

ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024
COMMITTEE STATEMENT
LB1288

Hearing Date: Thursday February 01, 2024
Committee On: Judiciary
Introducer: Raybould
One Liner: Provide for recognition of tribal mental health and dangerous sex offender commitment orders and for transportation of and commitment of persons civilly committed under tribal law

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Blood, Bosn, DeBoer, DeKay, Holdcroft, Ibach, McKinney, Wayne
Nay:
Absent:
Present Not Voting:

Testimony:

Proponents:

Kate Wolfe | Senator Jane Raybould
Victoria Kitcheyan
Alonzo Denney
Gwen Vargas Porter
Stephanie Schade
Ramsey Griffin
Kent Rogert

Representing:

Opening Presenter
Winnebago Tribe of Nebraska
Santee Sioux Nations
Omaha Tribe of Nebraska
Twelve Clans Unity Hospital - Winnebago
Omaha Tribe of Nebraska | Chief of Police
Ponca Tribe of Nebraska

Opponents:

Representing:

Neutral:

Tony Green
Judi M. Gaiashkibos

Representing:

Department of Health and Human Services
Nebraska Commission of Indian Affairs

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB1288 would amend the Nebraska Mental Health Commitment Act ("MHCA") and Sex Offender Commitment Act ("SOCA") to authorize tribal courts to enter such orders and facilitate cooperation between tribal, state, and local authorities. These changes largely mirror the existing process used by county mental health boards.

Section 2 would amend section 71-902 to allow tribal courts to enter orders for involuntary custody and mental health treatment.



Section 4 is a new section that defines “Indian country.”

Section 5 would amend section 71-910 to add tribal law enforcement officers and federal law enforcement officers authorized to assert powers by a tribe to the definition of “peace officer” in the MHCA.

Section 6 would amend section 71-912 to add a person domiciled within Indian country and involved in involuntary commitment proceedings in tribal court to the definition of “subject” in the MHCA.

Section 7 is a new section that defines “tribe.”

Section 8 is a new section that defines “tribal court.”

Section 9 would amend section 71-919 to allow tribal law enforcement to take a mentally ill and dangerous person or a dangerous sex offender into emergency protective custody pending commitment proceedings. This section would also be amended to include tribal authorities in requirements for admission and release from a treatment facility and notice to tribal prosecutors.

Section 10 is a new section that provides that the State of Nebraska recognizes tribal hold orders, commitment orders, and emergency protective orders to the same extent as those provided in the MHCA.

Section 11 would amend section 71-920 to require mental health professionals to evaluate a person admitted for emergency protective custody and notify the tribe if such person is found to be mentally ill and dangerous.

Section 12 would amend section 71-926 to provide the specific authority for a tribal court to enter an order for inpatient or outpatient treatment following commitment proceedings.

Section 13 would amend section 71-929 to allow county sheriffs to transport a person taken into emergency protective custody and provide for reimbursement of costs by the tribe.

Section 14 would amend section 71-936 to require treatment facility administrators to notify tribal authorities when a committed person may be safely and properly discharged.

Section 15 would amend section 71-937 to require the tribal court to be notified when a committed person is released by a treatment facility.

Section 16 would amend section 71-939 to require notice to the State Patrol and tribal prosecutor when a committed person is absent from a treatment facility without authorization. A tribal officer would be authorized to issue a warrant.

Section 17 would amend section 71-958 to include a person subject to tribal proceedings in the restriction that such person not be subjected to such quantities of medication prior to hearing that would impair their ability to assist in their defense.

Section 18 would amend section 71-961 to provide that tribal courts with jurisdiction have access to otherwise confidential commitment records of subjects.

The following sections make similar changes to SOCA.

Section 20 would amend section 71-1203 to add a definition of “subject” that includes a person involved in tribal court



proceedings.

Section 21 is a new section that provides that the State of Nebraska represents tribal SOCA orders. This section also requires treatment facilities to provide treatment reports within 60 days of placement and again within six months of admission or prior to discharge.

Section 22 would amend section 71-1204 to require a mental health professional to evaluate a person taken into custody within 24 hours and notify tribal authorities if they believe such person to be a dangerous sex offender.

Section 23 would amend section 71-1206 to provide for the custody of a person believed to be a dangerous sex offender.

Section 24 would amend section 71-1210 to provide the specific authority for a tribal court to enter an order for inpatient or outpatient treatment following SOCA commitment proceedings.

Section 25 would amend section 71-1213 to allow county sheriffs to transport a person taken into emergency protective custody and provide for reimbursement of costs by the tribe.

Section 26 would amend section 71-1220 to require treatment facility administrators to notify tribal authorities when a committed person may be safely and properly discharged.

Section 27 would amend section 71-1221 to require the tribal court to be notified when a committed person is released by a treatment facility.

Section 28 would amend section 71-1223 to require notice to the State Patrol and tribal prosecutor when a committed person is absent from a treatment facility without authorization. A tribal officer would be authorized to issue a warrant.

Section 29 would amend section 83-338 to require state hospitals to include persons subject to tribal commitment orders as priority admissions when such hospitals lack sufficient capacity.

Section 30 would amend section 83-364 to require the tribe to make arrangements for payment to facilities pursuant to tribal commitment orders.

Justin Wayne, Chairperson

