

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB51

Hearing Date: Wednesday February 03, 2021
Committee On: Judiciary
Introducer: Lathrop
One Liner: Change and provide qualifications for and duties relating to certification of law enforcement officers, require accreditation of law enforcement agencies, prohibit chokeholds in law enforcement, and require policies on excessive force

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brandt, DeBoer, Geist, Lathrop, Morfeld, McKinney, Pansing Brooks
Nay:		
Absent:	1	Senator Slama
Present Not Voting:		

Oral Testimony:

Proponents:

Senator Steve Lathrop
Bob Lausten
Jim Maguire
Bruce Ferrell

Aaron Hanson
Steve Cerveny
Spike Eickholt

Opponents:

Kevin Stukenholtz
Don Wesely
Lynn Rex

Neutral:

Representing:

Introducer
LaVista Police & United Cities of Sarpy
Nebraska Fraternal Order of Police
Wahoo Police Department & Police Chiefs Association of Nebraska
Omaha Police Officers Association
Omaha Police Department
ACLU of Nebraska

Representing:

Nebraska Sheriffs Association
Greater Nebraska Cities
League of Nebraska Municipalities

Representing:

Submitted Written Testimony:

Proponents:

Joe Kohout
Jon Cannon

Opponents:

Representing:

BNSF Railway
Nebraska Association of County Officials

Representing:

Summary of purpose and/or changes:

LB51 would make several changes to law enforcement certification, training, and policies.

Section 1 would amend Sec. 23-1701.01 to remove specific requirements for training of sheriffs and replace them with a reference to Sec. 81-1414.07. This section of law would be amended by Section 17 of LB51.

Section 2 would amend Sec. 29-2264 to clarify that setting aside a conviction does not preclude its use as evidence of misconduct or for law enforcement certification purposes. This section would also add a reference to misdemeanors.

Section 3 would amend Sec. 48-115, Section 4 would amend Sec. 48-126.01, Section 5 would amend Sec. 48-145, and Section 12 would amend Sec. 81-1412.02 to delete references to a "law enforcement reserve force". Section 6 would amend Sec. 48-147 and Section 7 would amend Sec. 48-2709 to harmonize a reference to the amended Sec. 48-115.

Section 8 would amend Sec. 81-1401 to change, delete, and definitions of certain terms. The definition of "incapacity" would be deleted. The definition of "law enforcement officer" would be amended to add a requirement for successful completion of entry-level law enforcement certification and remove an exception for conditional appointments as law enforcement officers. The term "misdemeanor crime of domestic violence" would be added and defined by reference to Sec. 28-1206. The term "serious misconduct" would be added and defined to include improper or illegal actions taken by a law enforcement officer, and specifically lists conviction of a felony or misdemeanor crime of domestic violence, fabrication of evidence, repeated substantiated allegations of the use of excessive force, acceptance of a bribe, commission of fraud or perjury, and sexual assault.

Section 9 would amend Sec. 81-1403 to make changes to the responsibilities of the Nebraska Police Standards Advisory Council ("Council"). This section would delete the direction to remit fines collected by the Council for distribution in accordance with Article VII Section 5 of the Nebraska Constitution. All fines are required to be appropriated to support the common schools. This section would also replace the current grounds for revocation or suspension of certification. Under current law, the listed grounds are incompetence, neglect of duty, incapacity, or a conviction of a felony. The new grounds would be conviction of a felony, conviction of misdemeanor crime of domestic violence or other misdemeanor with a rational connection to the officer's fitness to serve, serious misconduct, or a violation of the officer's oath of office, code of ethics, or statutory duties. This section would also remove the Council's authority to establish qualifications and standards and provide training.

Section 10 would amend Sec. 81-1407 would increase the membership of the Council from seven to nine. Instead of a police chief from a city of the metropolitan class or the primary class, the Council would have a police chief from both. The Council would also add a law enforcement officer with the rank of sergeant or below.

Section 11 is a new section that requires forty hours of de-escalation training, including twenty-four hours of mental health and substance abuse and sixteen hours relating to human behavior and communicating with people in crisis, plus eight hours of anti-bias and implicit bias training.

Section 13 would amend Sec. 81-1414 to delete the allowance for conditional appointments of law enforcement officers, but explicitly law allow appointment of officers licensed in another state.

Section 14 would amend Sec. 81-1457 to require a person seeking employment as a law enforcement officer to allow the prospective employer access to employment records from another state, in addition to the current requirement to allow access to records from Nebraska.

Section 15 is a new section that would require law enforcement agencies to conduct a psychological evaluation prior to hiring an officer.

Section 16 is a new section that would require an applicant to be a law enforcement officer attest under oath in their application that their certification has never been suspended or revoked in another jurisdiction, they have never been convicted of a disqualifying crime, and they have not been separated from employment or disciplined for serious misconduct or a violation of the officer's oath of office, code of ethics, or statutory duties. The applicant cannot be hired or certified if they fail to provide such information, provide false or misleading information, or do not meet these requirements.

Section 17 would amend Sec. 81-1414.07 to increase the annual training for law enforcement officers from twenty-four hours to forty hours and prescribe certain topics and minimum hours on those topics. This section would also remove the ten hour limit on training conducted over the internet.

Section 18 is a new section that would require every law enforcement agency to have a policy for accepting and investigating complaints of officer misconduct. The agency would be required to investigate, assign an investigator with sufficient training, and complete the investigation within a certain amount of time.

Section 19 would amend Sec. 81-1456 to harmonize references related to the process of law enforcement agency administrators submitting documentation of officer conduct that is grounds for certification suspension or revocation to the Crime Commission.

Section 20 is a new section. This section would prohibit the use of chokeholds unless deadly force is authorized. This section would prohibit the use of carotid restraint holds unless (1) deadly force is authorized and the officer has been trained on use of the hold, or (2) the officer reasonably believes that the person will cause death or bodily injury to another person.

Section 21 is a new section. This section would require law enforcement agencies to adopt a policy requiring an officer to intervene when they reasonably believe another officer is engaged in the use of excessive force.

Section 22 is a new section. This section requires each law enforcement agency to be accredited by January 1, 2023. The Crime Commission would be tasked with developing accreditation standards.

Explanation of amendments:

AM745 replaces the original bill.

Section 2 would amend Sec. 29-215 to clarify that Class I railroad police officers are law enforcement officers.

Section 9 is Section 8 in the original bill and would amend Sec. 81-1401. The amendment would add definitions of Class I railroad and include railroad police departments and officers in the definitions of law enforcement agencies and law enforcement officers. The amendment would also add a definition of noncertified conditional officer.

Section 12 replaces Section 11 of the original bill and is a new section. The amendment still requires de-escalation training but removes specific hour requirements for the components of the training.

Section 14 is Section 13 in the original bill and amends Sec. 81-1414. The amendment would authorize the appointment of noncertified conditional officers. These officers would not be permitted to wear a badge. These officers would not be allowed to carry a firearm or interact with the public until completing certain training. These officers would be required to be under the direct supervision of a field training officer. Noncertified conditional officers could only be employed for sixteen weeks until the next basic training class, or an additional sixteen weeks if the next basic training class was full.

Section 18 was Section 17 in the original bill and amends Sec. 81-1414.07. The specific hour requirements for certain subjects would be omitted and the total number of continuing education hours would be 28 hours in 2022 and 32 hours in 2023 and subsequent years.

Section 23 is Section 22 in the original bill. The amendment would require the commission to post a list of unaccredited law enforcement agencies. The amendment would also make unaccredited agencies ineligible for loans, grants, or funds administered by the commission.

Section 24 is a modified version of provisions originally included in LB601. This section would require the commission to post a database of law enforcement officers that have had their certification revoked, been convicted of a felony or Class I misdemeanor, or have been adjudicated to have engaged in serious misconduct.

Section 25 would amend Sec. 81-2014 to harmonize a reference to noncertified conditional officers.

Steve Lathrop, Chairperson