

AMENDMENTS TO LB1048

(Amendments to Standing Committee amendments, AM1957)

Introduced by Lonowski, 33.

1           1. Strike amendments 1 and 4 and insert the following new  
2 amendments:

3           1. Strike original section 23 and insert the following new sections:

4           **Sec. 6.** Section 71-1131, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6           71-1131 If the subject cannot afford to pay, the county shall pay  
7 court costs, costs of emergency custody, and related expenses for a  
8 petition filed pursuant to the Developmental Disabilities Court-Ordered  
9 Custody Act, including the costs of legal counsel appointed to represent  
10 the subject and any expert hired to evaluate and testify on behalf of the  
11 subject. In counties having a public defender, the court may appoint the  
12 public defender as legal counsel for the subject. The county shall be  
13 responsible for the cost of transporting the subject to and from court  
14 hearings under the act and to any emergency custody or other custody  
15 ordered under the act. The department shall pay the costs of the  
16 department's evaluations of the subject, the costs of the plans completed  
17 by the department and the independent mental health professional, and the  
18 costs of the court-ordered custody and treatment of the subject following  
19 an order of disposition, except as provided by sections 83-363 to 83-379  
20 ~~83-380~~.

21           **Sec. 29.** Section 83-227.01, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           83-227.01 The Department of Health and Human Services is authorized  
24 to utilize space which is temporarily surplus to the needs of the Lincoln  
25 Regional Center and the Norfolk Regional Center facilities under their  
26 jurisdiction for patients committed to or lawfully confined in the

1 Beatrice State Developmental Center. Patients so transferred to the  
2 Lincoln Regional Center or the Norfolk Regional Center shall be housed in  
3 facilities separate and apart from facilities used to house patients  
4 committed to such hospital, and after their transfer such patients shall  
5 receive the same type of care, custody, and treatment as they would have  
6 received had they remained at the Beatrice State Developmental Center,  
7 and the charges for their care and maintenance shall be the same as  
8 though they were housed at the Beatrice State Developmental Center, and  
9 the charges shall be collected in the manner provided in this section and  
10 sections 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~.

11 **Sec. 30.** Section 83-227.02, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 83-227.02 (1) The Department of Health and Human Services is  
14 authorized to use space which is temporarily surplus to the needs of any  
15 institution under its control, except as provided in subsection (2) of  
16 this section, for the care, custody, and treatment of the inmates of any  
17 other such institution when space at such latter institution is  
18 inadequate and the facilities of the institution to which transfer is  
19 made are suitable to the needs of the inmate. Inmates so transferred  
20 shall receive the same care, custody, and treatment as they would have  
21 received had they not been transferred. If the cost of the care, custody,  
22 and treatment of such inmate is recoverable by the institution from which  
23 the transfer was made, it shall be recovered in the manner provided in  
24 sections 83-363 to 83-379 ~~83-380~~.

25 (2) Subsection (1) of this section shall not be construed to permit  
26 the transfer of inmates to or from any Department of Correctional  
27 Services facility unless expressly authorized by law.

28 **Sec. 31.** Section 83-363, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 83-363 As used in sections 83-227.01, 83-227.02, 83-350, and 83-363  
31 to 83-379 ~~83-380~~, unless the context otherwise requires:

1 (1) Department means the Department of Health and Human Services;

2 (2) State institution means the state hospitals at Lincoln and  
3 Norfolk, the Beatrice State Developmental Center, and such other  
4 institutions as may hereafter be established by the Legislature for the  
5 care and treatment of persons with a mental disorder or persons with an  
6 intellectual disability;

7 (3) Relative means the spouse of a patient or, if the patient has no  
8 spouse and is under the age of majority at the time he or she is  
9 admitted, the parents of a patient in a state institution; and

10 (4) Parents means either or both of a patient's natural parents  
11 unless such patient has been legally adopted by other parents, in which  
12 case parents means either or both of the adoptive parents.

13 **Sec. 32.** Section 83-364, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 83-364 When any person is admitted to a state institution or other  
16 inpatient treatment facility pursuant to an order of a mental health  
17 board under the Nebraska Mental Health Commitment Act or the Sex Offender  
18 Commitment Act or receives treatment prescribed by such institution or  
19 facility following release or without being admitted as a resident  
20 patient, the patient and the patient's relatives shall be liable for the  
21 cost of the care, support, maintenance, and treatment of such person to  
22 the extent and in the manner provided by sections 83-227.01, 83-227.02,  
23 83-350, and 83-363 to 83-379 ~~83-380~~. Such sections also shall apply to  
24 persons admitted to a state institution as transferees from any state  
25 penal institution or youth rehabilitation and treatment center but only  
26 after the expiration of the time for which the transferees were  
27 originally sentenced or committed.

28 **Sec. 33.** Section 83-367, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 83-367 The liability of each relative, except a spouse, shall cease  
31 when relatives shall have completed payments assessed pursuant to

1 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~ for  
2 one hundred eighty months, or when the patient attains the age of  
3 majority, whichever shall occur first.

4 **Sec. 34.** Section 83-370, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6 83-370 When any relative willfully fails to furnish to the  
7 department, upon request, the information required by sections 83-227.01,  
8 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~ as to his or her taxable  
9 income, such relative shall be deemed to have ability to pay the entire  
10 cost determined under sections 83-227.01, 83-227.02, 83-350, and 83-363  
11 to 83-379 ~~83-380~~.

12 **Sec. 35.** Section 83-371, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 83-371 Pursuant to the provisions of the Administrative Procedure  
15 Act, the department shall adopt and promulgate appropriate rules and  
16 regulations for making the determinations required by sections 83-227.01,  
17 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~.

18 **Sec. 36.** Section 83-375, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 83-375 When any patient or relative fails to pay the amounts  
21 determined to be due under sections 83-227.01, 83-227.02, 83-350, and  
22 83-363 to 83-379 ~~83-380~~, the State state of Nebraska may proceed against  
23 such person in the manner authorized by law for the recovery of money  
24 owed to a creditor. The Attorney General shall represent the state in  
25 such actions, but may authorize the county attorney for the county in  
26 which such person resides or owns property to investigate and prosecute  
27 the action on behalf of the state.

28 **Sec. 37.** Section 83-377, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 83-377 In all cases in which a guardian has been named for any  
31 person liable for payments under sections 83-227.01, 83-227.02, 83-350,

1 and 83-363 to 83-379 ~~83-380~~, the guardian shall represent such person in  
2 all matters arising under sections 83-227.01, 83-227.02, 83-350, and  
3 83-363 to 83-379 ~~83-380~~ and shall be liable in the same manner as he or  
4 she would be on any other matters arising from the guardianship.

5 **Sec. 38.** Section 83-378, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 83-378 No person shall be liable for the cost of the care, support,  
8 maintenance, and treatment of any patient except as provided in sections  
9 83-363 to 83-379 ~~83-380~~, but the amounts determined to be due and unpaid  
10 at the time of the death of a patient or relative shall constitute a  
11 claim against the estate of such patient or relative. The department may  
12 accept voluntary payments on behalf of any patient from any person who is  
13 not liable for payments.

14 **Sec. 39.** Section 83-379, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16 83-379 In the absence of fraud, a patient and the patient's ~~his~~  
17 relatives shall be liable only to the extent of assessments actually made  
18 against them respectively, in accordance with sections 83-227.01,  
19 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~. For the purposes of  
20 sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-379 ~~83-380~~, it  
21 shall be deemed fraudulent for any patient or the patient's ~~his~~ relatives  
22 to transfer any assets or property to another person for the purpose of  
23 affecting the determination of ability to pay. When it is determined that  
24 such a fraudulent transfer has been made, the department shall consider  
25 the value of such assets or property transferred in determining the  
26 ability to pay under section 83-368 or 83-369.

27 **Sec. 40.** Section 83-380.01, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 83-380.01 Upon the discharge from a treatment facility, an indigent  
30 person who has received mental-health-board-ordered treatment may file an  
31 affidavit with the Department of Health and Human Services or the mental

1 health board requesting that prescription medicine which the regional  
2 center treating psychiatrist or the patient's treating physician has  
3 prescribed as necessary for the patient's mental health treatment be  
4 provided to him or her. Such affidavit shall include the following: (1)  
5 That the patient qualifies as an indigent person who is unable to pay  
6 under the same standards of ability to pay as set forth in sections  
7 83-363 to 83-379 ~~83-380~~; and (2) that such prescription medicine has been  
8 prescribed by the regional center's treatment psychiatrist or the  
9 patient's treating physician as necessary for the patient's mental health  
10 treatment. The mental health board shall refer such requests it receives  
11 to the Department of Health and Human Services and the department shall  
12 provide such prescription medicine as may be necessary for such former  
13 patient's mental health treatment so long as he or she remains an  
14 outpatient and his or her treating physician continues to prescribe and  
15 certify that such prescription medicine is necessary for the patient's  
16 mental health treatment and he or she continues to be an indigent person  
17 as determined under the same standards of ability to pay as set forth in  
18 sections 83-363 to 83-379 ~~83-380~~. The Department of Health and Human  
19 Services may adopt and promulgate rules and regulations to carry out the  
20 provisions of this section in accordance with the Administrative  
21 Procedure Act, including, but not limited to, hearings necessary to  
22 determine whether such person is qualified to receive such medications  
23 and whether such medication is necessary for the patient's mental health  
24 treatment.

25 4. On page 48, strike the new matter in lines 1 through 12; and in  
26 line 27, after "81-1384," insert "83-380,".