LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 390

Introduced by Pansing Brooks, 28; Hansen, M., 26; Linehan, 39; Walz, 15.
Read first time January 17, 2019
Committee: Judiciary

A BILL FOR AN ACT relating to public safety; to state findings; to define terms; and to provide duties for the Nebraska Commission on Law Enforcement and Criminal Justice, law enforcement agencies, security agencies, and school districts relating to school resource officers and security guards as prescribed.

Be it enacted by the people of the State of Nebraska,
Section 1. The Legislature finds and declares that:

(1) Our public school children, faculty, and staff are entitled to be safe in schools when they attend school and study or work;

(2) Schools have an interest in keeping students safe;

(3) The interest of schools in keeping students safe may include accommodating the presence of school resource officers or security guards if a school district determines such resources are necessary to keep schools safe;

(4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted, disciplined, questioned, searched, sanctioned, cited, or arrested by a school official or by a security guard or peace officer working with school officials; and

(5) A comprehensive and clear memorandum of understanding between law enforcement or security agencies and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, ensuring that an increased law enforcement presence at schools will not result in a disparate impact on students from disadvantaged or minority communities.

(6) Schools have a duty to respond and manage disciplinary issues while school resource officers and security officers should be utilized only for school safety and actual law violations.

Sec. 2. For purposes of sections 1 to 4 of this act, unless the context otherwise requires:

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

(2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that is responsible
for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-106;

(3) Peace officer means any officer or employee of a law enforcement agency authorized by law to make arrests;

(4) School resource officer means any peace officer or security guard with apparent authority to act as a peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary schools;

(5) Security agency means a contractor that employs security guards used by a school district; and

(6) Security guard means a person employed to protect buildings and people and may include off-duty peace officers.

Sec. 3. (1) On or before December 1, 2019, the commission shall develop and distribute a model memorandum of understanding that includes the policies required by section 4 of this act. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district pursuant to this section that has not developed and adopted a different model memorandum of understanding shall adopt the model memorandum of understanding developed by the commission.

(2) Any law enforcement agency which provides school resource officers or security agency which provides security guards to schools as of January 1, 2020, shall, on or before January 1, 2021, adopt a written memorandum of understanding with such school district. Such memorandum of understanding shall include provisions in conformance with the minimum standards set forth in the model policy developed by the commission and
may include any other procedures and provisions the school district and
the law enforcement agency or security agency mutually deem appropriate.

(3) The head of a law enforcement agency or security agency required
to adopt a memorandum of understanding under this section shall provide a
copy of such memorandum of understanding to the commission within three
months after its adoption.

(4) On or before January 1, 2020, and each January 1 thereafter,
when any law enforcement agency or security agency required to adopt a
memorandum of understanding under this section has made any change to its
memorandum of understanding, in conjunction with the school district, in
the preceding year, the head of such agency shall provide an updated copy
of such memorandum of understanding to the commission.

Sec. 4. Each memorandum of understanding required by section 3 of
this act shall govern the use of school resource officers or security
guards and shall include, but not be limited to, policies that:

(1) Require each school resource officer or security guard to attend
a minimum of forty hours of training focused on school-based law
enforcement, including, but not limited to, coursework focused on school
law, student rights, understanding special needs students and students
with disabilities, conflict de-escalation techniques, ethics for school
resource officers, teenage brain development, adolescent behavior,
diversity and cultural awareness, trauma-informed responses, and
preventing violence in school settings;

(2) Require a minimum of one administrator and one teacher to attend
a minimum of twenty hours of training focused on school-based law
enforcement, including, but not limited to, coursework focused on school
law, student rights, understanding special needs students and students
with disabilities, conflict de-escalation techniques, ethics for school
resource officers and security guards, teenage brain development,
adolescent behavior, diversity and cultural awareness, trauma-informed
responses, and preventing violence in school settings;
(3) Ensure records are kept on each student referral for prosecution from a school resource officer or security guard and that such records allow for analysis of related data and delineate:

(a) The reason for such referral;

(b) If the occurrence prompting such referral occurred at school, on school grounds, or at a school-sponsored event; and

(c) Demographic characteristics of such student and any other students involved in the occurrence prompting such referral, including, but not limited to, race, ethnicity, national origin, gender, grade level, and whether the student has an identified disability;

(4) Specify when parents or guardians are to be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(5) Specify under what circumstances school resource officers and security guards are to advise students of their constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Specify the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Accommodate a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the school district or the law enforcement agency or security agency.