

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 676**

Introduced by Lathrop, 12.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Mental Health Commitment Act; to  
2 amend section 71-919, Reissue Revised Statutes of  
3 Nebraska; to change provisions relating to emergency  
4 protective custody; and to repeal the original section.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-919, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

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

24           (2)(a) A person taken into emergency protective custody  
25 under this section shall be admitted to an appropriate and available

1 medical facility unless such person has a prior conviction for a sex  
2 offense listed in section 29-4003.

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

13 (c) A law enforcement officer who has taken a person into  
14 emergency protective custody shall not relinquish custody of the  
15 person to a medical facility until the medical facility determines  
16 that it is safe for the law enforcement officer to relinquish  
17 custody.

18 (3) Upon admission to a facility of a person taken into  
19 emergency protective custody by a law enforcement officer under this  
20 section, such officer shall execute a written certificate prescribed  
21 and provided by the Department of Health and Human Services. The  
22 certificate shall allege the officer's belief that the person in  
23 custody is mentally ill and dangerous or a dangerous sex offender and  
24 shall contain a summary of the person's behavior supporting such  
25 allegations. A copy of such certificate shall be immediately

1 forwarded to the county attorney.

2           (4) The administrator of the facility shall have such  
3 person evaluated by a mental health professional as soon as  
4 reasonably possible but not later than thirty-six hours after  
5 admission. The mental health professional shall not be the mental  
6 health professional who causes such person to be taken into custody  
7 under this section and shall not be a member or alternate member of  
8 the mental health board that will preside over any hearing under the  
9 Nebraska Mental Health Commitment Act or the Sex Offender Commitment  
10 Act with respect to such person. A person shall be released from  
11 emergency protective custody after completion of such evaluation  
12 unless the mental health professional determines, in his or her  
13 clinical opinion, that such person is mentally ill and dangerous or a  
14 dangerous sex offender.

15           Sec. 2. Original section 71-919, Reissue Revised Statutes  
16 of Nebraska, is repealed.