

ASSEMBLY BILL NO. 440—ASSEMBLYMAN YEAGER

MARCH 27, 2017

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing involuntary commitment proceedings. (BDR 39-997)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 mental health; authorizing a proceeding for the involuntary court-ordered admission of a criminal defendant to a program of community-based or outpatient services to be commenced by the district court or by motion of the defendant or the district attorney; requiring certain judges to hear proceedings for involuntary court-ordered admission; requiring a district court under certain circumstances to request an evaluation of a person alleged to be a person with mental illness by an evaluation team; providing that the district court and family court have concurrent jurisdiction over a proceeding for involuntary court-ordered admission under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law provides that a proceeding for an involuntary court-ordered
2 admission of a person may be commenced by the filing of a petition for the
3 involuntary admission to a mental health facility or to a program of community-
4 based or outpatient services with the clerk of the district court of the county where
5 the person resides. (NRS 433A.200) **Section 1** of this bill additionally authorizes a
6 proceeding for the involuntary court-ordered admission of a person who is the
7 defendant in a criminal proceeding in the district court to a program of community-
8 based or outpatient services to be commenced by the district court, on its own
9 motion, or by motion of the defendant or the district attorney. **Sections 2-4** of this
10 bill make conforming changes. **Section 2** provides that, if the Chief Judge of a
11 district court has designated a district court judge or hearing master to preside over
12 involuntary commitment hearings, that district court judge or hearing master must
13 preside over such hearings. **Section 5** of this bill provides that if the Chief Judge
14 has assigned a judge or hearing master who is not a judge or hearing master of the



15 family court to hear such cases, the family court does not have original, exclusive
16 jurisdiction over such cases.

17 Upon the filing of a petition to commence involuntary commitment
18 proceedings, existing law requires a district court to: (1) cause two or more
19 physicians or psychologists, one of whom must always be a physician, to examine
20 the person alleged to be a person with mental illness; or (2) request an evaluation
21 by an evaluation team from the Division of Public and Behavioral Health of the
22 Department of Health and Human Services of that person. (NRS 433A.240)
23 **Section 3** requires the district court to request an evaluation by such an evaluation
24 team if the person who is the subject of proceedings for involuntary court-ordered
25 admission to a program of community-based or outpatient services is also a
26 criminal defendant.

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

1 **Section 1.** NRS 433A.200 is hereby amended to read as
2 follows:

3 433A.200 1. Except as otherwise provided in *subsection 3*
4 *and* NRS 432B.6075, a proceeding for an involuntary court-ordered
5 admission of any person in the State of Nevada may be commenced
6 by the filing of a petition for the involuntary admission to a mental
7 health facility or to a program of community-based or outpatient
8 services with the clerk of the district court of the county where the
9 person who is to be treated resides. The petition may be filed by the
10 spouse, parent, adult children or legal guardian of the person to be
11 treated or by any physician, physician assistant, psychologist, social
12 worker or registered nurse, by an accredited agent of the Department
13 or by any officer authorized to make arrests in the State of Nevada.
14 The petition must be accompanied:

15 (a) By a certificate of a physician, a licensed psychologist, a
16 physician assistant under the supervision of a psychiatrist, a clinical
17 social worker who has the psychiatric training and experience
18 prescribed by the Board of Examiners for Social Workers pursuant
19 to NRS 641B.160, an advanced practice registered nurse who has
20 the psychiatric training and experience prescribed by the State
21 Board of Nursing pursuant to NRS 632.120 or an accredited agent
22 of the Department stating that he or she has examined the person
23 alleged to be a person with mental illness and has concluded that the
24 person has a mental illness and, because of that illness, is likely to
25 harm himself or herself or others if allowed his or her liberty or if
26 not required to participate in a program of community-based or
27 outpatient services; or

28 (b) By a sworn written statement by the petitioner that:

29 (1) The petitioner has, based upon the petitioner's personal
30 observation of the person alleged to be a person with mental illness,



1 probable cause to believe that the person has a mental illness and,
2 because of that illness, is likely to harm himself or herself or others
3 if allowed his or her liberty or if not required to participate in a
4 program of community-based or outpatient services; and

5 (2) The person alleged to be a person with mental illness has
6 refused to submit to examination or treatment by a physician,
7 psychiatrist or licensed psychologist.

8 2. Except as otherwise provided in NRS 432B.6075, if the
9 person to be treated is a minor and the petitioner is a person other
10 than a parent or guardian of the minor, ~~the~~ a petition *submitted*
11 *pursuant to subsection 1* must, in addition to the certificate or
12 statement required by ~~subsection 1,~~ that subsection, include a
13 statement signed by a parent or guardian of the minor that the parent
14 or guardian does not object to the filing of the petition.

15 3. *A proceeding for the involuntary court-ordered admission*
16 *of a person who is the defendant in a criminal proceeding in the*
17 *district court to a program of community-based or outpatient*
18 *services may be commenced by the district court, on its own*
19 *motion, or by motion of the defendant or the district attorney.*

20 **Sec. 2.** NRS 433A.220 is hereby amended to read as follows:

21 433A.220 1. Immediately after the clerk of the district court
22 receives any petition filed pursuant to NRS 433A.200 or 433A.210,
23 the clerk shall transmit the petition to the appropriate district judge,
24 who shall set a time, date and place for its hearing. *Immediately*
25 *after a motion is made pursuant to subsection 3 of NRS 433A.200,*
26 *the district judge shall set a time, date and place for its hearing.*
27 The date must be within 5 judicial days after the date on which the
28 petition is received by the clerk ~~H~~ *or the motion is made, as*
29 *applicable. If the Chief Judge, if any, of the district court has*
30 *assigned a district court judge or hearing master to preside over*
31 *such hearings, that judge or hearing master must preside over the*
32 *hearing.*

33 2. The court shall give notice of the petition *or motion* and of
34 the time, date and place of any proceedings thereon to the subject of
35 the petition ~~H~~ *or motion*, his or her attorney, if known, the person's
36 legal guardian, the petitioner, *if applicable*, the district attorney of
37 the county in which the court has its principal office, the local office
38 of an agency or organization that receives money from the Federal
39 Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and
40 advocate the rights of persons with mental illness and the
41 administrative office of any public or private mental health facility
42 in which the subject of the petition *or motion* is detained.

43 3. The provisions of this section do not preclude a facility from
44 discharging a person before the time set pursuant to this section for
45 the hearing concerning the person, if appropriate. If the person has a



1 legal guardian, the facility shall notify the guardian prior to
2 discharging the person from the facility. The legal guardian has
3 discretion to determine where the person will be released, taking
4 into consideration any discharge plan proposed by the facility
5 assessment team. If the legal guardian does not inform the facility as
6 to where the person will be released within 3 days after the date of
7 notification, the facility shall discharge the person according to its
8 proposed discharge plan.

9 **Sec. 3.** NRS 433A.240 is hereby amended to read as follows:

10 433A.240 1. ~~After~~ *Except as otherwise provided in this*
11 *subsection, after* the filing of a petition to commence proceedings
12 for the involuntary court-ordered admission of a person pursuant to
13 NRS 433A.200 or 433A.210, the court shall promptly cause two or
14 more physicians or licensed psychologists, one of whom must
15 always be a physician, to examine the person alleged to be a person
16 with mental illness, or request an evaluation by an evaluation team
17 from the Division of the person alleged to be a person with mental
18 illness. *If the person who is the subject of a petition for*
19 *involuntary court-ordered admission to a program of community-*
20 *based or outpatient services is also a criminal defendant, the court*
21 *shall request an evaluation by an evaluation team from the*
22 *Division.*

23 2. *After the filing of a motion pursuant to subsection 3 of*
24 *NRS 433A.200, the court shall promptly request an evaluation by*
25 *an evaluation team from the Division of the person alleged to be a*
26 *person with mental illness.*

27 3. To conduct the examination of a person who is not being
28 detained at a mental health facility or hospital under emergency
29 admission pursuant to an application made pursuant to NRS
30 433A.160, the court may order a peace officer to take the person
31 into protective custody and transport the person to a mental health
32 facility or hospital where the person may be detained until a hearing
33 is had upon the petition ~~H~~ *or motion, as applicable.*

34 ~~3~~ 4. If the person is not being detained under an emergency
35 admission pursuant to an application made pursuant to NRS
36 433A.160, the person may be allowed to remain in his or her home
37 or other place of residence pending an ordered examination or
38 examinations and to return to his or her home or other place of
39 residence upon completion of the examination or examinations. The
40 person may be accompanied by one or more of his or her relations
41 or friends to the place of examination.

42 ~~4~~ 5. Each physician and licensed psychologist who
43 examines a person pursuant to subsection 1 *or 2* shall, in conducting
44 such an examination, consider the least restrictive treatment
45 appropriate for the person.



1 ~~5.1~~ 6. Except as otherwise provided in this subsection, each
2 physician and licensed psychologist who examines a person
3 pursuant to subsection 1 shall, not later than 48 hours before the
4 hearing set pursuant to NRS 433A.220, submit to the court in
5 writing a summary of his or her findings and evaluation regarding
6 the person alleged to be a person with mental illness. If the person
7 alleged to be a person with mental illness is admitted under an
8 emergency admission pursuant to an application made pursuant to
9 NRS 433A.160, the written findings and evaluation must be
10 submitted to the court not later than 24 hours before the hearing set
11 pursuant to subsection 1 of NRS 433A.220.

12 **Sec. 4.** NRS 433A.280 is hereby amended to read as follows:
13 433A.280 In proceedings for involuntary court-ordered
14 admission, the court shall hear and consider all relevant testimony,
15 including, but not limited to, the testimony of examining personnel
16 who participated in the evaluation of the person alleged to be a
17 person with mental illness and the certificates of physicians or
18 certified psychologists accompanying the petition ~~H~~, *if applicable*.
19 The court may consider testimony relating to any past actions of the
20 person alleged to be a person with mental illness if such testimony is
21 probative of the question of whether the person is presently mentally
22 ill and presents a clear and present danger of harm to himself or
23 herself or others.

24 **Sec. 5.** NRS 3.223 is hereby amended to read as follows:
25 3.223 1. Except if the child involved is subject to the
26 jurisdiction of an Indian tribe pursuant to the Indian Child Welfare
27 Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in
28 which it is established, the family court has original, exclusive
29 jurisdiction in any proceeding:

30 (a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125,
31 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of
32 NRS, except to the extent that a specific statute authorizes the use of
33 any other judicial or administrative procedure to facilitate the
34 collection of an obligation for support.

35 (b) Brought pursuant to NRS 442.255 and 442.2555 to request
36 the court to issue an order authorizing an abortion.

37 (c) For judicial approval of the marriage of a minor.

38 (d) Otherwise within the jurisdiction of the juvenile court.

39 (e) To establish the date of birth, place of birth or parentage of a
40 minor.

41 (f) To change the name of a minor.

42 (g) For a judicial declaration of the sanity of a minor.

43 (h) To approve the withholding or withdrawal of life-sustaining
44 procedures from a person as authorized by law.



1 (i) ~~Brought~~ *Except as otherwise provided in subsection 4,*
2 *brought* pursuant to NRS 433A.200 to 433A.330, inclusive, for an
3 involuntary court-ordered admission to a mental health facility.

4 (j) Brought pursuant to NRS 441A.510 to 441A.720, inclusive,
5 for an involuntary court-ordered isolation or quarantine.

6 2. The family court, where established and, except as otherwise
7 provided in paragraph (m) of subsection 1 of NRS 4.370, the justice
8 court have concurrent jurisdiction over actions for the issuance of a
9 temporary or extended order for protection against domestic
10 violence.

11 3. The family court, where established, and the district court
12 have concurrent jurisdiction over any action for damages brought
13 pursuant to NRS 41.134 by a person who suffered injury as the
14 proximate result of an act that constitutes domestic violence.

15 *4. The family court, where established, does not have*
16 *original, exclusive jurisdiction over a proceeding brought*
17 *pursuant to NRS 433A.200 to 433A.330, inclusive, for an*
18 *involuntary court-ordered admission to a mental health facility if*
19 *the Chief Judge of the district court has assigned a judge or*
20 *hearing master who is not a judge or hearing master of the family*
21 *court to hear such cases as described in NRS 433A.220.*

