

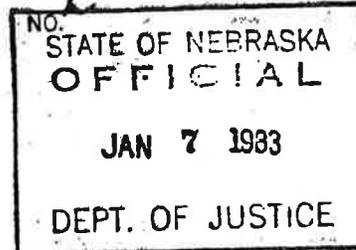
DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402 471-2662 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

January 6, 1983

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Attorney General  
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Deputy Attorney General  
JOHN R. THOMPSON  
Deputy Attorney General



Senator Tom Vickers  
Nebraska State Legislature  
State Capitol  
Lincoln, Nebraska 68509

Dear Senator Vickers:

This is in reply to your inquiry, together with a rough draft of a bill to substantially eliminate "insanity" as a defense. We assume you are contemplating introducing similar legislation.

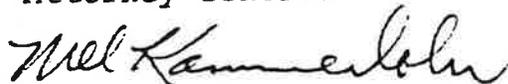
Enclosed is a copy of a previous opinion of this office concerning a bill similar to yours, which was not intended to eliminate the requirement of the state to prove beyond a reasonable doubt the mental element, or mens rea, required of a particular crime. We think this opinion remains valid and is applicable to your proposal.

We have also studied the procedural requirements, as you requested, and do not feel we would have any difficulty defending the constitutionality of such procedures.

The problems of holding a person beyond the statutory term provided for a conviction, or the failure to impose a sentence indefinitely until after mental treatment such as condemned in State v. Shaw, 202 Neb. 766 (1979), are not present in your bill.

Respectfully submitted,

PAUL L. DOUGLAS  
Attorney General



Mel Kammerlohr  
Assistant Attorney General

MK:ejg  
enc.

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Clerk of the Legislature

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