

May 27, 1981

LB 95

on, I think that for protection to have a second opinion would not be bad, given the quality of service that our Department of Institutions is providing. So I think that Senator Cullan goes too far in his amendments. He does straighten out some of his constitutional problems in the bill but I would have to object to striking a second psychiatric opinion. Given the quality of service that we currently have in our regional centers, given the capacity of some of the staff, I think the only protection that we can provide is to get a second psychiatric opinion early on. For that reason I would oppose his amendments to LB 95.

PRESIDENT: The Chair recognizes Senator Cullan for purposes of closing on the return motion.

SENATOR CULLAN: Mr. President, members of the Legislature, let me say I believe there are absolutely no constitutional problems with the seven day period in lieu of the five day period and I believe a preliminary hearing is not necessary. The case which said that there would be a five day preliminary, five days maximum of holding an individual without a hearing, I can't remember the name of the case right now, but that was the case that declared the prior mental health commitment process unconstitutional and we have many additional safeguards in the system now that did not exist at that point in time. In addition to the mental health professional that examines this individual and under LB 95 now we are requiring a written report to go to the county attorney. The mental health professional does not make the determination to hold this individual by himself but the county attorney is the one that actually makes that determination. So there actually are two people looking at this individual within that thirty-six hour period of time to determine whether or not that individual should be held for a maximum of a week. Now I think that is a lot of protection for the individual. I don't think we need any more and I further think that we are going to have to put on considerably more staff and spend more money on overtime for other medical staff at the regional centers if we are going to require two of our state employees to evaluate these people during that thirty-six hour period. So I really believe that the amendments are appropriate. I think Senator Fowler raises a red herring so far as constitutionality is regarded and I would urge you to adopt this amendment and then proceed with the bill.

PRESIDENT: The question then is the return of LB 95 for purpose of a specific Cullan amendment. All those in favor vote aye, opposed nay. Have you all voted? Senator Cullan, what do you wish to do?