

LEGISLATIVE BILL 51

Approved by the Governor May 25, 2021

Introduced by Lathrop, 12; Pansing Brooks, 28; DeBoer, 10; McCollister, 20.

A BILL FOR AN ACT relating to law enforcement; to amend sections 29-215, 81-1403, 81-1407, 81-1414, 81-1438, 81-1439, 81-1440, and 81-1443, Reissue Revised Statutes of Nebraska, and sections 23-1701.01, 29-2264, 81-1401, 81-1414.07, 81-1456, 81-1457, and 81-2014, Revised Statutes Cumulative Supplement, 2020; to change sheriff requirements; to authorize Class I railroad police officers and noncertified conditional officers; to define and redefine terms; to change conviction set aside provisions; to change annual and initial training provisions for law enforcement officers; to change membership of and provide powers and duties for the Nebraska Police Standards Advisory Council; to require de-escalation training; to provide for certification of persons certified as law enforcement officers in other states and change provisions relating to law enforcement officer certification; to require psychological evaluations of law enforcement officers as prescribed; to change continuing education requirements for law enforcement officers; to provide for policies and requirements for investigating law enforcement officer misconduct; to change law enforcement officer certification revocation and suspension record provisions; to provide duties for the Nebraska Commission on Law Enforcement and Criminal Justice; to prohibit chokeholds and carotid holds as prescribed; to require policies on excessive force and a duty to intervene; to require accreditation of law enforcement agencies; to create a fund; to require posting of certain law enforcement officer information as prescribed; to change provisions relating to law enforcement reserve forces; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 23-1701.01, Revised Statutes Cumulative Supplement, 2020, is amended to read:

23-1701.01 (1) Any candidate for the office of sheriff who does not have a law enforcement officer certificate or diploma issued by the Nebraska Commission on Law Enforcement and Criminal Justice shall submit with the candidate filing form required by section 32-607 a standardized letter issued by the director of the Nebraska Law Enforcement Training Center certifying that the candidate has:

(a) Within one calendar year prior to the deadline for filing the candidate filing form, passed a background investigation performed by the Nebraska Law Enforcement Training Center based on a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. The candidate who has not passed a background investigation shall apply for the background investigation at least thirty days prior to the filing deadline for the candidate filing form; and

(b) Received a minimum combined score on the reading comprehension and English language portions of an adult basic education examination designated by the Nebraska Law Enforcement Training Center.

(2) Each sheriff shall attend the Nebraska Law Enforcement Training Center and receive a certificate attesting to satisfactory completion of the Sheriff's Certification Course within eight months after taking office unless such sheriff has already been awarded a certificate by the Nebraska Commission on Law Enforcement and Criminal Justice attesting to satisfactory completion of such course or unless such sheriff can demonstrate to the Nebraska Police Standards Advisory Council that his or her previous training and education is such that he or she will professionally discharge the duties of the office. Any sheriff in office prior to July 19, 1980, shall not be required to obtain a certificate attesting to satisfactory completion of the Sheriff's Certification Course but shall otherwise be subject to this section.

~~(3) Each Notwithstanding sections 81-1401 to 81-1414.10, each sheriff shall attend twenty hours of continuing education as provided in section 81-1414.07 in criminal justice and law enforcement courses and at least two hours of anti-bias and implicit bias training designed to minimize apparent or actual racial profiling approved by the council each year following the first year of such sheriff's term of office. Such continuing education shall be offered through seminars, advanced education which may include college or university classes, conferences, instruction conducted within the sheriff's office, or instruction conducted over the Internet, except that instruction conducted over the Internet shall be limited to ten hours annually, and shall be of a type which has application to and seeks to maintain and improve the skills of the sheriffs in carrying out the responsibilities of their office.~~

~~(4) Unless (3) Notwithstanding section 81-1403, unless a sheriff is able to show good cause for not complying with subsection (2) or (3) of this section or obtains a waiver of the training requirements from the council, any sheriff who violates subsection (2) or (3) of this section shall be punished by a fine equal to such sheriff's monthly salary. Each month in which such violation~~

occurs shall constitute a separate offense.

Sec. 2. Section 29-215, Reissue Revised Statutes of Nebraska, is amended to read:

29-215 (1) A law enforcement officer has the power and authority to enforce the laws of this state and of the political subdivision which employs the law enforcement officer or otherwise perform the functions of that office anywhere within his or her primary jurisdiction.

(2) Any law enforcement officer who is within this state, but beyond his or her primary jurisdiction, has the power and authority to enforce the laws of this state or any legal ordinance of any city or incorporated village or otherwise perform the functions of his or her office, including the authority to arrest and detain suspects, as if enforcing the laws or performing the functions within his or her primary jurisdiction in the following cases:

(a) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a felony, may follow such person into any other jurisdiction in this state and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction;

(b) Any such law enforcement officer, if in a fresh attempt to apprehend a person suspected of committing a misdemeanor or a traffic infraction, may follow such person anywhere in an area within twenty-five miles of the boundaries of the law enforcement officer's primary jurisdiction and there arrest and detain such person and return such person to the law enforcement officer's primary jurisdiction;

(c) Any such law enforcement officer shall have such enforcement and arrest and detention authority when responding to a call in which a local, state, or federal law enforcement officer is in need of assistance. A law enforcement officer in need of assistance shall mean (i) a law enforcement officer whose life is in danger or (ii) a law enforcement officer who needs assistance in making an arrest and the suspect (A) will not be apprehended unless immediately arrested, (B) may cause injury to himself or herself or others or damage to property unless immediately arrested, or (C) may destroy or conceal evidence of the commission of a crime; and

(d) Any municipality or county may, under the provisions of the Interlocal Cooperation Act or the Joint Public Agency Act, enter into a contract with any other municipality or county for law enforcement services or joint law enforcement services. Under such an agreement, law enforcement personnel may have such enforcement authority within the jurisdiction of each of the participating political subdivisions if provided for in the agreement. Unless otherwise provided in the agreement, each participating political subdivision shall provide liability insurance coverage for its own law enforcement personnel as provided in section 13-1802.

(3) When probable cause exists to believe that a person is operating or in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02, the law enforcement officer has the power and authority to do any of the following or any combination thereof:

(a) Transport such person to a facility outside of the law enforcement officer's primary jurisdiction for appropriate chemical testing of the person;

(b) Administer outside of the law enforcement officer's primary jurisdiction any post-arrest test advisement to the person; or

(c) With respect to such person, perform other procedures or functions outside of the law enforcement officer's primary jurisdiction which are directly and solely related to enforcing the laws that concern a person operating or being in the actual physical control of any motor vehicle, motorboat, personal watercraft, or aircraft while under the influence of alcoholic liquor or of any other drug or otherwise in violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.

(4) For purposes of this section:

(a) Class I railroad has the same meaning as in section 81-1401;

(b) ~~(a)~~ Law enforcement officer has the same meaning as peace officer as defined in section 49-801 and also includes conservation officers of the Game and Parks Commission and Class I railroad police officers; and

(c) ~~(b)~~ Primary jurisdiction means the geographic area within the territorial limits of the state or political subdivision which employs the law enforcement officer.

Sec. 3. Section 29-2264, Revised Statutes Cumulative Supplement, 2020, is amended to read:

29-2264 (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period or is discharged from probation prior to the termination of the period of probation, the sentencing court shall issue an order releasing the offender from probation. Such order in all felony cases shall provide notice that the person's voting rights are restored two years after completion of probation. The order shall include information on restoring other civil rights through the pardon process, including application to and hearing by the Board of Pardons.

(2) Whenever any person is convicted of an offense and is placed on probation by the court, is sentenced to a fine only, or is sentenced to community service, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period or after discharge from probation prior to the termination of the period of probation and after payment of any

fine and completion of any community service, petition the sentencing court to set aside the conviction.

(3)(a) Except as provided in subdivision (3)(b) of this section, whenever any person is convicted of an offense and is sentenced other than as provided in subsection (2) of this section, but is not sentenced to a term of imprisonment of more than one year, such person may, after completion of his or her sentence, petition the sentencing court to set aside the conviction.

(b) A petition under subdivision (3)(a) of this section shall be denied if filed:

(i) By any person with a criminal charge pending in any court in the United States or in any other country;

(ii) During any period in which the person is required to register under the Sex Offender Registration Act;

(iii) For any misdemeanor or felony motor vehicle offense under section 28-306 or the Nebraska Rules of the Road; or

(iv) Within two years after a denial of a petition to set aside a conviction under this subsection.

(4) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(5) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. The order shall:

(a) Nullify the conviction;

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction; and

(c) Notify the offender that he or she should consult with an attorney regarding the effect of the order, if any, on the offender's ability to possess a firearm under state or federal law.

(6) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the offense whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the offense in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved;

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act;

(g) Preclude use of the conviction as evidence of commission of the offense for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1906.01, the Child Care Licensing Act, or the Children's Residential Facilities and Placing Licensure Act or a certificate issued under sections 79-806 to 79-815 should be denied, suspended, or revoked;

(h) Preclude use of the conviction as evidence of serious misconduct or incompetence, neglect of duty, physical, mental, or emotional incapacity, or final conviction of or pleading guilty or nolo contendere to a felony or misdemeanor for purposes of determining whether an application filed or a certificate issued under sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act should be denied, suspended, or revoked;

(i) Preclude proof of the conviction as evidence whenever the fact of the conviction is relevant to a determination of the registration period under section 29-4005;

(j) Relieve a person who is convicted of an offense for which registration is required under the Sex Offender Registration Act of the duty to register and to comply with the terms of the act;

(k) Preclude use of the conviction for purposes of section 28-1206;

(l) Affect the right of a victim of a crime to prosecute or defend a civil action;

(m) Affect the assessment or accumulation of points under section 60-4,182; or

(n) Affect eligibility for, or obligations relating to, a commercial driver's license.

(7) For purposes of this section, offense means any violation of the criminal laws of this state or any political subdivision of this state including, but not limited to, any felony, misdemeanor, infraction, traffic infraction, violation of a city or village ordinance, or violation of a county resolution.

(8) Except as otherwise provided for the notice in subsection (1) of this

section, changes made to this section by Laws 2005, LB 713, shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to September 4, 2005.

(9) The changes made to this section by Laws 2018, LB146, and Laws 2020, LB881, shall apply to all persons otherwise eligible under this section, without regard to the date of the conviction sought to be set aside.

Sec. 4. Section 81-1401, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1401 For purposes of sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act, unless the context otherwise requires:

(1) Class I railroad means a rail carrier classified as Class I pursuant to 49 C.F.R. part 1201 1-1;

(2) (1) Commission means the Nebraska Commission on Law Enforcement and Criminal Justice;

(3) (2) Council means the Nebraska Police Standards Advisory Council;

(4) (3) Director means the director of the Nebraska Law Enforcement Training Center;

(5) (4) Felony means a crime punishable by imprisonment for a term of more than one year or a crime committed outside of Nebraska which would be punishable by imprisonment for a term of more than one year if committed in Nebraska;

(6) (5) Handgun means any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand;

(6) Incapacity means incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental, or emotional factors. Incapacity does not exist if a law enforcement officer remains employed as a law enforcement officer, including employment as a law enforcement officer in a restricted or limited-duty status;

(7) Law enforcement agency means the police department or the town marshal in incorporated municipalities, the office of sheriff in unincorporated areas, and the Nebraska State Patrol, and Class I railroad police departments;

(8)(a) Law enforcement officer means any person who has successfully completed an entry-level law enforcement certification from a training academy and who is responsible for the prevention or detection of crime or the enforcement of the penal, traffic, or highway laws of the state or any political subdivision of the state for more than one hundred hours per year and is authorized by law to make arrests and includes, but is not limited to:

(i) A full-time or part-time member of the Nebraska State Patrol;

(ii) A county sheriff;

(iii) A full-time, or part-time, or reserve employee of a county sheriff's office;

(iv) A full-time, or part-time, or reserve employee of a municipal or village police agency;

(v) A full-time or part-time Game and Parks Commission conservation officer;

(vi) A full-time or part-time deputy state sheriff; or

(vii) A full-time employee of an organized and paid fire department of any city of the metropolitan class who is an authorized arson investigator and whose duties consist of determining the cause, origin, and circumstances of fires or explosions while on duty in the course of an investigation;

(viii) A member of a law enforcement reserve force appointed in accordance with section 81-1438; or

(ix) A full-time Class I railroad police officer;

(b) Law enforcement officer includes a noncertified conditional officer;

(c) (b) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, parole officers appointed by the Director of Supervision and Services of the Division of Parole Supervision, or employees of the Department of Revenue under section 77-366; and

(d) Except for a noncertified conditional officer, a (c) A law enforcement officer shall possess a valid law enforcement officer certificate or diploma, as established by the council, in order to be vested with the authority of this section, but this subdivision does not prohibit an individual from receiving a conditional appointment as an officer pursuant to subsection (2) of section 81-1414;

(9) Misdemeanor crime of domestic violence has the same meaning as in section 28-1206;

(10) Noncertified conditional officer means a person appointed pursuant to subsection (6) of section 81-1414;

(11) Serious misconduct means improper or illegal actions taken by a law enforcement officer that have a rational connection with the person's fitness or capacity to serve as a law enforcement officer and includes, but is not limited to:

(a) Conviction of a felony or misdemeanor crime of domestic violence;

(b) Fabrication of evidence;

(c) Repeated substantiated allegations of the use of excessive force;

(d) Acceptance of a bribe;

(e) Commission of fraud or perjury; or

(f) Sexual assault;

(12) (9) Training academy means the training center or such other council-

approved law enforcement training facility operated and maintained by a law enforcement agency which offers certification training that meets or exceeds the certification training curriculum of the training center;

~~(13)~~ ~~(10)~~ Training center means the Nebraska Law Enforcement Training Center; and

~~(14)~~ ~~(11)~~ Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

Sec. 5. Section 81-1403, Reissue Revised Statutes of Nebraska, is amended to read:

81-1403 Subject to review and approval by the commission, the council shall:

(1) Adopt and promulgate rules and regulations for law enforcement pre-certification, certification, continuing education, and training requirements. Such rules and regulations may include the authority to impose a fine on any individual, political subdivision, or agency who or which violates sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act or any ~~of such rules and regulations adopted and promulgated thereunder~~. The fine for each separate violation of such sections 81-1401 to 81-1414.10 or of any such rule or regulation adopted and promulgated by the council pursuant to such sections shall not exceed either (a) a one-time maximum fine of five hundred dollars or (b) a maximum fine of one hundred dollars per day until the individual, political subdivision, or agency complies with such rules or regulations. ~~All fines collected pursuant to this subdivision shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska;~~

(2) Adopt and promulgate rules and regulations for the operation of the training center;

(3) Recommend to the executive director of the commission the names of persons to be appointed to the position of director of the training center;

(4) Establish requirements for satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(5) Issue certificates or diplomas attesting satisfactory completion of pre-certification programs, certification programs, and advanced training programs;

(6) Revoke or suspend such certificates or diplomas according to rules and regulations adopted and promulgated by the council pursuant to sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act for reasons which shall include, but not be limited to: ~~;~~

~~(a) Final~~ ~~(a)~~ ~~incompetence, (b) neglect of duty, (c) physical, mental, or emotional incapacity, and (d) final conviction of or pleading guilty or nolo contendere to a:~~

~~(i) Felony violation of state or federal law;~~

~~(ii) Misdemeanor crime of domestic violence; or~~

~~(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;~~

~~(b) Serious misconduct; or~~

~~(c) A violation of the officer's oath of office, code of ethics, or statutory duties;~~

~~(7) The council shall adopt and promulgate rules and regulations that:~~

~~(a) Provide felony. The rules and regulations shall provide for the revocation of a certificate or diploma without a hearing upon the certificate or diploma holder's final conviction of or pleading guilty or nolo contendere to a felony or misdemeanor described in subdivision (6) of this section; and - When a law enforcement officer is separated from his or her agency due to physical, mental, or emotional incapacity, the law enforcement agency shall report the separation to the council, and the officer's law enforcement certificate shall be suspended pursuant to rules and regulations adopted and promulgated by the council until such time as the officer demonstrates to the council that the incapacity no longer prevents the officer from performing the essential duties of a law enforcement officer. The council shall adopt and promulgate rules and regulations to include~~

~~(b) Include a procedure for hearing appeals of any person who feels that the revocation or suspension of his or her certificate or diploma was in error;~~

~~(8) (7) Set the tuition and fees for the training center and all officers of other training academies not employed by that training academy's agency. The tuition and fees set for the training center pursuant to this subdivision shall be adjusted annually pursuant to the training center budget approved by the Legislature. All other tuition and fees shall be set in order to cover the costs of administering sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;~~

~~(9) (8) Annually certify any training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offering training that meets or exceeds training that is offered by the training center. The council shall set the maximum and minimum applicant enrollment figures for training academies training non-agency officers;~~

~~(10) (9) Extend the programs of the training center throughout the state on a regional basis;~~

~~(11) (10) Establish the qualifications, standards, and continuing~~

education requirements and provide the training required by section 81-1439; and

(12) ~~(11)~~ Do all things necessary to carry out the purpose of the training center, except that functional authority for budget and personnel matters shall remain with the commission.

Any administrative fine imposed under this section shall constitute a debt to the State of Nebraska which may be collected by lien foreclosure or sued for and recovered in any proper form of action by the office of the Attorney General in the name of the State of Nebraska in the district court of the county where the final agency action was taken. All fines imposed by the council shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 6. Section 81-1407, Reissue Revised Statutes of Nebraska, is amended to read:

81-1407 (1)(a) ~~(1)~~ The Nebraska Police Standards Advisory Council shall consist of nine ~~seven~~ members appointed by the Governor.

(b) Eight ~~Six~~ of the members shall be full-time officers or employees of a law enforcement agency. Such members ~~and~~ shall include:

(i) A ~~one~~ representative chief of police or his or her designee from a city of the metropolitan or ~~primary~~ class;

(ii) A representative chief of police or his or her designee from a city of the primary class;

(iii) A ~~—~~ a representative chief of police or his or her designee from a city of the first class;

(iv) A ~~—~~ a representative chief of police or his or her designee from a city of the second class or village;

(v) A ~~—~~ a county sheriff or his or her designee from a county having a population of forty thousand or more;

(vi) A ~~—~~ a county sheriff or his or her designee from a county having a population of forty thousand or less;

(vii) A ~~—~~ ~~and~~ a member of the Nebraska State Patrol; and ~~—~~

(viii) A sworn law enforcement officer holding the rank of sergeant or below.

(c) The ninth ~~seventh~~ member shall be a member of the Jail Standards Board or a person from the public at large. ~~The representative chief of police or his or her designee from a city of the metropolitan or primary class shall not be a regular member of the commission.~~

(2) Except as otherwise provided in this subsection, the ~~The~~ members of the council shall serve for terms of four years each. Within ninety days after the effective date of this act, the Governor shall appoint the new members added by this legislative bill. Of such members one shall serve a term of three years and one shall serve a term of four years. Each succeeding member shall be appointed for a term of four years. Of the members first appointed, one shall serve for a term of one year, one shall serve for a term of two years, one shall serve for a term of three years, and two shall serve for terms of four years from January 1 next succeeding their appointment. Within ninety days after July 16, 1994, the Governor shall appoint the two additional members who shall serve for terms of four years from January 1 next succeeding their appointment. A member may be reappointed at the expiration of his or her term. Any vacancy occurring otherwise than by expiration of a term shall be filled, for the remainder of the unexpired term, in the same manner as the original appointment. The council shall select one of its members as chairperson.

(3) No member of the council shall serve beyond the time when he or she holds the office or employment by reason of which he or she was initially eligible for appointment. A member may be removed from the council for cause upon notice and an opportunity to be heard at a public hearing before the Governor. After the hearing, the Governor shall file in the office of the Secretary of State a complete statement of the charges, his or her findings and disposition, together with a complete record of the proceedings.

Sec. 7. As part of entry-level law enforcement certification, each training academy shall require completion of de-escalation training. The de-escalation training shall include training related to mental health behaviors, substance abuse, anti-bias, implicit bias, and communicating with a person in a crisis.

Sec. 8. Section 81-1414, Reissue Revised Statutes of Nebraska, is amended to read:

81-1414 (1) On and after January 1, 1972, law enforcement officers already serving under permanent appointment shall not be required to meet any requirement of subsection (2) of this section as a condition of tenure or continued employment.

(2) Except as provided in subsection (6) of this section, on ~~On~~ and after January 1, 1972, no person shall receive appointment as a law enforcement officer unless such person:

(a) Has ~~he or she has~~ been awarded a certificate or diploma by the commission attesting to satisfactory completion of the minimum curriculum of the training center as established by the council;

(b) Has ~~or has~~ been awarded a certificate or diploma attesting to satisfactory completion of a training program approved by which the council as finds ~~equivalent to the curriculum in subdivision (2)(a) of this section;~~ or

(c) Is certified as a law enforcement officer in another state and has applied, completed a reciprocity program, and been approved as provided in section 11 of this act.

(3) The ~~thereto.~~ Any person who has not been awarded such a certificate or

~~diploma may receive an appointment conditioned on satisfactory completion of such training if he or she immediately applies for admission to the training center or any training academy and enrolls in the next available basic training class. If such training is not completed within one year after the appointment, the person's employment shall not be renewed by a political subdivision appointment or otherwise and such person shall no longer be recognized as a law enforcement officer, except that in cases of extreme hardship, upon application by the officer, the council may grant a waiver to allow the officer to complete the basic training program as soon as is practicable after the one-year time allowance. Any individual who is not certified in accordance with this section and has worked as a law enforcement officer for multiple law enforcement agencies or political subdivisions shall have his or her time of employment aggregated in order to determine if he or she has worked for more than one year. If that law enforcement officer's aggregate time of employment exceeds one year, that officer shall not be recognized as a law enforcement officer for any political subdivision until he or she has satisfactorily completed such certification training. For purposes of this section, the council shall deem the successful completion of the federal Bureau of Indian Affairs basic police training program as administered by the Federal Law Enforcement Training Center to constitute such equivalent training under subdivision (2)(b) of this section, and officers certified by virtue of such equivalent training may exercise full law enforcement authority exclusively on tribal lands.~~

~~(4) (3) Law enforcement officers who are promoted in rank shall satisfactorily complete such council-approved training within one year of such promotion.~~

~~(5) (4) At the direction of the council, the director shall issue a certificate or diploma attesting to a compliance with the requirements of subsection (2), or (3), or (4) of this section to any applicant who presents evidence of satisfactory completion of a council-approved training program.~~

~~(6)(a) A person who has not been awarded such a certificate or diploma may receive an appointment as a noncertified conditional officer subject to the provisions and requirements of this subsection.~~

~~(b) A noncertified conditional officer shall meet all requirements for admission to the training center and shall immediately apply for admission to the training center and enroll in the next available basic training class.~~

~~(c) A noncertified conditional officer may interact with the public and carry a firearm only after completion of the following training:~~

~~(i) Twenty-four hours of use of force training, including defensive tactics, arrest control, handcuffing, pat down, and complete searches;~~

~~(ii) Sixteen hours of firearms training and passing the minimum requirements for the handgun qualification course as provided in section 81-1412.01;~~

~~(iii) Twelve hours of arrest and search and seizure training with Fourth Amendment and Fifth Amendment training;~~

~~(iv) Eight hours of de-escalation training;~~

~~(v) Eight hours of mental health crisis training;~~

~~(vi) Eight hours of anti-bias and implicit bias training; and~~

~~(vii) Four hours of substance abuse training.~~

~~(d) The head of the law enforcement agency employing a noncertified conditional officer shall validate the completion of the training required under subdivision (6)(c) of this section to the council and the director of the training center.~~

~~(e) A noncertified conditional officer shall not interact with the public unless such officer is under the direct supervision of a field training officer approved by the law enforcement agency employing such noncertified conditional officer.~~

~~(f) A noncertified conditional officer shall not, without direct guidance and authorization from an approved field training officer:~~

~~(i) Ride in a marked police cruiser;~~

~~(ii) Make arrests;~~

~~(iii) Interview suspects, victims, or witnesses; or~~

~~(iv) Carry out any other law enforcement function.~~

~~(g) A noncertified conditional officer may be employed for a period not to exceed sixteen consecutive weeks. The council may extend such period as follows:~~

~~(i) Upon application by a noncertified conditional officer, the council may grant an extension not to exceed two consecutive weeks for good cause shown; and~~

~~(ii) The council shall grant an extension not to exceed sixteen consecutive weeks upon finding:~~

~~(A) That the noncertified conditional officer immediately applied for admission to the training center upon appointment under this subsection;~~

~~(B) That the training center denied the officer's enrollment in the next basic training class due to class size limitations or another reason that was not the fault of the officer;~~

~~(C) That the officer is enrolled in the next available basic training class; and~~

~~(D) That such extension would not be contrary to the requirements, limitations, or intent of this subsection.~~

~~(h) Failure to follow the requirements and restrictions of this subsection shall be considered a violation of the law and neglect of duty.~~

~~(i) The council may adopt and promulgate rules and regulations as necessary to carry out this subsection, including, but not limited to, rules~~

and regulations permitting the virtual or online completion of required training and minimum standards and qualifications for field training officers. Prior to the expiration of ninety days after any such rules and regulations adopted become effective, any certified law enforcement officer with not less than three years of experience may serve as a field training officer.

Sec. 9. Section 81-1457, Revised Statutes Cumulative Supplement, 2020, is amended to read:

~~81-1457~~ (1) A person who ~~is certified under section 81-1414~~ and who seeks employment as a law enforcement officer in this state shall provide a signed waiver to the prospective employer upon a conditional offer of employment. The waiver must expressly allow the prospective employer to contact the person's former employer or employers and obtain from each copies of any records created under subsections (2) and (3) of section 14 of this act or under comparable laws in another jurisdiction ~~81-1456~~. The prospective employer is responsible for providing the waiver to each former employer.

(2) The waiver required by this section shall be executed on a form provided by the commission Nebraska Commission on Law Enforcement and Criminal Justice to all agencies in this state that employ or administer oaths of office to law enforcement officers certified by the commission.

(3) Within ten calendar days after receipt of the waiver, a former employer shall provide the prospective employer, along with other information required or allowed to be provided by law, copies of any records created under subsections (2) and (3) of section 14 of this act ~~81-1456~~. The names and any identifying information in any records created under subsections (2) and (3) of this section of any individual, witness, or law enforcement officer or officers other than the person who signed the waiver shall be confidential and not disclosed to the prospective employer.

(4) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies unless the prospective employer receives, from each of the person's former employers whether located in Nebraska or in another jurisdiction, copies of any records created under subsections (2) and (3) of section 14 of this act or such other jurisdiction's comparable laws ~~81-1456~~.

(5) A prospective employer shall not hire as a law enforcement officer a person to whom subsection (1) of this section applies if such person's former employer has provided notice to the commission Nebraska Commission on Law Enforcement and Criminal Justice that the person's separation from the former employer occurred under circumstances that may justify revocation of the person's certification unless the commission has reviewed the notification and issued a determination that the person shall retain such certification.

(6) For purposes of this section:

(a) Former employer means the law enforcement agency or other agency that currently employs or previously employed the person as a law enforcement officer, whether located in Nebraska or in another jurisdiction; and

~~(b) Incapacity has the same meaning as in section 81-1401;~~

~~(c) Law enforcement agency has the same meaning as in section 81-1401;~~

~~(d) Law enforcement officer has the same meaning as in section 81-1401;~~

and

(b) ~~(e)~~ Prospective employer means the law enforcement agency or other agency that is considering hiring the person as a law enforcement officer.

Sec. 10. (1) Prior to hiring a person as a law enforcement officer, a law enforcement agency shall, if such person has not previously worked as a law enforcement officer in Nebraska, cause such person to undergo a psychological evaluation to determine fitness for duty. The cost of such evaluation shall be the responsibility of the agency.

(2) The council may adopt and promulgate rules and regulations to carry out this section.

Sec. 11. (1) A person seeking certification under subdivision (2)(c) of section 81-1414 shall, in addition to any other applicable requirements of the commission or of sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act, submit an application to the council and complete a reciprocity program as provided in this section. The application shall be made under oath and made on a form provided by the council.

(2) The applicant shall attest to the following:

(a) That the applicant's certification as a law enforcement officer has not been revoked or suspended in another jurisdiction;

(b) That the applicant has not been convicted of or pleaded guilty or nolo contendere to a:

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

(iii) Misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer;

(c) That the applicant has not been separated from employment or disciplined for serious misconduct or a violation of the officer's oath of office, code of ethics, or statutory duties; and

(d) Any other information deemed necessary by the council.

(3) The council shall develop or approve a reciprocity program that an applicant shall complete prior to receiving certification under this section.

(4) The council shall deny certification to an applicant under this section if the council finds that the applicant does not meet the requirements of subsection (2) of this section, has omitted information required by such subsection, has provided false or misleading information in the application, or

has not completed the reciprocity program.

(5) No law enforcement agency or other state or local agency shall hire as a law enforcement officer a person whose certification is denied under this section.

(6) The council may adopt and promulgate rules and regulations as necessary to carry out this section.

Sec. 12. Section 81-1414.07, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1414.07 (1)(a) (1) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer, other than a noncertified conditional officer, shall attend at least twenty hours of continuing education courses for the number of hours required in subdivision (1)(b) of this section in the areas of criminal justice and law enforcement and at least two hours of anti-bias and implicit bias training designed to minimize apparent or actual racial profiling during each calendar year beginning on January 1 and ending on December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified.

(b) The numbers of continuing education hours required under this subsection shall be:

(i) Until January 1, 2022, twenty hours;

(ii) Beginning January 1, 2022, and until January 1, 2023, twenty-eight hours; and

(iii) Beginning January 1, 2023, thirty-two hours.

(2) The annual continuing education required by this section shall include:

(a) Refresher courses on de-escalation, mental health, and substance abuse issues;

(b) A minimum of two hours of anti-bias and implicit bias training;

(c) Firearms;

(d) Officer wellness;

(e) Legal updates, including, but not limited to, legislative changes and First Amendment and Fourth Amendment issues;

(f) Vehicular pursuit policy review; and

(g) Any other training as determined by a law enforcement agency.

(3) (2) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet. Continuing education, except that instruction conducted over the Internet shall be limited to ten hours annually, and shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities.

Sec. 13. (1) Each law enforcement agency or agency employing a law enforcement officer shall have a policy in its standard operating procedures regarding accepting and investigating complaints of law enforcement officer misconduct.

(2) If an agency receives a complaint of law enforcement misconduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403:

(a) The agency shall investigate the matter;

(b) The investigation shall be carried out by a law enforcement officer who has experience investigating allegations of misconduct by law enforcement officers; and

(c) The agency shall complete the investigation within one hundred days after the complaint. If criminal charges against the officer are being considered, the one-hundred-day deadline shall be tolled until a charging decision has been made and the prosecuting attorney has filed charges or declined to file charges. Upon completion of any investigation under this subsection, the agency shall report the results of the investigation to the executive director of the commission.

(3) If a law enforcement agency determines that a complaint investigated under subsection (2) of this section may be grounds for revocation of a law enforcement officer's certification, the agency shall forward the matter to the commission and the commission shall investigate such complaint. Any investigation by the commission shall be completed within one hundred eighty days after receipt of the complaint. If such investigation is not completed within one hundred eighty days, the investigation shall be deemed closed and the officer shall be notified. The commission may begin a new investigation if new information not available during the previous investigation is received and an investigation is warranted.

Sec. 14. Section 81-1456, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-1456 (1) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall submit a personnel change in status form as approved by the council Nebraska Police Standards Advisory Council to the director of the training center Nebraska Law Enforcement Training Center within seven calendar days after the date a law enforcement officer is hired by the agency or leaves employment with the agency.

(2) Each law enforcement agency or agency employing a law enforcement officer shall maintain a record regarding the reason or reasons for, and

circumstances surrounding, a separation of service for each law enforcement officer employed by that agency. Such record shall be retained for five years following a law enforcement officer's separation from the agency.

(3) Each law enforcement agency or agency employing a law enforcement officer shall maintain any and all records of officer conduct which could constitute grounds for revocation or suspension of a law enforcement certification by the ~~commission Nebraska Commission on Law Enforcement and Criminal Justice~~. Such record shall include any and all records of conduct which could constitute grounds for revocation or suspension under subdivision (6) of section 81-1403 : (a) Incompetence; (b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a felony violation of state or federal law; (f) a misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer; or (g) a violation of the officer's oath of office, code of ethics, or statutory duties. Such record shall be retained for the duration of the law enforcement officer's employment with the agency and for ten years following his or her separation from the agency.

(4) The chief of police, sheriff, Superintendent of Law Enforcement and Public Safety, or the head administrator of a law enforcement agency or an agency employing a law enforcement officer shall make a report to the ~~commission Nebraska Commission on Law Enforcement and Criminal Justice~~ of any law enforcement officer who is terminated from employment or allowed to resign in lieu of termination for conduct described in subdivision (6) of section 81-1403 that could constitute: (a) Incompetence; (b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a felony violation of state or federal law; (f) a misdemeanor violation of state or federal law, if the violation has a rational connection with the officer's fitness or capacity to serve as a law enforcement officer; or (g) a violation of the officer's oath of office, code of ethics, or statutory duties. The report shall include, but not be limited to, a summary of the allegations pertaining to the officer and identification of any witnesses relevant to the allegations, and shall be filed with the commission within thirty calendar days of the termination or resignation in lieu of termination.

(5) Failure to comply with this section shall constitute neglect of duty.

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

~~(a) Felony has the same meaning as in section 81-1401;~~

~~(b) Incapacity has the same meaning as in section 81-1401;~~

~~(c) Law enforcement agency has the same meaning as in section 81-1401; and~~

~~(d) Law enforcement officer has the same meaning as in section 81-1401.~~

Sec. 15. (1) Except when the use of deadly force is authorized, a law enforcement officer shall not intentionally use a chokehold on any person.

(2) A law enforcement officer shall not intentionally use a carotid restraint control hold on any person unless:

(a) Either:

(i) The officer reasonably believes that the person will otherwise cause death or serious bodily injury to any person, including a law enforcement officer or noncertified conditional officer;

(ii) The person is actively resisting arrest in a manner that poses a risk of bodily injury to the officer or any other person; or

(iii) Deadly force is otherwise authorized; and

(b) The officer has been trained on the use of such hold.

(3) Following use of a carotid restraint control hold, a law enforcement officer shall create a report of the incident that articulates in detail the events leading to and following the use of such hold.

(4) For purposes of this section:

(a) Bodily injury has the same meaning as in section 28-109;

(b) Carotid restraint control hold means utilizing bilateral pressure to the sides of a person's neck, restricting the flow of oxygenated blood to the brain;

(c) Chokehold means intentionally applying pressure to the front of the throat and cutting off air flow for a sustained amount of time; and

(d) Serious bodily injury has the same meaning as in section 28-109.

Sec. 16. On or before January 1, 2022:

(1) Each law enforcement agency shall adopt and provide to the commission for approval a policy requiring each law enforcement officer of such agency to intervene when such officer reasonably believes that another law enforcement officer is engaged in a use of excessive force; and

(2) The commission shall develop and distribute a suggested model written policy for use by law enforcement agencies, but the commission shall not mandate the adoption of the model policy except for any particular law enforcement agency which fails to timely create and provide to the commission a policy for the agency as required by this section or when the commission does not approve an agency's policy.

Sec. 17. (1)(a) On or before January 1, 2023, each law enforcement agency shall be accredited in a manner approved by the commission. A law enforcement agency shall not be accredited unless it has adopted written policies as determined by the commission and met other requirements as determined by the commission.

(b) Beginning January 1, 2023, the commission shall post on its web site a list of all law enforcement agencies that are not accredited as required by this subsection. The commission shall update the list at least annually, and more frequently as the commission deems necessary.

(c) A law enforcement agency that is not accredited as required by this

subsection shall be ineligible to receive loans, grants, funds, or donations administered by the commission until the commission determines that such agency has been properly accredited.

(2) The commission shall develop accreditation requirements. The commission may provide its own accreditation program and may approve accreditations provided by third-party providers.

(3) The Nebraska Police Improvement and Professionalism Fund is created. The fund shall be used to provide grants as provided in subsection (4) of this section. The State Treasurer shall credit to the fund any funds transferred or appropriated to the fund by the Legislature and funds received as gifts or grants or other private or public funds obtained for the purposes set forth in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) The commission shall develop a grant program to award grants to law enforcement agencies to pay for costs of accreditation incurred pursuant to this section. In awarding such grants, the commission shall prioritize smaller law enforcement agencies.

(5) The commission may adopt and promulgate rules and regulations to carry out this section.

Sec. 18. (1) On or before July 1, 2022, the commission shall post on its public web site a list of all law enforcement officers who have, on or after January 1, 2021:

(a) Voluntarily surrendered their certifications or had their certifications revoked;

(b) Been convicted of or pleaded guilty or nolo contendere to a felony or a Class I misdemeanor; or

(c) Upon adjudication by the council, been found to have engaged in serious misconduct.

(2) The list provided for in this section shall be accompanied on the commission's public web site by a letter that includes, for each law enforcement officer on such list:

(a) The officer's name, rank, and the law enforcement agency for which such officer works or most recently worked;

(b) A statement indicating the reason such officer's name is on the list;

(c) A description of any discipline imposed; and

(d) An affirmation, signed by the chief of police, sheriff, or the head administrator of the officer's law enforcement agency or the Superintendent of Law Enforcement and Public Safety affirming the truth and accuracy of the matters stated in the letter.

(3) Beginning July 1, 2022, any time a law enforcement officer voluntarily surrenders such officer's certification, has such certification revoked, or is adjudicated by the council to have engaged in serious misconduct, the council shall notify the commission within thirty days after such surrender, revocation, or adjudication.

(4) By July 1, 2022, the council shall establish a procedure, including an opportunity for a hearing, by which a law enforcement officer may challenge the inclusion of such officer's name on the list.

Sec. 19. Section 81-1438, Reissue Revised Statutes of Nebraska, is amended to read:

81-1438 (1) The governing body of any county or city of this state, other than (a) ~~(1)~~ a county containing a city of the metropolitan or primary class or (b) ~~(2)~~ a city of the metropolitan or primary class, may establish a law enforcement reserve force. Members of such force shall be appointed at the discretion of the governing body. The governing body may limit the size of such reserve force.

(2)(a) A member of a law enforcement reserve force appointed under this section cannot make arrests, issue citations, detain members of the public, or seize evidence without being under the direct supervision of a physically present certified law enforcement officer.

(b) A reserve officer may perform functions at the direction of the county sheriff or chief of police when under the direct supervision of the county sheriff or chief of police. Such functions shall not include making arrests, issuing citations, detaining members of the public, or seizing evidence.

(c) A reserve officer is not limited with respect to the amount of hours worked annually.

Sec. 20. Section 81-1439, Reissue Revised Statutes of Nebraska, is amended to read:

81-1439 (1) The Nebraska Commission on Law Enforcement and Criminal Justice shall establish minimum physical, mental, educational, and moral qualifications for all members of any law enforcement reserve force. The commission shall also establish training and continuing education standards and be responsible for providing such training for all members. The commission shall delegate its responsibilities pursuant to this section to the Nebraska Police Standards Advisory Council.

(2) Individuals appointed to a law enforcement reserve force shall receive training through or under the supervision of the Nebraska Law Enforcement Training Center and shall achieve the minimum training standards within one year after the date of appointment. Such training may be provided by the training center through regional workshops, training sessions, or similar means of instruction anywhere in the state.

(3) Members of the law enforcement reserve force shall be subject to the same continuing education requirements as all other law enforcement officers

pursuant to sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act.

(4) The governing body establishing a law enforcement reserve force shall adopt and publish a reserve force manual setting forth the minimum qualifications, training standards, standard operating procedures, and continuing education requirements for such force and such higher qualifications, standards, and operating procedures as may actually be used.

Sec. 21. Section 81-1440, Reissue Revised Statutes of Nebraska, is amended to read:

81-1440 Subject to the restrictions set forth in subsection (2) of section 81-1438, law Law enforcement reserve officers shall serve as peace officers on the orders and at the discretion of the sheriff, the mayor, or the chief of police.

Sec. 22. Section 81-1443, Reissue Revised Statutes of Nebraska, is amended to read:

81-1443 (1) Subject to the restrictions set forth in subsection (2) of section 81-1438, law Law enforcement reserve officers, upon being activated by the sheriff, the mayor, or the chief of police, and while on assigned duty, shall be vested with the same rights, privileges, obligations, and duties of any other peace officer of this state.

(2) No person appointed to the reserve force may carry a weapon or otherwise act as a peace officer until such person ~~he~~ has been approved by the governing body. After approval, such person ~~he~~ may carry a weapon only when authorized by the sheriff or chief of police and when discharging official duties as a duly constituted peace officer.

(3) Law enforcement reserve officers shall be subordinate to regular force officers, shall not serve as a peace officer unless under the direction of regular officers, and when serving with regular force officers shall wear no insignia of rank. Each department for which a reserve force is established shall appoint a regular force officer as the reserve force coordinating and supervising officer. Such regular officer shall report directly to the sheriff or the chief of police.

Sec. 23. Section 81-2014, Revised Statutes Cumulative Supplement, 2020, is amended to read:

81-2014 For purposes of the Nebraska State Patrol Retirement Act:

(1)(a) Actuarial equivalent means the equality in value of the aggregate amounts expected to be received under different forms of payment or to be received at an earlier retirement age than the normal retirement age.

(b) For an officer hired before July 1, 2017, the determinations shall be based on the 1994 Group Annuity Mortality Table reflecting sex-distinct factors blended using seventy-five percent of the male table and twenty-five percent of the female table. An interest rate of eight percent per annum shall be reflected in making the determinations until such percent is amended by the Legislature.

(c) For an officer hired on or after July 1, 2017, or rehired on or after July 1, 2017, after termination of employment and being paid a retirement benefit or taking a refund of contributions, the determinations shall be based on a unisex mortality table and an interest rate specified by the board. Both the mortality table and the interest rate shall be recommended by the actuary and approved by the board following an actuarial experience study, a benefit adequacy study, or a plan valuation. The mortality table, interest rate, and actuarial factors in effect on the officer's retirement date will be used to calculate actuarial equivalency of any retirement benefit. Such interest rate may be, but is not required to be, equal to the assumed rate of return;

(2) Board means the Public Employees Retirement Board;

(3)(a)(i) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

(ii) For any officer employed on or prior to January 4, 1979, compensation includes compensation for unused sick leave or unused vacation leave converted to cash payments.

(iii) For any officer employed after January 4, 1979, and prior to July 1, 2016, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments and includes compensation for unused holiday compensatory time and unused compensatory time converted to cash payments.

(iv) For any officer employed on or after July 1, 2016, compensation does not include compensation for unused sick leave, unused vacation leave, unused holiday compensatory time, unused compensatory time, or any other type of unused leave, compensatory time, or similar benefits, converted to cash payments.

(b) Compensation in excess of the limitations set forth in section 401(a) (17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on

compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(4) Creditable service means service granted pursuant to section 81-2034 and all service rendered while a contributing member of the retirement system. Creditable service includes working days, sick days, vacation days, holidays, and any other leave days for which the officer is paid regular wages except as specifically provided in the Nebraska State Patrol Retirement Act. Creditable service does not include eligibility and vesting credit nor service years for which member contributions are withdrawn and not repaid;

(5) Current benefit means the initial benefit increased by all adjustments made pursuant to the Nebraska State Patrol Retirement Act;

(6) DROP means the deferred retirement option plan as provided in section 81-2041;

(7) DROP account means an individual DROP participant's defined contribution account under section 414(k) of the Internal Revenue Code;

(8) DROP period means the amount of time the member elects to participate in DROP which shall be for a period not to exceed five years from and after the date of the member's DROP election;

(9) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska government plan for purposes of determining eligibility for benefits under the Nebraska State Patrol Retirement Act. Such credit shall be used toward the vesting percentage pursuant to subsection (2) of section 81-2031 but shall not be included as years of service in the benefit calculation;

(10) Hire date or date of hire means the first day of compensated service subject to retirement contributions;

(11) Initial benefit means the retirement benefit calculated at the time of retirement;

(12) Officer means law enforcement officer as defined in section 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not include a noncertified conditional law enforcement officer as defined in section 81-1401 who has been granted an appointment conditioned on satisfactory completion of a training program approved by the Nebraska Police Standards Advisory Council;

(13) Plan year means the twelve-month period beginning on July 1 and ending on June 30 of the following year;

(14) Regular interest means interest fixed at a rate equal to the daily treasury yield curve for one-year treasury securities, as published by the Secretary of the Treasury of the United States, that applies on July 1 of each year, which may be credited monthly, quarterly, semiannually, or annually as the board may direct;

(15) Required beginning date means, for purposes of the deferral of distributions, April 1 of the year following the calendar year in which a member has:

(a)(i) Terminated employment with the State of Nebraska; and
(ii)(A) Attained at least seventy and one-half years of age for a member who attained seventy and one-half years of age on or before December 31, 2019;
or

(B) Attained at least seventy-two years of age for a member who attained seventy and one-half years of age on or after January 1, 2020; or

(b)(i) Terminated employment with the State of Nebraska; and
(ii) Otherwise reached the date specified by section 401(a)(9) of the Internal Revenue Code and the regulations issued thereunder;

(16) Retirement application means the form approved and provided by the retirement system for acceptance of a member's request for either regular or disability retirement;

(17) Retirement date means (a) the first day of the month following the date upon which a member's request for retirement is received on a retirement application if the member is eligible for retirement and has terminated employment or (b) the first day of the month following termination of employment if the member is eligible for retirement and has filed an application but has not yet terminated employment;

(18) Retirement system or system means the Nebraska State Patrol Retirement System as provided in the act;

(19) Service means employment as a member of the Nebraska State Patrol and shall not be deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the board. Service does not include any period of disability for which disability retirement benefits are received under subsection (1) of section 81-2025;

(20) Surviving spouse means (a) the spouse married to the member on the date of the member's death if married for at least one year prior to death or if married on the date of the member's retirement or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(21) Termination of employment occurs on the date on which the Nebraska State Patrol determines that the officer's employer-employee relationship with the patrol is dissolved. The Nebraska State Patrol shall notify the board of the date on which such a termination has occurred. Termination of employment does not include ceasing employment with the Nebraska State Patrol if the officer returns to regular employment with the Nebraska State Patrol or another agency of the State of Nebraska and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased and the date when the employer-employee relationship commenced with the Nebraska State Patrol or another state agency. Termination of employment does not occur upon an officer's participation in DROP pursuant to section 81-2041. It is the responsibility of the employer that is involved in the termination of employment to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a retirement benefit has been paid to a member of the retirement system pursuant to section 81-2026, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 24. Original sections 29-215, 81-1403, 81-1407, 81-1414, 81-1438, 81-1439, 81-1440, and 81-1443, Reissue Revised Statutes of Nebraska, and sections 23-1701.01, 29-2264, 81-1401, 81-1414.07, 81-1456, 81-1457, and 81-2014, Revised Statutes Cumulative Supplement, 2020, are repealed.