

May 27, 1981

LB 213

LB 213 does not treat those acquitted by reason of insanity substantially the same as present law treats other involuntary mental health commitments. Present law treats these commitments the same. LB 213 changes present law and attempts to accomplish indirectly that which everyone agrees cannot be done directly. There remains a retroactive provision which is highly suspect. There are technical flaws in the bill regarding court procedures and venue which may take years to iron out in the courts. I frequently hear complaints from members of this body about congestions of the court systems. This is the type of legislation that causes judicial overload but aside from the possible constitutional and technical questions of this bill, what I really want you to think about before you push the green button is this. This bill, supposedly, is going to keep people like Simants, Almarez and Cribbs locked up by taking them back to the courts and giving the courts jurisdiction over their release. If you think the courts are going to keep these people locked up longer than the mental health boards and the regional centers will, then perhaps you can explain to me why these types of people are constantly fighting to get their cases into the courts. They try to get their cases before the courts because the courts have to adhere to the letter of the law, not just statutory law, but case law and Constitution law. Courts can not bend the rules and let political considerations or public opinion influence their decisions. Courts that do are reversed and appealed and quickly lose credibility in the legal community. If the people LB 213 brings before the courts no longer meet the commitments standards, they walk out of the courthouse. LB 213 not only opens the front door of the courthouse to let them in, I am afraid that it also opens the back door to let them out. While I sincerely sympathize with what the sponsors of this bill are trying to achieve with LB 213, I am just as sincere when I tell you that I don't believe that LB 213 will achieve this. I feel it is my responsibility to bring these matters to your attention and explain to the state's legal community that the chairmen of the Judiciary Committee are not responsible for this legislation. I think that there are constitutional defects, technical defects and procedural delays for which we will be sorry. Now, may I add, I would like to have a bill of this nature go through the Legislature at this time because I feel that the people of the State of Nebraska want something like this. They do not want people turned loose when they are through with the regional center. As you know, when somebody seeks to beat the rap by claiming they are mentally deficient, mentally deranged or have a mental problem, they seek to be not guilty because of insanity. This is the easiest way to beat the rap and juries are carried away with the testimony of a psychiatrist or two and they say, yes, Mrs. Almarez was in a state of mental disarray, something was