nevada 1997*) which directed the Legislative Commission to conduct an interim study regarding the possibility of instituting a program of outpatient civil commitment for the mentally ill. See Appendix A for the text of the resolution. The commission appointed a committee of nine legislators to carry out the provisions of the resolution.

The following legislators served on the S.C.R. 60 Committee:

Assemblywoman Vivian L. Freeman, Chairwoman
Assemblywoman Merle A. Berman
Assemblyman Donald G. Gustavson
Assemblyman David E. Humke
Assemblyman Harry Mortenson
Senator Raymond D. Rawson
Senator John B. (Jack) Regan
Senator Randolph J. Townsend
Senator Maurice E. Washington

Legislative Counsel Bureau (LCB) staff services for the committee were provided by Juliann K. Jenson, Senior Research Analyst, and Nenita R. Wasserman, Senior Research Secretary, of the Research Division; Jan K. Needham, Principal Deputy Legislative Counsel, and Charmaine L. Clark, Deputy Legislative Counsel, of the Legal Division; and Robert A. Guernsey, Principal Deputy Fiscal Analyst, of the Fiscal Analysis Division.

The committee held five meetings, including a work session, during the course of the study. Two of the meetings were held in Las Vegas, and the other three meetings were in Carson City. These public hearings were conducted through simultaneous video conferences between meeting rooms at the Legislative Building in Carson City, and the Grant Sawyer State Office Building in Las Vegas.

During the course of the interim study, the committee received extensive expert and public testimony regarding the mentally ill and available programs and services for this population. The committee reviewed various laws and outpatient treatment programs in other states, and it considered the results of research conducted by psychologists and psychiatrists who are prominent

in the field of mental illness and outpatient civil commitment. It obtained correspondence and testimony from concerned citizens, judges, district attorneys, law enforcement officers, advocacy groups, and representatives of state mental health agencies.

At its final meeting and work session, the committee adopted six recommendations, including three bill draft requests (BDRs), for consideration by the 1999 Legislature. The recommendations address the following major topics:

- Convalescent leave protocol for persons who have been involuntarily committed to a mental health facility;
- Criteria for judges to consider when determining if an individual should be involuntarily committed;
- Interim study regarding mental health issues, generally;
- Expansion of community-based, outpatient programs;
- Mobile crisis units; and
- Educational programs.

See Appendix B for the committee's suggested legislation (BDRs).

This report contains information on Nevada's recently enacted legislation regarding the mentally ill and programs and services for this population. In addition, it presents an overview of outpatient civil commitment laws and programs in various jurisdictions nationwide. The report also contains a discussion of the other topics under which the committee made its recommendations.

II. RECENT LEGISLATION IN NEVADA

During the 1997 Session, the Legislature dealt with a number of issues related to civil commitment, mental health, and the facilities that house and treat this population. Additionally, the rights of the mentally ill were addressed.

A. Programs and Services for the Mentally Ill

The 1997 Legislature made a number of significant budget enhancements and additions to the Mental Hygiene and Mental Retardation Division (MH/MR Division) in the Department of Human Resources (DHR). In summary, the MH/MR Division received approximately $25 million in

additional funds over the 1997-1999 biennium, along with an additional $12.5 million earmarked for capital improvements.

Perhaps the most significant expenditure is for a new inpatient hospital for the mentally ill. Assembly Bill 670 (Chapter 478, *Statutes of Nevada 1997*), Nevada's capital improvement measure, provided for a General Fund appropriation of $10,831,640 to construct a new hospital building and a 10-bed emergency observation unit on the Nevada Mental Health Institute campus in Sparks, Nevada. Ground breaking for the hospital is scheduled for December of 1998, with a 14-month construction period.

Additionally, Senate Bill 319 (Chapter 652, *Statutes of Nevada 1997*) established or expanded the following programs and services for the mentally ill:

- Transitional housing facilities in Clark and Washoe Counties ($707,599);
- Program for Assertive Community Treatment in Washoe County ($420,932);
- Purchase of additional vehicles ($73,932); and
- Renovation of Building 7 at the Nevada Mental Health Institute for a crisis unit to provide emergency psychiatric services ($140,000).

B. Rights of Individuals Committed to a Mental Health Facility

Assembly Bill 375 (Chapter 688, *Statutes of Nevada 1997*) specifies certain rights for a person who enters a mental health facility. The measure addresses both involuntary and voluntary commitments.

The bill specifies the procedures for converting a client to involuntary status after having been admitted voluntarily to a facility. In addition, the bill provides that a client may not be admitted to a mental health facility under false pretenses or as a result of any improper, unethical, or unlawful conduct on the part of a facility to collect money from the client's insurance company. Further, the measure establishes the client's right to be given documentation regarding a facility's policies for discharging clients. Such policies and criteria must not be based on the availability of insurance coverage or other financial considerations in an emergency or involuntary court-ordered admission.

The bill specifies additional rights of a client who is committed involuntarily to a facility. A client's rights include a second evaluation by a psychiatrist or a psychologist, a copy of the procedure of the facility regarding such commitment, and a list of any other rights concerning involuntary commitment or treatment. A facility may request a third evaluation to resolve any disagreements. The measure enumerates a client's rights concerning the suspension or violation of rights and requires that a list of these rights be posted in all facilities. Facilities must document

that they have provided a client with a list of all the rights designated in the bill and in existing law.

The measure requires mental health facilities to make decisions and establish policies and procedures regarding emergency or involuntary court-ordered admissions based on clinical efficiency rather than cost containment. An exception is granted for public facilities that are limited by their budgets. In addition, A.B. 375 protects a person from retaliation by certain facility personnel for reporting a violation of law or providing information regarding violation of a law and requires that a non-English speaking or hearing impaired client have reasonable access to an interpreter.

The bill also requires that a person designated to represent a client be kept informed about the client's medical and mental condition if the client signs a release allowing the practice. Further, the bill specifies the parties who have access to a client's medical records.

Further, A.B. 375 specifies that a facility must act within 48 hours after receiving a request from a client who was admitted voluntarily and who requests release from the facility, if the facility chooses to convert the person to an emergency or involuntary commitment. The bill also stipulates that a person who has been converted to an emergency admission must be evaluated within 72 hours of the commitment and that a psychiatrist or a psychologist must conduct the evaluation unless such a professional is not available. In that instance, a physician may conduct the evaluation.

The measure requires the district court judge to set a hearing on an emergency admission petition filed by a district attorney within five judicial days after the date on which the petition is received by the clerk of the court. Finally, the measure specifies that the release of an involuntary court-admitted client becomes unconditional ten days after the court orders a conditional release, unless an order provides otherwise.

C. Mental Health Parity

Another mental health issue from the 1997 Session is included in A.B. 521 (Chapter 586, *Statutes of Nevada 1997*). This bill incorporates federally mandated provisions regarding mental health parity for group health plans. Health insurance plans that offer mental health benefits may not offer annual or lifetime limits on mental health benefits that are different from limits on medical benefits.

III. OUTPATIENT CIVIL COMMITMENT FOR THE MENTALLY ILL

This section provides a general overview and summarizes the major issues surrounding outpatient civil commitment.

A. Definition of Outpatient Civil Commitment

According to an article entitled "A National Survey of the Use of Outpatient Commitment" by E. Fuller Torrey, M.D., and Robert J. Kaplan, J.D. (*Psychiatric Services*, August 1995), involuntary outpatient civil commitment statutes are state civil laws that require mentally ill patients to comply with a community-based program to avoid commitment to an institution. This treatment is usually characterized by short, recurring visits to a mental health clinic that provides treatment such as medication, individual or group therapy, day or part-day activities, or supervision of living arrangements.

Outpatient commitment generally is applied to a subgroup of individuals living in the community who, in the past, would have been inpatients. This form of commitment is used most commonly for persons with: (1) schizophrenia; (2) bipolar disorders; or (3) other psychoses, especially those who are noncompliant with medication and have had multiple inpatient admissions.

B. Use of Outpatient Civil Commitment in Other States

According to Dr. Marvin Swartz, an expert in the field of mental health who testified at the April 8, 1998, meeting of the S.C.R. 60 Committee, involuntary commitment is explicitly permitted by 37 states and the District of Columbia. However, despite such statutory support, this form of commitment is used inconsistently.

The National Association of State Mental Health Program Directors (NASMHPD) conducted a state survey regarding the use of outpatient civil commitment. This survey revealed that only the following states report using this form of commitment "very frequently":

- Arizona;
- District of Columbia;
- North Dakota;
- Washington; and
- Wisconsin.

On the contrary, Illinois, Indiana, Minnesota, Oregon, and Texas report "rarely" using outpatient commitment, even though they are statutorily authorized to do so. The uncertainty of the

constitutionality of the involuntary outpatient commitment state laws and the problems of monitoring patients in the community are cited as the two main reasons that such commitment is not used more often. Vague statutory guidelines regarding the implementation and enforcement of outpatient commitment was reported as another reason for underutilization.

C. Summary of Studies on Outpatient Civil Commitment

The current state of research on outpatient civil commitment is inconclusive regarding the effectiveness of outpatient civil commitment. Most professionals agree that further studies are needed to gauge whether outpatient civil commitment or other community-based treatment is more successful in stabilizing a patient in the community.

Dr. Swartz, referenced above, confirmed that there is a limited amount of research in this area, and many of the studies that have been conducted are equivocal. More specifically, from a literature review of the topic, Dr. Swartz found that studies have shown limited improvement in selected outcomes under outpatient commitment, with one study finding no differences. Dr. Swartz stated that the problem is further compounded in that few studies specifically address severe and persistent mental illness.

North Carolina Studies

North Carolina's program of outpatient civil commitment appears to have been examined more comprehensively than similar programs in other states. A series of studies on this topic conducted by the North Carolina Division of Mental Health Evaluation Unit yielded positive results, including decreased hospital visits and stays; more appointments kept; and higher retention rates in treatment.

However, these studies have been scrutinized and questioned by other researchers in the field. In addition to criticism of the research methodology and study design, it was stated that the research provided no valid empirical evidence regarding the program's ability to promote treatment compliance and success in the community. Further, critics maintain the studies did not adequately review the problems associated with the "revolving door" patient.

Another criticism of the program is that it is underutilized. Reasons for this included "ideological resistance" by community providers and concerns that the program could not be enforced. There also were reports that clients were inappropriately placed in the program as a result of negotiations between the patient's attorney and the judge.

In summary, there continues to be disagreement about the studies' findings, specifically, and the overall effectiveness of the outpatient civil commitment program in North Carolina, generally.

D. Arguments In Favor Of and Against Outpatient Civil Commitment

Although outpatient commitment has been used in some states for over two decades, it has been the subject of increasing controversy in recent years. The following provides some of the more common arguments surrounding this issue:

1. Pro

- Decreases the time individuals spend in psychiatric hospitals;
- Improves the quality of life for those who are mentally ill;
- Increases the likelihood of rehabilitation;
- Frees mentally ill individuals of debilitating symptoms of their illness;
- Applies the least restrictive means principle; and
- Applies the *parens patriae* authority (interventions designed to prevent injury to the mentally ill person).

2. Con

- Allows individuals to remain in an open setting where the person has more potential to cause harm;
- "Widens the net" of social control over persons not currently subject to involuntary hospitalization;
- Entails excessive state intrusion;
- Interferes with the right to refuse treatment;
- May be used as a substitute for inadequacies in other community-based services and programs;
- Undermines the therapeutic relationship; and
- Has broad potential for abuse.

E. Inpatient Civil Commitment Compared to Outpatient Civil Commitment

Civil commitment, the term used to describe the process of institutionalizing individuals, is generally thought of as being appropriate for those who, because of a psychiatric illness or other disease, pose a danger to themselves or others. All states have some form of civil commitment. Although inpatient and outpatient commitment differ in their scope and application, it is important to understand the role inpatient civil commitment plays in the mental health system. Additionally, some of the recommendations described below relate to inpatient proceedings.

F. Nevada's Procedure for Inpatient Civil Commitment

An individual in Nevada may be involuntarily admitted to a mental health facility primarily in one of three ways: (1) 72-hour hold (often referred to as a Legal 97, referencing the form that is used to initiate such a procedure) - (NRS 433A.150); (2) involuntary court-ordered admission (Subsection 1 of NRS 433A.200); and (3) district attorney petition (Subsection 4 of NRS 433A.160).

1. 72-Hour Hold or Legal 97

Pursuant to NRS 433A.150, any mentally ill person may be detained in a public or private mental health facility or hospital under emergency admission for evaluation, observation, and treatment. This emergency admission cannot exceed 72 hours. However, during this holding period, a petition may be filed with the district court pursuant to Subsection 1 of NRS 433A.200 for involuntary court-ordered admission to a mental health facility, which could result in an extended stay.

2. Involuntary Court-Ordered Admission

Under Subsection 1 of NRS 433A.200, a spouse, parent, adult child, legal guardian, physician, psychologist, social worker, registered nurse, agent of the DHR, or peace officer is given the authority to file a petition with the clerk of a district court to commence a proceeding for an involuntary court-ordered admission. This petition must be accompanied by a certificate of examination from a physician or licensed psychologist; or by a sworn written statement that the alleged mentally ill person poses a danger to him/herself or others and has refused to submit to an examination.

3. District Attorney Order to Apprehend and Detain and Hospital Petition

Subsection 4 of NRS 433A.160 authorizes any person who has reason to believe that another person is mentally ill to apply to the district attorney's office to have the individual apprehended or detained under emergency admission provisions.

IV. NEVADA'S MENTAL HEALTH SYSTEM

The care and treatment of the mentally ill has traditionally been a state responsibility. As such, the Mental Hygiene and Mental Retardation Division (MH/MR Division) in the DHR provides a statewide comprehensive mental health and mental retardation system for the citizens of Nevada. The MH/MR Division's delivery system is divided into three major services areas: (1) rural clinics; (2) Northern Nevada; and (3) Southern Nevada. Lake's Crossing Center for the Mentally Disordered Offender (hereinafter referred to as Lake's Crossing Center), a forensic facility, is also managed and operated by the MH/MR Division.

The following provides a brief overview of the mental health service delivery system. A description of Lake's Crossing Center is also included. Budgets are based on projected Fiscal Year 1999 amounts, as provided by MH/MR Division.

A. Rural Clinics

The Rural Clinics Program is mandated to provide a comprehensive range of mental health treatment, education and referral services to all ages within the 16 counties of rural Nevada as well as to rural Clark County. Services primarily include community-based, outpatient mental health counseling.

The budget for rural clinics is approximately $6.6 million per year, and these dollars provide services to in excess of 2,400 individuals.

B. Nevada Mental Health Institute -- Sparks

The delivery of adult mental health services in northern Nevada is provided primarily through the administrative structure of the Nevada Mental Health Institute (NMHI). The NMHI provides a full continuum of services ranging from outpatient treatment to inpatient residential care. The annual budget for NMHI is approximately $16.5 million.

Inpatient services include a 52-bed facility (licensed for 75 beds but staffed for 52) for those mentally ill individuals in need of hospitalization. (As stated earlier, the MH/MR Division received substantial funding from the 1997 Nevada Legislature for a new, 90-bed facility on these grounds. Also included with the facility package, will be a ten-bed psychiatric emergency services (PES) observation unit and emergency ambulatory services). Those who receive inpatient services also are eligible for an array of outpatient services, described below. Outpatient services are designed to assist and stabilize mentally ill individuals transitioning to or living in the community. These services include:

- Medication clinic for distribution of newer and safer medications;
- Outpatient counseling;

- Psycho-social rehabilitation;
- Case management;
- Programs for Assertive Community Treatment (more commonly known as PACT);
- Eight bed residential program;
- Funds for supported living arrangements;
- Outreach services in conjunction with Project Restart, a nonprofit organization specializing in problems associated with homelessness and mental illness;
- Vocational rehabilitation (partnership with the Bureau of Vocational Rehabilitation in the Rehabilitation Division of the Department of Employment, Training and Rehabilitation);
- Treatment for dually diagnosed clients (partnership with BADA in the Rehabilitation Division of the Department of Employment, Training and Rehabilitation); and
- Maintenance of client trust accounts.

C. Southern Nevada Adult Mental Health Services -- Clark County

Like its northern counterpart, Southern Nevada Adult Mental Health Services (SNAMHS) provides inpatient and outpatient mental health services. However, because SNAMHS provides assistance to a larger number of mentally ill individuals, the annual operating budget is greater than the northern facility and is estimated at $24.9 million.

Inpatient services include a 76-bed facility for mentally ill individuals requiring hospitalization.

Outpatient services are similar to the ones in the north, listed above. However, the following programs and services are unique to southern Nevada:

- Intensive case management (ratio of 1 counselor to every 15 patients);
- Psychiatric Emergency Services, including a 10-bed observation unit and 24-hour, seven days per week emergency ambulance;
- Multilocation medication clinics for the disbursement of newer, safer medications;
- Senior outreach services in conjunction with BADA and the Aging Services Division in the DHR; and

- A more extensive housing program, ranging from supported living arrangements to group homes.

D. Lake's Crossing Center for the Mentally Disordered Offender

Lake's Crossing Center, located in Washoe County, is a 50-bed residential and treatment facility for the mentally disordered offender. More specifically, this facility provides statewide services to individuals who have been found not guilty by reason of insanity; incompetent to stand trial; or requiring mental health services in a maximum security setting.

Treatment services are ordinarily limited to individuals committed to the facility pursuant to an evaluation to stand trial. The goals of treatment include: (1) establishing legal competency to stand trial; (2) reducing the severity of mental illness so that an individual is no longer dangerous to himself or others and can live outside the facility; or, (3) stabilizing an individual to return to a jail setting without undue stress.

Dispositional decisions must be made on a case-by-case basis in consultation with the appropriate district judge, district attorney, and defense attorney. Many of these cases require community follow-up or placement in other mental health facilities. Lake's Crossing Center does not provide outpatient services.

The budget for this facility, including staff, is approximately $4.2 million annually.

V. RECOMMENDATIONS

At its final meeting and work session on May 21, 1998, the S.C.R. 60 Committee adopted six recommendations concerning the care, treatment, and confinement of the mentally ill. These proposals, which include three BDRs, are submitted for consideration by the 1999 Legislature. Appendix B contains the BDRs.

Organized by topic headings, the following sections of the report discuss the committee's recommendations.

A. Recommendations Requiring Legislative Action

1. Convalescent Leave Protocol

At the committee's meeting in Las Vegas on April 8, 1998, Carlos E. Brandenburg, Ph.D., Administrator, MH/MR Division, DHR, and Cynthia Pyzel, Senior Deputy Attorney General, Office of the Attorney General, proposed a procedure for extending the convalescent leave protocol.

During their testimony, it was explained that Nevada law provides for an involuntarily admitted patient, upon discharge, to be conditionally released or placed on convalescent leave for ten days. Within this ten-day time period, the admitting court has the authority to issue an order for additional support or rehospitalization if there is evidence that the client has decompensated. This practice was reported to be beneficial in that the patient is able to bypass the civil commitment proceedings, described above, if readmittance to a mental health facility is needed.

It was argued that a ten-day time frame is too short a period to determine if a person has decompensated or not. Therefore, this proposal extends the time period in which a patient is monitored in a community setting and provides for case manager intervention and rehospitalization if needed. In short, this proposal affords a longer period to assist, stabilize, and observe the patient.

This proposal also was endorsed by community groups, hospital administrators, and other advocates in the field. Testimony indicated that outpatient civil commitment was premature for Nevada at this time, and the convalescent leave protocol offered a compromise as well as provided a balance between patient's rights and community obligations.

The committee agreed with the proposal and recommended that the Legislature:

- **Amend NRS 433A.370, 433A.380 and 433A.390 to allow for persons who have been involuntarily committed to a mental health facility to be placed on convalescent or conditional leave for a period not to exceed six months. (BDR 39-169)**

2. Involuntary Commitment Proceedings

The February 26, 1998, meeting of the committee gathered testimony from local service providers, advocacy groups, and private health care providers regarding the mentally ill population in Nevada. At that meeting, Rosetta Johnson, President of the Alliance for the Mentally Ill of Nevada (NAMI), spoke as both a representative of NAMI and as a mother of a mentally ill son.

Mrs. Johnson expressed some of the frustrations family members experience when dealing with the mental health system. More specifically, she stressed the importance of making decisions, particularly those involving hospitalization, based on a series of events rather than on an isolated incident. She explained that past, as well as present, behavior more clearly represents the mental health of an alleged mentally ill individual. As such, she recommended that past mentally ill behavior be considered at involuntary commitment proceedings in addition to reviewing the incident at hand.

Additionally, Mrs. Johnson stressed the need for treatment and psycho social rehabilitation for mentally ill individuals. To ensure an appropriate treatment plan, she recommended that a decision to treat an individual be made at the same time an involuntary commitment is determined.

In response to Mrs. Johnson's concerns and recommendations, the committee agreed to:

- **Draft and enact legislation that authorizes judges to consider past mentally ill behavior when determining if an individual should be involuntarily committed. Additionally, upon involuntary commitment, recommend that the mentally ill individual be required to participate in a treatment program. (BDR 39-171)**

3. Formation of Mental Health Committee

The care and treatment of the mentally ill has traditionally been a state responsibility; and because of its complexities and far-reaching impacts, this subject is reviewed on a continual basis by the State Legislature. This topic poses many challenges for lawmakers, and it covers a vast array of issues. These issues may include health care, housing, medical needs, crime, involuntary and voluntary commitments, constitutional issues, and the reform of public systems that treat and care for mentally disabled individuals.

Additionally, this population impacts many different state and local agencies. A few include the MH/MR Division of the DHR; Department of Prisons; Division of Parole and Probation of the Department of Motor Vehicles and Public Safety; the court system; and law enforcement and medicaid/medicare. Therefore, providing the proper care to those who are mentally disabled requires a great deal of interagency cooperation and coordination.

During the course of committee hearings, it became apparent that the issues and concerns surrounding mental health were complicated. The committee was charged with studying outpatient civil commitment specifically, but many topics clearly addressed the mental health system, generally. Because the committee was not able to give many mental health related topics the attention they deserved, the committee adopted a recommendation to:

- **Draft and enact legislation to direct the Legislative Commission to appoint an interim committee to continue the study of the mental health services provided in this state. (BDR R-170)**

B. Recommendations Concerning Funding of Mental Health Services and Programs

1. Expansion of Community-Based, Outpatient Programs

A recurring theme throughout the committee hearings was the need to expand community-based, outpatient treatment for the mentally ill in this state. It appeared this was a topic all involved parties agreed upon and could wholeheartedly support.

The committee heard compelling testimony from administrators, practitioners and advocates alike that institutional care, while necessary for certain cases, is costly and a short-term solution to a life-long problem. Additionally, testimony focused on the availability of newer and safer

medications. These medications were reported to greatly assist mentally ill individuals in leading more productive community lives.

Dr. Carlos Brandenburg stressed that the MH/MR Division will be placing emphasis on expanding community level mental health services for the 1999-2001 biennium. Acknowledging the strong commitment made by the 1997 Nevada Legislature for mental health services, particularly for the hospital, he explained the next step is to design and implement a system to help individuals cope with mental illness while maintaining their jobs, family life, and dignity.

Agreeing with Dr. Brandenburg's plans for the MH/MR Division, the committee voted to:

- **Include a statement in the final report supporting the vision of the MH/MR Division of the Department of Human Resources to continue to expand community-based, outpatient programs and services for the mentally ill. These services include, but would not be limited to, community outreach; case management; crisis intervention; educational and vocational services; halfway or transitional housing; medication clinics; treatment for individuals with co-occurring mental illness and substance abuse problems (dual diagnosis) provided in conjunction with the Bureau of Alcohol and Drug Abuse of the Rehabilitation Division in the Department of Employment, Training and Rehabilitation; and Programs for Assertive Community Treatment (PACT). Additionally, encourage the MH/MR Division to conduct a series of evaluations on the above-referenced community-based programs to better gauge efficiency and effectiveness.**

2. Medication Crisis Units

A recommendation for medication crisis units was initially brought to the committee's attention through correspondence by Ed Clements, a citizen who has a child with a severe mental illness. Mr. Clements relayed the need to establish some kind of emergency response capability for those suffering from a mental health crisis. More specifically, it was thought that this emergency team could be responsive to law enforcement or other agencies that handle mentally ill individuals and assist with conducting evaluations and making appropriate referrals. Mr. Clements acknowledged the need for vehicles and additional staffing if this concept is to be implemented.

A mobile crisis team also was supported by William Voy, Mental Commitment Hearings Master, Clark County, at the committee's February meeting. Mr. Voy explained that California has had much success with use of a mobile crisis unit and stated these units could be designed to provide local law enforcement agencies with appropriate options, other than jail, for mentally ill offenders.

During its final work session, the committee acknowledged that a mobile medication crisis unit could provide much needed outreach and assistance to those experiencing a mental health crisis. However, since this issue was only discussed briefly during the interim meetings, the committee members felt that they needed more information to make a decision on this matter. Additionally,

the committee envisioned the role of a mobile crisis unit to include assistance to noninstitutionalized individuals with their medication requirements and requested that this concept be explored.

After considering all the aforementioned information, the committee voted to:

- **Include a statement in the final report encouraging the MH/MR Division to consider the possibility of establishing a mobile medication unit to assist noninstitutionalized mentally ill individuals with medication requirements. Additionally, the MH/MR Division is encouraged to work with local governmental and private entities regarding the establishment of such a unit.**

3. **Educational Programs**

A recommendation concerning the need for education relating to mental illness was presented by James Richard Lucas at the April 8, 1998, meeting during public testimony. Mr. Lucas testified that many of his immediate family members suffer from mental illness, and as such, he has taken a great interest in this topic.

Mr. Lucas stressed the importance of identifying mental illness at its onset and being aware of the warning signs. Oftentimes, these signs can be detected in young adults. However, Mr. Lucas reported there is a general lack of awareness, even among professionals who work with children, about the nature of these signs.

Mental illness, like many physical illnesses, has a better chance of treatment success when caught in its early stages. Therefore, Mr. Lucas stated there is a need to better identify and subsequently treat mental illness in younger people.

The committee members agreed it is important to identify mental illness in its early stages. Additionally, it was noted there is a growing body of research on mental illness in younger adults, and that professionals working with children should be made better aware of mental illness and its warning signals.

The committee also discussed that training in this area should be developed by both the MH/MR Division, given its obvious expertise in mental health, and the Division of Child and Family Services in the DHR because of its role with youth.

Endorsing Mr. Lucas' proposal, the committee voted to:

- **Include a statement in the final report encouraging the MH/MR Division and the Division of Child and Family Services in the Department of Human Resources to develop training programs, particularly for professionals who work with children, regarding mental illness and its warning signs.**

APPENDICES

APPENDIX A

Senate Concurrent Resolution No. 60 of the 1997 Legislative Session
(File No. 146, *Statutes of Nevada 1997*)

Senate Concurrent Resolution No. 60-Committee on Commerce and Labor

FILE NUMBER 146

SENATE CONCURRENT RESOLUTION--Requiring the Legislative Commission to conduct an interim study of the statutes of this state and other states that establish criteria for determining whether a person is mentally ill and of the feasibility of adopting a program of outpatient civil commitment for persons who are mentally ill.

WHEREAS, Certain persons in the State of Nevada suffer from mental disorders that render them dangerous to themselves and the public; and

WHEREAS, The existing laws in the State of Nevada do not currently address participation in programs of outpatient civil commitment for persons whose mental illness renders them dangerous or unable to care for themselves; and

WHEREAS, There is a clear need for the involuntary treatment of certain mentally ill persons who are unable to make informed decisions regarding treatment and who show evidence of a significant probability of continued mental or emotional deterioration unless treatment is provided; and

WHEREAS, If feasible, a program of outpatient civil commitment for mentally ill persons in this state could address this need; and

WHEREAS, Other states have instituted various programs of civil commitment that may serve as models for a program in this state; and

WHEREAS, The establishment of a program of outpatient civil commitment further requires the development of a training program for all judges and magistrates performing duties related to civil commitment process; and

WHEREAS, The establishment of a program of outpatient civil commitment requires the development of legal parameters to ensure the protection of the rights of mentally ill persons to avoid negative effects on those persons through inappropriate interference with or interruption of the established treatment plans of those persons; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint an interim committee, composed of members of the Assembly and members of the Senate, to conduct an interim study concerning the feasibility of adopting a program of outpatient civil commitment for mentally ill residents of this state with the objective of helping mentally ill residents to lead more productive lives; and be it further

RESOLVED, That the study include, without limitation, an examination, review and evaluation of:

1. The statutes of this state and other states, including, without limitation, the provisions of chapter 433A of NRS, that establish criteria for determining whether a person is mentally ill for the purposes of evaluation, treatment and outpatient civil commitment;

2. The types and rates of success of the various programs of outpatient civil commitment for mentally ill residents in other states;

3. The feasibility of adopting a program of outpatient civil commitment for mentally ill residents in this state;

4. The development of programs of training for judges, magistrates and other professionals involved in the administration of such a program; and

5. The expected benefits of such a program to the public and to the mentally ill residents who are committed to the program; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Assembly appointed to the committee and a majority of the members of the Senate appointed to the committee; and be it further

RESOLVED, That the Legislative Commission submit a report of the results of the study and any recommended legislation to the 70th session of the Nevada Legislature.

APPENDIX B

Suggested Legislation

SUMMARY—Revises circumstances under which mentally ill person who is involuntarily admitted to mental health facility may be released before expiration of statutory period for detention. (BDR 39-169)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to mentally ill persons; revising the circumstances under which a mentally ill person who is involuntarily admitted to a mental health facility and is conditionally released on convalescent leave may be returned to the facility; revising the process by which such a person may be unconditionally released before the expiration of the statutory period for detention; and providing other matters properly relating thereto.

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

Section 1. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private

mental health facility on convalescent leave when, in the judgment of the medical director of the facility, the convalescent status is in the best interest of the person and will not be detrimental to the public welfare.

2. When a person is conditionally released pursuant to subsection 1, the state or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation.

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him and to the district attorney of the county in which the proceedings for admission were held.

5. The administrative officer of a public or private mental health facility shall order a person who is conditionally released on convalescent leave from that facility pursuant to this section to return to the facility if a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health determines that the convalescent leave is no longer in the best interest of the person or will be detrimental to the public welfare. The administrative officer shall give written notice of the order to the court that admitted the person to the facility at least 3 days before the

issuance of the order. The court shall review the order at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer shall give written notice to the person who was ordered to return to the facility and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

Sec. 2. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court at least 10 days before the release of the client. The client may then be released without requiring further orders of the court.

2. An involuntarily court-admitted client may be ~~[conditionally]~~ released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician,

the medical director of the mental health facility authorizes the release and gives written notice to the admitting court ~~[.~~

~~3. The release of an involuntarily court-admitted client pursuant to subsection 2 becomes unconditional 10 days after the release unless the admitting court, within that period, issues an order providing otherwise.]~~ ***at least 10 days before the release of the client.***

Sec. 3. This act becomes effective upon passage and approval.

SUMMARY—Clarifies provisions governing testimony that may be considered in proceeding for involuntary court-ordered admission of mentally ill person to mental health facility. (BDR 39-171)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to mentally ill persons; clarifying the provisions governing the testimony that may be considered in a proceeding for the involuntary court-ordered admission of a mentally ill person to a mental health facility; and providing other matters properly relating thereto.

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

Section 1. NRS 433A.280 is hereby amended to read as follows:

433A.280 In proceedings for involuntary court-ordered admission, the court shall hear and consider all relevant testimony , including , but not limited to , the testimony of examining personnel who participated in the evaluation of the person alleged to be mentally ill and the certificates of physicians or certified psychologists accompanying the

petition. ***The court may consider testimony relating to any past actions of the person alleged to be mentally ill if such testimony is probative of the question of whether the person is presently mentally ill and presents a clear and present danger of harm to himself or others.***

SUMMARY—Directs Legislative Commission to appoint interim committee to continue review and evaluation of services and treatment provided to mentally ill persons in this state. (BDR R-170)

_____ CONCURRENT RESOLUTION—Directing the Legislative Commission to appoint an interim committee to continue the review and evaluation of the services and treatment provided to mentally ill persons in this state.

WHEREAS, The population of mentally ill persons residing in this state has increased dramatically during this past decade; and

WHEREAS, There has been a growth in the need for community-based treatment as a result of the deinstitutionalization of mentally ill persons; and

WHEREAS, Already overcrowded jails are housing mentally ill persons without the resources or personnel to provide the treatment or social services that are required; and

WHEREAS, The coordination of services provided to mentally ill persons by law enforcement agencies, the courts, emergency management agencies, and crisis and case management teams is required to ensure that treatment is provided to mentally ill persons efficiently and in the least restrictive environment; and

WHEREAS, Senate Concurrent Resolution No. 60 of the 69th Legislative Session directed the Legislative Commission to appoint a committee to review and evaluate the criteria for determining whether a person is mentally ill and the feasibility of adopting a

program of outpatient civil commitment; and

WHEREAS, Further review of the mental health services provided to persons in this state is necessary to ensure that mentally ill persons receive the care necessary to allow them to lead more productive lives; now, therefore, be it

RESOLVED BY THE _____ OF THE STATE OF NEVADA, THE _____ CONCURRING, That the Legislative Commission is hereby directed to appoint an interim committee, composed of members of the Assembly and members of the Senate, to continue the study of services and treatment provided to mentally ill persons in this state, including, without limitation, an examination, review and evaluation of the:

1. Services that are available to mentally ill persons from public and private agencies in this state and the manner in which those services are delivered;

2. Standards used to determine whether a person is mentally ill for the purposes of evaluation and treatment;

3. Resources that are needed to provide the care that is required and the fiscal impact of providing those resources on the state and local governments;

4. Feasibility of coordinating services and treatment provided to mentally ill persons by various public and private agencies; and

5. Programs instituted in other states that may serve as models for programs for treating mentally ill persons in this state, including, without limitation, a program of outpatient civil commitment for persons who are mentally ill; and be it further

RESOLVED, That any recommended legislation proposed by the committee must be approved by a majority of the members of the Assembly appointed to the committee and a majority of the members of the Senate appointed to the committee; and be it further

RESOLVED, That the Legislative Commission submit a report of the results of the study and any recommended legislation to the 71st session of the Nevada Legislature.