

LEGISLATIVE BILL 501

Approved by the Governor April 21, 1973

Introduced by Judiciary Committee, Luedtke, 28, Chmn.;
Stull, 49; Carpenter, 48; Chambers, 11;
Barnett, 26; DeCamp, 40; Richendifer, 16

AN ACT to amend sections 29-2203 and 83-323, Reissue Revised Statutes of Nebraska, 1943, relating to defense of insanity; to provide the procedure when the defense of insanity is pleaded as prescribed; to prescribe duties; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 29-2203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-2203. ~~Any person prosecuted for an offense may plead that he is not guilty by reason of insanity or mental derangement; when the defense is insanity of the defendant, the jury must be instructed, if they acquit him on that ground, to state the fact in their verdict. The court must thereupon order the defendant to be committed to the state hospital for the insane, until he becomes sane and is discharged by due process of law; Provided, the defense of insanity may be raised under a general plea of not guilty. Any person prosecuted for an offense may plead that he is not guilty by reason of insanity or mental derangement at the time of the offense. No evidence offered by the defendant for the purpose of establishing his insanity or mental derangement shall be admitted in the trial of the case unless notice thereof shall have been given by the defendant as provided in this section.~~

At the time of defendant's arraignment, or not later than ten days before trial, defendant shall notify the county attorney of his intention to rely upon the defense of insanity or mental derangement as one of his defenses and file such notice. Upon the filing of the notice the court, on motion of the state and good cause shown, may cause the defendant to be examined by one or more disinterested, qualified experts, not exceeding three, appointed by the court, at a time and place designated in the order, to inquire into the sanity or insanity of the defendant at the time of the commission of the alleged offense or offenses. The presence of counsel at the examination shall be within the discretion

of the court. The results of such examinations shall be filed with the court and copies given to the state and to the defendant. In the interest of justice and good cause shown the court may waive the requirements provided in this section.

When the defense is insanity of the defendant, the jury must be instructed, if it acquits him on that ground, to state the fact in its verdict. If the defendant is found not guilty by reason of insanity, the court shall forthwith (1) commit defendant to the care and custody of the Director of Medical Services for a period not to exceed thirty days, and (2) certify the verdict to the board of mental health of the county and order that board to determine whether the person so acquitted is either sane or mentally ill and a fit subject for custody and treatment in a hospital. The certificate and order shall be considered by the board as an application for admission as provided in section 83-325.

Sec. 2. That section 83-323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-323. Application When an application for admission to a state hospital for the mentally ill shall be made in writing in the nature of an information, verified by affidavit has been filed, or, certificate and order filed from the district court, the county board of mental health shall at once investigate the grounds for admission. The information shall allege that the person in whose behalf the application is made is believed by the informant to be mentally ill and a fit subject for custody and treatment in a hospital; that the proposed patient is to be found in the county and that his legal settlement is in that county, if such is known to be the fact; and if his settlement is not in the county, where it is, if known, or where it is believed to be, if the informant is advised on the subject.

Sec. 3. That original sections 29-2203 and 83-323, Reissue Revised Statutes of Nebraska, 1943, are repealed.