

## LEGISLATIVE BILL 376

Approved by the Governor April 20, 1979

Introduced by Judiciary Committee, Nichol, 48, Chmn.;  
Wagner, 41; Stoney, 4; Pirsch, 10; Haberman,  
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AN ACT relating to public health and safety; to provide for taking certain intoxicated or incapacitated persons from public property as prescribed; to amend section 39-684, Revised Statutes Supplement, 1978; to change provisions relating to removal of dead or injured persons from any roadway; to repeal the original section; and to declare an emergency.

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

Section 1. That section 39-684, Revised Statutes Supplement, 1978, be amended to read as follows:

39-684. 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 remove a dead body, or an injured person, ~~or a person who is intoxicated or otherwise incapacitated~~ from any roadway to the nearest available position off the roadway as may be necessary to keep the roadway open or safe for public travel, or to any hospital, clinic, ~~alcoholism center,~~ or medical doctor as may be necessary to preserve life, ~~or to prevent injury.~~

Sec. 2. (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 property. An officer removing an intoxicated person from public property shall make a reasonable effort to take such intoxicated person to his or her home or to any hospital, clinic, alcoholism center, or medical doctor as may be necessary to preserve life or to prevent injury. If these measures 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 longer than twelve 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) For purposes of this section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

Sec. 3. That original section 39-684, Revised Statutes Supplement, 1978, is repealed.

Sec. 4. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.