

ASSEMBLY BILL NO. 46—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 6, 2008

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning the right of certain persons to purchase or possess a firearm. (BDR 14-271)

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

CONTAINS UNFUNDED MANDATE (§§ 1-4, 7, 11, 13) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person’s mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Federal law requires states to transmit to the National Instant Criminal
2 Background Check System records of adjudication of mental illness or
3 incompetence, involuntary admission to mental health facilities and other records
4 which indicate a person is prohibited from purchasing a firearm. Federal law also
5 requires states to implement a program by which a person who was previously
6 adjudicated mentally ill or involuntarily committed can apply to have his right to
7 possess a firearm restored and ties this requirement to certain federal funding for
8 states under the NICS Improvement Amendments Act of 2007. (Public Law
9 110-180) Nevada law prohibits a person from owning or possessing a firearm if he
10 has been adjudicated as mentally ill or has been committed to any mental health
11 facility. (NRS 202.360)

12 **Sections 1-4, 11 and 13** of this bill require a court to transmit to the Central
13 Repository for Nevada Records of Criminal History a record of any court order,



14 judgment, plea or verdict concerning the involuntary admission of a person to
15 a mental health facility, the appointment of a guardian for a person who has a mental
16 defect, a finding that a person is incompetent to stand trial, a verdict acquitting a
17 person by reason of insanity or a plea of guilty but mentally ill, along with a
18 statement that the record is being transmitted for inclusion in all appropriate
19 databases of the National Instant Criminal Background Check System. (NRS
20 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

21 **Section 7** of this bill requires the Central Repository to take reasonable steps to
22 ensure that the records transmitted to it by the court are included in each
23 appropriate database of the National Instant Criminal Background Check System.
24 In accordance with federal law, this section also provides a procedure for a person
25 who is the subject of such a record to petition a court to have the record removed
26 from the National Instant Criminal Background Check System and to have his right
27 to possess or purchase a firearm restored.

28 **Section 8** of this bill provides that the records transmitted by the court to the
29 Central Repository are confidential, may not be used for any purpose other than for
30 inclusion in each appropriate database of the National Instant Criminal Background
31 Check System, and no cause of action may be brought for transmission, failure to
32 transmit, delay in transmitting or inaccuracies within such records.

33 **Section 10** of this bill amends existing law to authorize a court to find that a
34 proposed ward is a person with a mental defect who is prohibited from possessing a
35 firearm pursuant to federal law. (NRS 159.044, 159.055)

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

1 **Section 1.** NRS 174.035 is hereby amended to read as follows:
2 174.035 1. A defendant may plead not guilty, guilty, guilty
3 but mentally ill or, with the consent of the court, nolo contendere.
4 The court may refuse to accept a plea of guilty or guilty but
5 mentally ill.

6 2. If a plea of guilty or guilty but mentally ill is made in a
7 written plea agreement, the agreement must be in substantially the
8 form prescribed in NRS 174.063. If a plea of guilty or guilty but
9 mentally ill is made orally, the court shall not accept such a plea or a
10 plea of nolo contendere without first addressing the defendant
11 personally and determining that the plea is made voluntarily with
12 understanding of the nature of the charge and consequences of the
13 plea.

14 3. With the consent of the court and the district attorney, a
15 defendant may enter a conditional plea of guilty, guilty but mentally
16 ill or nolo contendere, reserving in writing the right, on appeal from
17 the judgment, to a review of the adverse determination of any
18 specified pretrial motion. A defendant who prevails on appeal must
19 be allowed to withdraw the plea.

20 4. A plea of guilty but mentally ill must be entered not less
21 than 21 days before the date set for trial. A defendant who has
22 entered a plea of guilty but mentally ill has the burden of



1 establishing his mental illness by a preponderance of the evidence.
2 Except as otherwise provided by specific statute, a defendant who
3 enters such a plea is subject to the same criminal, civil and
4 administrative penalties and procedures as a defendant who pleads
5 guilty.

6 5. The defendant may, in the alternative or in addition to any
7 one of the pleas permitted by subsection 1, plead not guilty by
8 reason of insanity. A plea of not guilty by reason of insanity must be
9 entered not less than 21 days before the date set for trial. A
10 defendant who has not so pleaded may offer the defense of insanity
11 during trial upon good cause shown. Under such a plea or defense,
12 the burden of proof is upon the defendant to establish by a
13 preponderance of the evidence that:

14 (a) Due to a disease or defect of the mind, he was in a delusional
15 state at the time of the alleged offense; and

16 (b) Due to the delusional state, he either did not:

17 (1) Know or understand the nature and capacity of his act; or

18 (2) Appreciate that his conduct was wrong, meaning not
19 authorized by law.

20 6. If a defendant refuses to plead or if the court refuses to
21 accept a plea of guilty or guilty but mentally ill or if a defendant
22 corporation fails to appear, the court shall enter a plea of not guilty.

23 7. A defendant may not enter a plea of guilty or guilty but
24 mentally ill pursuant to a plea bargain for an offense punishable as a
25 felony for which:

26 (a) Probation is not allowed; or

27 (b) The maximum prison sentence is more than 10 years,

28 ↪ unless the plea bargain is set forth in writing and signed by the
29 defendant, the defendant's attorney, if he is represented by counsel,
30 and the prosecuting attorney.

31 8. *If the court accepts a plea of guilty but mentally ill*
32 *pursuant to this section, the court shall cause a record of that plea*
33 *to be transmitted to the Central Repository for Nevada Records of*
34 *Criminal History along with a statement indicating that the record*
35 *is being transmitted for inclusion in each appropriate database of*
36 *the National Instant Criminal Background Check System.*

37 9. As used in this section ~~[a "disease"]~~ :

38 (a) *"Disease* or defect of the mind" does not include a disease or
39 defect which is caused solely by voluntary intoxication.

40 (b) *"National Instant Criminal Background Check System"*
41 *has the meaning ascribed to it in section 6 of this act.*

42 **Sec. 2.** NRS 175.533 is hereby amended to read as follows:

43 175.533 1. During a trial, upon a plea of not guilty by reason
44 of insanity, the trier of fact may find the defendant guilty but
45 mentally ill if the trier of fact finds all of the following:



1 (a) The defendant is guilty beyond a reasonable doubt of an
2 offense;

3 (b) The defendant has established by a preponderance of the
4 evidence that due to a disease or defect of the mind, he was mentally
5 ill at the time of the commission of the offense; and

6 (c) The defendant has not established by a preponderance of the
7 evidence that he is not guilty by reason of insanity pursuant to
8 subsection 5 of NRS 174.035.

9 2. Except as otherwise provided by specific statute, a defendant
10 who is found guilty but mentally ill is subject to the same criminal,
11 civil and administrative penalties and procedures as a defendant who
12 is found guilty.

13 3. *If the trier of fact finds a defendant guilty but mentally ill*
14 *pursuant to subsection 1, the court shall cause a record of the*
15 *finding to be transmitted to the Central Repository for Nevada*
16 *Records of Criminal History, along with a statement indicating*
17 *that the record is being transmitted for inclusion in each*
18 *appropriate database of the National Instant Criminal*
19 *Background Check System.*

20 4. As used in this section ~~[, a “disease”]~~ :

21 (a) *“Disease* or defect of the mind” does not include a disease or
22 defect which is caused solely by voluntary intoxication.

23 (b) *“National Instant Criminal Background Check System”*
24 *has the meaning ascribed to it in section 6 of this act.*

25 **Sec. 3.** NRS 175.539 is hereby amended to read as follows:

26 175.539 1. Where on a trial a defense of insanity is
27 interposed by the defendant and he is acquitted by reason of that
28 defense, the finding of the jury pending the judicial determination
29 pursuant to subsection 2 has the same effect as if he were regularly
30 adjudged insane, and the judge must:

31 (a) Order a peace officer to take the person into protective
32 custody and transport him to a forensic facility for detention
33 pending a hearing to determine his mental health;

34 (b) Order the examination of the person by two psychiatrists,
35 two psychologists, or one psychiatrist and one psychologist who are
36 employed by a division facility; and

37 (c) At a hearing in open court, receive the report of the
38 examining advisers and allow counsel for the State and for the
39 person to examine the advisers, introduce other evidence and cross-
40 examine witnesses.

41 2. If the court finds, after the hearing:

42 (a) That there is not clear and convincing evidence that the
43 person is a person with mental illness, the court must order his
44 discharge; or



1 (b) That there is clear and convincing evidence that the person is
2 a person with mental illness, the court must order that he be
3 committed to the custody of the Administrator of the Division of
4 Mental Health and Developmental Services of the Department of
5 Health and Human Services until he is discharged or conditionally
6 released therefrom in accordance with NRS 178.467 to 178.471,
7 inclusive.

8 ➤ The court shall issue its finding within 90 days after the
9 defendant is acquitted.

10 3. The Administrator shall make the reports and the court shall
11 proceed in the manner provided in NRS 178.467 to 178.471,
12 inclusive.

13 4. *If the court accepts a verdict acquitting a defendant by*
14 *reason of insanity pursuant to this section, the court shall cause a*
15 *record of that verdict to be transmitted to the Central Repository*
16 *for Nevada Records of Criminal History, along with a statement*
17 *indicating that the record is being transmitted for inclusion in*
18 *each appropriate database of the National Instant Criminal*
19 *Background Check System.*

20 5. As used in this section, unless the context otherwise
21 requires:

22 (a) "Division facility" has the meaning ascribed to it in
23 NRS 433.094.

24 (b) "Forensic facility" means a secure facility of the Division of
25 Mental Health and Developmental Services of the Department of
26 Health and Human Services for offenders and defendants with
27 mental disorders. The term includes, without limitation, Lakes
28 Crossing Center.

29 (c) *"National Instant Criminal Background Check System"*
30 *has the meaning ascribed to it in section 6 of this act.*

31 (d) "Person with mental illness" has the meaning ascribed to it
32 in NRS 178.3986.

33 **Sec. 4.** NRS 178.425 is hereby amended to read as follows:

34 178.425 1. If the court finds the defendant incompetent, and
35 that he is dangerous to himself or to society and that commitment is
36 required for a determination of his ability to receive treatment to
37 competency and to attain competence, the judge shall order the
38 sheriff to convey the defendant forthwith, together with a copy of
39 the complaint, the commitment and the physicians' certificate, if
40 any, into the custody of the Administrator or his designee for
41 detention and treatment at a division facility that is secure. The
42 order may include the involuntary administration of medication if
43 appropriate for treatment to competency.



1 2. The defendant must be held in such custody until a court
2 orders his release or until he is returned for trial or judgment as
3 provided in NRS 178.450, 178.455 and 178.460.

4 3. If the court finds the defendant incompetent but not
5 dangerous to himself or to society, and finds that commitment is not
6 required for a determination of the defendant's ability to receive
7 treatment to competency and to attain competence, the judge shall
8 order the defendant to report to the Administrator or his designee as
9 an outpatient for treatment, if it might be beneficial, and for a
10 determination of his ability to receive treatment to competency and
11 to attain competence. The court may require the defendant to give
12 bail for his periodic appearances before the Administrator or his
13 designee.

14 4. Except as otherwise provided in subsection 5, proceedings
15 against the defendant must be suspended until the Administrator or
16 his designee or, if the defendant is charged with a misdemeanor, the
17 judge finds him capable of standing trial or opposing
18 pronouncement of judgment as provided in NRS 178.400.

19 5. Whenever the defendant has been found incompetent, with
20 no substantial probability of attaining competency in the foreseeable
21 future, and released from custody or from obligations as an
22 outpatient pursuant to paragraph (d) of subsection 4 of NRS
23 178.460, the proceedings against the defendant which were
24 suspended must be dismissed. No new charge arising out of the
25 same circumstances may be brought after a period, equal to the
26 maximum time allowed by law for commencing a criminal action
27 for the crime with which the defendant was charged, has lapsed
28 since the date of the alleged offense.

29 *6. If a defendant is found incompetent pursuant to this*
30 *section, the court shall cause a record of that finding to be*
31 *transmitted to the Central Repository for Nevada Records of*
32 *Criminal History, along with a statement indicating that the*
33 *record is being transmitted for inclusion in each appropriate*
34 *database of the National Instant Criminal Background Check*
35 *System.*

36 *7. As used in this section, "National Instant Criminal*
37 *Background Check System" has the meaning ascribed to it in*
38 *section 6 of this act.*

39 **Sec. 5.** Chapter 179A of NRS is hereby amended by adding
40 thereto the provisions set forth as sections 6, 7 and 8 of this act.

41 **Sec. 6.** *"National Instant Criminal Background Check*
42 *System" means the national system created by the federal Brady*
43 *Handgun Violence Prevention Act, Public Law 103-159.*

44 **Sec. 7. 1.** *Upon receiving a record transmitted pursuant to*
45 *NRS 159.055, 174.035, 175.533, 175.539, 178.425 or 433A.310,*



1 *the Central Repository shall take reasonable steps to ensure that*
2 *the information reported in the record is included in each*
3 *appropriate database of the National Instant Criminal*
4 *Background Check System.*

5 *2. If the Central Repository receives a record described in*
6 *subsection 1, the person who is the subject of the record may*
7 *petition the court for an order declaring that:*

8 *(a) The basis for the adjudication reported in the record no*
9 *longer exists;*

10 *(b) The adjudication reported in the record is deemed not to*
11 *have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4)*
12 *and NRS 202.360; and*

13 *(c) The information reported in the record must be removed*
14 *from the National Instant Criminal Background Check System.*

15 *3. The court shall grant the petition and issue the order*
16 *described in subsection 2 if the court finds that the petitioner has*
17 *established that:*

18 *(a) The basis for the adjudication made pursuant to NRS*
19 *159.055, 174.035, 175.533, 175.539, 178.425 or 433A.310*
20 *concerning the petitioner no longer exists;*

21 *(b) The petitioner's record and reputation indicate that the*
22 *petitioner is not likely to act in a manner dangerous to public*
23 *safety; and*

24 *(c) Granting the relief requested by the petitioner pursuant to*
25 *subsection 2 is not contrary to the public interest.*

26 *4. Except as otherwise provided in this subsection, the*
27 *petitioner must establish the provisions of subsection 3 by a*
28 *preponderance of the evidence. If the adjudication concerning the*
29 *petitioner was made pursuant to NRS 159.055 or 433A.310, the*
30 *petitioner must establish the provisions of subsection 3 by clear*
31 *and convincing evidence.*

32 *5. The court, upon entering an order pursuant to this section,*
33 *shall cause a record of the order to be transmitted to the Central*
34 *Repository.*

35 *6. Upon receiving a record of an order transmitted pursuant*
36 *to subsection 5, the Central Repository shall take reasonable steps*
37 *to ensure that information concerning the adjudication made*
38 *pursuant to NRS 159.055, 174.035, 175.533, 175.539, 178.425 or*
39 *433A.310 is removed from the National Instant Criminal*
40 *Background Check System.*

41 **Sec. 8. 1.** *Any record described in section 7 of this act is*
42 *confidential and is not a public book or record within the meaning*
43 *of NRS 239.010. A person may not use the record for any purpose*
44 *other than for inclusion in the appropriate database of the*
45 *National Instant Criminal Background Check System.*



1 2. *If a person is required to transmit, report or take any other*
2 *action concerning a record pursuant to NRS 159.055, 174.035,*
3 *175.533, 175.539, 178.425 or 433A.310 or section 7 of this act, no*
4 *cause of action may be brought against the person for:*

5 (a) *Transmitting or reporting the record or taking any other*
6 *required action concerning the record;*

7 (b) *Failing to transmit or report the record or failing to take*
8 *any other required action concerning the record;*

9 (c) *Delaying the transmission or reporting of the record or*
10 *delaying in taking any other required action concerning the*
11 *record; or*

12 (d) *Transmitting or reporting an inaccurate or incomplete*
13 *version of the record or taking any other required action*
14 *concerning an inaccurate or incomplete version of the record.*

15 **Sec. 9.** NRS 179A.010 is hereby amended to read as follows:

16 179A.010 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 179A.020 to
18 179A.073, inclusive, *and section 6 of this act* have the meanings
19 ascribed to them in those sections.

20 **Sec. 10.** NRS 159.044 is hereby amended to read as follows:

21 159.044 1. Except as otherwise provided in NRS 127.045, a
22 proposed ward, a governmental agency, a nonprofit corporation or
23 any interested person may petition the court for the appointment of a
24 guardian.

25 2. To the extent the petitioner knows or reasonably may
26 ascertain or obtain, the petition must include, without limitation:

27 (a) The name and address of the petitioner.

28 (b) The name, date of birth and current address of the proposed
29 ward.

30 (c) A copy of one of the following forms of identification of the
31 proposed ward which must be placed in the records relating to the
32 guardianship proceeding and, except as otherwise provided in NRS
33 239.0115 or as otherwise required to carry out a specific statute,
34 maintained in a confidential manner:

35 (1) A social security number;

36 (2) A taxpayer identification number;

37 (3) A valid driver's license number;

38 (4) A valid identification card number; or

39 (5) A valid passport number.

40 ➔ If the information required pursuant to this paragraph is not
41 included with the petition, the information must be provided to the
42 court not later than 120 days after the appointment of a guardian or
43 as otherwise ordered by the court.

44 (d) If the proposed ward is a minor, the date on which he will
45 attain the age of majority and:



1 (1) Whether there is a current order concerning custody and,
2 if so, the state in which the order was issued; and

3 (2) Whether the petitioner anticipates that the proposed ward
4 will need guardianship after attaining the age of majority.

5 (e) Whether the proposed ward is a resident or nonresident of
6 this State.

7 (f) The names and addresses of the spouse of the proposed ward
8 and the relatives of the proposed ward who are within the second
9 degree of consanguinity.

10 (g) The name, date of birth and current address of the proposed
11 guardian. If the proposed guardian is a private professional
12 guardian, the petition must include proof that the guardian meets the
13 requirements of NRS 159.0595. If the proposed guardian is not a
14 private professional guardian, the petition must include a statement
15 that the guardian currently is not receiving compensation for
16 services as a guardian to more than one ward who is not related to
17 the person by blood or marriage.

18 (h) A copy of one of the following forms of identification of the
19 proposed guardian which must be placed in the records relating to
20 the guardianship proceeding and, except as otherwise provided in
21 NRS 239.0115 or as otherwise required to carry out a specific
22 statute, maintained in a confidential manner:

- 23 (1) A social security number;
24 (2) A taxpayer identification number;
25 (3) A valid driver's license number;
26 (4) A valid identification card number; or
27 (5) A valid passport number.

28 (i) Whether the proposed guardian has ever been convicted of a
29 felony and, if so, information concerning the crime for which he was
30 convicted and whether the proposed guardian was placed on
31 probation or parole.

32 (j) A summary of the reasons why a guardian is needed and
33 recent documentation demonstrating the need for a guardianship.
34 The documentation may include, without limitation:

35 (1) A certificate signed by a physician who is licensed to
36 practice medicine in this State stating the need for a guardian;

37 (2) A letter signed by any governmental agency in this State
38 which conducts investigations stating the need for a guardian; or

39 (3) A certificate signed by any other person whom the court
40 finds qualified to execute a certificate stating the need for a
41 guardian.

42 (k) Whether the appointment of a general or a special guardian
43 is sought.

44 (l) A general description and the probable value of the property
45 of the proposed ward and any income to which the proposed ward is



1 or will be entitled, if the petition is for the appointment of a
2 guardian of the estate or a special guardian. If any money is paid or
3 is payable to the proposed ward by the United States through the
4 Department of Veterans Affairs, the petition must so state.

5 (m) The name and address of any person or care provider having
6 the care, custody or control of the proposed ward.

7 (n) The relationship, if any, of the petitioner to the proposed
8 ward and the interest, if any, of the petitioner in the appointment.

9 (o) Requests for any of the specific powers set forth in NRS
10 159.117 to 159.175, inclusive, necessary to enable the guardian to
11 carry out the duties of the guardianship.

12 (p) Whether the guardianship is sought as the result of an
13 investigation of a report of abuse or neglect that is conducted
14 pursuant to chapter 432B of NRS by an agency which provides child
15 welfare services. As used in this paragraph, "agency which provides
16 child welfare services" has the meaning ascribed to it in
17 NRS 432B.030.

18 (q) Whether the proposed ward is a party to any pending
19 criminal or civil litigation.

20 (r) Whether the guardianship is sought for the purpose of
21 initiating litigation.

22 (s) Whether the proposed ward has executed a durable power of
23 attorney for health care, a durable power of attorney for financial
24 matters or a written nomination of guardian and, if so, who the
25 named agents are for each document.

26 **3. *The petition may include a request that the court determine***
27 ***whether the proposed ward is a person with a mental defect who is***
28 ***prohibited from possessing a firearm pursuant to 18 U.S.C. §***
29 ***922(d)(4) or (g)(4).***

30 **4. *As used in this section, "person with a mental defect"***
31 ***means a person who, as a result of marked subnormal***
32 ***intelligence, mental illness, incompetence, condition or disease, is:***

33 ***(a) A danger to himself or others; or***

34 ***(b) Lacks the capacity to contract or manage his own affairs.***

35 **Sec. 11.** NRS 159.055 is hereby amended to read as follows:

36 159.055 1. The petitioner has the burden of proving by clear
37 and convincing evidence that the appointment of a guardian of the
38 person, of the estate, or of the person and estate is necessary.

39 2. If it appears to the court that the allegations of the petition
40 are sufficient and that a guardian should be appointed for the
41 proposed ward, the court shall enter an order appointing a guardian.
42 The order must:

43 (a) Specify whether the guardian appointed is guardian of the
44 person, of the estate, of the person and estate or a special guardian;



1 (b) Specify whether the ward is a resident or nonresident of this
2 State;

3 (c) Specify the amount of the bond to be executed and filed by
4 the guardian; and

5 (d) Designate the names and addresses, so far as may be
6 determined, of:

7 (1) The relatives of the proposed ward upon whom notice
8 must be served pursuant to NRS 159.047; and

9 (2) Any other interested person.

10 3. A notice of entry of the court order must be sent to:

11 (a) The relatives of the proposed ward upon whom notice must
12 be served pursuant to NRS 159.047; and

13 (b) Any other interested person.

14 ***4. If requested pursuant to subsection 3 of NRS 159.044, the***
15 ***court shall determine, by clear and convincing evidence, whether***
16 ***the proposed ward is a person with a mental defect who is***
17 ***prohibited from possessing a firearm pursuant to 18 U.S.C. §***
18 ***922(d)(4) or (g)(4). If a court makes a finding pursuant to this***
19 ***subsection that the proposed ward is a person with a mental defect,***
20 ***the court shall cause an order described in this section to be***
21 ***transmitted to the Central Repository for Nevada Records of***
22 ***Criminal History, along with a statement indicating that the***
23 ***record is being transmitted for inclusion in each appropriate***
24 ***database of the National Instant Criminal Background Check***
25 ***System.***

26 ***5. As used in this section:***

27 (a) ***“National Instant Criminal Background Check System”***
28 ***has the meaning ascribed to it in section 6 of this act.***

29 (b) ***“Person with a mental defect” has the meaning ascribed to***
30 ***it in NRS 159.044.***

31 **Sec. 12.** NRS 202.362 is hereby amended to read as follows:

32 202.362 1. Except as otherwise provided in subsection 3, a
33 person within this State shall not sell or otherwise dispose of any
34 firearm or ammunition to another person if he has actual knowledge
35 that the other person:

36 (a) Is under indictment for, or has been convicted of, a felony in
37 this or any other state, or in any political subdivision thereof, or of a
38 felony in violation of the laws of the United States of America,
39 unless he has received a pardon and the pardon does not restrict his
40 right to bear arms;

41 (b) Is a fugitive from justice;

42 (c) Has been adjudicated as mentally ill or has been committed
43 to any mental health facility; or

44 (d) Is illegally or unlawfully in the United States.



1 2. A person who violates the provisions of subsection 1 is
2 guilty of a category B felony and shall be punished by imprisonment
3 in the state prison for a minimum term of not less than 1 year and a
4 maximum term of not more than 10 years, and may be further
5 punished by a fine of not more than \$10,000.

6 3. This section does not apply to a person who sells or disposes
7 of any firearm or ammunition to:

8 (a) A licensed importer, licensed manufacturer, licensed dealer
9 or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not
10 precluded from dealing in firearms or ammunition; or

11 (b) A person who has been granted relief from the disabilities
12 imposed by federal laws pursuant to 18 U.S.C. § 925(c) ~~+~~ **or**
13 **section 7 of this act.**

14 **Sec. 13.** NRS 433A.310 is hereby amended to read as follows:

15 433A.310 1. Except as otherwise provided in NRS
16 432B.6076 and 432B.6077, if the district court finds, after
17 proceedings for the involuntary court-ordered admission of a person
18 to a public or private mental health facility:

19 (a) That there is not clear and convincing evidence that the
20 person with respect to whom the hearing was held has a mental
21 illness or exhibits observable behavior such that he is likely to harm
22 himself or others if allowed his liberty, the court shall enter its
23 finding to that effect and the person must not be involuntarily
24 detained in such a facility.

25 (b) That there is clear and convincing evidence that the person
26 with respect to whom the hearing was held has a mental illness and,
27 because of that illness, is likely to harm himself or others if allowed
28 his liberty, the court may order the involuntary admission of the
29 person for the most appropriate course of treatment. The order of the
30 court must be interlocutory and must not become final if, within 30
31 days after the involuntary admission, the person is unconditionally
32 released pursuant to NRS 433A.390.

33 2. Except as otherwise provided in NRS 432B.608, an
34 involuntary admission pursuant to paragraph (b) of subsection 1
35 automatically expires at the end of 6 months if not terminated
36 previously by the medical director of the public or private mental
37 health facility as provided for in subsection 2 of NRS 433A.390.
38 Except as otherwise provided in NRS 432B.608, at the end of the
39 court-ordered period of treatment, the Division or any mental health
40 facility that is not operated by the Division may petition to renew
41 the detention of the person for additional periods not to exceed 6
42 months each. For each renewal, the petition must set forth to the
43 court specific reasons why further treatment would be in the
44 person's own best interests.



1 3. Before issuing an order for involuntary admission or a
2 renewal thereof, the court shall explore other alternative courses of
3 treatment within the least restrictive appropriate environment as
4 suggested by the evaluation team who evaluated the person, or other
5 persons professionally qualified in the field of psychiatric mental
6 health, which the court believes may be in the best interests of the
7 person.

8 *4. If the court issues an order involuntarily admitting a*
9 *person to a public or private mental health facility pursuant to this*
10 *section, the court shall cause a copy of such order to be*
11 *transmitted to the Central Repository for Nevada Records of*
12 *Criminal History, along with a statement indicating that the*
13 *record is being transmitted for inclusion in each appropriate*
14 *database of the National Instant Criminal Background Check*
15 *System.*

16 *5. As used in this section, "National Instant Criminal*
17 *Background Check System" has the meaning ascribed to it in*
18 *section 6 of this act.*

19 **Sec. 14.** The provisions of NRS 354.599 do not apply to any
20 additional expenses of a local government that are related to the
21 provisions of this act.

22 **Sec. 15.** This act becomes effective on January 1, 2010.

