

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 988

Introduced by Howard, 9; Gloor, 35; Harr, B., 8; Krist, 10; Lathrop,
12; Mello, 5; Nordquist, 7.

Read first time January 12, 2012

Committee:

A BILL

1 FOR AN ACT relating to medical services; to amend sections 47-703,
2 71-919, 71-922, and 71-926, Reissue Revised Statutes of
3 Nebraska; to provide a rate of payment for certain
4 medical services in emergency protective custody
5 situations; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 47-703, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 47-703 (1) Upon a showing that reimbursement from the
4 sources enumerated in section 47-702 is not available, in whole or in
5 part, the costs of medical services shall be paid by the appropriate
6 governmental agency at the same rate paid for such services pursuant
7 to the medical assistance program established under sections 68-903
8 to 68-912. Such payment shall be made within ninety days after such
9 showing. For purposes of this section, a showing shall be deemed
10 sufficient if a provider of medical services signs an affidavit
11 stating that (a) in the case of an insurer, health maintenance
12 organization, preferred provider organization, or other similar
13 source, a written denial of payment has been issued or (b) in all
14 other cases, efforts have been made to identify sources and to
15 collect from those sources and more than one hundred eighty days have
16 passed or the normal collection efforts are exhausted since the
17 medical services were rendered but full payment has not been
18 received. Such affidavit shall be forwarded to the appropriate
19 governmental agency. In no event shall the provider of medical
20 services be required to file a suit in a court of law or retain the
21 services of a collection agency to satisfy the requirement of showing
22 that reimbursement is not available pursuant to this section.

23 (2) In the case of medical services necessitated by
24 injuries or wounds suffered during the course of apprehension or
25 arrest, the appropriate governmental agency shall be the arresting

1 agency. In all other cases, the appropriate governmental agency shall
2 be the agency responsible for operation of the institution or
3 facility in which the recipient of the services is lodged, except
4 that when the agency is holding the individual solely for another
5 jurisdiction, the agency may, by contract or otherwise, seek
6 reimbursement from the other jurisdiction for the costs of the
7 medical services provided to the individual being held for that
8 jurisdiction.

9 (3) Except as provided in section 47-705, a governmental
10 agency shall not be responsible for paying the costs of any medical
11 services provided to an individual if such services are provided
12 after he or she is released from the legal custody of the
13 governmental agency or when the individual is released on parole.

14 (4) Any governmental agency requesting medical services
15 for an individual who is arrested, detained, taken into custody, or
16 incarcerated shall notify the provider of such services of (a) all
17 information possessed by the agency concerning potential sources of
18 payment and (b) the name of the appropriate governmental agency
19 pursuant to subsection (2) of this section.

20 Sec. 2. Section 71-919, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-919 (1) A law enforcement officer who has probable
23 cause to believe that a person is mentally ill and dangerous or a
24 dangerous sex offender and that the harm described in section 71-908
25 or subdivision (1) of section 83-174.01 is likely to occur before

1 mental health board proceedings under the Nebraska Mental Health
2 Commitment Act or the Sex Offender Commitment Act may be initiated to
3 obtain custody of the person may take such person into emergency
4 protective custody, cause him or her to be taken into emergency
5 protective custody, or continue his or her custody if he or she is
6 already in custody. Such person shall be admitted to an appropriate
7 and available medical facility, jail, or Department of Correctional
8 Services facility as provided in subsection (2) of this section. Each
9 county shall make arrangements with appropriate facilities inside or
10 outside the county for such purpose and shall pay the cost of the
11 emergency protective custody of persons from such county in such
12 facilities, including the costs of medical services, at the same rate
13 paid for such services pursuant to the medical assistance program
14 established under sections 68-903 to 68-912. A mental health
15 professional who has probable cause to believe that a person is
16 mentally ill and dangerous or a dangerous sex offender may cause such
17 person to be taken into custody and shall have a limited privilege to
18 hold such person until a law enforcement officer or other authorized
19 person arrives to take custody of such person.

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

24 (b) A person taken into emergency protective custody
25 under this section who has a prior conviction for a sex offense

1 listed in section 29-4003 shall be admitted to a jail or Department
2 of Correctional Services facility unless a medical or psychiatric
3 emergency exists for which treatment at a medical facility is
4 required. The person in emergency protective custody shall remain at
5 the medical facility until the medical or psychiatric emergency has
6 passed and it is safe to transport such person, at which time the
7 person shall be transferred to an available jail or Department of
8 Correctional Services facility.

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

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

1 Act with respect to such person. A person shall be released from
2 emergency protective custody after completion of such evaluation
3 unless the mental health professional determines, in his or her
4 clinical opinion, that such person is mentally ill and dangerous or a
5 dangerous sex offender.

6 Sec. 3. Section 71-922, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 71-922 (1) Mental health board proceedings shall be
9 deemed to have commenced upon the earlier of (a) the filing of a
10 petition under section 71-921 or (b) notification by the county
11 attorney to the law enforcement officer who took the subject into
12 emergency protective custody under section 71-920 or the
13 administrator of the treatment center or medical facility having
14 charge of the subject of his or her intention to file such petition.
15 The county attorney shall file such petition as soon as reasonably
16 practicable after such notification.

17 (2) A petition filed by the county attorney under section
18 71-921 may contain a request for the emergency protective custody and
19 evaluation of the subject prior to commencement of a mental health
20 board hearing pursuant to such petition with respect to the subject.
21 Upon receipt of such request and upon a finding of probable cause to
22 believe that the subject is mentally ill and dangerous as alleged in
23 the petition, the court or chairperson of the mental health board may
24 issue a warrant directing the sheriff to take custody of the subject.
25 If the subject is already in emergency protective custody under a

1 certificate filed under section 71-919, a copy of such certificate
2 shall be filed with the petition. The subject in such custody shall
3 be held in the nearest appropriate and available medical facility and
4 shall not be placed in a jail. Each county shall make arrangements
5 with appropriate medical facilities inside or outside the county for
6 such purpose and shall pay the cost of the emergency protective
7 custody of persons from such county in such facilities, including the
8 costs of medical services, at the same rate paid for such services
9 pursuant to the medical assistance program established under sections
10 68-903 to 68-912.

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

17 Sec. 4. Section 71-926, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-926 (1) At the conclusion of a mental health board
20 hearing under section 71-924 and prior to the entry of a treatment
21 order by the board under section 71-925, the board may (a) order that
22 the subject be retained in custody until the entry of such order and
23 the subject may be admitted for treatment pursuant to such order or
24 (b) order the subject released from custody under such conditions as
25 the board deems necessary and appropriate to prevent the harm

1 described in section 71-908 and to assure the subject's appearance at
2 a later disposition hearing by the board. A subject shall be retained
3 in custody under this section at the nearest appropriate and
4 available medical facility and shall not be placed in a jail. Each
5 county shall make arrangements with appropriate medical facilities
6 inside or outside the county for such purpose and shall pay the cost
7 of the emergency protective custody of persons from such county in
8 such facilities, including the costs of medical services, at the same
9 rate paid for such services pursuant to the medical assistance
10 program established under sections 68-903 to 68-912.

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

16 Sec. 5. Original sections 47-703, 71-919, 71-922, and
17 71-926, Reissue Revised Statutes of Nebraska, are repealed.