

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1241

FINAL READING

Introduced by Lathrop, 12; Hilgers, 21; Pansing Brooks, 28; Morfeld, 46;
DeBoer, 10; Blood, 3; Bostar, 29; Flood, 19.

Read first time January 20, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to law enforcement training; to amend sections
2 81-1401, 81-1414, 81-1414.07, and 81-1414.13, Revised Statutes
3 Supplement, 2021; to change provisions relating to law enforcement
4 officer training and certification; to provide duties for the
5 Nebraska Police Standards Advisory Council; to redefine a term; to
6 adopt the Law Enforcement Attraction and Retention Act; to harmonize
7 provisions; to provide operative dates; to repeal the original
8 sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1401, Revised Statutes Supplement, 2021, is
2 amended to read:

3 81-1401 For purposes of sections 81-1401 to 81-1414.19, unless the
4 context otherwise requires:

5 (1) Class I railroad means a rail carrier classified as Class I
6 pursuant to 49 C.F.R. part 1201 1-1;

7 (2) Commission means the Nebraska Commission on Law Enforcement and
8 Criminal Justice;

9 (3) Council means the Nebraska Police Standards Advisory Council;

10 (4) Director means the director of the Nebraska Law Enforcement
11 Training Center;

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

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

19 (7) Law enforcement agency means the police department or the town
20 marshal in incorporated municipalities, the office of sheriff in
21 unincorporated areas, the Nebraska State Patrol, and Class I railroad
22 police departments;

23 (8)(a) Law enforcement officer means any person who has successfully
24 completed an entry-level law enforcement certification from a training
25 academy and who is responsible for the prevention or detection of crime
26 or the enforcement of the penal, traffic, or highway laws of the state or
27 any political subdivision of the state for more than one hundred hours
28 per year and is authorized by law to make arrests and includes, but is
29 not limited to:

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

31 (ii) A county sheriff;

1 (iii) A full-time or part-time employee of a county sheriff's
2 office;

3 (iv) A full-time or part-time employee of a municipal or village
4 police agency;

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

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

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

13 (viii) A member of a law enforcement reserve force appointed in
14 accordance with section 81-1438; or

15 (ix) A full-time Class I railroad police officer;

16 (b) Law enforcement officer includes a noncertified conditional
17 officer;

18 (c) Law enforcement officer does not include employees of the
19 Department of Correctional Services, probation officers under the
20 Nebraska Probation System, parole officers appointed by the Director of
21 Supervision and Services of the Division of Parole Supervision, or
22 employees of the Department of Revenue under section 77-366; and

23 (d) Except for a noncertified conditional officer, a law enforcement
24 officer shall possess a valid law enforcement officer certificate or
25 diploma, as established by the council, in order to be vested with the
26 authority of this section;

27 (9) Misdemeanor crime of domestic violence has the same meaning as
28 in section 28-1206;

29 (10) Noncertified conditional officer means a person appointed
30 pursuant to subsection (6) of section 81-1414;

31 (11) Serious misconduct means improper or illegal actions taken by a

1 law enforcement officer that have a rational connection with the person's
2 fitness or capacity to serve as a law enforcement officer and includes,
3 but is not limited to:

4 (a) Conviction of a felony or misdemeanor crime of domestic
5 violence;

6 (b) Fabrication of evidence;

7 (c) Repeated substantiated allegations of the use of excessive
8 force;

9 (d) Acceptance of a bribe;

10 (e) Commission of fraud or perjury; or

11 (f) Sexual assault;

12 (12) Training academy means:

13 (a) The the training center; or

14 (b) Another such other council-approved law enforcement training
15 facility operated and maintained by a law enforcement agency which:

16 (i) Offers offers certification training that meets or exceeds the
17 certification training curriculum of the training center; and

18 (ii) Is operated and maintained by a law enforcement agency or by
19 multiple law enforcement agencies pursuant to the Interlocal Cooperation
20 Act.

21 (13) Training center means the Nebraska Law Enforcement Training
22 Center; and

23 (14) Training school means a public or private institution of higher
24 education, including the University of Nebraska, the Nebraska state
25 colleges, and the community colleges of this state, that offers training
26 in a council-approved pre-certification course.

27 Sec. 2. Section 81-1414, Revised Statutes Supplement, 2021, is
28 amended to read:

29 81-1414 (1) On and after January 1, 1972, law enforcement officers
30 already serving under permanent appointment shall not be required to meet
31 any requirement of subsection (2) of this section as a condition of

1 tenure or continued employment.

2 (2) Except as provided in subsection (6) of this section, on and
3 after January 1, 1972, no person shall receive appointment as a law
4 enforcement officer unless such person:

5 (a) Has been awarded a certificate or diploma by the commission
6 attesting to satisfactory completion of the minimum curriculum of the
7 training center as established by the council;

8 (b) Has been awarded a certificate or diploma attesting to
9 satisfactory completion of a training program approved by the council as
10 equivalent to the curriculum in subdivision (2)(a) of this section; or

11 (c) Is certified as a law enforcement officer in another state and
12 has successfully applied, ~~completed~~ the requirements of a reciprocity
13 program, and been approved as provided in section 81-1414.13.

14 (3) The council shall deem the successful completion of the federal
15 Bureau of Indian Affairs basic police training program as administered by
16 the Federal Law Enforcement Training Center to constitute equivalent
17 training under subdivision (2)(b) of this section, and officers certified
18 by virtue of such equivalent training may exercise full law enforcement
19 authority exclusively on tribal lands.

20 (4) Law enforcement officers who are promoted in rank shall
21 satisfactorily complete such council-approved training within one year of
22 such promotion.

23 (5) At the direction of the council, the director shall issue a
24 certificate or diploma attesting to a compliance with the requirements of
25 subsection (2), (3), or (4) of this section to any applicant who presents
26 evidence of satisfactory completion of a council-approved training
27 program.

28 (6)(a) A person who has not been awarded such a certificate or
29 diploma may receive an appointment as a noncertified conditional officer
30 subject to the provisions and requirements of this subsection.

31 (b) A noncertified conditional officer shall meet all requirements

1 for admission to the training center and shall immediately apply for
2 admission to the training center and enroll in the next available basic
3 training class.

4 (c) A noncertified conditional officer may interact with the public
5 and carry a firearm only after completion of the following training:

6 (i) Twenty-four hours of use of force training, including defensive
7 tactics, arrest control, handcuffing, pat down, and complete searches;

8 (ii) Sixteen hours of firearms training and passing the minimum
9 requirements for the handgun qualification course as provided in section
10 81-1412.01;

11 (iii) Twelve hours of arrest and search and seizure training with
12 Fourth Amendment and Fifth Amendment training;

13 (iv) Eight hours of de-escalation training;

14 (v) Eight hours of mental health crisis training;

15 (vi) Eight hours of anti-bias and implicit bias training; and

16 (vii) Four hours of substance abuse training.

17 (d) The head of the law enforcement agency employing a noncertified
18 conditional officer shall validate the completion of the training
19 required under subdivision (6)(c) of this section to the council and the
20 director of the training center.

21 (e) A noncertified conditional officer shall not interact with the
22 public unless such officer is under the direct supervision of a field
23 training officer approved by the law enforcement agency employing such
24 noncertified conditional officer.

25 (f) A noncertified conditional officer shall not, without direct
26 guidance and authorization from an approved field training officer:

27 (i) Ride in a marked police cruiser;

28 (ii) Make arrests;

29 (iii) Interview suspects, victims, or witnesses; or

30 (iv) Carry out any other law enforcement function.

31 (g) A noncertified conditional officer may be employed for a period

1 not to exceed sixteen consecutive weeks. The council may extend such
2 period as follows:

3 (i) Upon application by a noncertified conditional officer, the
4 council may grant an extension not to exceed two consecutive weeks for
5 good cause shown; and

6 (ii) The council shall grant an extension not to exceed sixteen
7 consecutive weeks upon finding:

8 (A) That the noncertified conditional officer immediately applied
9 for admission to the training center upon appointment under this
10 subsection;

11 (B) That the training center denied the officer's enrollment in the
12 next basic training class due to class size limitations or another reason
13 that was not the fault of the officer;

14 (C) That the officer is enrolled in the next available basic
15 training class; and

16 (D) That such extension would not be contrary to the requirements,
17 limitations, or intent of this subsection.

18 (h) Failure to follow the requirements and restrictions of this
19 subsection shall be considered a violation of the law and neglect of
20 duty.

21 (i) The council may adopt and promulgate rules and regulations as
22 necessary to carry out this subsection, including, but not limited to,
23 rules and regulations permitting the virtual or online completion of
24 required training and minimum standards and qualifications for field
25 training officers. Prior to the expiration of ninety days after any such
26 rules and regulations adopted become effective, any certified law
27 enforcement officer with not less than three years of experience may
28 serve as a field training officer.

29 Sec. 3. Section 81-1414.07, Revised Statutes Supplement, 2021, is
30 amended to read:

31 81-1414.07 (1)(a) In order to maintain his or her professional

1 status and serve the law enforcement profession, the community, and the
2 residents of Nebraska, each law enforcement officer, other than a
3 noncertified conditional officer, shall attend continuing education
4 courses for the number of hours required in subdivision (1)(b) of this
5 section in the areas of criminal justice and law enforcement during each
6 calendar year beginning on January 1 and ending on December 31. A law
7 enforcement officer is not required to meet the continuing education
8 requirements in the year in which he or she first becomes fully
9 certified. A law enforcement officer may retire from service in good
10 standing without meeting the continuing education requirements in the
11 calendar year of the officer's retirement.

12 (b) The number of continuing education hours required under this
13 subsection shall be:

14 (i) Until January 1, 2022, twenty hours;

15 (ii) Beginning January 1, 2022, and until January 1, 2023, twenty-
16 eight hours; and

17 (iii) Beginning January 1, 2023, thirty-two hours.

18 (2) The annual continuing education required by this section shall
19 include:

20 (a) Refresher courses on de-escalation, mental health, and substance
21 abuse issues;

22 (b) A minimum of two hours of anti-bias and implicit bias training;

23 (c) Firearms;

24 (d) Officer wellness;

25 (e) Legal updates, including, but not limited to, legislative
26 changes and First Amendment and Fourth Amendment issues;

27 (f) Vehicular pursuit policy review; and

28 (g) Any other training as determined by a law enforcement agency.

29 (3) Continuing education courses may be offered in the form of
30 seminars, advanced education which may include college or university
31 classes, conferences, instruction conducted within the law enforcement

1 officer's law enforcement agency, or instruction conducted over the
2 Internet. Continuing education shall be of a type which has application
3 to and seeks to maintain and improve the skills of the law enforcement
4 officer in carrying out his or her duties and responsibilities.

5 Sec. 4. Section 81-1414.13, Revised Statutes Supplement, 2021, is
6 amended to read:

7 81-1414.13 (1) A person seeking certification under subdivision (2)
8 (c) of section 81-1414 shall, in addition to any other applicable
9 requirements of the commission or of sections 81-1401 to 81-1414.19,
10 submit an application to the council and complete the requirements for a
11 reciprocity program as provided in this section. The application shall be
12 made under oath and made on a form provided by the council.

13 (2) The applicant shall attest to the following:

14 (a) That the applicant's certification as a law enforcement officer
15 has not been revoked or suspended in another jurisdiction;

16 (b) That the applicant has not been convicted of or pleaded guilty
17 or nolo contendere to a:

18 (i) Felony violation of state or federal law;

19 (ii) Misdemeanor crime of domestic violence; or

20 (iii) Misdemeanor violation of state or federal law, if the
21 violation has a rational connection with the officer's fitness or
22 capacity to serve as a law enforcement officer;

23 (c) That the applicant has not been separated from employment or
24 disciplined for serious misconduct or a violation of the officer's oath
25 of office, code of ethics, or statutory duties; and

26 (d) Any other information deemed necessary by the council.

27 ~~(3) The council shall develop or approve a reciprocity program that~~
28 ~~an applicant shall:~~

29 (a) Provide proof that the applicant meets the requirements listed
30 in section 81-1410;

31 (b) Pass a physical fitness test;

1 (c) Provide proof that the applicant was awarded a certificate or
2 diploma attesting to satisfactory completion of a training program
3 determined by the council to be equivalent to the curriculum in
4 subdivision (2)(a) of section 81-1414; and

5 (d) Pass a reciprocity test approved by the council ~~complete prior~~
6 ~~to receiving certification under this section.~~

7 (4) The council shall deny certification to an applicant under this
8 section if the council finds that the applicant does not meet the
9 requirements of ~~subsection (2) of~~ this section, has omitted information
10 required by this section ~~such subsection, or~~ has provided false or
11 misleading information in the application, ~~or has not completed the~~
12 reciprocity program. The council shall take action on an application
13 within forty-five days after an applicant has completed all requirements
14 under this section.

15 (5) No law enforcement agency or other state or local agency shall
16 hire as a law enforcement officer a person whose certification is denied
17 under this section.

18 (6) A person seeking certification under the reciprocity process
19 provided in this section shall not exercise law enforcement authority
20 until all certification process requirements have been met and the
21 applicant has been certified, except that such person may serve as a
22 noncertified conditional officer.

23 (7) The reciprocity test shall be offered at least once per month if
24 an applicant has requested and is qualified to take the test. The
25 reciprocity test shall be offered at sites with independent proctors as
26 approved by the council. The council may authorize satellite testing
27 locations throughout Nebraska or in other states. The council shall
28 develop a study guide for the test by July 1, 2022. The council shall
29 provide such study guide to applicants.

30 (8) ~~(6)~~ The council may adopt and promulgate rules and regulations
31 as necessary to carry out this section.

1 Sec. 5. Sections 5 to 12 of this act shall be known and may be
2 cited as the Law Enforcement Attraction and Retention Act.

3 Sec. 6. (1) The Legislature finds that:

4 (a) The State of Nebraska and cities and counties in this state have
5 experienced a dramatic decrease in applications for law enforcement
6 officer positions;

7 (b) Law enforcement officers in Nebraska are leaving the law
8 enforcement profession;

9 (c) Law enforcement agencies are not retaining law enforcement
10 officers at a rate sufficient to ensure public safety;

11 (d) Law enforcement officers are the critical element of public
12 safety in Nebraska communities; and

13 (e) Maintaining a robust law enforcement workforce is in the best
14 interests of all Nebraskans.

15 (2) The purpose of the Law Enforcement Attraction and Retention Act
16 is to provide financial incentives to attract and retain law enforcement
17 officers.

18 Sec. 7. For purposes of the Law Enforcement Attraction and
19 Retention Act:

20 (1) Council means the Nebraska Police Standards Advisory Council;
21 and

22 (2) Law enforcement officer has the same meaning as in section
23 81-1401.

24 Sec. 8. (1) The council shall accept applications for retention
25 incentive payments from individual law enforcement officers in Nebraska.

26 (2) To be eligible for a tier 1 retention incentive payment, a law
27 enforcement officer must complete twelve months of full-time employment
28 as a law enforcement officer after July 1, 2022. No law enforcement
29 officer shall receive more than one tier 1 retention incentive payment.

30 (3) To be eligible for a tier 2 retention incentive payment, a law
31 enforcement officer must complete three years of full-time employment as

1 a law enforcement officer after July 1, 2022. No law enforcement officer
2 shall receive more than one tier 2 retention incentive payment.

3 (4) To be eligible for a tier 3 retention incentive payment, a law
4 enforcement officer must complete five years of full-time employment as a
5 law enforcement officer after July 1, 2022. No law enforcement officer
6 shall receive more than one tier 3 retention incentive payment.

7 (5) Full-time law enforcement officers employed by a law enforcement
8 agency that employs more than seventy-five full-time law enforcement
9 officers shall only be eligible for a tier 1 retention incentive payment,
10 and such payment shall be seven hundred fifty dollars.

11 (6) For full-time law enforcement officers employed by a law
12 enforcement agency that employs seventy-five or fewer full-time law
13 enforcement officers:

14 (a) The tier 1 retention incentive payment shall be one thousand
15 five hundred dollars;

16 (b) The tier 2 retention incentive payment shall be two thousand
17 five hundred dollars; and

18 (c) The tier 3 retention incentive payment shall be three thousand
19 dollars.

20 (7) A law enforcement officer shall not be eligible for a tier 1,
21 tier 2, or tier 3 retention incentive payment under this section if:

22 (a) Such law enforcement officer's certification has ever been
23 revoked;

24 (b) Such law enforcement officer has ever been convicted of a felony
25 or Class I misdemeanor. This subdivision shall not apply if the law
26 enforcement officer received a pardon or set aside for such conviction;

27 (c) Such law enforcement officer has ever been adjudicated by the
28 council to have engaged in serious misconduct, as such term is defined in
29 section 81-1401; or

30 (d) Such law enforcement officer was allowed to resign instead of
31 being terminated from employment. This subdivision shall only apply if

1 the law enforcement officer's certification would have been revoked had
2 he or she not resigned.

3 Sec. 9. (1) The council shall accept applications for grants from
4 law enforcement agencies in Nebraska. The grants shall be used to provide
5 hiring bonuses to newly hired full-time law enforcement officers.

6 (2) A law enforcement agency shall be eligible for a grant under
7 this section if:

8 (a) The law enforcement agency employs fewer than one hundred fifty
9 full-time law enforcement officers; and

10 (b) The law enforcement agency is not at the recommended level of
11 staffing under standards set by the council.

12 Sec. 10. The council may adopt and promulgate rules and regulations
13 to carry out the Law Enforcement Attraction and Retention Act.

14 Sec. 11. It is the intent of the Legislature to appropriate five
15 million dollars each fiscal year to the Nebraska Commission on Law
16 Enforcement and Criminal Justice for purposes of carrying out the Law
17 Enforcement Attraction and Retention Act.

18 Sec. 12. The Law Enforcement Attraction and Retention Act
19 terminates on June 30, 2028.

20 Sec. 13. Sections 5, 6, 7, 8, 9, 10, 11, and 12 of this act become
21 operative on July 1, 2022. The other sections of this act become
22 operative on their effective date.

23 Sec. 14. Original sections 81-1401, 81-1414, 81-1414.07, and
24 81-1414.13, Revised Statutes Supplement, 2021, are repealed.

25 Sec. 15. Since an emergency exists, this act takes effect when
26 passed and approved according to law.