

SENATE BILL NO. 323—SENATOR HARDY

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to incompetent defendants. (BDR 14-1063)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

AN ACT relating to criminal procedure; allowing the Division of Mental Health and Developmental Services of the Department of Health and Human Services to establish a program to provide certain services to a criminal defendant while the criminal defendant is incarcerated; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law allows a court to order a psychiatric examination of a criminal  
2 defendant and requires the evaluation of criminal defendants found incompetent to  
3 stand trial at certain intervals to determine whether the defendant has attained  
4 competency. (NRS 178.415, 178.450, 178.455) Existing law also allows a court to  
5 order a defendant who is found incompetent but not dangerous to himself or herself  
6 or society to undergo outpatient treatment. (NRS 178.425, 178.460) This bill allows  
7 the Division of Mental Health and Developmental Services of the Department of  
8 Health and Human Services to establish a program to allow certain defendants  
9 declared incompetent to receive outpatient treatment to competency while  
10 incarcerated in jail or prison. If such a program is established, this bill allows the  
11 Division to enter into a contract with a person, organization or agency to carry out  
12 or assist in carrying out the program.

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

1 **Section 1.** NRS 178.417 is hereby amended to read as follows:  
2 178.417 1. A person may not provide a report or an  
3 evaluation concerning the competency of a defendant to stand trial  
4 or receive pronouncement of judgment pursuant to this section and



1 NRS 178.400 to 178.460, inclusive, unless the person is certified by  
2 the Division for that purpose.

3 2. The Division shall adopt regulations to establish:

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

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

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

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

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

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

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

21 *5. The Division may adopt regulations to establish a program*  
22 *that allows certain defendants who are determined to be*  
23 *incompetent to stand trial or receive pronouncement of judgment*  
24 *pursuant to this section and NRS 178.400 to 178.460, inclusive,*  
25 *but who are determined not to be dangerous to themselves or to*  
26 *society to receive outpatient treatment to competency while*  
27 *incarcerated in jail or prison. If the Division establishes such a*  
28 *program, the Division must specify the qualifications for*  
29 *participation in the program and the type of treatment that may be*  
30 *provided to such defendants. The Division may enter into a*  
31 *contract with another person, organization or agency to carry out*  
32 *or assist in carrying out the program.*

33 **Sec. 2.** This act becomes effective upon passage and approval.

