

LEGISLATIVE BILL 538

Approved by the Governor May 7, 2013

Introduced by Chambers, 11.

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

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

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

81-1401 For purposes of sections 81-1401 to 81-1414.10, 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) Director means the director of the Nebraska Law Enforcement Training Center;

(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;

~~(4)~~ (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;

~~(5)~~ (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;

~~(6)~~~~(a)~~ (8) (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, part-time, or reserve employee of a county sheriff's office;

(iv) A full-time, 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;

(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 Parole Administrator, 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;

~~(7)~~ (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;

~~(8)~~ (10) Training center means the Nebraska Law Enforcement Training

Center; and

~~(9)~~ (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. 2. Section 81-1403, Revised Statutes Cumulative Supplement, 2012, 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 or any of such rules and regulations. The fine for each separate violation of sections 81-1401 to 81-1414.10 or of any 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 for reasons which shall include, but not be limited to, (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 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. For purposes of this subdivision, 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. 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 shall to 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;

(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. All tuition and fees shall be remitted to the State Treasurer for credit to the Nebraska Law Enforcement Training Center Cash Fund;

(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;

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

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

(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. 3. This act becomes operative on January 1, 2014.

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