

Conditional Release Draft Overview and notes

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Definition:

A process for release from a public or private mental health facility that provides the individual who is currently under court ordered treatment with the option to voluntarily agree to certain conditions that would allow the facility to release the patient prior to the end of the period of court ordered treatment.

Background:

Nevada currently has two processes of release from an inpatient psychiatric hospital for individuals under involuntary court ordered admission. Unconditional release, as outlined in NRS433A.390, is used for the majority of discharges for individuals under involuntary admission. Nevada also has a mechanism for conditional release outlined in NRS433A.380. This mechanism has been used by SNAMHS in the past for situations when an individual has been involuntarily committed to treatment and the medical director of public or private mental health facility determines patient no longer meets admission criteria, but current and past status over the past weeks or months has indicated need for additional oversight.

Why conditional release is important:

Provides enhanced coordination and support for transition from inpatient psychiatric services for individuals at high risk of decompensation if treatment is interrupted while maintaining care in the least restrictive settings.

- When person decompensates, information on conditional release is accessed to get them back on conditional release plan.
- Provides opportunity for least restrictive treatment with enhanced coordination of care in the community.
- Reduces amount of time where patients are “lost” in the system in crisis unable to report past treatment, housing, or support system.
- Decreases community costs through increased collaboration with courts- stabilized individuals equal decreased arrests, hospitalization, decreased 911 calls, etc.
- Provides courts with authority to coordinate ongoing care for individuals under commitment who may be experiencing repeated crises, receiving treatment from different hospitals, and are unable to self-report.
 1. To obtain information from community providers who are witnessing or overseeing care

2. To continue care for individuals who are under current commitment
- Increases continuity of care through providing conditional release information to courts to be forwarded to next hospital provider.
 - Reduces future readmissions and rearrests due to continuing crisis.
 - Enables existing community-based resources, such as multi-disciplinary teams, Assertive Community Treatment, mobile outreach, and other agencies to coordinate with hospitals to support discharge plans and provide ongoing resource coordination with client.

Problem with current statute on conditional release:

The unconditional release process as written in Nevada law is unworkable. Specific issues include:

- The patient can be released from the hospital on conditional release, but there is no guidance for patient oversight and the hospital is responsible for readmission.
- Currently patients are released on conditions, but there is no mechanism to oversee patient to ensure conditions are being met.
- Nevada law states that inpatient psychiatric hospitals have the authority to involuntarily return patients to inpatient treatment, but facilities in the state do not have the resources to do so.
 - Even if hospitals want to readmit patient, would not have authority to have law enforcement pick up.
- Also, does not reflect reality of patient care being provided by different hospitals, who often are unaware of prior commitment orders, and often “recreate the wheel”.
- Current law only looks at conditions for release in the present but does not contemplate past actions or future concerns of deterioration.

Identified gaps in current law:

- Lack of specific criteria (statute now states criteria is if they meet criteria for mental health crisis)
- Lack of oversight upon conditional release
- Lack of court action at hearing

Thoughts on criteria for conditional release and readmission:

Criteria for conditional release:

- “Any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental or the public welfare.”
- Patient no longer meets criteria for admission to inpatient psychiatric facility and can be safely transitioned to the lower level of care prior to the end of the period of the court ordered admission, and conditional release is in the best interest of the person.

Criteria for readmission:

- Meets criteria for inpatient admission due to acute exacerbation of symptoms of mental illness in the context of lack of adherence to conditions agreed upon in conditional release, and less restrictive level of care cannot provide adequate treatment.
- Conditional release is no longer appropriate”
 - Educational: (Because the patient is not adhering treatment plan or the patient is adhering to treatment plan but is not safe to remain in the community.)
- Patient has been involuntarily admitted, and will be tried in less restrictive treatments
 - Patient no longer meets admission criteria, but current and past status over the past weeks or months has indicated need to additional oversight
 - Patient requires involuntary administration of psychotropic medications during his or her current stay.
 - Patient presents to court or mental health system meeting criteria for mental health crisis or is observed to be decompensating.

Thoughts on improved process:

- Patient is admitted under court ordered admission to inpatient treatment (not location specific)
- Patient is discharged upon conditional release (for accurate definition of criteria, may need to include psychiatric deterioration)
- Hospital sends notice (do we mandate plan/ report or conditions?) to court within certain amount of days (hospital could ask for a court hearing to be reviewed with patient and the court- not mandatory)
- Court may adopt conditions of release, based upon jurisdiction. (After the fact of the release?)
- Patient is observed in the community, through observation from family, community multi-disciplinary team, Assertive Community Treatment Team, etc., or is encountered in court through a mental health crisis hold
 - Observer petitions court under “family/ individual petition process”

- Court issues pick up order on **conditional release hold** and patient is brought to hospital to verify if they are in a mental health crisis for possible readmission to inpatient psychiatric hospital
 - Or
- Court issues pick up order for readmission
- For mental health crisis holds, court identifies current order and conditional release, and uses evaluation teams to verify that patient is in a mental health crisis hold, and transfers client to current conditional release
- Patient is readmitted into psychiatric hospital

Miscellaneous notes for workgroup:

- Patient no longer meets criteria for admission to and can be safely transitioned to the lower level of care prior to the end of the period of the court ordered admission, and conditional release is in the best interest of the person.
- Enabling language to allow conditional release in communities where services are available

To do: develop process:

- When someone is on a conditional release and they are on a hold, in the ER
- What is return mechanism for when person meets criteria for readmission: pick up order/ wellness check

Hospital release prior to end of 6-month involuntary court ordered admission with conditions:

Target population criteria:

1. Need to identify criteria: Patient has been involuntarily admitted, and will be tried in less restrictive treatments
 - a. Patient no longer meets admission criteria, but current and past status over the past weeks or months has indicated need to additional oversight
 - b. Patient requires involuntary administration of psychotropic medications during his or her current stay.
 - c. Patient presents to court or mental health system meeting criteria for mental health crisis or is observed to be decompensating.

Why conditional release is needed in addition to AOT:

Existing law and potential proposed changes:

NRS 433A.310 Findings and order; conditions for admission to program of community-based or outpatient services; expiration and renewal of admission to facility or program; alternative courses of treatment; transmittal of record to Central Repository for Nevada Records of Criminal History and law enforcement agencies.

Nothing in this order shall preclude the facility from releasing the person in a mental health crisis to an alternative course of treatment within the least restrictive appropriate environment.

1. Except as otherwise provided in subsection 2 and [NRS 432B.6076](#) and [432B.6077](#), if the district court finds, after proceedings for the involuntary court-ordered ~~admission~~ treatment of a person:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held is a person in a mental health crisis, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a public or private mental health facility or to a program of community-based or outpatient services. If the person has been admitted to a public or private mental health facility or hospital pursuant to [NRS 433A.160](#), the court must issue a written order requiring the facility or hospital to release the person not later than 24 hours after the court issues the order, unless the person applies for admission as a voluntary consumer pursuant to [NRS 433A.140](#).

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held is a person in a mental health crisis, the court may order the involuntary admission of the person for the most appropriate course of treatment, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to [NRS 433A.390](#).

2. If the district court finds, after proceedings for the involuntary court-ordered admission of a defendant in a criminal proceeding pursuant to subsection 3 of [NRS 433A.200](#):

(a) That there is not clear and convincing evidence that the defendant with respect to whom the hearing was held is a person in a mental health crisis, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a program of community-based or outpatient services.

(b) That there is clear and convincing evidence that the defendant with respect to whom the hearing was held is a person in a mental health crisis, except as otherwise provided in this paragraph, the court shall order the involuntary admission of the defendant for participation in a program of community-based or outpatient services and suspend further proceedings in the criminal proceeding against the defendant until the defendant completes or is removed from the program. If the offense allegedly committed by the defendant is a category A or B felony or involved the use or threatened use of force or violence, the court may not order the involuntary admission of the defendant for participation in a program pursuant to this paragraph unless the prosecuting attorney stipulates to the assignment. The

order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to [NRS 433A.390](#). If the defendant successfully completes a program of community-based or outpatient services to the satisfaction of the court, the court shall dismiss the criminal charges against the defendant with prejudice.

3. If, pursuant to [NRS 176A.400](#), the district court issues an order granting probation to a defendant in a criminal proceeding with a condition that the defendant submit to mental health treatment and comply with instructions, admission to a program of community-based or outpatient services may be used to satisfy such a condition if the Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

4. A court shall not admit a person to a program of community-based or outpatient services unless:

- (a) A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;
- (b) The person is 18 years of age or older;
- (c) The person has a history of noncompliance with treatment for mental illness;
- (d) The person is

Unconditional release: NRS433A.390: Released from their involuntary court ordered admission prior to or at 6 months without conditions

NRS 433A.323 Failure to participate in program or carry out plan of treatment: Petition and order to take person into custody; evaluation.

1. When a person who is involuntarily admitted to a program of community-based or outpatient services fails to participate in the program or otherwise fails to carry out the plan of treatment developed pursuant to [NRS 433A.315](#), despite efforts by the professional responsible for providing or coordinating the program of community-based or outpatient services for the person to solicit the person's compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the person to the appropriate location for an evaluation by an evaluation team from the Division pursuant to [NRS 433A.240](#). The petition must be accompanied by:

- (a) A copy of the order for involuntary admission;
- (b) A copy of the plan of treatment submitted to the court pursuant to [NRS 433A.315](#);
- (c) A list that sets forth the specific provisions of the plan of treatment which the person has failed to carry out; and
- (d) A statement by the petitioner which explains how the person's failure to participate in the program of community-based or outpatient services or failure to carry out the plan of treatment will likely cause the person to harm himself or herself or others.

2. If the court determines that there is probable cause to believe that the person is likely to harm himself or herself or others if the person does not comply with the plan of treatment, the court may issue an order requiring a peace officer to take into custody and deliver the person to an appropriate location for an evaluation by an evaluation team from the Division pursuant to [NRS 433A.240](#).

3. As used in this section, “appropriate location” does not include a jail or prison.
(Added to NRS by [2013, 3486](#))

NRS 433A.390 Release without further order of court at end of period specified; unconditional early release; notice to court and legal guardian.

1. When a consumer, involuntarily admitted to a mental health facility or to a program of community-based or outpatient services by court order, is released at the end of the period specified pursuant to [NRS 433A.310](#), ~~the facility must provide written notice of the unconditional release to the admitting court within three judicial days after the release of the consumer. written notice must be given to the admitting court and to the consumer’s legal guardian at least 10 days before the release of the consumer.~~ The consumer may then be released without requiring further orders of the court. If the consumer has a legal guardian, the facility or the professional responsible for providing or coordinating the program of community-based or outpatient services shall notify the guardian before discharging the consumer from the facility or program. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team or the professional responsible for providing or coordinating the program of community-based or outpatient services. If the legal guardian does not inform the facility or professional as to where the consumer will be released within 3 days after the date of notification, the facility or professional shall discharge the consumer according to its proposed discharge plan.

2. A consumer who is involuntarily admitted to a mental health facility may be unconditionally released before the period specified in [NRS 433A.310](#) when ~~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,~~ the treating physician, a [psychiatrist](#), or an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to [NRS 632.120](#) determines that the consumer is no longer a person in a mental health crisis and is appropriate to be discharged to a different level of care.

~~(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, or a physician, a psychiatrist, or an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to [NRS 632.120](#) authorizes the release and gives written notice of the unconditional release to the admitting court and to the consumer’s legal guardian at least 10 days before within three judicial days after the release of the consumer. If the consumer has a legal guardian, the facility shall notify the guardian before discharging the consumer from the facility. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.~~

Conditional release: NRS 433A.380/ AOT: NRS 433A.327:

NRS 433A.380 Conditional release: No liability of State; restoration of rights; notice to court, district attorney and legal guardian; order to return to facility; judicial review of order to return to facility.

Criteria for conditional release and notification:

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 when, in the judgment of the medical director of the facility,

- a) the conditional release is in the best interest of the person, ~~and~~
- b) will not be detrimental to the public welfare,
- c) is the least restrictive appropriate environment, and
- d) believes that there is increased risk for psychiatric deterioration or reoccurring mental health crises, and
- e) a community treatment program, mobile crisis team, or multi-disciplinary team has agreed to provide case management support and supervision to the client to assess their compliance with the plan of conditional release.

The medical director of the facility or the medical director's designee shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to [NRS 433A.310](#).

2. The facility will notify the court and all counsel of the conditional release and provide the court with the plan for conditional release. The court will schedule a review hearing within 6 days to review the patient's progress to determine whether there is clear and convincing evidence that:

- a) an alternative course of treatment is available to the patient;
- b) that is in the least restrictive environment;
- c) that is in the best interest of the person, and;
- d) will not be determinantal to public welfare.

3) The facility must provide written notice of the conditional release to the admitting court within three judicial days after the release of the consumer. If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The legal guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees and public and private mental health facilities are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person when is the decision is made in good faith.

3. When a person who has been adjudicated by a court to be incapacitated 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 incapacitated person's rehabilitation. If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.

4. A person who was involuntarily admitted by a court because he or she was likely to present a substantial likelihood of serious harm to himself or herself or others, as determined pursuant to [NRS 433A.0195](#), may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him or her, to the person's legal guardian and to the district attorney of the county in which the proceedings for admission were held.

Board of Health shall develop regulations for conditional release:

(Examples of criteria to be considered in regulations:

- a. Person meets criteria for discharge with support from conditional release agreement
- b. The person's current and past status over the past weeks or months has indicated need for additional oversight due to concern or;
- c. Lack of insight into psychiatric condition
- d. Future risk for lack of insight into psychiatric deterioration.
- e. Patient requires involuntary administration of psychotropic medications during his or her current stay.
- f. Patient presents to court or mental health system meeting criteria for mental health crisis or is observed to be decompensating.

Examples of conditions:

- 1. The underlying reasons leading to involuntary admission to a psychiatric institution are no longer present
- 2. Safe discharge plan has been confirmed including the following:
 - a. Housing
 - b. Outpatient follow-up appointments for
 - i. Mental health
 - ii. SUD
 - iii. General medical conditions that could contribute to patient's decompensation post

discharge

- 3. The patient does not present imminent risk of harming self or others
- 4. Include date of expiration of court order- The period of this conditional release not exceed the court order.)

Request for pick up order for return from conditional release

If the community treatment program, social services agency, multi-disciplinary team, or mobile crisis unit that has agreed to provide support and supervision to the client to assess their compliance with the plan of conditional release, or the spouse, parent, adult child or legal guardian of the person under conditional release, or a public or private mental health facility or hospital providing treatment, believes that the conditional release is no longer appropriate, they may petition a district court where the person resides for an order requiring:

(a) Any peace officer to take a person under conditional release into custody and transport or arrange for the person to be transported to a public or private mental health facility or hospital for evaluation, observation and treatment by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority;

(III) An entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421;

(IV) An accredited agent of the Division;

(V) A provider of nonemergency secure behavioral health transport services licensed under the regulations adopted pursuant to NRS 433.3317; or

(VI) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

(2) If the district court is satisfied that there is probable cause to believe that the conditional release is no longer appropriate it may issue such an order.

(3) If the court orders the relief requested in subsection 1, the court shall order pick up and the petition shall be delivered to the sheriff of the county who shall provide the documents to the receiving facility or arrange for the documents to be provided to the receiving facility by the transporter.

(4) if the individual meets criteria, pursuant to subsection 1 of NRS 443A.160

a) The public or private mental health facility or hospital may place a mental health crisis hold; and,

b) may notify the court that the individual meets criteria admission to an inpatient psychiatric hospital; and,

c) may request information from conditional release that pertains to the patient's treatment.

(5) Nothing in this section precludes the people listed in this section to place a mental health crisis hold, pursuant to subsection 1 of NRS 443A.160, if the individual meets criteria.

Court hearing for readmission from conditional release

(1) The hospital will petition the court for readmission from conditional release, and the court will schedule a review hearing within 6 days to review the patient's progress.

Information sharing

Situation when known on conditional release

Situations in which it is not known when they are on a conditional release

NRS 433A.0195 Person deemed to present substantial likelihood of serious harm to himself or herself or others in certain circumstances. For the purposes of this chapter, a person shall be deemed to present a substantial likelihood of serious harm to himself or herself or others if, without care or treatment, the person is at serious risk of:

1. Attempting suicide or homicide;
2. Causing bodily injury to himself or herself or others, including, without limitation, death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or a protracted loss or impairment of a body part, organ or mental functioning; or
3. Incurring a serious injury, illness or death resulting from complete neglect of basic needs for food, clothing, shelter or personal safety.

(Added to NRS by [2019, 347](#))

4. Suffering or continuing to suffer severe and abnormal mental, emotional or physical harm that significantly impairs judgment, reason, behavior or capacity to recognize reality.

NRS 433A.150 Detention for evaluation, observation and treatment; limitation on time.

1. Except as otherwise provided in this subsection, a person alleged to be a person in a mental health crisis [who is placed on a mental health crisis hold pursuant to NRS 433A.160 and subject to the provisions of subsection 2](#), may, ~~upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2,~~ be detained in a public or private mental health facility or hospital ~~under an emergency admission~~ for evaluation, observation and treatment, regardless of whether any parent or legal guardian of the person has consented to the ~~admission~~ [mental health crisis hold](#).

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after ~~the application for emergency admission or any part of such an application is made~~ [the mental health crisis hold is initiated](#) pursuant to [NRS 433A.160](#) unless, before the close of the business day on which the 72 hours expires,

- a. a written petition for an involuntary court-ordered admission or readmission from conditional release from ~~to~~ a mental health facility is filed with the clerk of the district court pursuant to [NRS 433A.200](#), including, without limitation, the documents required pursuant to [NRS 433A.210](#), or
- b. the status of the person is changed to a voluntary admission.

Court hearing

5. Except as otherwise provided in subsection 7, ~~the administrative officer of a public or private mental health facility or the administrative officer's designee~~ district court that admitted the person to the facility shall order a person who is conditionally released to be ~~from that facility~~ pursuant to this section to ~~return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health if it is alleged~~ determine that the conditional release is no longer appropriate because that person presents a substantial likelihood of serious harm to himself or herself or others, as determined pursuant to [NRS 433A.0195](#), or is experiencing psychiatric deterioration. Except as otherwise provided in this subsection, the administrative officer or the designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility and to the person's legal guardian. If an emergency exists in which the person presents a substantial likelihood of harm to himself or herself or others, as determined pursuant to [NRS 433A.0195](#), the order must be submitted to the court and the legal guardian not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility 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 or the administrative officer's designee shall give written notice to the person who was ordered to return to the facility, to the person's legal guardian and to the person's attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

(Added to NRS by [1975, 1608](#); A [1981, 1661](#); [1999, 867](#); [2009, 1667](#); [2019, 363](#))

Other items for development:

Court ordered pick and transport to hospital

Law enforcement or mobile crisis unit where available

Hospital assessment/ intervention/ referral

conditional release readmission:

NRS 433A.200 Filing of petition; certificate or statement of alleged mental health crisis; statement of parent consenting to treatment of minor; proceeding for admission of defendant in criminal action upon motion.

1. Except as otherwise provided in subsection 3 and [NRS 432B.6075](#), a proceeding for an involuntary court-ordered admission ~~or the readmission from conditional release~~ of any person in the State of Nevada may be commenced by the filing of a petition for the ~~involuntary admission court ordered treatment into~~ a mental health facility or to ~~a program of community-based or outpatient services~~ ~~assisted outpatient treatment~~ with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, physician assistant, psychologist, social worker or registered nurse or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, a licensed psychologist, a physician assistant under the supervision of a psychiatrist, a clinical social worker who has the psychiatric training and experience prescribed by the Board of Examiners for Social Workers pursuant to [NRS 641B.160](#) or an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to [NRS 632.120](#) stating that he or she has examined the person alleged to be a person in a mental health crisis and has concluded that the person is a person in a mental health crisis; or

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

(1) The petitioner has, based upon the petitioner's personal observation of the person alleged to be a person in a mental health crisis, probable cause to believe that the person is a person in a mental health crisis; and

(2) The person alleged to be a person in a mental health crisis has refused to submit to examination or treatment by a physician, psychiatrist, licensed psychologist or advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to [NRS 632.120](#).

2. Except as otherwise provided in [NRS 432B.6075](#), if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, a petition submitted pursuant to subsection 1 must, in addition to the certificate or statement required by that subsection, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

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

(a) The defendant has been examined in accordance with [NRS 178.415](#);

(b) The defendant is not eligible for commitment to the custody of the Administrator pursuant to [NRS 178.461](#); and

(c) The Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

(Added to NRS by [1975, 1604](#); A [1985, 54, 2270](#); [1989, 1551, 1760](#); [1995, 2413](#); [2001, 3044](#); [2005, 1322](#); [2013, 3489](#); [2015, 2993](#); [2017, 1749, 3004](#); [2019, 356](#))

NRS 433A.270 Right to counsel; compensation of counsel; recess; continuation of representation by counsel during involuntary admission; duties of district attorney.

1. The person alleged to be a person in a mental health crisis or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right to counsel and shall appoint counsel, who may be the public defender or his or her deputy.

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by it to be fair and reasonable. The compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county where the person alleged to be a person in a mental health crisis last resided.

3. The court shall, at the request of counsel representing the person alleged to be a person in a mental health crisis in proceedings before the court relating to involuntary court-ordered admission, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his or her case.

4. If the person alleged to be a person in a mental health crisis is involuntarily admitted ~~to a program of community-based or outpatient services~~, counsel shall continue to represent the person until the person is released from the program, *until an unconditional release, or the expiration of the order for involuntary admission.*

. The court shall serve notice upon such counsel of any action that is taken involving the person while the person is admitted to the program of community-based or outpatient services.

5. Each district attorney or his or her deputy shall appear and represent the State in all involuntary court-ordered admission proceedings in the district attorney's county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered admission of a person to a mental health facility or to a program of community-based or outpatient services in proceedings held pursuant to [NRS 433A.200](#) or [433A.210](#).

(Added to NRS by [1975, 1605](#); A [2001, 3046](#); [2013, 3491](#))

NRS 433A.310 Findings and order; conditions for admission to program of community-based or outpatient services; expiration and renewal of admission to facility or program; alternative courses of treatment; transmittal of record to Central Repository for Nevada Records of Criminal History and law enforcement agencies.

1. Except as otherwise provided in subsection 2 and [NRS 432B.6076](#) and [432B.6077](#), if the district court finds, after proceedings for the involuntary court-ordered ~~admission~~ treatment of a person:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held is a person in a mental health crisis, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a public or private mental health facility or to a program of community-based or outpatient services. If the person has been admitted to a public or private mental health facility or hospital pursuant to [NRS 433A.160](#), the court must issue a written order requiring the facility or hospital to release the person not later than 24 hours after the court issues the order, unless the person applies for admission as a voluntary consumer pursuant to [NRS 433A.140](#).

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held is a person in a mental health crisis, the court may order the involuntary admission of the person for the most appropriate course of treatment, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to [NRS 433A.390](#).

(c) [The court may periodically review the patient's progress to determine whether there is an alternative course of treatment in the least restrictive environment that is in the best interest of the person and will not be determinantal to public welfare.](#)

2. If the district court finds, after proceedings for the involuntary court-ordered admission of a defendant in a criminal proceeding pursuant to subsection 3 of [NRS 433A.200](#):

(a) That there is not clear and convincing evidence that the defendant with respect to whom the hearing was held is a person in a mental health crisis, the court shall enter its finding to that effect and the person must not be involuntarily admitted to a program of community-based or outpatient services.

(b) That there is clear and convincing evidence that the defendant with respect to whom the hearing was held is a person in a mental health crisis, except as otherwise provided in this paragraph, the court shall order the involuntary admission of the defendant for participation in a program of community-based or outpatient services and suspend further proceedings in the criminal proceeding against the defendant until the defendant completes or is removed from the program. If the offense allegedly committed by the defendant is a category A or B felony or involved the use or threatened use of force or violence, the court may not order the involuntary admission of the defendant for participation in a program pursuant to this paragraph unless the prosecuting attorney stipulates to the assignment. The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is

unconditionally released pursuant to [NRS 433A.390](#). If the defendant successfully completes a program of community-based or outpatient services to the satisfaction of the court, the court shall dismiss the criminal charges against the defendant with prejudice.

3. If, pursuant to [NRS 176A.400](#), the district court issues an order granting probation to a defendant in a criminal proceeding with a condition that the defendant submit to mental health treatment and comply with instructions, admission to a program of community-based or outpatient services may be used to satisfy such a condition if the Division makes a clinical determination that placement in a program of community-based or outpatient services is appropriate.

4. A court shall not admit a person to a program of community-based or outpatient services unless:

(a) A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;

(b) The person is 18 years of age or older;

(c) The person has a history of noncompliance with treatment for mental illness;

(d) The person is capable of surviving safely in the community in which he or she resides with available supervision;

(e) The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which presents a substantial likelihood of serious harm to himself or herself or others, as determined pursuant to [NRS 433A.0195](#);

(f) The current mental status of the person or the nature of the person's illness limits or negates his or her ability to make an informed decision to seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;

(g) The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and

(h) The court has approved a plan of treatment developed for the person pursuant to [NRS 433A.315](#).

5. Except as otherwise provided in [NRS 432B.608](#), an involuntary admission pursuant to paragraph (b) of subsection 1 or paragraph (b) of subsection 2 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of [NRS 433A.390](#) or by the professional responsible for providing or coordinating the program of community-based or outpatient services as provided for in subsection 3 of [NRS 433A.390](#). Except as otherwise provided in [NRS 432B.608](#), at the end of the court-ordered period of treatment, the Division, any mental health facility that is not operated by the Division or a program of community-based or outpatient services may petition to renew the involuntary admission of the person for additional periods not to exceed 6 months each. For each renewal, the petition must include evidence which meets the same standard set forth in subsection 1 or 2 that was required for the initial period of admission of the person to a public or private mental health facility or to a program of community-based or outpatient services.

6. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment, including involuntary admission to a program of community-based or outpatient services, as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

7. If the court issues an order involuntarily admitting a person to a public or private mental health facility or to a program of community-based or outpatient services pursuant to this section, the court shall, notwithstanding the provisions of [NRS 433A.715](#), cause, within 5 business days after the order becomes final pursuant to this section, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to:

(a) The Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System; and

(b) Each law enforcement agency of this State with which the court has entered into an agreement for such transmission, along with a statement indicating that the record is being transmitted for inclusion in each of this State's appropriate databases of information relating to crimes.

8. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in [NRS 179A.062](#).

(Added to NRS by [1975, 1606](#); A [1981, 1134](#); [1983, 508](#); [1989, 1761](#); [1993, 2115](#); [2001, 3046](#); [2005, 1323](#); [2009, 2491](#); [2013, 3492](#); [2015, 1815](#); [2017, 1646, 3006](#))