

## LEGISLATIVE BILL 994

Approved by the Governor March 22, 2000

Introduced by Dw. Pedersen, 39; Smith, 48; at the request of the Governor

AN ACT relating to law enforcement; to amend sections 81-1401, 81-1402, 81-1403, 81-1404, 81-1406, 81-1410, 81-1413, 81-1414, 81-1428, and 81-1429, Reissue Revised Statutes of Nebraska; to change provisions relating to the Nebraska Law Enforcement Training Center; to state intent; to change and provide powers and duties; to change provisions relating to fees and funds; to provide a termination date; to eliminate law enforcement training provisions for cities and villages; to harmonize provisions; to repeal the original sections; and to outright repeal sections 18-1703 and 18-1704, Reissue Revised Statutes of Nebraska.

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

Section 1. The Nebraska Commission on Law Enforcement and Criminal Justice and the Nebraska State Patrol are authorized to maintain the independent and distinct operation of their individual training academies notwithstanding any provision of law, rule, or regulation.

Sec. 2. Section 81-1401, Reissue Revised Statutes of Nebraska, is amended to read:

81-1401. For purposes of sections 81-1401 to 81-1414, unless the context otherwise requires:

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

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

(3) 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;

(4) 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;

(5)(a) Law enforcement officer means any person 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 employee of a county sheriff's office;

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

(v) 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; ~~but~~

(b) Law enforcement officer does not include employees of the Department of Correctional Services, probation officers under the Nebraska Probation System, ~~or appointed under section 43-2,123,~~ parole officers appointed by the Parole Administrator, employees of the Department of Property Assessment and Taxation under section 77-704, or employees of the Department of Revenue under section 77-366; and

(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;

(6) Director means the director of the Nebraska Law Enforcement Training Center; ~~and~~

(7) 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;

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

(9) 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. 3. Section 81-1402, Reissue Revised Statutes of Nebraska, is amended to read:

81-1402. There is hereby created the Nebraska Law Enforcement Training Center under the supervision and control of the ~~commission~~ council. ~~The purpose~~ purposes of the training center shall be to (1) test all law enforcement candidates on behalf of the council to ensure that they meet pre-certification and certification requirements, (2) oversee and monitor other training schools and training academies to ensure that pre-certification and certification requirements as set by the council are being met, and (3) conduct preemployment pre-certification programs, certification programs, and advanced law enforcement training programs as directed by the council.

Sec. 4. 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 such rules and regulations. The fine for each separate violation of any rule or regulation 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 credit to the permanent school fund;

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

~~(2)~~ (3) Recommend to the commission the names of persons to be appointed to the position of director of the training center, delegate appropriate powers and duties to and provide direct supervision of the director, and when warranted recommend to the commission that the director be removed for cause;

~~(3)~~ (4) Establish curricula and requirements for satisfactory completion of preemployment pre-certification programs, certification programs, and advanced training programs;

~~(4)~~ (5) Issue certificates or diplomas attesting satisfactory completion of preemployment pre-certification programs, certification programs, and advanced training programs;

~~(5)~~ (6) Revoke or suspend such certificates or diplomas according to rules and regulations established by the council for reasons which shall include, but not be limited to, revocation for (a) incompetence, (b) neglect of duty, and (c) physical, mental, or emotional incapacity. Such rules and regulations shall 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;

~~(6)~~ (7) Set the tuition and fees of 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. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

~~(7)~~ (8) Annually certify any school, public or private, training academies providing a basic course of law enforcement training which complies with the qualifications and standards promulgated by the council and offers training comparable to that offered by the training center 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;

~~(8)~~ (9) Extend the programs of the training center throughout the state on a regional basis;

~~(9)~~ (10) Establish the qualifications and standards and provide the training required by section 81-1439; and

~~(10)~~ (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 credit to the permanent school fund.

Sec. 5. Section 81-1404, Reissue Revised Statutes of Nebraska, is amended to read:

81-1404. The director of the Nebraska Law Enforcement Training Center shall devote full time to the duties of the office and shall not engage in any other business or profession or hold any other state public office. The director shall be responsible to the commission through the council for the operation of the training center and the conducting of training programs. The director shall:

(1) Appoint and remove for cause such employees as may be necessary for the operation of the training center and delegate appropriate powers and duties to them;

(2) Conduct research for the purpose of evaluating and improving the effectiveness of law enforcement training programs;

(3) Consult with the council on all matters pertaining to ~~the training center~~ schools and training academies;

(4) Supervise the administration of the pre-certification competency test;

(5) Ensure that all council rules and regulations with respect to law enforcement pre-certification, certification, continuing education, and training requirements are implemented and followed, and in that capacity, act as the director of standards for the council;

(6) Advise the council concerning the operation ~~and curricula~~ of the training center, ~~and the formulation of training policy and procedures the requirements, as set by the council, for all training schools and training academies, and the formulation of training policies and regulations;~~ and

~~(5) (7) Issue diplomas to students who successfully complete the prescribed basic course of study. who are not yet employed as law enforcement officers.~~

Sec. 6. Section 81-1406, Reissue Revised Statutes of Nebraska, is amended to read:

81-1406. There is hereby created the Nebraska Police Standards Advisory Council. The council shall be a special standing committee of the commission with the express purpose of overseeing all training schools and training academies and the operation of the training center and ensuring that ~~the all rules, regulations, and policies with respect to pre-certification, certification, continuing education, and training requirements are implemented.~~ of the state with respect to law enforcement training are carried out. The council shall act for the commission in all matters relating to law enforcement training and the training center but shall not have any other powers and duties with respect to the commission or any of its duties. The council shall conduct regular meetings in order to ~~facilitate the operation of the training center~~ carry out its statutory duties.

Sec. 7. Section 81-1410, Reissue Revised Statutes of Nebraska, is amended to read:

81-1410. (1) ~~The council shall adopt and promulgate rules and regulations governing admission to the training center with an effective date of January 1, 1995. The council shall adopt and promulgate rules and regulations governing the minimum admission requirements for all training academies. Until the rules and regulations become effective, the admission requirements existing on the effective date of this act pertaining to the training center shall be applicable to all training academies, except the Nebraska State Patrol. The rules and regulations shall establish admission criteria which shall include, but not be limited to, (a) physical, mental, and emotional fitness and (b) disclosure of any criminal history. Upon adoption of the rules and regulations and the passage of their effective date, the prior admission criteria specified in subsection (2) of this section shall be revoked.~~ The council may also adopt a priority system for admission to the training center and the other training academies conducting certification training for officers not employed by that training academy's agency.

(2) ~~Until January 1, 1995, the~~ The council may admit an applicant to ~~the any training center academy~~ for entry-level law enforcement certification when the applicant meets ~~any one or more of~~ the following minimum criteria:

(a) The applicant is or will be a citizen of the United States prior to the completion of certification;

(b) The applicant will reach the age of twenty-one years prior to the completion of the training;

(c) The applicant has been fingerprinted and a search has been made of local, state, and national fingerprint files for disclosure of any criminal

record and the results furnished to the training center;

(d) The applicant has a valid motor vehicle operator's or chauffeur's license;

(e) The applicant has vision correctable to 20/30 and has no evidence of an irreversible disease which will affect the person's sight;

~~(f) The applicant has normal hearing in each ear and has no evidence of an irreversible disease which will affect the person's hearing;~~

~~(g) The applicant has been pardoned or has never been convicted by any state or the United States of a crime punishable by imprisonment in a penitentiary for a term of one year or more or by any foreign government of a crime which would be punishable by imprisonment for a term of one year or more if committed in Nebraska or has had a conviction for such an offense overturned or reversed by a court of competent jurisdiction;~~

~~(h) (g) The applicant possesses good character as determined by a thorough background investigation;~~

~~(i) (h) The applicant (i)(A) is a high school graduate or (B) possesses a general educational development certificate and (ii) is able to read, write, and understand the English language at the eleventh grade level;~~

~~(j) (i) The applicant has not been convicted of driving while intoxicated in the two years immediately preceding admission; and~~

~~(k) (j) The applicant has been examined by a licensed physician ~~six~~ months one year or less prior to admission and has been certified by the physician to have met the physical requirements, as determined by the council, necessary to fulfill the responsibilities of a law enforcement officer and successfully complete the requirements for training.~~

(3) In all cases in which it is necessary ~~for the training center~~ to acquire documents or other information to determine whether or not an applicant meets any of the requirements of ~~this~~ subsection (2) of this section, ~~the training center may require that~~ such copies or other information shall be supplied by the applicant at his or her own expense.

Sec. 8. Section 81-1413, Reissue Revised Statutes of Nebraska, is amended to read:

81-1413. ~~Tuition, fees, and such other expenses incurred in the training of a law enforcement officer admitted to the training center shall be paid by the training center when the course the officer is attending is a course mandated by state law, a course prescribed by the council, or a course that has been funded by the training center through special external funding.~~ Tuition, fees, and such other expenses incurred in the training of all other persons admitted to the training center pre-certification and certification training of applicants shall be the responsibility of the person or his or her sponsoring agency, except that through June 30, 2005, such expenses may be financed by the training center through other appropriated funds as determined by the council in order to transition to a tuition-based system.

Sec. 9. 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) On and after January 1, 1972, no person shall receive appointment as a law enforcement officer unless 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 or has been awarded a certificate or diploma attesting to satisfactory completion of a training program which the council finds equivalent 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 as defined in section 81-1401, 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, and officers certified by virtue of such equivalent training may exercise full law enforcement authority exclusively on tribal lands.

(3) ~~On and after January 1, 1972, no law enforcement officer shall be promoted in rank unless he or she has been awarded a certificate by the director attesting to satisfactory completion of such advanced training as the council may require for the rank to which he or she is to be promoted. Law enforcement officers who are promoted in rank shall satisfactorily complete such council-approved training within one year of such promotion.~~

(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) of this section to any applicant who presents evidence of satisfactory completion of a council-approved training program. ~~7 other than that of the training center, found by the director to be equivalent to that of the training center.~~

Sec. 10. Section 81-1428, Reissue Revised Statutes of Nebraska, is amended to read:

81-1428. ~~The~~ There is hereby created a Law Enforcement Improvement Fund which is created and shall be maintained by the State Treasurer as a cash fund. Until January 1, 2007, the fund shall consist of revenue credited pursuant to section 81-1429 and investment income. The fund shall be used for payment of administrative and operations expenses of the Nebraska Law Enforcement Training Center and such other expenses as budgeted by the Legislature for the improvement of law enforcement. The fund shall be administered by the director. 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. 7 and from which there shall be appropriated such amounts as are available therefrom and as shall by the Legislature be considered appropriate for the improvement of law enforcement at the municipal and county levels.

Sec. 11. Section 81-1429, Reissue Revised Statutes of Nebraska, is amended to read:

81-1429. A Law Enforcement Improvement Fund fee of two dollars shall be taxed as costs in each criminal proceeding, including traffic infractions and misdemeanors, filed in all courts of this state for violations of state law or city or village ordinances. No such fee shall be collected in any juvenile court proceeding or when waived under section 29-2709. Such fee shall be paid to the State Treasurer on forms prescribed by the State Treasurer within ten days of the close of each calendar quarter. The State Treasurer shall credit the money to the Law Enforcement Improvement Fund.

This section terminates January 1, 2007.

Sec. 12. Original sections 81-1401, 81-1402, 81-1403, 81-1404, 81-1406, 81-1410, 81-1413, 81-1414, 81-1428, and 81-1429, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 13. The following sections are outright repealed: Sections 18-1703 and 18-1704, Reissue Revised Statutes of Nebraska.