

May 7, 1981

LB 95

correct this provision in it. If Senator Cullan says that there are I forget how many other propositions in the thing that he wants, he should go ahead and forego this one, and get the rest of it. But there is no way in the world that I, with the understanding that I have of the law, the concern that I have about due process and the integrity of the Constitution, can vote for a hybrid like this. But instead of referring to it as a hybrid which is a nice word that Senator Cullan used, I would call it a mutation or a freak, and I cannot vote for it, and I would advise the members of the Legislature to vote in favor of Senator DeCamp's amendment which would strike it from the bill.

SENATOR CLARK: Senator Hoagland.

SENATOR HOAGLAND: Mr. President and colleagues, I would like to arise in support of Senator Cullan's position on this matter and maybe just spend a minute or two reviewing the history of the Mental Disorder Sex Offender Act that we passed two years ago, and give you an idea as to the origin of this concept in this provision and it is intended to be effectuated and why I think that it is probably constitutional as written. Now you will recall two years ago there was a great deal of pressure to repeal the sexual sociopath law because the courts questioned its constitutionality, and we did that and we replaced it with a Mental Disorder Sex Offender Act. And one of the principal criticisms of the MDSO Act is what are you going to do with these disoriented, disordered sex offenders when their sentence expires? If they were under say a two year or a four year or six year sentence only, it has been the experience in Nebraska that their mental disorder may carry beyond that. So we put a mechanism in the Mental Disordered Sex Offender Act which Senator Cullan is now refining in LB 95, and what that mechanism does is it indicates that when a mental disordered sex offender nears the end of his sentence, within seven days or so of the end of his sentence, why then automatically Mental Health Commitment Act procedures are initiated. Automatically a petition is filed as if the person had never been an MDSO but instead was the person across the street who suddenly lost control of his sensibilities and confinement against his will had to be considered. So all this simply...what this does and nothing else is as soon as that mental disordered sex offender nears the end of his sentence, commitment procedures are triggered, and as Senator Cullan has indicated, all of the due process protections that are present in the Mental Commitment Act then come into play, and the person is treated as