

LEGISLATIVE BILL 200

Approved by the Governor March 12, 2019

Introduced by Wishart, 27.

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

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

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

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

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

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

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

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

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

(a) Mental health substance use treatment center has the same meaning as in section 71-423;

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

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

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