

Amendments to House Bill No. 349
Reference Copy

Requested by Senator Jeff Mangan

For the Senate Judiciary Committee

Prepared by Valencia Lane
March 19, 2005 (12:52pm)

1. Title, line 4 through line 6.
Following: the second "AN ACT"
Strike: remainder of line 4 through "ADMINISTRATION OF" on line 6
Insert: "REVISING"
2. Title, line 7.
Following: line 6
Strike: "STATUTES CONCERNING"
3. Page 1, line 28 through line 29.
Following: "actions" on line 28
Strike: remainder of line 28 through "SECTION" on line 29
Insert: "acting within the scope of the officer's authority under this chapter, is not personally liable for the officer's actions"
4. Page 2, line 12 through line 13.
Following: line 11
Strike: "the state." on line 12 through "SECTION" line 13
Insert: "acting within the scope of the officer's authority under this chapter, is not personally liable for the officer's actions"
5. Page 2, line 15 through line 17.
Strike: section 3 in its entirety
Renumber: subsequent section

- END -

HOUSE BILL NO. 349

INTRODUCED BY A. OLSON, PARKER, KLOCK, GEBHARDT, MANGAN, MAEDJE

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROVIDING THAT A PEACE OFFICER, THE STATE, AND A~~
5 ~~POLITICAL SUBDIVISION ARE IMMUNE FROM SUIT FOR ANY ACT OR OMISSION ARISING OUT OF THEIR~~
6 ~~ENFORCEMENT OR ADMINISTRATION OF STATUTES CONCERNING PUBLIC INTOXICATION AND~~
7 ~~STATUTES CONCERNING THE TREATMENT OF ALCOHOLISM; ELIMINATING THE REQUIREMENT THAT~~
8 POLICE TAKE PERSONS INCAPACITATED BY ALCOHOL INTO PROTECTIVE CUSTODY; ELIMINATING
9 THE PROHIBITION AGAINST MAKING A RECORD OF ARREST; AMENDING SECTIONS 53-24-107 AND
10 53-24-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-24-107, MCA, is amended to read:

15 "53-24-107. Public intoxication not a criminal offense. (1) A person who appears to be intoxicated
16 or incapacitated by alcohol in public ~~commits no~~ does not commit a criminal offense solely by reason of being
17 in such an intoxicated condition but may be detained by a peace officer for the person's own protection. A peace
18 officer who detains a person who appears to be intoxicated or incapacitated by alcohol in public shall proceed
19 in the manner as provided by in 53-24-303 AND SUBSECTION (3) OF THIS SECTION.

20 (2) If none of the alternatives in 53-24-303 are reasonably available, a peace officer may detain a
21 person who appears to be intoxicated or incapacitated by alcohol in ~~in jail~~ until the person is no longer creating a
22 risk to himself self or others.

23 (3) A PEACE OFFICER, IN DETAINING THE PERSON, SHALL MAKE EVERY REASONABLE EFFORT TO PROTECT THE
24 PERSON'S HEALTH AND SAFETY. THE PEACE OFFICER MAY TAKE REASONABLE STEPS FOR THE OFFICER'S OWN
25 PROTECTION. AN ENTRY OR OTHER RECORD MAY NOT BE MADE TO INDICATE THAT THE PERSON DETAINED UNDER THIS
26 SECTION HAS BEEN ARRESTED OR CHARGED WITH A CRIME.

27 ~~(3)(4) A peace officer, acting within the scope of his authority under this chapter, shall not be personally~~
28 ~~liable for his actions the state, and a political subdivision are immune from suit for an A GOOD FAITH act or~~
29 ~~omission arising out of the enforcement or administration of this chapter UNDER THIS SECTION."~~

30 acting within the scope of the officer's authority under
this chapter, is not personally liable for the officer's
actions"

Legislative
Services
Division

1 Section 2. Section 53-24-303, MCA, is amended to read:

2 "53-24-303. Treatment and services for intoxicated persons ~~and persons incapacitated by~~
3 ~~alcohol.~~ (1) A person who appears to be intoxicated in a public place and to be in need of help may be assisted
4 to the person's home, an approved private treatment facility, or other health CARE facility by the police, ~~if the~~
5 ~~person consents to an offer for help.~~

6 (2) A person who appears to be incapacitated by alcohol must be taken into protective custody by the
7 police ~~and must be taken to an emergency medical service customarily used for incapacitated persons. The~~
8 ~~police, in detaining the person, are taking the person into protective custody and shall make every reasonable~~
9 ~~effort to protect the person's health and safety. In taking the person into protective custody, the detaining officer~~
10 ~~may take reasonable steps for the officer's own protection. An entry or other record may not be made to indicate~~
11 ~~that the person taken into custody under this section has been arrested or charged with a crime. A peace officer,~~
12 ~~the state~~ acting within the scope of the officer's authority under ~~ut of the~~
13 this chapter, is not personally liable for the officer's
actions"

14
15 ~~NEW SECTION. Section 3. Two-thirds vote required. Because [sections 1 and 2] limit government~~
16 ~~liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each~~
17 ~~house of the legislature for passage.~~

18
19 NEW SECTION. Section ³4. Effective date. [This act] is effective on passage and approval.

20 - END -