

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 200

Introduced by Wishart, 27.

Read first time January 11, 2019

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-1,121, Reissue Revised Statutes of Nebraska; to change
3 provisions relating to licensure under the Health Care Facility
4 Licensure Act of alcoholism centers providing civil protective
5 custody for intoxicated persons; to harmonize provisions; and to
6 repeal the original section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 53-1,121, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 53-1,121 (1) City police, county sheriffs, officers of the Nebraska
4 State Patrol, and any other such law enforcement officer with power to
5 arrest for traffic violations may take a person who is intoxicated and in
6 the judgment of the officer dangerous to himself, herself, or others, or
7 who is otherwise incapacitated, from any public or quasi-public property.
8 An officer removing an intoxicated person from public or quasi-public
9 property shall make a reasonable effort to take such intoxicated person
10 to his or her home or to place such person in any hospital, clinic, or
11 alcoholism center, or with a medical doctor as may be necessary to
12 preserve life or to prevent injury. Such effort at placement shall be
13 deemed reasonable if the officer contacts those facilities or doctors
14 which have previously represented a willingness to accept and treat such
15 individuals and which regularly do accept such individuals. If such
16 efforts are unsuccessful or are not feasible, the officer may then place
17 such intoxicated person in civil protective custody, except that civil
18 protective custody shall be used only as long as is necessary to preserve
19 life or to prevent injury, and under no circumstances for longer than
20 twenty-four hours.

21 (2) The placement of such person in civil protective custody shall
22 be recorded at the facility or jail to which he or she is delivered and
23 communicated to his or her family or next of kin, if they can be located,
24 or to such person designated by the person taken into civil protective
25 custody.

26 (3) The law enforcement officer who acts in compliance with this
27 section shall be deemed to be acting in the course of his or her official
28 duty and shall not be criminally or civilly liable for such actions.

29 (4) The taking of an individual into civil protective custody under
30 this section shall not be considered an arrest. No entry or other record
31 shall be made to indicate that the person has been arrested or charged

1 with a crime.

2 (5) The Department of Health and Human Services shall not deny
3 issuance or renewal of a license under the Health Care Facility Licensure
4 Act to an alcoholism center on the basis that the alcoholism center
5 utilizes locked rooms to provide civil protective custody services if the
6 alcoholism center is otherwise in compliance with the applicable rules
7 and regulations of the department and if a person placed into civil
8 protective custody in the alcoholism center is not kept in a locked room
9 after such person is no longer a danger to himself or herself or other
10 patients or staff of the alcoholism center.

11 (6) (5) For purposes of this section:

12 (a) Public , ~~public~~ property means shall mean any public right-of-
13 way, street, highway, alley, park, or other state, county, or municipally
14 owned property; and -

15 (b) Quasi-public (6) For the purposes of this section, ~~quasi-public~~
16 property means shall mean and includes include private or publicly owned
17 property utilized for proprietary or business uses which invites
18 patronage by the public or which invites public ingress and egress.

19 Sec. 2. Original section 53-1,121, Reissue Revised Statutes of
20 Nebraska, is repealed.