

May 27, 1981

LB 213

we have to consider society when we make this decision and I would urge you to support the sponsors of this bill in voting against Senator Nichol and DeCamp's amendment. Thank you.

PRESIDENT: The Chair recognizes Senator Pirsch.

SENATOR PIRSCH: Thank you, Mr. President. Members of the body, I can't add too much more to what has already been said in opposition to Senator Nichol's amendment but I would like to just remind you that I personally have been looking at this for three years. My first intention was to make it tougher at the beginning and change the burden of proof so that those who did claim not guilty by reason of insanity would find it a much tougher job to do. This did not meet with much success and a lot of opposition and it is my feeling that if we toughen up the other end that this will work as a deterrent effect to those who I believe are misusing the plea of not guilty by reason of insanity. We passed out this statute summary to you and I hope you have retained it in your file which specifically lays out the statutes of those states, the releasing authority, the burden of proof and the standard of proof and I would just like to point out to you that thirty states do have the committing court or the superior court of the county where the person is tried or the judiciary which make that final releasing authority. This is nothing new. It is new for the State of Nebraska and it is different and I do think it is a good opportunity for discussion and that we should have discussion on this but I think it is a shame that Senator Nichol waited until Final Reading to bring out his objections. We were aware of these on General File and prepared to debate these then. We were aware of them on Select File and prepared to debate them then. I think it is a shame that we wait until Final Reading to bring out this discussion. I would just like to read you some of the court cases. Arkansas, they rejected hospitalization under normal civil commitment laws because the defendant has committed anti-social acts for which he would have received punishment except for the jury's belief as to his or her mental illness. Colorado, the standard is mental disease or defect and likely to cause person to be dangerous to self, others or community in reasonable foreseeable future. Connecticut, mentally ill to extent release would constitute danger to life or person. Delaware, it uses same standard in criminal and civil mentally ill person but it extends in criminal committees to include a danger to public safety and that was held not a violation of due process or equal protection in the Delaware Supreme Court. Hawaii, if the court finds the defendant presents risk of danger to self or person or property of others and that is not proper subject for conditional release, they

5949