

**MENTAL HEALTH CODE (EXCERPT)**  
**Act 258 of 1974**

**330.1276 Individual taken into protective custody by peace officer; transporting individual to approved service program or emergency medical service; lawful force; arrest record prohibited; inability to complete transfer to program or service; commission of misdemeanor; emergency treatment.**

Sec. 276. (1) An individual who appears to be incapacitated in a public place shall be taken into protective custody by a peace officer and taken to an approved service program or to an emergency medical service, or to a transfer facility according to subsection (4) for subsequent transportation to an approved service program or emergency medical service. Except as otherwise provided in this subsection, if requested by a peace officer, an emergency service unit or staff shall provide transportation for the individual to an approved service program or an emergency medical service. This subsection does not apply to the transportation of an individual by an emergency service unit or staff if the peace officer reasonably believes that the individual will attempt escape or will be unreasonably difficult for staff to control.

(2) A peace officer may take an individual into protective custody with that kind and degree of force that is lawful for the officer to arrest that individual for a misdemeanor without a warrant. In taking the individual, a peace officer may take reasonable steps to protect himself or herself. The protective steps may include a pat-down search of the individual in his or her immediate surroundings, but only to the extent necessary to discover and seize any dangerous weapon that may on that occasion be used against the officer or other individuals present. The peace officer shall take these protective steps before an emergency service unit or staff provides transportation of an individual to an approved service program or emergency medical service.

(3) The taking of an individual to an approved service program, emergency medical service, or transfer facility under subsection (1) is not an arrest, but is a taking into protective custody with or without consent of the individual. The peace officer shall inform the individual that he or she is being held in protective custody and is not under arrest. An entry or other record shall not be made to indicate that the individual was arrested or charged with either a crime or being incapacitated. An entry shall be made indicating the date, time, and place of the taking, but the entry shall not be treated for any purpose as an arrest or criminal record.

(4) An individual taken into protective custody under subsection (1) may be taken to a transfer facility for not more than 8 hours, if an approved service program or an emergency medical service is not located in that county and if, due to distance or other circumstances, a peace officer is unable to complete transport of the individual to an approved service program or emergency medical service. The peace officer or agency shall immediately notify and request the nearest approved service program or emergency medical service to provide an emergency service unit or staff as soon as possible to transport the individual to that approved service program or emergency medical service. If an emergency service unit or staff is not available for transportation, a peace officer may transport the individual to an approved service program or emergency medical service. If an emergency service unit or staff is to provide transportation, the designated representative of the transfer facility shall assume custody of the individual and shall take all reasonable steps to ensure the individual's health and safety until custody is transferred to the emergency service unit or staff of an approved service program or emergency medical service.

(5) An individual arrested by a peace officer for the commission of a misdemeanor punishable by imprisonment for not more than 3 months, or by a fine of not more than \$500.00, or both, may be taken to an approved service program or an emergency medical service for emergency treatment if the individual appears to be incapacitated at the time of arrest. This treatment is not in lieu of criminal prosecution of the individual for the offense with which the individual is charged and it does not preclude the administration of any tests as provided for by law.

**History:** Add. 2012, Act 500, Imd. Eff. Dec. 28, 2012;—Am. 2014, Act 200, Imd. Eff. June 24, 2014.