

really in a better position to balance the interests of society against the interests of the individual who has committed a criminal act and whose disposition is being considered. Often when the decisions are made by members of the medical community or by mental health commitment boards which have as one of their members, a psychiatrist, why it has been our observation and our feeling that the physician will oftentimes let his physician-patient relationship interfere with his judgement about what is best for society as a whole. The physicians, when making these decisions, are going to be thinking about whether the person is adequately cured to reenter society and they are not going to be directing their thoughts to the overall safety and the overall protection of society and I think our basic feeling is that the courts which, particularly when sitting as criminal courts on a day to day basis, have to make these overall balancing judgmental decisions about what is best for society in relation to what is best for the individual. Now the second major step that LB 213 does, in addition to shifting jurisdiction to the courts, is that it rewrites the standard by which it is determined whether to hold somebody following a verdict of not responsible by reason of insanity. Now Senator Nichol made mention of this standard and what we do in this bill is we promulgate a new standard which is different and less explicit than the standard that applies to people who are to be civilly committed against their will. And that standard is found in the committee amendments that we just adopted and the standard is whether the person is dangerous to himself, herself or others by reason of mental illness or defect or will be so dangerous in the reasonable future. Now the standard currently employed by the mental health commitment boards in determining whether to hold people and how long to hold them, contains more protections than we think are appropriate for persons who have been found to have committed a serious criminal act but then acquitted because they do not have the requisite mental capacity. Now the standard currently in effect is found in Section 83-1009 of the Nebraska statutes which many of you have at your desks. You may wish to have reference to that standard and I think if you read that standard carefully you will see that it has a number of restrictions which are appropriate when applied to persons who are subject to civil commitment without having committed a criminal offense but which we feel are neither appropriate nor constitutionally required when you are dealing with persons who have committed a criminal offense but then are subsequently acquitted by reason of insanity. That civil commitment standard for instance, requires that for somebody to be held he present a substantial risk of serious harm to another person or persons within the near future as manifested by evidence of