

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1079

Introduced by Pansing Brooks, 28.

Read first time January 20, 2016

Committee: Judiciary

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 28-359
2 and 81-1401, Reissue Revised Statutes of Nebraska, and section
3 29-215, Revised Statutes Cumulative Supplement, 2014; to redefine
4 law enforcement agency as prescribed; to change provisions relating
5 to law enforcement officer jurisdiction; to harmonize provisions;
6 and to repeal the original sections.

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

1 Section 1. Section 28-359, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-359 Law enforcement agency shall mean the police department of an
4 agency or department of this state, the police department or the town
5 marshal in incorporated municipalities, the office of the sheriff in
6 unincorporated areas, and the Nebraska State Patrol.

7 Sec. 2. Section 29-215, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 29-215 (1) A law enforcement officer has the power and authority to
10 enforce the laws of this state and of the political subdivision which
11 employs the law enforcement officer or otherwise perform the functions of
12 that office anywhere within his or her primary jurisdiction.

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

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

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

31 (c) Any such law enforcement officer shall have such enforcement and

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

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

20 (e) When on duty performing law enforcement responsibilities and
21 working for his or her employing law enforcement agency or other law
22 enforcement agency as defined in 28-359.

23 (3) When probable cause exists to believe that a person is operating
24 or in the actual physical control of any motor vehicle, motorboat,
25 personal watercraft, or aircraft while under the influence of alcoholic
26 liquor or of any drug or otherwise in violation of section 28-1465,
27 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196,
28 60-6,197, 60-6,211.01, or 60-6,211.02, the law enforcement officer has
29 the power and authority to do any of the following or any combination
30 thereof:

31 (a) Transport such person to a facility outside of the law

1 enforcement officer's primary jurisdiction for appropriate chemical
2 testing of the person;

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

5 (c) With respect to such person, perform other procedures or
6 functions outside of the law enforcement officer's primary jurisdiction
7 which are directly and solely related to enforcing the laws that concern
8 a person operating or being in the actual physical control of any motor
9 vehicle, motorboat, personal watercraft, or aircraft while under the
10 influence of alcoholic liquor or of any other drug or otherwise in
11 violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02,
12 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.

13 (4) For purposes of this section:

14 (a) Law enforcement officer has the same meaning as peace officer as
15 defined in section 49-801 and also includes conservation officers of the
16 Game and Parks Commission; and

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

20 Sec. 3. Section 81-1401, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 81-1401 For purposes of sections 81-1401 to 81-1414.10, unless the
23 context otherwise requires:

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

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

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

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

1 committed in Nebraska;

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

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

12 (7) Law enforcement agency means the police department of an agency
13 or department of this state, the police department or the town marshal in
14 incorporated municipalities, the office of sheriff in unincorporated
15 areas, and the Nebraska State Patrol;

16 (8)(a) Law enforcement officer means any person who is responsible
17 for the prevention or detection of crime or the enforcement of the penal,
18 traffic, or highway laws of the state or any political subdivision of the
19 state for more than one hundred hours per year and is authorized by law
20 to make arrests and includes, but is not limited to:

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

22 (ii) A county sheriff;

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

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

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

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

30 (vii) A full-time employee of an organized and paid fire department
31 of any city of the metropolitan class who is an authorized arson

1 investigator and whose duties consist of determining the cause, origin,
2 and circumstances of fires or explosions while on duty in the course of
3 an investigation;

4 (b) Law enforcement officer does not include employees of the
5 Department of Correctional Services, probation officers under the
6 Nebraska Probation System, parole officers appointed by the Parole
7 Administrator, or employees of the Department of Revenue under section
8 77-366; and

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

14 (9) Training academy means the training center or such other
15 council-approved law enforcement training facility operated and
16 maintained by a law enforcement agency which offers certification
17 training that meets or exceeds the certification training curriculum of
18 the training center;

19 (10) Training center means the Nebraska Law Enforcement Training
20 Center; and

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

25 Sec. 4. Original sections 28-359 and 81-1401, Reissue Revised
26 Statutes of Nebraska, and section 29-215, Revised Statutes Cumulative
27 Supplement, 2014, are repealed.