

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1247

Introduced by Pansing Brooks, 28; Brewer, 43.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to civil commitment; to amend sections 71-901,
2 71-903, 71-910, 71-912, 71-919, 71-920, 71-926, 71-929, 71-1201,
3 71-1203, 71-1204, 71-1206, 71-1210, 71-1213, 83-338, 83-372, 83-374,
4 83-376, and 83-380, Reissue Revised Statutes of Nebraska, and
5 section 83-364, Revised Statutes Supplement, 2021; to provide for
6 recognition of tribal mental health and dangerous sex offender
7 commitment orders as prescribed; to provide for tribal law
8 enforcement officers to take a subject into emergency protective
9 custody; to provide for transportation of and commitment of persons
10 committed under tribal law and for payment of related costs; to
11 define and redefine terms; to harmonize provisions; and to repeal
12 the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-901, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 71-901 Sections 71-901 to 71-963 and sections 3, 6, and 8 of this
4 act shall be known and may be cited as the Nebraska Mental Health
5 Commitment Act.

6 Sec. 2. Section 71-903, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 71-903 For purposes of the Nebraska Mental Health Commitment Act,
9 unless the context otherwise requires, the definitions found in sections
10 71-904 to 71-914 and sections 3 and 6 of this act shall apply.

11 Sec. 3. Indian country has the same meaning as in 18 U.S.C. 1151,
12 as such section existed on January 1, 2022.

13 Sec. 4. Section 71-910, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 71-910 (1) Peace officer or law enforcement officer means a
16 sheriff, a jailer, a marshal, a police officer, or an officer of the
17 Nebraska State Patrol.

18 (2) Peace officer or law enforcement officer includes a member of a
19 tribal police department or federal law enforcement officer duly
20 authorized to assert law enforcement powers within Indian country in the
21 State of Nebraska.

22 Sec. 5. Section 71-912, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-912 (1) Subject means any person concerning whom a certificate
25 or petition has been filed under the Nebraska Mental Health Commitment
26 Act.

27 (2) Subject also includes a person residing within Indian country
28 concerning whom mental health involuntary commitment or emergency
29 protective custody proceedings have been initiated under tribal law.

30 (3) Subject does not include any person under eighteen years of age
31 unless such person is an emancipated minor.

1 Sec. 6. Tribe or tribal means an Indian tribe or band, or Alaskan
2 Native village, which is recognized by federal law or formally
3 acknowledged by the state.

4 Sec. 7. Section 71-919, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 71-919 (1)(a) (1) A law enforcement officer who has probable cause
7 to believe that a person is mentally ill and dangerous or a dangerous sex
8 offender and that the harm described in section 71-908 or subdivision (1)
9 of section 83-174.01 is likely to occur before mental health board
10 proceedings under the Nebraska Mental Health Commitment Act or the Sex
11 Offender Commitment Act may be initiated to obtain custody of the person
12 may take a such person into emergency protective custody, cause him or
13 her to be taken into emergency protective custody, or continue his or her
14 custody if he or she is already in custody if the officer has probable
15 cause to believe: -

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

22 (ii) For a person residing within Indian country, that such person
23 is mentally ill and dangerous or a dangerous sex offender under tribal
24 law and that harm comparable to that described in section 71-908 or
25 subdivision (1) of section 83-174.01 under the equivalent tribal law is
26 likely to occur before mental health board proceedings under tribal law
27 may be initiated to obtain custody of the person.

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

31 (c)(i) Except as provided in subdivision (1)(d)(ii) of this section,

1 ~~each~~ Each county shall make arrangements with appropriate facilities
2 inside or outside the county for such purpose and shall pay the cost of
3 the emergency protective custody of persons from such county in such
4 facilities.

5 (ii) For a subject residing within Indian country for whom emergency
6 protective custody is initiated under tribal law, the tribe shall make
7 arrangements with appropriate facilities inside or outside the tribe for
8 such purpose and shall pay the cost of the emergency protective custody
9 of persons from such tribe in such facilities.

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

15 (2)(a) A person taken into emergency protective custody under this
16 section shall be admitted to an appropriate and available medical
17 facility unless such person has a prior conviction for a sex offense
18 listed in section 29-4003.

19 (b) A person taken into emergency protective custody under this
20 section who has a prior conviction for a sex offense listed in section
21 29-4003 shall be admitted to a jail or Department of Correctional
22 Services facility unless a medical or psychiatric emergency exists for
23 which treatment at a medical facility is required. The person in
24 emergency protective custody shall remain at the medical facility until
25 the medical or psychiatric emergency has passed and it is safe to
26 transport such person, at which time the person shall be transferred to
27 an available jail or Department of Correctional Services facility.

28 (3)(a) Except as provided in subdivision (3)(b) of this section,
29 upon (3) Upon admission to a facility of a person taken into emergency
30 protective custody by a law enforcement officer under this section, such
31 officer shall execute a written certificate prescribed and provided by

1 the Department of Health and Human Services. The certificate shall allege
2 the officer's belief that the person in custody is mentally ill and
3 dangerous or a dangerous sex offender and shall contain a summary of the
4 person's behavior supporting such allegations. A copy of such certificate
5 shall be immediately forwarded to the county attorney.

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

16 (4) The administrator of the facility shall have such person
17 evaluated by a mental health professional as soon as reasonably possible
18 but not later than thirty-six hours after admission. The mental health
19 professional shall not be the mental health professional who causes such
20 person to be taken into custody under this section and shall not be a
21 member or alternate member of the mental health board that will preside
22 over any hearing under the Nebraska Mental Health Commitment Act or the
23 Sex Offender Commitment Act with respect to such person. A person shall
24 be released from emergency protective custody after completion of such
25 evaluation unless the mental health professional determines, in his or
26 her clinical opinion, that such person is mentally ill and dangerous or a
27 dangerous sex offender. In the case of a subject residing within Indian
28 country who is taken into emergency protective custody under tribal law,
29 the mental health professional shall notify an appropriate tribal
30 prosecutor or tribal court official of such release.

31 Sec. 8. (1) With respect to a subject living in Indian country, the

1 State of Nebraska recognizes tribal hold orders, commitment orders, and
2 emergency protective custody orders to the same extent as those initiated
3 by any county in the state or as otherwise provided in the Nebraska
4 Mental Health Commitment Act. This recognition applies for purposes of
5 commitment to and acceptance for treatment at a treatment facility,
6 including, but not limited to, state hospitals for the mentally ill
7 designated in section 83-305, and for necessary related purposes.

8 (2) If the applicable tribunal or court of a tribe finds that a
9 subject living within Indian country is mentally ill and dangerous
10 pursuant to tribal law, the tribunal or court may order the subject
11 committed to the custody of the Department of Health and Human Services
12 to receive inpatient treatment. The department shall secure placement of
13 the subject in an appropriate inpatient treatment facility to receive
14 such treatment. The tribunal or court shall issue a warrant authorizing
15 the administrator of such treatment facility to receive and keep the
16 subject as a patient. The warrant shall state the findings of the
17 tribunal or court and the legal settlement of the subject, if known, or
18 any available information relating thereto. Such warrant shall shield
19 every official and employee of the treatment facility against all
20 liability to prosecution of any kind on account of the reception and
21 detention of the subject if the detention is otherwise in accordance with
22 tribal law and policies of the treatment facility.

23 Sec. 9. Section 71-920, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 71-920 (1) Except as provided in subsection (3) of this section, a A
26 mental health professional who, upon evaluation of a person admitted for
27 emergency protective custody under section 71-919, determines that such
28 person is mentally ill and dangerous shall execute a written certificate
29 as provided in subsection (2) of this section not later than twenty-four
30 hours after the completion of such evaluation. A copy of such certificate
31 shall be immediately forwarded to the county attorney.

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

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

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

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

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

12 (e) The name and address of the medical facility in which the
13 subject is being held for emergency protective custody and evaluation;

14 (f) The name and work address of the certifying mental health
15 professional;

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

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

22 (3) In the case of a subject residing within Indian country who is
23 taken into emergency protective custody by a law enforcement officer
24 under tribal law, a mental health professional who, upon evaluation of
25 such person, determines that such person is mentally ill and dangerous
26 shall execute appropriate written documentation provided by the tribe not
27 later than twenty-four hours after the completion of such evaluation. A
28 copy of such certificate shall be immediately forwarded to the person
29 designated by the tribe.

30 Sec. 10. Section 71-926, Reissue Revised Statutes of Nebraska, is
31 amended to read:

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

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

19 (3)(a) In the case of a subject residing within Indian country who
20 is taken into emergency protective custody by a law enforcement officer
21 under tribal law, at the conclusion of a mental health hearing under
22 tribal law and prior to entry of a treatment order by the appropriate
23 court or tribunal of the tribe, the tribunal or court may (i) order that
24 the subject be continued to be retained in custody until entry of such
25 order and the subject may be admitted for treatment pursuant to such
26 order or (ii) order the subject released from custody under such
27 conditions as the tribunal or court deems necessary and appropriate to
28 prevent the harm described in section 71-908 or the equivalent under
29 tribal law and to assure the subject's appearance at a later disposition
30 hearing. A subject shall be retained in custody under this section at the
31 nearest appropriate and available medical facility and shall not be

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

5 (b) A subject who has been ordered to receive inpatient or
6 outpatient treatment pursuant to tribal law may be provided treatment
7 while being retained in emergency protective custody and pending
8 admission of the subject for treatment pursuant to such order.

9 Sec. 11. Section 71-929, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 71-929 (1) If a mental health board issues a warrant for the
12 admission or return of a subject to a treatment facility and funds to pay
13 the expenses thereof are needed in advance, the board shall estimate the
14 probable expense of conveying the subject to the treatment facility,
15 including the cost of any assistance that might be required, and shall
16 submit such estimate to the county clerk of the county in which such
17 person is located. The county clerk shall certify the estimate and shall
18 issue an order on the county treasurer in favor of the sheriff or other
19 person entrusted with the execution of the warrant.

20 (2) The sheriff or other person executing the warrant shall include
21 in his or her return a statement of expenses actually incurred, including
22 any excess or deficiency. Any excess from the amount advanced for such
23 expenses under subsection (1) of this section shall be paid to the county
24 treasurer, taking his or her receipt therefor, and any deficiency shall
25 be obtained by filing a claim with the county board. If no funds are
26 advanced, the expenses shall be certified on the warrant and paid when
27 returned.

28 (3) The sheriff shall be reimbursed for mileage at the rate provided
29 in section 33-117 for conveying a subject to a treatment facility under
30 this section. For other services performed under the Nebraska Mental
31 Health Commitment Act, the sheriff shall receive the same fees as for

1 like services in other cases.

2 (4) Except as provided in subsection (5) of this section, all All
3 compensation and expenses provided for in this section shall be allowed
4 and paid out of the treasury of the county by the county board.

5 (5)(a) In the case of a subject residing within Indian country who
6 is taken into emergency protective custody under tribal law, sheriffs and
7 other law enforcement officers of the State of Nebraska and its political
8 subdivisions may transport such a subject to a treatment facility,
9 whether inside or outside of Indian country.

10 (b) The tribe shall reimburse the sheriff or law enforcement officer
11 for mileage at the rate provided in section 33-117 for conveying a
12 subject to a treatment facility under this subsection. For other services
13 performed for a tribe under the Nebraska Mental Health Commitment Act or
14 pursuant to a related law of the tribe, the tribe shall reimburse the
15 sheriff or law enforcement officer at a rate comparable to the rate for
16 such services in other cases.

17 Sec. 12. Section 71-1201, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 71-1201 Sections 71-1201 to 71-1226 and section 14 of this act shall
20 be known and may be cited as the Sex Offender Commitment Act.

21 Sec. 13. Section 71-1203, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 71-1203 For purposes of the Sex Offender Commitment Act:

24 (1) The definitions found in sections 71-905, 71-906, 71-907,
25 71-910, 71-911, and 83-174.01 and sections 3 and 6 of this act apply;

26 (2) Administrator means the administrator or other chief
27 administrative officer of a treatment facility or his or her designee;

28 (3) Outpatient treatment means treatment ordered by a mental health
29 board directing a subject to comply with specified outpatient treatment
30 requirements, including, but not limited to, (a) taking prescribed
31 medication, (b) reporting to a mental health professional or treatment

1 facility for treatment or for monitoring of the subject's condition, or
2 (c) participating in individual or group therapy or educational,
3 rehabilitation, residential, or vocational programs;

4 (4) Subject means any person concerning whom (a) a certificate has
5 been filed under section 71-1204, (b) a certificate has been filed under
6 section 71-919 and such person is held pursuant to subdivision (2)(b) of
7 section 71-919, or (c) a petition has been filed under the Sex Offender
8 Commitment Act. Subject also includes a person residing within Indian
9 country concerning whom dangerous sex offender involuntary commitment or
10 emergency protective custody proceedings have been initiated under tribal
11 law. Subject does not include any person under eighteen years of age
12 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. 14. (1) With respect to a subject living in Indian country,
16 the State of Nebraska recognizes tribal hold orders, commitment orders,
17 and emergency protective custody orders to the same extent as those
18 initiated by any county in the state or as otherwise provided in the Sex
19 Offender Commitment Act. This recognition applies for purposes of
20 commitment to and acceptance for treatment at a treatment facility,
21 including, but not limited to, state hospitals for the mentally ill
22 designated in section 83-305, and for necessary related purposes.

23 (2) If the applicable tribunal or court of a tribe finds a subject
24 living within Indian country to be a dangerous sex offender, the tribunal
25 or court may order the subject committed to the custody of the Department
26 of Health and Human Services to receive inpatient treatment. The
27 department shall secure placement of the subject in an appropriate
28 inpatient treatment facility to receive such treatment. The tribunal or
29 court shall issue a warrant authorizing the administrator of such
30 treatment facility to receive and keep the subject as a patient. The
31 warrant shall state the findings of the tribunal or court and the legal

1 settlement of the subject, if known, or any available information
2 relating thereto. Such warrant shall shield every official and employee
3 of the treatment facility against all liability to prosecution of any
4 kind on account of the reception and detention of the subject if the
5 detention is otherwise in accordance with tribal law and policies of the
6 treatment facility.

7 Sec. 15. Section 71-1204, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 71-1204 (1) Except as provided in subsection (3) of this section, a
10 A mental health professional who, upon evaluation of a person admitted
11 for emergency protective custody under section 71-919, determines that
12 such person is a dangerous sex offender shall execute a written
13 certificate as provided in subsection (2) of this section not later than
14 twenty-four hours after the completion of such evaluation. A copy of such
15 certificate shall be immediately forwarded to the county attorney.

16 (2) The certificate shall be in writing and shall include the
17 following information:

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

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

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

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

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

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

31 (g) A statement by the certifying mental health professional that he

1 or she has evaluated the subject since the subject was admitted for
2 emergency protective custody and evaluation; and

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

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

14 Sec. 16. Section 71-1206, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 71-1206 (1) Mental health board proceedings shall be deemed to have
17 commenced upon the earlier of (a) the filing of a petition under section
18 71-1205 or (b) notification by the county attorney to the law enforcement
19 officer who took the subject into emergency protective custody under
20 section 71-919 or the administrator of the treatment facility having
21 charge of the subject of the intention of the county attorney to file
22 such petition. The county attorney shall file such petition as soon as
23 reasonably practicable after such notification.

24 (2) A petition filed by the county attorney under section 71-1205
25 may contain a request for the emergency protective custody and evaluation
26 of the subject prior to commencement of a mental health board hearing
27 pursuant to such petition with respect to the subject. Upon receipt of
28 such request and upon a finding of probable cause to believe that the
29 subject is a dangerous sex offender as alleged in the petition, the court
30 or chairperson of the mental health board may issue a warrant directing
31 the sheriff to take custody of the subject. If the subject is already in

1 emergency protective custody under a certificate filed under section
2 71-919, a copy of such certificate shall be filed with the petition. The
3 subject in such custody, including pursuant to tribal law, shall be held
4 in an appropriate and available medical facility, jail, or Department of
5 Correctional Services facility. A dangerous sex offender shall not be
6 admitted to a medical facility for emergency protective custody unless a
7 medical or psychiatric emergency exists requiring treatment not available
8 at a jail or correctional facility.

9 (3)(a) Except as provided in subdivision (3)(b) of this section,
10 each ~~Each~~ county shall make arrangements with appropriate facilities
11 inside or outside the county for such purpose and shall pay the cost of
12 the emergency protective custody of persons from such county in such
13 facilities.

14 (b) For a subject residing within Indian country for whom emergency
15 protective custody is initiated under tribal law, the tribe shall make
16 arrangements with appropriate facilities inside or outside the tribe's
17 land for such purpose and shall pay the cost of the emergency protective
18 custody of persons from such tribe in such facilities.

19 (4) (3) The petition and all subsequent pleadings and filings in the
20 case shall be entitled In the Interest of , Alleged to be a
21 Dangerous Sex Offender. The county attorney may dismiss the petition at
22 any time prior to the commencement of the hearing of the mental health
23 board under section 71-1208, and upon such motion by the county attorney,
24 the mental health board shall dismiss the petition.

25 Sec. 17. Section 71-1210, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 71-1210 (1) At the conclusion of a mental health board hearing under
28 section 71-1208 and prior to the entry of a treatment order by the board
29 under section 71-1209, the board may (a) order that the subject be
30 retained in custody until the entry of such order and the subject may be
31 admitted for treatment pursuant to such order or (b) order the subject

1 released from custody under such conditions as the board deems necessary
2 and appropriate to prevent the harm described in subdivision (1) of
3 section 83-174.01 and to assure the subject's appearance at a later
4 disposition hearing by the board. A subject shall be retained in custody
5 under this section at an appropriate and available medical facility,
6 jail, or Department of Correctional Services facility. A dangerous sex
7 offender shall not be admitted to a medical facility for emergency
8 protective custody unless a medical or psychiatric emergency exists
9 requiring treatment not available at a jail or correctional facility.
10 Each county shall make arrangements with appropriate facilities inside or
11 outside the county for such purpose and shall pay the cost of the
12 emergency protective custody of persons from such county in such
13 facilities.

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

18 (3)(a) In the case of a subject residing within Indian country who
19 is taken into emergency protective custody by a law enforcement officer
20 under tribal law, at the conclusion of a mental health hearing under
21 tribal law and prior to entry of a treatment order by the appropriate
22 tribunal or court of the tribe, the tribunal or court may (i) order that
23 the subject be continued to be retained in custody until entry of such
24 order and the subject may be admitted for treatment pursuant to such
25 order or (ii) order the subject released from custody under such
26 conditions as the tribunal or court deems necessary and appropriate to
27 prevent the harm described in subdivision (1) of section 83-174.01 or the
28 equivalent under tribal law and to assure the subject's appearance at a
29 later disposition hearing. A subject shall be retained in custody under
30 this section at an appropriate and available medical facility, jail, or
31 Department of Correctional Services facility. A dangerous sex offender

1 shall not be admitted to a medical facility for emergency protective
2 custody unless a medical or psychiatric emergency exists requiring
3 treatment not available at a jail or correctional facility. Each tribe
4 shall make arrangements with appropriate facilities inside or outside the
5 tribe for such purpose and shall pay the cost of the emergency protective
6 custody of persons from such tribe in such facilities.

7 (b) A subject who has been ordered to receive inpatient or
8 outpatient treatment pursuant to tribal law may be provided treatment
9 while being retained in emergency protective custody and pending
10 admission of the subject for treatment pursuant to such order.

11 Sec. 18. Section 71-1213, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 71-1213 (1) If a mental health board issues a warrant for the
14 admission or return of a subject to a treatment facility and funds to pay
15 the expenses thereof are needed in advance, the board shall estimate the
16 probable expense of conveying the subject to the treatment facility,
17 including the cost of any assistance that might be required, and shall
18 submit such estimate to the county clerk of the county in which such
19 person is located. The county clerk shall certify the estimate and shall
20 issue an order on the county treasurer in favor of the sheriff or other
21 person entrusted with the execution of the warrant.

22 (2) The sheriff or other person executing the warrant shall include
23 in his or her return a statement of expenses actually incurred, including
24 any excess or deficiency. Any excess from the amount advanced for such
25 expenses under subsection (1) of this section shall be paid to the county
26 treasurer, taking his or her receipt therefor, and any deficiency shall
27 be obtained by filing a claim with the county board. If no funds are
28 advanced, the expenses shall be certified on the warrant and paid when
29 returned.

30 (3) The sheriff shall be reimbursed for mileage at the rate provided
31 in section 33-117 for conveying a subject to a treatment facility under

1 this section. For other services performed under the Sex Offender
2 Commitment Act, the sheriff shall receive the same fees as for like
3 services in other cases.

4 (4) Except as provided in subsection (5) of this section, all All
5 compensation and expenses provided for in this section shall be allowed
6 and paid out of the treasury of the county by the county board.

7 (5)(a) In the case of a subject residing within Indian country who
8 is taken into emergency protective custody under tribal law, sheriffs and
9 other law enforcement officers of the State of Nebraska and its political
10 subdivisions may transport such a subject to a treatment facility,
11 whether inside or outside of Indian country.

12 (b) The tribe shall reimburse the sheriff or law enforcement officer
13 for mileage at the rate provided in section 33-117 for conveying a
14 subject to a treatment facility under this subsection. For other services
15 performed for a tribe under the Sex Offender Commitment Act or pursuant
16 to a related law of the tribe, the tribe shall reimburse the sheriff or
17 law enforcement officer at a rate comparable to the rate for such
18 services in other cases.

19 Sec. 19. Section 83-338, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 83-338 If at any time it becomes necessary, for lack of capacity or
22 other cause, to establish priorities for the admission of patients into
23 the state hospitals for the mentally ill, the following priorities for
24 admission shall be recognized: (1) Patients whose care in the state
25 hospital is necessary in order to protect the public health and safety;
26 (2) patients committed by a mental health board under the Nebraska Mental
27 Health Commitment Act or the Sex Offender Commitment Act, ~~or~~ by a
28 district court, or by a tribe as provided in section 8 or 14 of this act;
29 (3) patients who are most likely to be benefited by treatment in the
30 state hospitals, regardless of whether such patients are committed by a
31 mental health board or whether such patients seek voluntary admission to

1 one of the state hospitals; and (4) when cases are equally meritorious,
2 in all other respects, patients who are indigent.

3 Sec. 20. Section 83-364, Revised Statutes Supplement, 2021, is
4 amended to read:

5 83-364 When any person is admitted to a state institution or other
6 inpatient treatment facility pursuant to an order of a mental health
7 board under the Nebraska Mental Health Commitment Act or the Sex Offender
8 Commitment Act, by a tribe as provided in section 8 or 14 of this act, or
9 receives treatment prescribed by such institution or facility following
10 release or without being admitted as a resident patient, the patient and
11 the patient's relatives shall be liable for the cost of the care,
12 support, maintenance, and treatment of such person to the extent and in
13 the manner provided by sections 83-227.01, 83-227.02, 83-350, and 83-363
14 to 83-380. Such sections also shall apply to persons admitted to a state
15 institution as transferees from any state penal institution or youth
16 rehabilitation and treatment center but only after the expiration of the
17 time for which the transferees were originally sentenced or committed.

18 Sec. 21. Section 83-372, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-372 (1) Except as provided in subsection (2) of this section, it
21 ~~It~~ shall be the duty of the county board in each county to make such
22 investigation as the department may require with regard to the ability to
23 pay of any patient or relative of a patient who resides within the
24 county. In making such investigation, the county board shall act in
25 accordance with the rules and regulations of the department and shall
26 promptly submit the required information to the department.

27 (2) For a subject living in Indian country who is committed for
28 treatment as provided in section 8 or 14 of this act, it shall be the
29 duty of the tribe to make such investigation as the department may
30 require with regard to the ability to pay of any patient or relative of a
31 patient who is subject to the jurisdiction of the tribe. In making such

1 investigation, the tribe shall act in accordance with the rules and
2 regulations of the department and shall promptly submit the required
3 information to the department.

4 Sec. 22. Section 83-374, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 83-374 (1) Any patient or relative aggrieved by a determination of
7 ability to pay may request a hearing before the department. The
8 department shall adopt and promulgate rules and regulations to govern the
9 conduct of such hearings. The department may appoint an examiner who
10 shall have power to preside at such hearing, administer oaths, examine
11 witnesses, and take testimony and shall report the same to the
12 department.

13 (2) Except as provided in subsection (3) of this section, such Such
14 hearings shall be held in the county in which the person requesting the
15 hearing resides, if such person so requests, in which event it shall be
16 the duty of the county board to attend such hearing.

17 (3) In the case of a subject living in Indian country who is
18 committed for treatment as provided in section 8 or 14 of this act, such
19 hearings shall be held at a location designated by the tribe, if such
20 person so requests, in which event it shall be the duty of the
21 appropriate tribal officials to attend such hearing. The department shall
22 deliver the decision within sixty days after the conclusion of the
23 hearing.

24 (4) Any patient or relative aggrieved by a decision following a
25 hearing may appeal such decision, and such appeal shall be in accordance
26 with the Administrative Procedure Act.

27 Sec. 23. Section 83-376, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 83-376 (1) Except as provided in subsection (2) of this section,
30 when ~~when~~ the full cost determined to be necessary for the care, support,
31 maintenance, and treatment of any patient is not paid by the patient or

1 his or her relatives within thirty days of receipt of such care, (a) ~~(1)~~
2 the county in which the patient resides shall pay (i) ~~(a)~~ the first
3 fifteen dollars per day of the unpaid cost for each of the first thirty
4 days at the Hastings Regional Center, the Lincoln Regional Center, the
5 Norfolk Regional Center, or other inpatient treatment facility where the
6 patient is receiving inpatient treatment pursuant to an order of a mental
7 health board under the Nebraska Mental Health Commitment Act or the Sex
8 Offender Commitment Act, (ii) ~~(b)~~ the first ten dollars per day of the
9 unpaid cost for each of the first thirty days at the Beatrice State
10 Developmental Center, and (iii) ~~(c)~~ the first three dollars per day of
11 the unpaid costs for each day after the first thirty days at any such
12 institution, (b) ~~(2)~~ the balance of the unpaid cost shall be borne by the
13 state, and (c) ~~(3)~~ the county in which the patient resides shall be
14 credited by the department for amounts collected from such patient or his
15 or her relatives in excess of the portion of such costs borne by the
16 state.

17 (2) In the case of a subject living in Indian country who is
18 committed for treatment as provided in section 8 or 14 of this act, when
19 the full cost determined to be necessary for the care, support,
20 maintenance, and treatment of any patient is not paid by the patient or
21 his or her relatives within thirty days of receipt of such care, the
22 costs shall be apportioned between the tribe and the state pursuant to an
23 agreement between the tribe and the state.

24 Sec. 24. Section 83-380, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 83-380 (1) Within thirty days after June 30, 1971, and each year
27 thereafter, the department shall certify to the Director of
28 Administrative Services all amounts not previously certified due to each
29 state institution from the several counties having patients chargeable
30 thereto. The Director of Administrative Services shall thereupon notify
31 the county clerk of each county of the amount each county owes. The

1 county board shall add to its next levy an amount sufficient to raise the
2 amount certified as due. The county shall pay the amount certified into
3 the state treasury on or before the next June 1 following such
4 certification.

5 (2) Within thirty days after June 30, 2023, and each year
6 thereafter, the department shall certify to the Director of
7 Administrative Services all amounts not previously certified due to each
8 state institution from the several tribes having patients chargeable
9 thereto. The Director of Administrative Services shall thereupon notify
10 the appropriate official of each tribe of the amount each tribe owes. The
11 tribe shall pay the amount certified into the state treasury on or before
12 the next June 1 following such certification.

13 Sec. 25. Original sections 71-901, 71-903, 71-910, 71-912, 71-919,
14 71-920, 71-926, 71-929, 71-1201, 71-1203, 71-1204, 71-1206, 71-1210,
15 71-1213, 83-338, 83-372, 83-374, 83-376, and 83-380, Reissue Revised
16 Statutes of Nebraska, and section 83-364, Revised Statutes Supplement,
17 2021, are repealed.