

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 670

Introduced by Krist, 10.

Read first time January 06, 2016

Committee:

- 1 A BILL FOR AN ACT relating to mental health evaluations; to amend section
- 2 71-919, Reissue Revised Statutes of Nebraska, and section 43-254.01,
- 3 Revised Statutes Cumulative Supplement, 2014; to require a hearing
- 4 prior to release for persons taken into custody for mental health
- 5 reasons; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-254.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 43-254.01 (1) Any time a juvenile is temporarily placed at a mental
4 health facility pursuant to subsection (3) of section 43-250 or by a
5 court as a juvenile who is mentally ill and dangerous, a mental health
6 professional as defined in section 71-906 shall evaluate the mental
7 condition of the juvenile as soon as reasonably possible but not later
8 than thirty-six hours after the juvenile's admission, unless the juvenile
9 was evaluated by a mental health professional immediately prior to the
10 juvenile being placed in temporary custody and the temporary custody is
11 based upon the conclusions of that evaluation. The mental health
12 professional who performed the evaluation prior to the temporary custody
13 or immediately after the temporary custody shall, without delay, convey
14 the results of his or her evaluation to the county attorney.

15 (2) If it is the judgment of the mental health professional that the
16 juvenile is not mentally ill and dangerous or that the harm described in
17 section 71-908 is not likely to occur before the matter may be heard by a
18 juvenile court, the mental health professional shall immediately notify
19 the county attorney of that conclusion and the county attorney shall
20 ~~either~~ proceed to hearing before the court within twenty-four hours
21 regarding or order the ~~immediate~~ release of the juvenile from temporary
22 custody. If release is granted, such ~~Such~~ release shall not prevent the
23 county attorney from proceeding on the petition if he or she so chooses.

24 (3) A juvenile taken into temporary protective custody under
25 subsection (3) of section 43-250 shall have the opportunity to proceed to
26 adjudication hearing within seven days unless the matter is continued.
27 Continuances shall be liberally granted at the request of the juvenile,
28 his or her guardian ad litem, attorney, parents, or guardian.
29 Continuances may be granted to permit the juvenile an opportunity to
30 obtain voluntary treatment.

31 Sec. 2. Section 71-919, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 71-919 (1) A law enforcement officer who has probable cause to
3 believe that a person is mentally ill and dangerous or a dangerous sex
4 offender and that the harm described in section 71-908 or subdivision (1)
5 of section 83-174.01 is likely to occur before mental health board
6 proceedings under the Nebraska Mental Health Commitment Act or the Sex
7 Offender Commitment Act may be initiated to obtain custody of the person
8 may take such person into emergency protective custody, cause him or her
9 to be taken into emergency protective custody, or continue his or her
10 custody if he or she is already in custody. Such person shall be admitted
11 to an appropriate and available medical facility, jail, or Department of
12 Correctional Services facility as provided in subsection (2) of this
13 section. Each county shall make arrangements with appropriate facilities
14 inside or outside the county for such purpose and shall pay the cost of
15 the emergency protective custody of persons from such county in such
16 facilities. A mental health professional who has probable cause to
17 believe that a person is mentally ill and dangerous or a dangerous sex
18 offender may cause such person to be taken into custody and shall have a
19 limited privilege to hold such person until a law enforcement officer or
20 other authorized person arrives to take custody of such person.

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

25 (b) A person taken into emergency protective custody under this
26 section who has a prior conviction for a sex offense listed in section
27 29-4003 shall be admitted to a jail or Department of Correctional
28 Services facility unless a medical or psychiatric emergency exists for
29 which treatment at a medical facility is required. The person in
30 emergency protective custody shall remain at the medical facility until
31 the medical or psychiatric emergency has passed and it is safe to

1 transport such person, at which time the person shall be transferred to
2 an available jail or Department of Correctional Services facility.

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

11 (4) The administrator of the facility shall have such person
12 evaluated by a mental health professional as soon as reasonably possible
13 but not later than thirty-six hours after admission. The mental health
14 professional shall not be the mental health professional who causes such
15 person to be taken into custody under this section and shall not be a
16 member or alternate member of the mental health board that will preside
17 over any hearing under the Nebraska Mental Health Commitment Act or the
18 Sex Offender Commitment Act with respect to such person. A person shall
19 not be released from emergency protective custody if after completion of
20 such evaluation unless the mental health professional determines, in his
21 or her clinical opinion, that such person is mentally ill and dangerous
22 or a dangerous sex offender. If it is the judgment of the mental health
23 professional that the person is not mentally ill and dangerous or a
24 dangerous sex offender, the mental health professional shall immediately
25 notify the county attorney of that conclusion and the county attorney
26 shall proceed to hearing before the court within twenty-four hours
27 regarding the release of the person from custody. If release is granted,
28 such release shall not prevent the county attorney from proceeding on a
29 petition filed under section 71-921 or other petition if he or she so
30 chooses.

31 Sec. 3. Original section 71-919, Reissue Revised Statutes of

1 Nebraska, and section 43-254.01, Revised Statutes Cumulative Supplement,
2 2014, are repealed.