

LEGISLATURE OF NEBRASKA
 ONE HUNDRED THIRD LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 538

Final Reading

Introduced by Chambers, 11.

Read first time January 23, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to law enforcement training; to amend sections
 2 81-1401 and 81-1403, Revised Statutes Cumulative
 3 Supplement, 2012; to change provisions relating to
 4 revocation and suspension of certificates or diplomas for
 5 physical, mental, or emotional incapacity; to define a
 6 term; to provide powers to and duties for the Nebraska
 7 Police Standards Advisory Council; to harmonize
 8 provisions; to provide an operative date; and to repeal
 9 the original sections.

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

1 Section 1. Section 81-1401, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 81-1401 For purposes of sections 81-1401 to 81-1414.10,
4 unless the context otherwise requires:

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

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

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

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

15 ~~(4)~~-(5) Handgun means any firearm with a barrel less than
16 sixteen inches in length or any firearm designed to be held and fired
17 by the use of a single hand;

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

25 ~~(5)~~-(7) Law enforcement agency means the police

1 department or the town marshal in incorporated municipalities, the
2 office of sheriff in unincorporated areas, and the Nebraska State
3 Patrol;

4 ~~(6)(a)~~—(8)(a) Law enforcement officer means any person
5 who is responsible for the prevention or detection of crime or the
6 enforcement of the penal, traffic, or highway laws of the state or
7 any political subdivision of the state for more than one hundred
8 hours per year and is authorized by law to make arrests and includes,
9 but is not limited to:

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

12 (ii) A county sheriff;

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

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

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

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

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

25 (b) Law enforcement officer does not include employees of

1 the Department of Correctional Services, probation officers under the
2 Nebraska Probation System, parole officers appointed by the Parole
3 Administrator, or employees of the Department of Revenue under
4 section 77-366; and

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

11 ~~(7)~~ (9) Training academy means the training center or
12 such other council-approved law enforcement training facility
13 operated and maintained by a law enforcement agency which offers
14 certification training that meets or exceeds the certification
15 training curriculum of the training center;

16 ~~(8)~~ (10) Training center means the Nebraska Law
17 Enforcement Training Center; and

18 ~~(9)~~ (11) Training school means a public or private
19 institution of higher education, including the University of
20 Nebraska, the Nebraska state colleges, and the community colleges of
21 this state, that offers training in a council-approved pre-
22 certification course.

23 Sec. 2. Section 81-1403, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 81-1403 Subject to review and approval by the commission,

1 the council shall:

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

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

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

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

25 (5) Issue certificates or diplomas attesting satisfactory

1 completion of pre-certification programs, certification programs, and
2 advanced training programs;

3 (6) Revoke or suspend such certificates or diplomas
4 according to rules and regulations adopted and promulgated by the
5 council pursuant to sections 81-1401 to 81-1414.10 for reasons which
6 shall include, but not be limited to, (a) incompetence, (b) neglect
7 of duty, (c) physical, mental, or emotional incapacity, and (d) final
8 conviction of or pleading guilty or nolo contendere to a felony. The
9 rules and regulations shall provide for the revocation of a
10 certificate or diploma without a hearing upon the certificate or
11 diploma holder's final conviction of or pleading guilty or nolo
12 contendere to a felony. ~~For purposes of this subdivision, felony~~
13 ~~means a crime punishable by imprisonment for a term of more than one~~
14 ~~year or a crime committed outside of Nebraska which would be~~
15 ~~punishable by imprisonment for a term of more than one year if~~
16 ~~committed in Nebraska. When a law enforcement officer is separated~~
17 ~~from his or her agency due to physical, mental, or emotional~~
18 ~~incapacity, the law enforcement agency shall report the separation to~~
19 ~~the council, and the officer's law enforcement certificate shall be~~
20 ~~suspended pursuant to rules and regulations adopted and promulgated~~
21 ~~by the council until such time as the officer demonstrates to the~~
22 ~~council that the incapacity no longer prevents the officer from~~
23 ~~performing the essential duties of a law enforcement officer. The~~
24 ~~council shall adopt and promulgate rules and regulations shall to~~
25 include a procedure for hearing appeals of any person who feels that

1 the revocation or suspension of his or her certificate or diploma was
2 in error;

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

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

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

21 (10) Establish the qualifications, standards, and
22 continuing education requirements and provide the training required
23 by section 81-1439; and

24 (11) Do all things necessary to carry out the purpose of
25 the training center, except that functional authority for budget and

1 personnel matters shall remain with the commission.

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

10 Sec. 3. This act becomes operative on January 1, 2014.

11 Sec. 4. Original sections 81-1401 and 81-1403, Revised
12 Statutes Cumulative Supplement, 2012, are repealed.