

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 386

Introduced by Storer, 43.

Read first time January 17, 2025

Committee: Judiciary

1 A BILL FOR AN ACT relating to mental health; to amend sections 71-904,
2 71-915, 71-922, 71-924, 71-941, 71-951, 71-952, 71-954, and 71-1208,
3 Reissue Revised Statutes of Nebraska, and sections 71-901, 71-903,
4 71-919, 71-920, 71-926, 71-939, 71-958, 71-1203, 71-1204, 71-1206,
5 and 71-1223, Revised Statutes Cumulative Supplement, 2024; to adopt
6 the Regional Mental Health Expansion Pilot Program Act; to provide
7 for videoconferencing of hearings and mental health evaluations
8 under the Nebraska Mental Health Commitment Act and Sex Offender
9 Commitment Act; to define and redefine terms; to provide for
10 detention of certain persons and mental health beds at jails as
11 prescribed; to change provisions relating to hearings and rights of
12 confrontation; to harmonize provisions; and to repeal the original
13 sections.
14 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 5 of this act shall be known and may be
2 cited as the Regional Mental Health Expansion Pilot Program Act.

3 **Sec. 2.** The Legislature finds and declares that:

4 (1) The State of Nebraska is facing serious issues in its current
5 mental health system, including a shortage of mental health care
6 professionals and long travel distances to receive care. These issues
7 have had a negative impact on those suffering from mental health issues
8 and their communities, particularly in rural parts of the state;

9 (2) As a consequence, when an individual experiences a mental health
10 crisis in public, law enforcement officers are frequently required to
11 respond and take the individual into emergency protective custody until
12 the individual can be transported to an available mental health treatment
13 facility. This places a significant burden on law enforcement agencies,
14 particularly in rural parts of the state, which is compounded by the
15 shortage of mental health bed space and long travel distances to
16 facilities;

17 (3) Addressing these issues is vitally important to the state, and
18 the state would benefit from innovative solutions aimed at reducing the
19 negative impact of mental health issues on individuals and law
20 enforcement agencies;

21 (4) There is a history of cooperation between rural agencies and
22 communities that have successfully worked together to meet regional needs
23 efficiently and cost-effectively; and

24 (5) There is an opportunity to adapt the existing method of
25 cooperation and apply it in a way that helps reduce the impact on those
26 suffering from mental health issues and the law enforcement agencies that
27 interact with them.

28 **Sec. 3.** (1) The Nebraska Commission on Law Enforcement and Criminal
29 Justice shall create a regional mental health expansion pilot program to
30 provide funding to a county law enforcement agency to expand mental
31 health beds and encourage cooperation between law enforcement agencies to

1 service the region.

2 (2) The Legislature intends that the pilot program will demonstrate
3 a method of regional cooperation among law enforcement agencies to
4 address the impact of shortages and the long travel distances on those
5 suffering from mental health issues and law enforcement agencies and that
6 can be replicated statewide.

7 (3) The commission shall select one county law enforcement agency
8 for the pilot program. The selected agency shall:

9 (a) Have an existing jail facility with the capacity to add mental
10 health beds, either at that facility or elsewhere;

11 (b) Have a history of cooperation with other law enforcement
12 agencies;

13 (c) Provide an assessment of the anticipated regional impact of the
14 additional mental health beds on individuals with mental health issues
15 and law enforcement agencies; and

16 (d) Cooperate with other counties or law enforcement agencies
17 through a memorandum of understanding to ensure the mental health beds
18 provide a regional benefit.

19 (4) The Legislature does not intend the Regional Mental Health
20 Expansion Pilot Program Act to criminalize mental health issues or result
21 in the incarceration of individuals for mental health issues, and nothing
22 in the act should be so construed. The purpose of this pilot program is
23 to expand mental health services provided by law enforcement agencies to
24 individuals temporarily in custody for mental health issues.

25 **Sec. 4.** (1) The Nebraska Commission on Law Enforcement and Criminal
26 Justice shall administer the pilot program and, in addition to the
27 requirements set out in section 3 of this act, develop grant eligibility,
28 application, and audit requirements.

29 (2) The commission may adopt and promulgate rules and regulations to
30 carry out the Regional Mental Health Expansion Pilot Program Act.

31 (3) The commission shall identify grant funding to carry out the

1 Regional Mental Health Expansion Pilot Program Act.

2 **Sec. 5.** The Nebraska Commission on Law Enforcement and Criminal
3 Justice shall coordinate with the Attorney General to carry out the
4 Regional Mental Health Expansion Pilot Program Act.

5 **Sec. 6.** Section 71-901, Revised Statutes Cumulative Supplement,
6 2024, is amended to read:

7 71-901 Sections 71-901 to 71-964 and sections 9 and 10 of this act
8 shall be known and may be cited as the Nebraska Mental Health Commitment
9 Act.

10 **Sec. 7.** Section 71-903, Revised Statutes Cumulative Supplement,
11 2024, is amended to read:

12 71-903 For purposes of the Nebraska Mental Health Commitment Act,
13 unless the context otherwise requires, the definitions found in sections
14 71-904 to 71-914.02 and sections 9 and 10 of this act shall apply.

15 **Sec. 8.** Section 71-904, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 71-904 Administrator means the administrator or other chief
18 administrative officer of a treatment facility, medical facility, jail,
19 or Department of Correctional Services facility or his or her designee.

20 **Sec. 9.** Dangerous sex offender has the same meaning as in section
21 83-174.01.

22 **Sec. 10.** Videoconferencing means conducting or participating in a
23 hearing or evaluation electronically or telephonically with audiovisual
24 interaction among the participants.

25 **Sec. 11.** Section 71-915, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-915 (1) The presiding judge in each district court judicial
28 district shall create at least one but not more than three mental health
29 boards in such district and shall appoint sufficient members and
30 alternate members to such boards. Members and alternate members of a
31 mental health board shall be appointed for four-year terms. The presiding

1 judge may remove members and alternate members of the board at his or her
2 discretion. Vacancies shall be filled for the unexpired term in the same
3 manner as provided for the original appointment. Members of the mental
4 health board shall have the same immunity as judges of the district
5 court.

6 (2) Each mental health board shall consist of an attorney licensed
7 to practice law in this state and any two of the following but not more
8 than one from each category: A physician, a psychologist, a psychiatric
9 nurse, a licensed clinical social worker or a licensed independent
10 clinical social worker, a licensed independent mental health practitioner
11 who is not a social worker, or a layperson with a demonstrated interest
12 in mental health and substance dependency issues. The attorney shall be
13 chairperson of the board. Members and alternate members of a mental
14 health board shall take and subscribe an oath to support the United
15 States Constitution and the Constitution of Nebraska and to faithfully
16 discharge the duties of the office according to law.

17 (3) The mental health board shall have the power to issue subpoenas,
18 to administer oaths, and to do any act necessary and proper for the board
19 to carry out its duties. No mental health board hearing shall be
20 conducted unless three members or alternate members are present and able
21 to vote. Any action taken at any mental health board hearing shall be by
22 majority vote. Any hearing before the mental health board may be
23 conducted by videoconferencing.

24 (4) The mental health board shall prepare and file an annual
25 inventory statement with the county board of its county of all county
26 personal property in its custody or possession. Members of the mental
27 health board shall be compensated and shall be reimbursed for their
28 actual and necessary expenses by the county or counties being served by
29 such board. Compensation shall be at an hourly rate to be determined by
30 the presiding judge of the district court, except that such compensation
31 shall not be less than fifty dollars for each hearing of the board.

1 Members shall also be reimbursed for their actual and necessary expenses,
2 not including charges for meals. Mileage shall be determined pursuant to
3 section 23-1112.

4 **Sec. 12.** Section 71-919, Revised Statutes Cumulative Supplement,
5 2024, is amended to read:

6 71-919 (1)(a) A law enforcement officer may take a person into
7 emergency protective custody, cause him or her to be taken into emergency
8 protective custody, or continue his or her custody if he or she is
9 already in custody if the officer has probable cause to believe:

10 (i) Such person is mentally ill and dangerous or a dangerous sex
11 offender and that the harm described in section 71-908 or subdivision (1)
12 of section 83-174.01 is likely to occur before mental health board
13 proceedings under the Nebraska Mental Health Commitment Act or the Sex
14 Offender Commitment Act may be initiated to obtain custody of the person;
15 or

16 (ii) For a person domiciled within Indian country in Nebraska, that
17 such person is mentally ill and dangerous or a dangerous sex offender
18 under tribal law and that harm comparable to that described in section
19 71-908 or subdivision (1) of section 83-174.01 or the equivalent under
20 tribal law is likely to occur before mental health proceedings under
21 tribal law may be initiated to obtain custody of the person.

22 (b) Such person shall be admitted to an appropriate and available
23 medical facility, jail, or Department of Correctional Services facility
24 as provided in subsection (2) of this section.

25 (c)(i) Except as provided in subdivision (1)(c)(ii) of this section,
26 each county shall make arrangements with appropriate facilities inside or
27 outside the county for such purpose and shall pay the cost of the
28 emergency protective custody of persons from such county in such
29 facilities.

30 (ii) For a subject domiciled within Indian country in Nebraska for
31 whom emergency protective custody is initiated under tribal law, the

1 tribe shall make arrangements with appropriate facilities inside or
2 outside the tribe for such purpose and shall make arrangements for
3 payment of the cost of the emergency protective custody of persons from
4 such tribe in such facilities.

5 (d) A mental health professional who has probable cause to believe
6 that a person is mentally ill and dangerous or a dangerous sex offender
7 may cause such person to be taken into custody and shall have a limited
8 privilege to hold such person until a law enforcement officer or other
9 authorized person arrives to take custody of such person.

10 (2)(a) For purposes of this subsection, convicted sex offender means
11 a person with a prior conviction for an offense listed in section
12 29-4003.

13 (b) A person taken into emergency protective custody under this
14 section who is not a convicted sex offender shall be admitted to an
15 appropriate and available medical facility, except that such person may
16 instead be admitted to a jail with an available mental health bed under
17 the Regional Mental Health Expansion Pilot Program Act until an
18 appropriate medical facility is available unless such person has a prior
19 conviction for a sex offense listed in section 29-4003.

20 (c) ~~(b)~~ A person taken into emergency protective custody under this
21 section who is not a convicted sex offender ~~has a prior conviction for a~~
22 ~~sex offense listed in section 29-4003~~ shall be admitted to a jail or
23 Department of Correctional Services facility unless a medical or
24 psychiatric emergency exists for which treatment at a medical facility is
25 required. The person in emergency protective custody shall remain at the
26 medical facility until the medical or psychiatric emergency has passed
27 and it is safe to transport such person, at which time the person shall
28 be transferred to an available jail or Department of Correctional
29 Services facility.

30 (3)(a) Except as provided in subdivision (3)(b) of this section,
31 upon admission to a facility or jail of a person taken into emergency

1 protective custody by a law enforcement officer under this section, such
2 officer shall execute a written certificate prescribed and provided by
3 the Department of Health and Human Services. The certificate shall allege
4 the officer's belief that the person in custody is mentally ill and
5 dangerous or a dangerous sex offender and shall contain a summary of the
6 person's behavior supporting such allegations. A copy of such certificate
7 shall be immediately forwarded to the county attorney.

8 (b) In the case of a subject domiciled within Indian country who is
9 taken into emergency protective custody by a law enforcement officer
10 under tribal law, upon admission to a facility or jail, such officer
11 shall execute written documentation in a format provided by the tribe. At
12 a minimum, such documentation shall clearly identify the subject,
13 identify the relevant tribe, allege the officer's belief that the person
14 in custody is mentally ill and dangerous or a dangerous sex offender
15 under tribal law, and contain a summary of the subject's behavior
16 supporting such allegations. A copy of such documentation shall be
17 immediately forwarded to the appropriate tribal prosecutor or tribal
18 official.

19 ~~(4)(a)~~ (4) The administrator of the facility or jail shall have such
20 person evaluated by a mental health professional as soon as reasonably
21 possible but not later than thirty-six hours after admission. The mental
22 health professional shall not be the mental health professional who
23 causes such person to be taken into custody under this section and shall
24 not be a member or alternate member of the mental health board that will
25 preside over any hearing under the Nebraska Mental Health Commitment Act
26 or the Sex Offender Commitment Act with respect to such person. The
27 evaluation may be conducted by videoconferencing if the mental health
28 professional thinks it appropriate under the circumstances.

29 (b) A person shall be released from emergency protective custody
30 after completion of such evaluation unless the mental health professional
31 determines, in his or her clinical opinion, that such person is mentally

1 ill and dangerous or a dangerous sex offender. In the case of a subject
2 domiciled within Indian country who is taken into emergency protective
3 custody under tribal law, the mental health professional shall notify an
4 appropriate tribal prosecutor or official of such release.

5 **Sec. 13.** Section 71-920, Revised Statutes Cumulative Supplement,
6 2024, is amended to read:

7 71-920 (1) Except as provided in subsection (3) of this section, a
8 mental health professional who, upon evaluation of a person admitted for
9 emergency protective custody under section 71-919, determines that such
10 person is mentally ill and dangerous shall execute a written certificate
11 as provided in subsection (2) of this section not later than twenty-four
12 hours after the completion of such evaluation. A copy of such certificate
13 shall be immediately forwarded to the county attorney.

14 (2) The certificate shall be in writing and shall include the
15 following information:

16 (a) The subject's name and address, if known;

17 (b) The name and address of the subject's spouse, legal counsel,
18 guardian or conservator, and next-of-kin, if known;

19 (c) The name and address of anyone providing psychiatric or other
20 care or treatment to the subject, if known;

21 (d) The name and address of any other person who may have knowledge
22 of the subject's mental illness or substance dependence who may be called
23 as a witness at a mental health board hearing with respect to the
24 subject, if known;

25 (e) The name and address of the ~~medical~~ facility or jail in which
26 the subject is being held for emergency protective custody and
27 evaluation;

28 (f) The name and work address of the certifying mental health
29 professional;

30 (g) A statement by the certifying mental health professional that he
31 or she has evaluated the subject since the subject was admitted for

1 emergency protective custody and evaluation; and

2 (h) A statement by the certifying mental health professional that,
3 in his or her clinical opinion, the subject is mentally ill and dangerous
4 and the clinical basis for such opinion.

5 (3) In the case of a subject domiciled within Indian country who is
6 taken into emergency protective custody by a law enforcement officer
7 under tribal law, a mental health professional who, upon evaluation of
8 such person, determines that such person is mentally ill and dangerous
9 shall execute appropriate written documentation in a format provided by
10 the tribe not later than twenty-four hours after the completion of such
11 evaluation. A copy of such certificate shall be immediately forwarded to
12 the person designated by the tribe.

13 **Sec. 14.** Section 71-922, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 71-922 (1) Mental health board proceedings shall be deemed to have
16 commenced upon the earlier of (a) the filing of a petition under section
17 71-921 or (b) notification by the county attorney to the law enforcement
18 officer who took the subject into emergency protective custody under
19 section 71-920 or the administrator of the ~~treatment center or medical~~
20 facility or jail having charge of the subject of his or her intention to
21 file such petition. The county attorney shall file such petition as soon
22 as reasonably practicable after such notification.

23 (2) A petition filed by the county attorney under section 71-921 may
24 contain a request for the emergency protective custody and evaluation of
25 the subject prior to commencement of a mental health board hearing
26 pursuant to such petition with respect to the subject. Upon receipt of
27 such request and upon a finding of probable cause to believe that the
28 subject is mentally ill and dangerous as alleged in the petition, the
29 court or chairperson of the mental health board may issue a warrant
30 directing the sheriff to take custody of the subject. If the subject is
31 already in emergency protective custody under a certificate filed under

1 section 71-919, a copy of such certificate shall be filed with the
2 petition. The subject in such custody shall be held in the nearest
3 appropriate and available medical facility and shall not be placed in a
4 jail or other correctional facility except as required or authorized by
5 subsection (2) of section 71-919. Each county shall make arrangements
6 with appropriate medical facilities inside or outside the county for such
7 purpose and shall pay the cost of the emergency protective custody of
8 persons from such county in such facilities.

9 (3) The petition and all subsequent pleadings and filings in the
10 case shall be entitled In the Interest of, Alleged to be
11 Mentally Ill and Dangerous. The county attorney may dismiss the petition
12 at any time prior to the commencement of the hearing of the mental health
13 board under section 71-924, and upon such motion by the county attorney,
14 the mental health board shall dismiss the petition.

15 **Sec. 15.** Section 71-924, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 71-924 (1) A hearing shall be held by the mental health board to
18 determine whether there is clear and convincing evidence that the subject
19 is mentally ill and dangerous as alleged in the petition.

20 (2) At the commencement of the hearing, the board shall inquire
21 whether the subject has received a copy of the petition and list of
22 rights accorded him or her by sections 71-943 to 71-960 and whether he or
23 she has read and understood them. The board shall explain to the subject
24 any part of the petition or list of rights which he or she has not read
25 or understood. The board shall inquire of the subject whether he or she
26 admits or denies the allegations of the petition. If the subject admits
27 the allegations, the board shall proceed to enter a treatment order
28 pursuant to section 71-925. If the subject denies the allegations of the
29 petition, the board shall proceed with a hearing on the merits of the
30 petition.

31 (3) A hearing before the mental health board under this section may

1 be conducted by videoconferencing.

2 **Sec. 16.** Section 71-926, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

4 71-926 (1) At the conclusion of a mental health board hearing under
5 section 71-924 and prior to the entry of a treatment order by the board
6 under section 71-925, the board may (a) order that the subject be
7 retained in custody until the entry of such order and the subject may be
8 admitted for treatment pursuant to such order or (b) order the subject
9 released from custody under such conditions as the board deems necessary
10 and appropriate to prevent the harm described in section 71-908 and to
11 assure the subject's appearance at a later disposition hearing by the
12 board. A subject shall be retained in custody under this section at the
13 nearest appropriate and available medical facility and shall not be
14 placed in a jail or other correctional facility except as required or
15 authorized by subsection (2) of section 71-919. Each county shall make
16 arrangements with appropriate medical facilities inside or outside the
17 county for such purpose and shall pay the cost of the emergency
18 protective custody of persons from such county in such facilities.

19 (2) A subject who has been ordered to receive inpatient or
20 outpatient treatment by a mental health board may be provided treatment
21 while being retained in emergency protective custody and pending
22 admission of the subject for treatment pursuant to such order.

23 (3)(a) In the case of a subject domiciled within Indian country who
24 is taken into emergency protective custody by a law enforcement officer
25 under tribal law, at the conclusion of a mental health hearing under
26 tribal law and prior to entry of a treatment order by the tribal court,
27 the tribal court may order that the subject be:

28 (i) Retained in custody until entry of such order and the subject
29 may be admitted for treatment pursuant to such order; or

30 (ii) Released from custody under such conditions as the tribal court
31 deems necessary and appropriate to prevent harm comparable to that

1 described in section 71-908 or the equivalent under tribal law and to
2 assure the subject's appearance at a later disposition hearing. A subject
3 shall be retained in custody under this section at the nearest
4 appropriate and available medical facility and shall not be placed in a
5 jail or other correctional facility except as required or authorized by
6 subsection (2) of section 71-919.

7 (b) Each tribe shall make arrangements with appropriate medical
8 facilities inside or outside the tribe for such purpose and shall make
9 arrangements for payment of the cost of the emergency protective custody
10 of persons from such tribe in such facilities.

11 (c) A subject who has been ordered to receive inpatient or
12 outpatient treatment pursuant to tribal law may be provided treatment
13 while being retained in emergency protective custody and pending
14 admission of the subject for treatment pursuant to such order.

15 **Sec. 17.** Section 71-939, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 71-939 (1)(a) When any person receiving treatment at a treatment
18 facility or program for persons with mental illness or substance
19 dependence pursuant to an order of a court or mental health board is
20 absent without authorization from such treatment facility or program, the
21 administrator or program director of such treatment facility or program
22 shall immediately notify the Nebraska State Patrol and the court or clerk
23 of the mental health board of the judicial district from which such
24 person was committed.

25 (b) The clerk shall issue the warrant of the board directed to the
26 sheriff of the county for the arrest and detention of such person. Such
27 warrant may be executed by the sheriff or any other peace officer.

28 (2)(a) When any person receiving treatment at a treatment facility
29 or program for persons with mental illness or substance dependence
30 pursuant to an order of a tribal court as provided in section 71-964 is
31 absent without authorization from such treatment facility or program, the

1 administrator or program director of such treatment facility or program
2 shall immediately notify the Nebraska State Patrol and the appropriate
3 tribal prosecutor or official.

4 (b) The appropriate tribal official may issue a warrant directed to
5 a peace officer or sheriff of any county for the arrest and detention of
6 such person. Such warrant may be executed by the sheriff or any other
7 peace officer.

8 (3) The notification required by subdivision (1)(a) or (2)(a) of
9 this section shall include the person's name and description and a
10 determination by a psychiatrist, clinical director, administrator, or
11 program director as to whether the person is believed to be currently
12 dangerous to others.

13 (4) Pending the issuance of such warrant, any peace officer may
14 seize and detain such person when the peace officer has probable cause to
15 believe that the person is reported to be absent without authorization as
16 described in this section. Such person shall be returned to the treatment
17 facility or program or shall be taken to a facility or jail as described
18 in section 71-919 until he or she can be returned to such treatment
19 facility or program.

20 **Sec. 18.** Section 71-941, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 71-941 (1) A person arrested upon a warrant pursuant to section
23 71-940 shall not be delivered to a demanding state until he or she is
24 notified of the demand for his or her surrender and has had an
25 opportunity to apply for a writ of habeas corpus. If an application is
26 filed, notice of the time and place for hearing on the writ shall be
27 given to the county attorney of the county where the arrest was made. The
28 person arrested shall have the right to counsel and the right to have
29 counsel appointed for him or her if the person is indigent. Pending the
30 determination of the court upon the application for the writ, the person
31 detained shall be maintained in a suitable facility or jail as described

1 in section 71-919 or a hospital for persons with mental illness.

2 (2) At a hearing on a writ of habeas corpus, the State of Nebraska
3 shall show that there is probable cause to believe that (a) such person
4 is absent without authorization from a treatment facility or program for
5 persons with mental illness or substance dependence to which he or she
6 was committed located in the demanding state, (b) the demanding state has
7 reason to believe that such person is currently dangerous to himself,
8 herself, or others, and (c) the demanding state is willing to accept the
9 person back for further treatment.

10 **Sec. 19.** Section 71-951, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 71-951 All mental health board hearings under the Nebraska Mental
13 Health Commitment Act shall be closed to the public except at the request
14 of the subject and shall be held in a courtroom or at any convenient and
15 suitable place designated by the mental health board. The board shall
16 have the right to conduct the proceeding where the subject is currently
17 residing if the subject is unable to travel. Any hearing before the
18 mental health board may be conducted by videoconferencing.

19 **Sec. 20.** Section 71-952, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 71-952 A subject shall appear personally or by videoconferencing and
22 be afforded the opportunity to testify in his or her own behalf and to
23 present witnesses and tangible evidence in defending against the petition
24 at the hearing.

25 **Sec. 21.** Section 71-954, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-954 (1) Except as provided in subsection (2) of this section, a A
28 subject shall have the right at a hearing held under the Nebraska Mental
29 Health Commitment Act or the Sex Offender Commitment Act to confront and
30 cross-examine adverse witnesses and evidence equivalent to the rights of
31 confrontation granted by Amendments VI and XIV of the United States

1 Constitution and Article I, section 11, of the Constitution of Nebraska.

2 (2) This section does not prohibit a mental health board from
3 conducting a hearing using videoconferencing.

4 **Sec. 22.** Section 71-958, Revised Statutes Cumulative Supplement,
5 2024, is amended to read:

6 71-958 Any qualified mental health professional, upon being
7 authorized by the administrator of the ~~treatment~~ facility or jail having
8 custody of the subject, may provide appropriate medical treatment for the
9 subject while in custody, except that a subject shall not be subjected to
10 such quantities of medication or other treatment within such period of
11 time prior to any hearing held under the Nebraska Mental Health
12 Commitment Act or the Sex Offender Commitment Act or, for a subject who
13 is domiciled in Indian country and committed for treatment as provided in
14 section 71-964, a hearing held under the equivalent tribal law, as will
15 substantially impair his or her ability to assist in his or her defense
16 at such hearing.

17 **Sec. 23.** Section 71-1203, Revised Statutes Cumulative Supplement,
18 2024, is amended to read:

19 71-1203 For purposes of the Sex Offender Commitment Act:

20 (1) The definitions found in sections 71-904.02, 71-905, 71-906,
21 71-907, 71-910, 71-911, 71-914.01, 71-914.02, and 83-174.01 and sections
22 9 and 10 of this act apply;

23 (2) Administrator means the administrator or other chief
24 administrative officer of a treatment facility, medical facility, jail,
25 or Department of Correctional Services facility or his or her designee;

26 (3) Outpatient treatment means treatment ordered by a mental health
27 board directing a subject to comply with specified outpatient treatment
28 requirements, including, but not limited to, (a) taking prescribed
29 medication, (b) reporting to a mental health professional or treatment
30 facility for treatment or for monitoring of the subject's condition, or
31 (c) participating in individual or group therapy or educational,

1 rehabilitation, residential, or vocational programs;

2 (4)(a) Subject means any person concerning whom (i) a certificate
3 has been filed under section 71-1204, (ii) a certificate has been filed
4 under section 71-919 and such person is held pursuant to subdivision (2)
5 (b) of section 71-919, or (iii) a petition has been filed under the Sex
6 Offender Commitment Act.

7 (b) Subject also includes a person who is a member of a tribe or
8 eligible for membership in a tribe, who is domiciled within Indian
9 country in Nebraska, and concerning whom sex offender involuntary
10 commitment or emergency protective custody proceedings have been
11 initiated under tribal law. Subject does not include any person under
12 eighteen years of age unless such person is an emancipated minor; and

13 (5) Treatment facility means a facility which provides services for
14 persons who are dangerous sex offenders.

15 **Sec. 24.** Section 71-1204, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 71-1204 (1) Except as provided in subsection (3) of this section, a
18 mental health professional who, upon evaluation of a person admitted for
19 emergency protective custody under section 71-919, determines that such
20 person is a dangerous sex offender shall execute a written certificate as
21 provided in subsection (2) of this section not later than twenty-four
22 hours after the completion of such evaluation. A copy of such certificate
23 shall be immediately forwarded to the county attorney.

24 (2) The certificate shall be in writing and shall include the
25 following information:

26 (a) The subject's name and address, if known;

27 (b) The name and address of the subject's spouse, legal counsel,
28 guardian or conservator, and next of kin, if known;

29 (c) The name and address of anyone providing psychiatric or other
30 care or treatment to the subject, if known;

31 (d) The name and address of any other person who may have knowledge

1 of the subject's mental illness or personality disorder who may be called
2 as a witness at a mental health board hearing with respect to the
3 subject, if known;

4 (e) The name and address of the ~~medical~~ facility or jail in which
5 the subject is being held for emergency protective custody and
6 evaluation;

7 (f) The name and work address of the certifying mental health
8 professional;

9 (g) A statement by the certifying mental health professional that he
10 or she has evaluated the subject since the subject was admitted for
11 emergency protective custody and evaluation; and

12 (h) A statement by the certifying mental health professional that,
13 in his or her clinical opinion, the subject is a dangerous sex offender
14 and the clinical basis for such opinion.

15 (3) In the case of a subject domiciled within Indian country who is
16 taken into emergency protective custody by a law enforcement officer
17 under tribal law, a mental health professional who, upon evaluation of
18 such person, determines that such person is a dangerous sex offender
19 shall execute appropriate written documentation in a format provided by
20 the tribe not later than twenty-four hours after the completion of such
21 evaluation. A copy of such certificate shall be immediately forwarded to
22 the person designated by the tribe.

23 **Sec. 25.** Section 71-1206, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 71-1206 (1) Mental health board proceedings shall be deemed to have
26 commenced upon the earlier of (a) the filing of a petition under section
27 71-1205 or (b) notification by the county attorney to the law enforcement
28 officer who took the subject into emergency protective custody under
29 section 71-919 or the administrator of the ~~treatment~~ facility or jail
30 having charge of the subject of the intention of the county attorney to
31 file such petition. The county attorney shall file such petition as soon

1 as reasonably practicable after such notification.

2 (2) A petition filed by the county attorney under section 71-1205
3 may contain a request for the emergency protective custody and evaluation
4 of the subject prior to commencement of a mental health board hearing
5 pursuant to such petition with respect to the subject. Upon receipt of
6 such request and upon a finding of probable cause to believe that the
7 subject is a dangerous sex offender as alleged in the petition, the court
8 or chairperson of the mental health board may issue a warrant directing
9 the sheriff to take custody of the subject. If the subject is already in
10 emergency protective custody under a certificate filed under section
11 71-919, a copy of such certificate shall be filed with the petition. The
12 subject in such custody, including pursuant to tribal law as provided in
13 section 71-1226.01, shall be held in an appropriate and available medical
14 facility, jail, or Department of Correctional Services facility. A
15 dangerous sex offender shall not be admitted to a medical facility for
16 emergency protective custody unless a medical or psychiatric emergency
17 exists requiring treatment not available at a jail or correctional
18 facility.

19 (3)(a) Except as provided in subdivision (3)(b) of this section,
20 each county shall make arrangements with appropriate facilities inside or
21 outside the county for such purpose and shall pay the cost of the
22 emergency protective custody of persons from such county in such
23 facilities.

24 (b) For a subject domiciled within Indian country in Nebraska for
25 whom emergency protective custody is initiated under tribal law, the
26 tribe shall make arrangements with appropriate facilities inside or
27 outside the tribe for such purpose and shall make arrangements for the
28 payment of the cost of the emergency protective custody of persons from
29 such tribe in such facilities.

30 (4) The petition and all subsequent pleadings and filings in the
31 case shall be entitled In the Interest of , Alleged to be a

1 Dangerous Sex Offender. The county attorney may dismiss the petition at
2 any time prior to the commencement of the hearing of the mental health
3 board under section 71-1208, and upon such motion by the county attorney,
4 the mental health board shall dismiss the petition.

5 **Sec. 26.** Section 71-1208, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 71-1208 (1) A hearing shall be held by the mental health board to
8 determine whether there is clear and convincing evidence that the subject
9 is a dangerous sex offender as alleged in the petition.

10 (2) At the commencement of the hearing, the board shall inquire
11 whether the subject has received a copy of the petition and list of
12 rights accorded him or her by sections 71-943 to 71-960 and whether he or
13 she has read and understood them. The board shall explain to the subject
14 any part of the petition or list of rights which he or she has not read
15 or understood. The board shall inquire of the subject whether he or she
16 admits or denies the allegations of the petition. If the subject admits
17 the allegations, the board shall proceed to enter a treatment order
18 pursuant to section 71-1209. If the subject denies the allegations of the
19 petition, the board shall proceed with a hearing on the merits of the
20 petition.

21 (3) A hearing before the mental health board under this section may
22 be conducted by videoconferencing.

23 **Sec. 27.** Section 71-1223, Revised Statutes Cumulative Supplement,
24 2024, is amended to read:

25 71-1223 (1)(a) When any person receiving treatment at a treatment
26 facility or program for dangerous sex offenders pursuant to an order of a
27 court or mental health board is absent without authorization from such
28 treatment facility or program, the administrator or program director of
29 such treatment facility or program shall immediately notify the Nebraska
30 State Patrol and the court or clerk of the mental health board of the
31 judicial district from which such person was committed.

1 (b) The clerk shall issue the warrant of the board directed to the
2 sheriff of the county for the arrest and detention of such person. Such
3 warrant may be executed by the sheriff or any other peace officer.

4 (2)(a) When any person receiving treatment at a treatment facility
5 or program for persons with mental illness pursuant to an order of a
6 tribal court as provided in section 71-1226.01 is absent without
7 authorization from such treatment facility or program, the administrator
8 or program director of such treatment facility or program shall
9 immediately notify the Nebraska State Patrol and the appropriate tribal
10 prosecutor or official.

11 (b) The appropriate tribal official may issue a warrant directed to
12 a peace officer or sheriff of any county for the arrest and detention of
13 such person. Such warrant may be executed by the sheriff or any other
14 peace officer.

15 (3) The notification required by subdivision (1)(a) or (2)(a) of
16 this section shall include the person's name and description and a
17 determination by a psychiatrist, clinical director, administrator, or
18 program director as to whether the person is believed to be currently
19 dangerous to others.

20 (4) Pending the issuance of such warrant, any peace officer may
21 seize and detain such person when the peace officer has probable cause to
22 believe that the person is reported to be absent without authorization as
23 described in this section. Such person shall be returned to the treatment
24 facility or program or shall be taken to a facility or jail as described
25 in section 71-919 until he or she can be returned to such treatment
26 facility or program.

27 **Sec. 28.** Original sections 71-904, 71-915, 71-922, 71-924, 71-941,
28 71-951, 71-952, 71-954, and 71-1208, Reissue Revised Statutes of
29 Nebraska, and sections 71-901, 71-903, 71-919, 71-920, 71-926, 71-939,
30 71-958, 71-1203, 71-1204, 71-1206, and 71-1223, Revised Statutes
31 Cumulative Supplement, 2024, are repealed.