

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 849

Introduced by Ebke, 32.

Read first time January 05, 2018

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Concealed Handgun Permit Act; to amend
- 2 section 69-2440, Reissue Revised Statutes of Nebraska; to provide a
- 3 duty for law enforcement agencies taking temporary possession of a
- 4 handgun; and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-2440, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 69-2440 (1) A permitholder shall carry his or her permit to carry a
4 concealed handgun and his or her Nebraska driver's license, Nebraska-
5 issued state identification card, or military identification card any
6 time he or she carries a concealed handgun. The permitholder shall
7 display both the permit to carry a concealed handgun and his or her
8 Nebraska motor vehicle operator's license, Nebraska-issued state
9 identification card, or military identification card when asked to do so
10 by a peace officer or by emergency services personnel.

11 (2) Whenever a permitholder who is carrying a concealed handgun is
12 contacted by a peace officer or by emergency services personnel, the
13 permitholder shall immediately inform the peace officer or emergency
14 services personnel that the permitholder is carrying a concealed handgun.

15 (3)(a) During contact with a permitholder, a peace officer or
16 emergency services personnel may secure the handgun or direct that it be
17 secured during the duration of the contact if the peace officer or
18 emergency services personnel determines that it is necessary for the
19 safety of any person present, including the peace officer or emergency
20 services personnel. The permitholder shall submit to the order to secure
21 the handgun.

22 (b)(i) When the peace officer has determined that the permitholder
23 is not a threat to the safety of any person present, including the peace
24 officer, and the permitholder has not committed any other violation that
25 would result in his or her arrest or the suspension or revocation of his
26 or her permit, the peace officer shall return the handgun to the
27 permitholder before releasing the permitholder from the scene and
28 breaking contact.

29 (ii) When emergency services personnel have determined that the
30 permitholder is not a threat to the safety of any person present,
31 including emergency services personnel, and if the permitholder is

1 physically and mentally capable of possessing the handgun, the emergency
2 services personnel shall return the handgun to the permitholder before
3 releasing the permitholder from the scene and breaking contact. If the
4 permitholder is transported for treatment to another location, the
5 handgun shall be turned over to any peace officer. The peace officer
6 shall provide a receipt which includes the make, model, caliber, and
7 serial number of the handgun.

8 (c)(i) A permitholder whose handgun has been taken by a peace
9 officer under this section and which has not been returned to the
10 permitholder may make a written request for return of the handgun to the
11 law enforcement agency employing the peace officer. Upon such written
12 request, the agency shall return the handgun to the permitholder if it
13 determines that the permitholder is not a threat to public safety and is
14 mentally and physically capable of possessing the handgun. A permitholder
15 seeking the return of his or her handgun shall not be required to undergo
16 an additional criminal history background check before the handgun is
17 returned.

18 (ii) If the permitholder is a threat to public safety or is not
19 mentally or physically capable of possessing the handgun, a written
20 request for return of the handgun may be submitted to the law enforcement
21 agency by the duly appointed guardian, agent appointed under a power of
22 attorney, or other lawful designee of the permitholder. Upon such written
23 request, and after determining that the duly appointed guardian, agent
24 appointed under a power of attorney, or other lawful designee of the
25 permitholder is not a threat to public safety, is mentally and physically
26 capable of possessing the handgun, and possesses a valid permit to carry
27 a concealed handgun or a certificate issued under section 69-2404, the
28 law enforcement agency shall return the handgun to such duly appointed
29 guardian, agent appointed under a power of attorney, or other lawful
30 designee.

31 (iii) If the law enforcement agency determines that a handgun may

1 not be returned to a permitholder or his or her lawful designee under
2 this section, the agency shall provide the permitholder and any such
3 lawful designee with written notice of such determination and the reasons
4 for such determination. A permitholder or his or her lawful designee who
5 is denied return of a handgun under this section may appeal the
6 determination to the district court of the judicial district of the
7 county in which he or she resides or the county in which the law
8 enforcement agency making the determination is located pursuant to the
9 Administrative Procedure Act.

10 (4) For purposes of this section, contact with a peace officer means
11 any time a peace officer personally stops, detains, questions, or
12 addresses a permitholder for an official purpose or in the course of his
13 or her official duties, and contact with emergency services personnel
14 means any time emergency services personnel provide treatment to a
15 permitholder in the course of their official duties.

16 Sec. 2. Original section 69-2440, Reissue Revised Statutes of
17 Nebraska, is repealed.