

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 464

Introduced by Heidemann, 1; Aguilar, 35; Beutler, 28; Byars, 30;
Combs, 32; Cornett, 45; Cudaback, 36; Cunningham, 40;
Engel, 17; Foley, 29; Friend, 10; Howard, 9;
Hudkins, 21; Jensen, 20; Johnson, 37; Kopplin, 3;
Kremer, 34; Kruse, 13; Pahls, 31; Dw. Pedersen, 39;
Price, 26; Raikes, 25; Schimek, 27; Smith, 48;
Stuhr, 24

Read first time January 13, 2005

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend
2 section 53-1,121, Reissue Revised Statutes of Nebraska;
3 to change provisions relating to civil protective
4 custody; and to repeal the original section.

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

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

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

27 (2) The placement of such person in civil protective
28 custody shall be recorded at the facility or jail to which he or

1 she is delivered and communicated to his or her family or next of
 2 kin, if they can be located, or to such person designated by the
 3 person taken into civil protective custody.

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

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

12 (5) For purposes of this section:

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

17 (b) Quasi-public property means and includes -

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

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