

NRS 178.400 Incompetent person cannot be tried or adjudged to punishment for public offense.

1. A person may not be tried or adjudged to punishment for a public offense while incompetent.
2. For the purposes of this section, “incompetent” means that the person does not have the present ability to:
 - (a) Understand the nature of the criminal charges against the person;
 - (b) Understand the nature and purpose of the court proceedings; or
 - (c) Aid and assist the person’s counsel in the defense at any time during the proceedings with a reasonable degree of rational understanding.

[1911 Cr. Prac. § 535; RL § 7385; NCL § 11183]—(NRS A [1981, 1656](#); [1995, 2458](#); [2007, 185](#))

NRS 178.405 Suspension of trial or pronouncement of judgment when doubt arises as to competence of defendant; notice of suspension to be provided to other departments.

1. Any time after the arrest of a defendant, including, without limitation, proceedings before trial, during trial, when upon conviction the defendant is brought up for judgment or when a defendant who has been placed on probation or whose sentence has been suspended is brought before the court, if doubt arises as to the competence of the defendant, the court shall suspend the proceedings, the trial or the pronouncing of the judgment, as the case may be, until the question of competence is determined.

2. If the proceedings, the trial or the pronouncing of the judgment are suspended, the court must notify any other departments of the court of the suspension in writing. Upon receiving such notice, the other departments of the court shall suspend any other proceedings relating to the defendant until the defendant is determined to be competent.

[1911 Cr. Prac. § 536; A [1919, 416](#); 1919 RL § 7386; NCL § 11184]—(NRS A [1967, 1449](#); [1981, 1656](#); [1991, 1003](#); [2003, 1018](#); [2007, 186](#))

NRS 178.415 Appointment of person or persons to examine defendant; hearing; no indictment while court considers competence of defendant; finding.

1. Except as otherwise provided in this subsection, the court shall appoint two psychiatrists, two psychologists, or one psychiatrist and one psychologist to examine the defendant. If the defendant is accused of a misdemeanor, the court of jurisdiction shall appoint a psychiatric social worker, advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing pursuant to [NRS 632.120](#) or other person who is especially qualified by the Division, to examine the defendant.

2. Except as otherwise provided in this subsection, at a hearing in open court, the court that orders the examination must receive the report of the examination. If a justice court orders the examination of a defendant who is charged with a gross misdemeanor or felony, the district court must receive the report of the examination.

3. The court that receives the report of the examination shall permit counsel for both sides to examine the person or persons appointed to examine the defendant. The prosecuting attorney and the defendant may:

(a) Introduce other evidence including, without limitation, evidence related to treatment to competency and the possibility of ordering the involuntary administration of medication; and

(b) Cross-examine one another’s witnesses.

4. A prosecuting attorney may not seek an indictment of the defendant for any offense during the period in which the court is considering whether the defendant is competent or incompetent except upon application by the prosecuting attorney to the chief judge of the district court, or his or her designee, and with leave of the court. The prosecuting attorney must demonstrate that adequate cause exists for the court to grant leave to seek an indictment on the grounds that the availability or unavailability of a witness, or any other objective factor, significantly impacts the ability of the State to prosecute the matter in the absence of such leave. The prosecuting attorney must give notice of an application made pursuant to this subsection to the attorney for the defendant not less than 24 hours before the hearing on the application.

5. The court that receives the report of the examination shall then make and enter its finding of competence or incompetence.

6. The court shall not appoint a person to provide a report or an evaluation pursuant to this section, unless the person is certified by the Division pursuant to [NRS 178.417](#).

[1911 Cr. Prac. § 538; A [1919, 416](#); 1919 RL § 7388; NCL § 11186]—(NRS A [1967, 1449](#); [1968, 52](#); [1981, 1656](#); [1991, 1003](#); [1999, 104](#); [2003, 1018](#), [1470](#), [1947](#); [2017, 1741](#), [2996](#))

NRS 178.417 Certification of person who evaluates competency of defendant required.

1. A person may not provide a report or an evaluation concerning the competency of a defendant to stand trial or receive pronouncement of judgment pursuant to this section and [NRS 178.400](#) to [178.460](#), inclusive, unless the person is certified by the Division for that purpose.

2. The Division shall adopt regulations to establish:

(a) Requirements for certification of a person who provides reports and evaluations concerning the competency of a defendant pursuant to this section and [NRS 178.400](#) to [178.460](#), inclusive;

(b) Reasonable fees for issuing and renewing such certificates; and

(c) Requirements for continuing education for the renewal of a certificate.

3. The fees so collected must be used only to:

(a) Defray the cost of issuing and renewing certificates; and

(b) Pay any other expenses incurred by the Division in carrying out its duties pursuant to this section.

4. The Division shall establish and administer examinations to determine the eligibility of any person who applies for certification. An applicant is entitled to certification upon satisfaction of the requirements of the Division. The Division may enter into a contract with another person, organization or agency to carry out or assist in carrying out the provisions of this subsection.

(Added to NRS by [2003, 1469](#))

NRS 178.420 Procedure on finding defendant competent. If the court finds that the defendant is competent, the trial must proceed, or judgment may be pronounced, as the case may be.

[1911 Cr. Prac. § 539; A [1919, 416](#); 1919 RL § 7389; NCL § 11187]—(NRS A [1967, 1450](#); [1981, 1656](#); [1991, 1003](#))

NRS 178.425 Procedure on finding defendant incompetent.

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

2. The defendant must be held in such custody until a court orders the defendant's release or until the defendant is returned for trial or judgment as provided in [NRS 178.450](#), [178.455](#) and [178.460](#).

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

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or the Administrator's designee or, if the defendant is charged with a misdemeanor, the judge finds the defendant capable of standing trial or opposing pronouncement of judgment as provided in [NRS 178.400](#).

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of [NRS 178.460](#), the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought except upon application by the prosecuting attorney to the chief judge of the district court, or his or her designee, and with leave of the court where:

(a) The State has a good faith belief, based on articulable facts, that the defendant has attained competency;

(b) The State has a compelling interest in bringing charges again; and

(c) The period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has not lapsed since the date of the alleged offense.

➤ The prosecuting attorney must give notice of an application made pursuant to this subsection to the attorney for the defendant not less than 24 hours before the hearing on the application.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, within 5 business days after the finding, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to 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.

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

[1911 Cr. Prac. § 540; RL § 7390; NCL § 11188]—(NRS A [1967, 1450; 1968, 52; 1971, 313; 1973, 93, 252, 1406; 1981, 1656; 1991, 1003; 1999, 104; 2001, 1084; 2003, 1947; 2009, 2487; 2015, 1798; 2017, 2996](#))

NRS 178.430 Commitment of defendant exonerates bail. The commitment of the defendant, as mentioned in [NRS 178.425](#), shall exonerate any bail the defendant may have given, or shall entitle any person authorized to receive the property of the defendant to a return of any money the defendant may have deposited instead of bail.

[1911 Cr. Prac. § 541; RL § 7391; NCL § 11189]

NRS 178.435 Expenses of examination and transportation are charge against county or city; recovery from estate or relative. The expenses of the examination and of the transportation of the defendant to and from the custody of the Administrator or the Administrator’s designee are in the first instance chargeable to the county or city from which the defendant has been sent. But the county or city may recover the money from the estate of the defendant, from a relative legally bound to care for the defendant or from the county or city of which the defendant is a resident.

[1911 Cr. Prac. § 543; RL § 7393; NCL § 11191]—(NRS A [1963, 1111; 1968, 52; 1973, 93, 252; 1981, 1657; 1991, 1004; 1999, 105; 2001, 1085](#))

NRS 178.440 Clerk to certify costs to county or city. The clerk of the court before which an examination has been conducted shall certify the costs to the board of county commissioners or governing body of the city, as appropriate.

[1911 Cr. Prac. § 544; RL § 7394; NCL § 11192]—(NRS A [1969, 10; 1991, 1004](#))

NRS 178.450 Duties of Administrator or Administrator’s designee following finding of incompetence; observation and evaluation of defendant; report to court.

1. The Administrator or the Administrator’s designee shall keep each defendant committed to custody under [NRS 178.425](#) or [178.460](#) under observation and shall have each defendant who has been ordered to report to the Administrator as an outpatient under those sections evaluated periodically.

2. The Administrator or the Administrator’s designee shall report in writing to a judge of the court which committed the person and the prosecuting attorney of the county or city to which the person may be returned for further court action whether, in his or her opinion, upon medical consultation, the defendant is of sufficient mentality to be able to understand the nature of the criminal charge against the defendant and, by reason thereof, is able to aid and assist counsel in the defense interposed upon the trial or against the pronouncement of the judgment thereafter. The Administrator or the Administrator’s designee shall submit such a report, in the case of a person charged or convicted of a misdemeanor, within 3 months after the order for commitment or treatment and evaluation as an outpatient or for recommitment pursuant to paragraph (b) of subsection 4 of [NRS 178.460](#), and at monthly intervals thereafter. In all other cases, the initial report must be submitted within 6 months after the order and at 6-month intervals thereafter. If the opinion of the Administrator or the Administrator’s designee is that the defendant is not of sufficient mentality to understand the nature of the charge against the defendant and assist in the defendant’s own defense, the Administrator or the Administrator’s designee shall also include in the report his or her opinion whether:

(a) There is a substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) The defendant is at that time a danger to himself or herself or to society.

3. The report must contain:

(a) The name of the defendant and the county or city to which the defendant may be returned for further court action.

(b) The circumstances under which the defendant was committed to the custody of the Administrator or the Administrator’s designee and the duration of the defendant’s hospitalization, or the circumstances under which the defendant was ordered to report to the Administrator or the Administrator’s designee as an outpatient.

[2:292:1955]—(NRS A [1961, 476; 1968, 53; 1973, 93, 252; 1981, 1657; 1991, 1004; 1999, 105; 2001, 1085; 2003, 1948](#))

NRS 178.453 Access by Administrator to certain records of defendant within possession of Department of Corrections authorized for purpose of evaluating and treating defendant.

1. The Administrator or the Administrator's designee may request from the Department of Corrections access to any records in its possession which contain information that may assist in evaluating and treating a defendant who previously has served a term of imprisonment under the supervision of the Department of Corrections and who is committed to the custody of or ordered to report to the Administrator or the Administrator's designee pursuant to [NRS 178.425](#), [178.460](#), [178.461](#) or [178.464](#).

2. Unless otherwise ordered by a court, upon request of the Administrator or the Administrator's designee for access to records of a defendant pursuant to subsection 1, the Department of Corrections, through the Medical Director, shall provide access to any such records, including, without limitation, relevant medical and mental health records, for the limited purpose of allowing the Administrator or the Administrator's designee to evaluate and treat the defendant.

3. No oral or written consent of the defendant is required for the Administrator or the Administrator's designee to obtain access to records from the Department of Corrections pursuant to this section.

4. As used in this section, "Medical Director" has the meaning ascribed to it in [NRS 209.077](#).

(Added to NRS by [2003, 1255](#); A [2007, 1778](#); [2017, 358](#))

NRS 178.455 Procedure for evaluating certain defendants following finding of incompetence; report to court; procedure concerning misdemeanants.

1. Except as otherwise provided for persons charged with or convicted of a misdemeanor, the Administrator or the Administrator's designee shall appoint a licensed psychiatrist and a licensed psychologist from the treatment team who is certified pursuant to [NRS 178.417](#) to evaluate the defendant. The Administrator or the Administrator's designee shall also appoint a third evaluator who must be a licensed psychiatrist or psychologist, must be certified pursuant to [NRS 178.417](#) and must not be a member of the treatment team. Upon the completion of the evaluation and treatment of the defendant, the Administrator or the Administrator's designee shall report to the court in writing his or her specific findings and opinion upon whether the person has the present ability to:

(a) Understand the nature of the offense charged;

(b) Understand the nature and purpose of the court proceedings; and

(c) Aid and assist the person's counsel in the defense at any time during the proceedings with a reasonable degree of rational understanding.

2. If the Administrator or the Administrator's designee finds that the person does not have the present ability pursuant to paragraph (a), (b) or (c) of subsection 1 to understand or to aid and assist counsel during the court proceedings, the Administrator or the Administrator's designee shall include in the written report the reasons for the finding and whether there is a substantial probability that the person can receive treatment to competency and will attain competency in the foreseeable future.

3. A copy of the report must be:

(a) Maintained by the Administrator or the Administrator's designee and incorporated in the medical record of the person; and

(b) Sent to the office of the district attorney and to the counsel for the outpatient or person committed.

4. In the case of a person charged with or convicted of a misdemeanor, the judge shall, upon receipt of the report set forth in [NRS 178.450](#) from the Administrator or the Administrator's designee:

(a) Send a copy of the report by the Administrator or the Administrator's designee to the prosecuting attorney and to the defendant's counsel;

(b) Hold a hearing, if one is requested within 10 days after the report is sent pursuant to paragraph (a), at which the attorneys may examine the Administrator or the Administrator's designee or the members of the defendant's treatment team on the determination of the report; and

(c) Within 10 days after the hearing, if any, or 10 days after the report is sent if no hearing is requested, enter a finding of competence or incompetence in the manner set forth in subsection 4 of [NRS 178.460](#).

[Part 3:292:1955]—(NRS A [1961, 476](#); [1968, 53](#); [1971, 252](#); [1973, 93, 252](#); [1981, 1658](#); [1991, 1005](#); [1993, 554, 2773](#); [1999, 106](#); [2001, 1086](#); [2003, 1471, 1949](#); [2007, 186](#))

NRS 178.460 Powers and duties of court following finding of incompetence; limitation on length of commitment.

1. If requested by the district attorney or counsel for the defendant within 10 days after the report by the Administrator or the Administrator's designee is sent to them, the judge shall hold a hearing within 10 days after the request at which the district attorney and the defense counsel may examine the members of the treatment team on their report.

2. If the judge orders the appointment of a licensed psychiatrist or psychologist who is not employed by the Division to perform an additional evaluation and report concerning the defendant, the cost of the additional evaluation and report is a charge against the county.

3. Within 10 days after the hearing or 10 days after the report is sent, if no hearing is requested, the judge shall make and enter a finding of competence or incompetence, and if the judge finds the defendant to be incompetent:

(a) Whether there is substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future; and

(b) Whether the defendant is at that time a danger to himself or herself or to society.

4. If the judge finds the defendant:

(a) Competent, the judge shall, within 10 days, forward the finding to the prosecuting attorney and counsel for the defendant. Upon receipt thereof, the prosecuting attorney shall notify the sheriff of the county or chief of police of the city that the defendant has been found competent and prearrange with the facility for the return of the defendant to that county or city for trial upon the offense there charged or the pronouncement of judgment, as the case may be.

(b) Incompetent, but there is a substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that the defendant is dangerous to himself or herself or to society, the judge shall recommit the defendant and may order the involuntary administration of medication for the purpose of treatment to competency.

(c) Incompetent, but there is a substantial probability that the defendant can receive treatment to competency and will attain competency to stand trial or receive pronouncement of judgment in the foreseeable future and finds that the defendant is not dangerous to himself or herself or to society, the judge shall order that the defendant remain an outpatient or be transferred to the status of an outpatient under the provisions of [NRS 178.425](#).

(d) Incompetent, with no substantial probability of attaining competency in the foreseeable future, the judge shall order the defendant released from custody or, if the defendant is an outpatient, released from any obligations as an outpatient if, within 10 judicial days, the prosecuting attorney has not filed a motion pursuant to [NRS 178.461](#) or if, within 10 judicial days, a petition is not filed for the involuntary court-ordered admission of the person to a mental health facility pursuant to [NRS 433A.200](#). After the initial 10 judicial days, the person may remain an outpatient or in custody under the provisions of this chapter only as long as the motion or petition is pending unless the person is committed to the custody of the Administrator pursuant to [NRS 178.461](#) or involuntarily admitted to a mental health facility pursuant to [chapter 433A](#) of NRS.

5. Except as otherwise provided in subsections 4 and 7 of [NRS 178.461](#), no person who is committed under the provisions of this chapter may be held in the custody of the Administrator or the Administrator's designee longer than the longest period of incarceration provided for the crime or crimes with which the person is charged or 10 years, whichever period is shorter. Upon expiration of the applicable period provided in this section, subsection 4 or 7 of [NRS 178.461](#) or subsection 4 of [NRS 178.463](#), the person must be returned to the committing court for a determination as to whether or not involuntary commitment pursuant to [chapter 433A](#) of NRS is required.

[Part 3:292:1955]—(NRS A [1961, 477](#); [1968, 54](#); [1973, 94, 253](#); [1981, 1659](#); [1991, 1006](#); [1995, 2458](#); [1999, 107](#); [2001, 1087](#); [2003, 1472, 1950](#); [2007, 187, 1779](#); [2009, 115](#); [2017, 2997](#); [2021, 3104](#))

NRS 178.461 Motion for hearing to determine whether to commit incompetent defendant to custody of Administrator; risk assessment; dismissal of motion in certain circumstances; length of commitment; review of eligibility for conditional release; procedure for requesting extension of commitment.

1. If the proceedings against a defendant who is charged with any category A felony or a category B felony listed in subsection 6 are dismissed pursuant to subsection 5 of [NRS 178.425](#), the prosecuting attorney may, within 10 judicial days after the dismissal, file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator pursuant to subsection 3.

2. If the prosecuting attorney files a motion pursuant to subsection 1, the prosecuting attorney shall, not later than the date on which the prosecuting attorney files the motion, request from the Division a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility. The Division shall, except as otherwise provided in this subsection, complete the comprehensive risk assessment within 40 calendar days after receipt of the request and provide the comprehensive risk assessment to the court, the prosecuting attorney and counsel for the person. The court may grant the Division an extension to complete the comprehensive risk assessment upon a showing of good cause. Within 10 judicial days after receipt of the

comprehensive risk assessment, the court shall hold a hearing on the motion. If the person was charged with any category A felony other than murder or sexual assault or a category B felony listed in subsection 6 and the comprehensive risk assessment indicates that the person does not require the level of security provided by a forensic facility, the court shall dismiss the motion.

3. At a hearing held pursuant to subsection 2, if the court finds by clear and convincing evidence that the person has a mental disorder, that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility, the court may order:

(a) The sheriff to take the person into protective custody and transport the person to a forensic facility; and

(b) That the person be committed to the custody of the Administrator and kept under observation until the person is eligible for conditional release pursuant to [NRS 178.463](#) or until the maximum length of commitment described in subsection 4 or 7 has expired.

4. Except as otherwise provided in subsection 7, the length of commitment of a person pursuant to subsection 3 must not exceed 10 years, including any time that the person has been on conditional release pursuant to [NRS 178.463](#).

5. At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

6. The provisions of subsection 1 apply to any of the following category B felonies:

(a) Voluntary manslaughter pursuant to [NRS 200.050](#);

(b) Mayhem pursuant to [NRS 200.280](#);

(c) Kidnapping in the second degree pursuant to [NRS 200.330](#);

(d) Assault with a deadly weapon pursuant to [NRS 200.471](#);

(e) Battery with a deadly weapon pursuant to [NRS 200.481](#);

(f) Aggravated stalking pursuant to [NRS 200.575](#);

(g) First degree arson pursuant to [NRS 205.010](#);

(h) Residential burglary with a deadly weapon pursuant to [NRS 205.060](#);

(i) Invasion of the home with a deadly weapon pursuant to [NRS 205.067](#);

(j) Any category B felony involving the use of a firearm; and

(k) Any attempt to commit a category A felony.

7. If a person is within 6 months of the maximum length of commitment set forth in this subsection or subsection 4, as applicable, and:

(a) Was charged with murder or sexual assault; and

(b) Was committed to the custody of the Administrator pursuant to this subsection or subsection 3,

the Administrator may file a motion to request an extension of the length of commitment for not more than 5 additional years.

8. The court may grant a motion for an extension of the length of commitment pursuant to subsection 7 if, at a hearing conducted on the motion, the court finds by clear and convincing evidence that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility.

9. At a hearing conducted pursuant to subsection 8, a person who is committed has the right to be represented by counsel. If the person does not have counsel, the court shall appoint an attorney to represent the person.

(Added to NRS by [2007, 1777](#); A [2009, 116](#); [2015, 1352](#); [2017, 2999](#); [2019, 4403](#); [2021, 292](#))

NRS 178.463 Conditional release of incompetent defendant committed to custody of Administrator: When eligible; annual review of eligibility for discharge from conditional release; maximum duration.

1. The Division or a person who is committed to the custody of the Administrator pursuant to [NRS 178.461](#) may petition the court which committed the person for conditional release.

2. A person who is committed to the custody of the Administrator pursuant to [NRS 178.461](#) is eligible for conditional release only after:

(a) The Division has completed a comprehensive risk assessment concerning the person;

(b) A decision to release the person from commitment with conditions imposed by the court in consultation with the Division has been made based on input from the person's treatment team, the prosecuting attorney, the counsel for the person and the team that will supervise the person in the community; and

(c) The court which committed the person has approved the conditional release.

3. If a person is serving a period of conditional release pursuant to this section, the court must, at least once every 12 months, review the eligibility of the defendant for discharge from conditional release. If, at the conclusion of the review required by this subsection, the court finds by clear and convincing evidence that the person is not a danger to himself or herself or others, the court must discharge the person from conditional release.

4. The length of the period of conditional release must not exceed 10 years, including any time that the person has been committed to the custody of the Administrator pursuant to [NRS 178.461](#) and [178.464](#), except that the length of the period of conditional release may be extended for not more than 5 additional years if the length of the period of commitment has been extended pursuant to subsection 7 of [NRS 178.461](#).

(Added to NRS by [2007, 1777](#); A [2009, 117](#); [2015, 1353](#); [2017, 3000](#))

NRS 178.464 Procedure when defendant violates condition of release; hearing to determine whether to continue, modify or terminate conditional release.

1. The Division shall notify the court which ordered the commitment of the person pursuant to [NRS 178.461](#) if the person violates a condition of the release from commitment.

2. If a forensic facility supervising a person on conditional release has probable cause to believe the person violated a condition of the release from commitment and is an imminent danger to himself or herself or others, the forensic facility may take the person into protective custody and transport the person to the forensic facility or may request that a law enforcement agency take the person into protective custody and transport the person to the forensic facility. If the forensic facility makes such a request, the law enforcement agency, as soon as practicable after receiving the request, may take the person into protective custody and transport the person to the forensic facility. Except as otherwise provided in this subsection, within 3 days after a person has been taken into protective custody and transported to the forensic facility pursuant to this subsection, the court shall hold a hearing to determine whether to continue, modify or terminate the conditional release of the person. The hearing may be continued not more than 10 days upon agreement by the counsel for the person and the prosecuting attorney.

3. If the court is notified pursuant to subsection 1 of a violation, the court shall consult with the Division, the counsel for the person and the prosecuting attorney concerning the potential risk to the community that is posed by the noncompliance of the person with the conditions of release from commitment.

4. If the person on conditional release has not been transported to a forensic facility pursuant to subsection 2, after consulting with the persons required by subsection 3 and considering the risks to the community, the court may issue a temporary order of detention to commit the person to custody for evaluation, pending the hearing described in subsection 5. If the court issues such an order, the court must:

(a) Order the sheriff to take the person:

- (1) Into protective custody and transport the person to a forensic facility; or
- (2) To a jail where the person must remain in protective custody; and

(b) Provide a copy of the order to the counsel for the person and the prosecuting attorney.

5. Within 10 days after a person has been committed to the custody of the Administrator for evaluation pursuant to subsection 4, the court shall hold a hearing to determine whether to continue, modify or terminate the conditional release of the defendant.

6. As used in this section:

(a) "Forensic facility" has the meaning ascribed to it in [NRS 175.539](#).

(b) "Law enforcement agency" means:

- (1) The sheriff's office of a county;
- (2) A metropolitan police department; or
- (3) A police department of an incorporated city.

(Added to NRS by [2007, 1778](#); A [2009, 117](#); [2021, 296](#))

NRS 178.467 Person committed to custody of Administrator: Eligibility for discharge or conditional release; recommitment for failure to comply with conditions.

1. The Administrator or the Administrator's designee shall keep each person with mental illness committed to his or her custody pursuant to [NRS 175.539](#) under observation.

2. A person committed to the custody of the Administrator pursuant to [NRS 175.539](#) is eligible for:

(a) Discharge from commitment if the person establishes by a preponderance of the evidence that the person would not be a danger, as a result of any mental disorder, to himself or herself or to the person or property of another if discharged; or

(b) Conditional release from commitment if the person establishes by a preponderance of the evidence that the person would not be a danger, as a result of any mental disorder, to himself or herself or to the person or property of another if released from commitment with conditions imposed by the court in consultation with the Division.

3. If a person who is conditionally released from the custody of the Administrator fails to comply with any condition imposed by the court, the court shall issue an order to have the person recommitted to the custody of the Administrator.

(Added to NRS by [2007, 1424](#))

NRS 178.468 Hearing to determine eligibility of person committed to custody of Administrator for discharge or conditional release; report by Administrator.

1. Except as otherwise provided in this section, a court must hold a hearing not later than 60 days after:
 - (a) A person is committed to the custody of the Administrator pursuant to [NRS 175.539](#); or
 - (b) The Division or the person committed to the custody of the Administrator files a petition for discharge or conditional release pursuant to [NRS 178.469](#).
 2. During the hearing held pursuant to subsection 1, the court shall consider any relevant information that will enable the court to determine whether the person is eligible for discharge or conditional release pursuant to [NRS 178.467](#). The court may postpone the hearing described in this subsection for good cause or upon agreement by the person committed to the custody of the Administrator, the court and the Division.
 3. Not later than 21 days before the date of the hearing held pursuant to paragraph (a) of subsection 1 and annually thereafter, the Administrator or the Administrator's designee shall prepare a written report stating whether, in his or her opinion, upon medical consultation, the person who was committed to the custody of the Administrator has recovered from the mental disorder or has improved to such an extent that the person is no longer a person with mental illness and whether or not, in his or her opinion, the person should be discharged or conditionally released. If the Administrator or the Administrator's designee determines that the person has not recovered from the mental disorder or has not improved to such an extent that the person is no longer a person with mental illness, the Administrator or the Administrator's designee shall include in the report his or her opinion concerning whether:
 - (a) There is a substantial probability that the person may receive treatment and recover from the mental disorder or improve to such an extent that the person is no longer a person with mental illness in the foreseeable future; and
 - (b) The person is at that time a danger to himself or herself or to society.
 4. If the opinion of the Administrator included in the report prepared pursuant to subsection 3 provides that:
 - (a) The person committed to custody should not be discharged or conditionally released, the person who is committed may overcome the opinion of the Administrator by proving the elements necessary for discharge or conditional release pursuant to subsection 2 of [NRS 178.467](#) by a preponderance of the evidence.
 - (b) The person committed to custody should be discharged or conditionally released, the district attorney may overcome the opinion of the Administrator by proving by a preponderance of the evidence that the person continues to be a person with mental illness.
 5. Within the period prescribed in subsection 3, the Administrator or the Administrator's designee shall provide a copy of the report to:
 - (a) The person committed to the custody of the Administrator and the person's attorney;
 - (b) The prosecuting attorney; and
 - (c) The court.
- (Added to NRS by [2007, 1424](#))

NRS 178.469 Petition for discharge or conditional release by person committed to custody of Administrator.

1. A person committed to the custody of the Administrator pursuant to [NRS 175.539](#) may petition the court for discharge or conditional release not sooner than 1 year after the person is committed to the custody of the Administrator and not more than once each year thereafter.
2. The Division may file a petition for the discharge or conditional release of a person committed to the custody of the Administrator pursuant to [NRS 175.539](#) at any time if the petition is accompanied by an affidavit of a physician or licensed psychologist which states that the mental disorder of the person has improved since the date of the most recent hearing concerning the discharge or conditional release of the person such that the physician or licensed psychologist recommends the discharge or conditional release of the person.
3. A person who is committed to the custody of the Administrator pursuant to [NRS 175.539](#) may apply for discharge or conditional release pursuant to subsection 1 by:
 - (a) Filing a petition for discharge or conditional release with the court that ordered the person committed pursuant to [NRS 175.539](#); and
 - (b) Providing a copy of the petition to the Division and the prosecuting attorney.
4. The Division may file a petition for discharge or conditional release pursuant to subsection 2 by:
 - (a) Filing the petition with the court that ordered the person committed to the custody of the Administrator pursuant to [NRS 175.539](#);
 - (b) Including with the petition an affidavit of a physician or licensed psychologist pursuant to subsection 2; and

(c) Providing a copy of the petition to the person committed to the custody of the Administrator, the person's attorney and the prosecuting attorney.

(Added to NRS by [2007, 1425](#))

NRS 178.471 Effect of conditional release of person committed to custody of Administrator; authority of court over person conditionally released.

1. When a person is conditionally released pursuant to [NRS 178.467](#) to [178.471](#), inclusive:

(a) The State and any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person; and

(b) The court shall order the restoration of full civil and legal rights as deemed necessary to facilitate the person's rehabilitation.

2. When a person is conditionally released pursuant to [NRS 178.467](#) to [178.471](#), inclusive, the court shall order the Division to conduct an evaluation of the person as often as is deemed necessary to determine whether the person:

(a) Has complied with the conditions of release; or

(b) Presents a clear and present danger of harm to himself or herself or others.

3. The court may order a person who is conditionally released pursuant to [NRS 178.467](#) to [178.471](#), inclusive, returned to the custody of the Administrator if the court determines that the conditional release is no longer appropriate because that person:

(a) Has violated a condition of release; or

(b) Presents a clear and present danger of harm to himself or herself or others.

(Added to NRS by [2007, 1426](#))