

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 953

Introduced by Coash, 27.

Read first time January 14, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to medical services; to amend sections
2 47-703, 71-919, 71-922, and 71-926, Reissue Revised
3 Statutes of Nebraska; to provide a rate of payment for
4 certain 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
5 or in part, the costs of medical services shall be paid by the
6 appropriate governmental agency at the same rate paid for such
7 services pursuant to the medical assistance program established
8 under sections 68-903 to 68-912 of the Medical Assistance Act. Such
9 payment shall be made within ninety days after such showing. For
10 purposes of this section, a showing shall be deemed sufficient if a
11 provider of medical services signs an affidavit stating that (a) in
12 the case of an insurer, health maintenance organization, preferred
13 provider organization, or other similar source, a written denial of
14 payment has been issued or (b) in all other cases, efforts have
15 been made to identify sources and to collect from those sources
16 and more than one hundred eighty days have passed or the normal
17 collection efforts are exhausted since the medical services were
18 rendered but full payment has not been received. Such affidavit
19 shall be forwarded to the appropriate governmental agency. In no
20 event shall the provider of medical services be required to file
21 a suit in a court of law or retain the services of a collection
22 agency to satisfy the requirement of showing that reimbursement is
23 not available pursuant to this section.

24 (2) In the case of medical services necessitated by
25 injuries or wounds suffered during the course of apprehension or

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

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

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

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

23 71-919 (1) A law enforcement officer who has probable
24 cause to believe that a person is mentally ill and dangerous or
25 a dangerous sex offender and that the harm described in section

1 71-908 or subdivision (1) of section 83-174.01 is likely to occur
2 before mental health board proceedings under the Nebraska Mental
3 Health Commitment Act or the Sex Offender Commitment Act may be
4 initiated to obtain custody of the person may take such person into
5 emergency protective custody, cause him or her to be taken into
6 emergency protective custody, or continue his or her custody if
7 he or she is already in custody. Such person shall be admitted to
8 an appropriate and available medical facility, jail, or Department
9 of Correctional Services facility as provided in subsection (2) of
10 this section. Each county shall make arrangements with appropriate
11 facilities inside or outside the county for such purpose and shall
12 pay the cost of the emergency protective custody of persons from
13 such county in such facilities, including the costs of medical
14 services, at the same rate paid for such services pursuant to the
15 medical assistance program established under sections 68-903 to
16 68-912 of the Medical Assistance Act. A mental health professional
17 who has probable cause to believe that a person is mentally ill and
18 dangerous or a dangerous sex offender may cause such person to be
19 taken into custody and shall have a limited privilege to hold such
20 person until a law enforcement officer or other authorized person
21 arrives to take custody of such person.

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

1 (b) A person taken into emergency protective custody
2 under this section who has a prior conviction for a sex offense
3 listed in section 29-4003 shall be admitted to a jail or Department
4 of Correctional Services facility unless a medical or psychiatric
5 emergency exists for which treatment at a medical facility is
6 required. The person in emergency protective custody shall remain
7 at the medical facility until the medical or psychiatric emergency
8 has passed and it is safe to transport such person, at which time
9 the person shall be transferred to an available jail or Department
10 of Correctional Services facility.

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

20 (4) The administrator of the facility shall have such
21 person evaluated by a mental health professional as soon as
22 reasonably possible but not later than thirty-six hours after
23 admission. The mental health professional shall not be the mental
24 health professional who causes such person to be taken into custody
25 under this section and shall not be a member or alternate member

1 of the mental health board that will preside over any hearing
2 under the Nebraska Mental Health Commitment Act or the Sex Offender
3 Commitment Act with respect to such person. A person shall be
4 released from emergency protective custody after completion of such
5 evaluation unless the mental health professional determines, in
6 his or her clinical opinion, that such person is mentally ill and
7 dangerous or a dangerous sex offender.

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

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

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

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

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

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

23 71-926 (1) At the conclusion of a mental health board
 24 hearing under section 71-924 and prior to the entry of a treatment
 25 order by the board under section 71-925, the board may (a) order

1 that the subject be retained in custody until the entry of such
2 order and the subject may be admitted for treatment pursuant to
3 such order or (b) order the subject released from custody under
4 such conditions as the board deems necessary and appropriate to
5 prevent the harm described in section 71-908 and to assure the
6 subject's appearance at a later disposition hearing by the board.
7 A subject shall be retained in custody under this section at the
8 nearest appropriate and available medical facility and shall not
9 be placed in a jail. Each county shall make arrangements with
10 appropriate medical facilities inside or outside the county for
11 such purpose and shall pay the cost of the emergency protective
12 custody of persons from such county in such facilities, including
13 the costs of medical services, at the same rate paid for such
14 services pursuant to the medical assistance program established
15 under sections 68-903 to 68-912 of the Medical Assistance Act.

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

21 Sec. 5. Original sections 47-703, 71-919, 71-922, and
22 71-926, Reissue Revised Statutes of Nebraska, are repealed.