

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

February 20, 2018

Senator Laura Ebke, Chairperson  
Judiciary Committee  
Room 1103  
P.O. Box 94604  
Lincoln, NE 68509-4604

RE: LB 1010

Dear Senator Ebke and members of the Judiciary Committee:

I am writing on behalf of the Department of Health and Human Services (DHHS) to express opposition to LB 1010, which would permit criminal defendants to receive Outpatient Competency Restoration (OCR) services in counties containing a city of the primary class. I ask that this letter be formally included in the record for LB 1010.

Although DHHS supports the concept of OCR, and has for some time participated in ongoing discussion with stakeholders on this subject, we would like to point out the following issues:

- The implementation of an OCR system may have significant legal, treatment, and fiscal impacts which would warrant a time-limited pilot implementation, followed by an evaluation period to thoroughly assess the feasibility and effectiveness of the system. LB 1010 does not contain a sunset clause.
- It is critical that competency restoration providers possess the necessary qualifications to ensure that the rights of criminal defendants are protected. LB 1010 does not contain any specific licensure, training, or experience requirements for OCR providers.
- LB 1010 would require DHHS to review and opine on treatment recommendations made by other providers, but does not authorize DHHS to perform an evaluation of the Defendant to serve as the basis for its opinion.
- DHHS does not currently have capacity for all individuals who are committed to it for mental health treatment. As a result, there is a waiting period. In situations where a court determines that an individual receiving OCR should instead receive inpatient services, it is unclear from LB 1010 whether and where the individual would be detained until a bed is available.

DHHS remains committed to working with you and stakeholders to explore the use of OCR. Thank you for the opportunity to share the above information and we look forward to working with you on continuing our mission of helping people live better lives.

Sincerely,

A handwritten signature in black ink that reads "Sheri Dawson". The signature is fluid and cursive, with the first name "Sheri" and last name "Dawson" clearly distinguishable.

Sheri Dawson, Director  
Division of Behavioral Health  
Department of Health and Human Services