

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 51

Introduced by Lathrop, 12.

Read first time January 07, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 48-147,
2 48-2709, 81-1403, 81-1407, 81-1412.02, and 81-1414, Reissue Revised
3 Statutes of Nebraska, and sections 23-1701.01, 29-2264, 48-115,
4 48-126.01, 48-145, 81-1401, 81-1414.07, 81-1456, and 81-1457,
5 Revised Statutes Cumulative Supplement, 2020; to define and redefine
6 terms; to change provisions relating to annual and initial training
7 for law enforcement officers; to change membership of the Nebraska
8 Police Standards Advisory Council; to provide for certification of
9 persons certified as law enforcement officers in other states; to
10 change provisions relating to law enforcement officer certification;
11 to provide for policies and requirements for investigating law
12 enforcement officer misconduct; to provide duties for the Nebraska
13 Commission on Law Enforcement and Criminal Justice; to prohibit
14 chokeholds as prescribed; to require policies on excessive force and
15 a duty to intervene; to require accreditation of law enforcement
16 agencies; to create a fund; to eliminate provisions regarding law
17 enforcement reserve forces; to harmonize provisions; to repeal the
18 original sections; and to outright repeal sections 81-1438, 81-1439,
19 81-1440, 81-1441, 81-1442, 81-1443, 81-1444, 81-1445, and 81-1446,
20 Reissue Revised Statutes of Nebraska.
21 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 23-1701.01, Revised Statutes Cumulative
2 Supplement, 2020, is amended to read:

3 23-1701.01 (1) Any candidate for the office of sheriff who does not
4 have a law enforcement officer certificate or diploma issued by the
5 Nebraska Commission on Law Enforcement and Criminal Justice shall submit
6 with the candidate filing form required by section 32-607 a standardized
7 letter issued by the director of the Nebraska Law Enforcement Training
8 Center certifying that the candidate has:

9 (a) Within one calendar year prior to the deadline for filing the
10 candidate filing form, passed a background investigation performed by the
11 Nebraska Law Enforcement Training Center based on a check of his or her
12 criminal history record information maintained by the Federal Bureau of
13 Investigation through the Nebraska State Patrol. The candidate who has
14 not passed a background investigation shall apply for the background
15 investigation at least thirty days prior to the filing deadline for the
16 candidate filing form; and

17 (b) Received a minimum combined score on the reading comprehension
18 and English language portions of an adult basic education examination
19 designated by the Nebraska Law Enforcement Training Center.

20 (2) Each sheriff shall attend the Nebraska Law Enforcement Training
21 Center and receive a certificate attesting to satisfactory completion of
22 the Sheriff's Certification Course within eight months after taking
23 office unless such sheriff has already been awarded a certificate by the
24 Nebraska Commission on Law Enforcement and Criminal Justice attesting to
25 satisfactory completion of such course or unless such sheriff can
26 demonstrate to the Nebraska Police Standards Advisory Council that his or
27 her previous training and education is such that he or she will
28 professionally discharge the duties of the office. Any sheriff in office
29 prior to July 19, 1980, shall not be required to obtain a certificate
30 attesting to satisfactory completion of the Sheriff's Certification
31 Course but shall otherwise be subject to this section.

1 ~~(3) Each Notwithstanding sections 81-1401 to 81-1414.10, each~~
2 sheriff shall attend forty ~~twenty~~ hours of continuing education as
3 provided in section 81-1414.07 ~~in criminal justice and law enforcement~~
4 ~~courses and at least two hours of anti-bias and implicit bias training~~
5 ~~designed to minimize apparent or actual racial profiling approved by the~~
6 ~~council~~ each year following the first year of such sheriff's term of
7 office. ~~Such continuing education shall be offered through seminars,~~
8 ~~advanced education which may include college or university classes,~~
9 ~~conferences, instruction conducted within the sheriff's office, or~~
10 ~~instruction conducted over the Internet, except that instruction~~
11 ~~conducted over the Internet shall be limited to ten hours annually, and~~
12 ~~shall be of a type which has application to and seeks to maintain and~~
13 ~~improve the skills of the sheriffs in carrying out the responsibilities~~
14 ~~of their office.~~

15 ~~(4) Unless (3) Notwithstanding section 81-1403, unless a sheriff is~~
16 able to show good cause for not complying with subsection (2) or (3) of
17 this section or obtains a waiver of the training requirements from the
18 council, any sheriff who violates subsection (2) or (3) of this section
19 shall be punished by a fine equal to such sheriff's monthly salary. Each
20 month in which such violation occurs shall constitute a separate offense.

21 Sec. 2. Section 29-2264, Revised Statutes Cumulative Supplement,
22 2020, is amended to read:

23 29-2264 (1) Whenever any person is placed on probation by a court
24 and satisfactorily completes the conditions of his or her probation for
25 the entire period or is discharged from probation prior to the
26 termination of the period of probation, the sentencing court shall issue
27 an order releasing the offender from probation. Such order in all felony
28 cases shall provide notice that the person's voting rights are restored
29 two years after completion of probation. The order shall include
30 information on restoring other civil rights through the pardon process,
31 including application to and hearing by the Board of Pardons.

1 (2) Whenever any person is convicted of an offense and is placed on
2 probation by the court, is sentenced to a fine only, or is sentenced to
3 community service, he or she may, after satisfactory fulfillment of the
4 conditions of probation for the entire period or after discharge from
5 probation prior to the termination of the period of probation and after
6 payment of any fine and completion of any community service, petition the
7 sentencing court to set aside the conviction.

8 (3)(a) Except as provided in subdivision (3)(b) of this section,
9 whenever any person is convicted of an offense and is sentenced other
10 than as provided in subsection (2) of this section, but is not sentenced
11 to a term of imprisonment of more than one year, such person may, after
12 completion of his or her sentence, petition the sentencing court to set
13 aside the conviction.

14 (b) A petition under subdivision (3)(a) of this section shall be
15 denied if filed:

16 (i) By any person with a criminal charge pending in any court in the
17 United States or in any other country;

18 (ii) During any period in which the person is required to register
19 under the Sex Offender Registration Act;

20 (iii) For any misdemeanor or felony motor vehicle offense under
21 section 28-306 or the Nebraska Rules of the Road; or

22 (iv) Within two years after a denial of a petition to set aside a
23 conviction under this subsection.

24 (4) In determining whether to set aside the conviction, the court
25 shall consider:

26 (a) The behavior of the offender after sentencing;

27 (b) The likelihood that the offender will not engage in further
28 criminal activity; and

29 (c) Any other information the court considers relevant.

30 (5) The court may grant the offender's petition and issue an order
31 setting aside the conviction when in the opinion of the court the order

1 will be in the best interest of the offender and consistent with the
2 public welfare. The order shall:

3 (a) Nullify the conviction;

4 (b) Remove all civil disabilities and disqualifications imposed as a
5 result of the conviction; and

6 (c) Notify the offender that he or she should consult with an
7 attorney regarding the effect of the order, if any, on the offender's
8 ability to possess a firearm under state or federal law.

9 (6) The setting aside of a conviction in accordance with the
10 Nebraska Probation Administration Act shall not:

11 (a) Require the reinstatement of any office, employment, or position
12 which was previously held and lost or forfeited as a result of the
13 conviction;

14 (b) Preclude proof of a plea of guilty whenever such plea is
15 relevant to the determination of an issue involving the rights or
16 liabilities of someone other than the offender;

17 (c) Preclude proof of the conviction as evidence of the commission
18 of the offense whenever the fact of its commission is relevant for the
19 purpose of impeaching the offender as a witness, except that the order
20 setting aside the conviction may be introduced in evidence;

21 (d) Preclude use of the conviction for the purpose of determining
22 sentence on any subsequent conviction of a criminal offense;

23 (e) Preclude the proof of the conviction as evidence of the
24 commission of the offense in the event an offender is charged with a
25 subsequent offense and the penalty provided by law is increased if the
26 prior conviction is proved;

27 (f) Preclude the proof of the conviction to determine whether an
28 offender is eligible to have a subsequent conviction set aside in
29 accordance with the Nebraska Probation Administration Act;

30 (g) Preclude use of the conviction as evidence of commission of the
31 offense for purposes of determining whether an application filed or a

1 license issued under sections 71-1901 to 71-1906.01, the Child Care
2 Licensing Act, or the Children's Residential Facilities and Placing
3 Licensure Act or a certificate issued under sections 79-806 to 79-815
4 should be denied, suspended, or revoked;

5 (h) Preclude use of the conviction as evidence of serious misconduct
6 or incompetence, neglect of duty, physical, mental, or emotional
7 incapacity, or final conviction of or pleading guilty or nolo contendere
8 to a felony or misdemeanor for purposes of determining whether an
9 application filed or a certificate issued under sections 81-1401 to
10 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of this act should be
11 denied, suspended, or revoked;

12 (i) Preclude proof of the conviction as evidence whenever the fact
13 of the conviction is relevant to a determination of the registration
14 period under section 29-4005;

15 (j) Relieve a person who is convicted of an offense for which
16 registration is required under the Sex Offender Registration Act of the
17 duty to register and to comply with the terms of the act;

18 (k) Preclude use of the conviction for purposes of section 28-1206;

19 (l) Affect the right of a victim of a crime to prosecute or defend a
20 civil action;

21 (m) Affect the assessment or accumulation of points under section
22 60-4,182; or

23 (n) Affect eligibility for, or obligations relating to, a commercial
24 driver's license.

25 (7) For purposes of this section, offense means any violation of the
26 criminal laws of this state or any political subdivision of this state
27 including, but not limited to, any felony, misdemeanor, infraction,
28 traffic infraction, violation of a city or village ordinance, or
29 violation of a county resolution.

30 (8) Except as otherwise provided for the notice in subsection (1) of
31 this section, changes made to this section by Laws 2005, LB 713, shall be

1 retroactive in application and shall apply to all persons, otherwise
2 eligible in accordance with the provisions of this section, whether
3 convicted prior to, on, or subsequent to September 4, 2005.

4 (9) The changes made to this section by Laws 2018, LB146, and Laws
5 2020, LB881, shall apply to all persons otherwise eligible under this
6 section, without regard to the date of the conviction sought to be set
7 aside.

8 Sec. 3. Section 48-115, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 48-115 The terms employee and worker are used interchangeably and
11 have the same meaning throughout the Nebraska Workers' Compensation Act.
12 Such terms include the plural and all ages and both sexes. For purposes
13 of the act, employee or worker shall be construed to mean:

14 (1) Every person in the service of the state or of any governmental
15 agency created by it, including the Nebraska National Guard and members
16 of the military forces of the State of Nebraska, under any appointment or
17 contract of hire, expressed or implied, oral or written;

18 (2) Every person in the service of an employer who is engaged in any
19 trade, occupation, business, or profession as described in section 48-106
20 under any contract of hire, expressed or implied, oral or written,
21 including aliens and also including minors. Minors for the purpose of
22 making election of remedies under the Nebraska Workers' Compensation Act
23 shall have the same power of contracting and electing as adult employees.

24 As used in subdivisions (1) through (10) ~~(11)~~ of this section, the
25 terms employee and worker shall not be construed to include any person
26 whose employment is not in the usual course of the trade, business,
27 profession, or occupation of his or her employer.

28 If an employee subject to the Nebraska Workers' Compensation Act
29 suffers an injury on account of which he or she or, in the event of his
30 or her death, his or her dependents would otherwise have been entitled to
31 the benefits provided by such act, the employee or, in the event of his

1 or her death, his or her dependents shall be entitled to the benefits
2 provided under such act, if the injury or injury resulting in death
3 occurred within this state, or if at the time of such injury (a) the
4 employment was principally localized within this state, (b) the employer
5 was performing work within this state, or (c) the contract of hire was
6 made within this state;

7 (3) Volunteer firefighters of any fire department of any rural or
8 suburban fire protection district, city, village, or nonprofit
9 corporation, which fire department is organized under the laws of the
10 State of Nebraska. Such volunteers shall be deemed employees of such
11 rural or suburban fire protection district, city, village, or nonprofit
12 corporation while in the performance of their duties as members of such
13 department and shall be considered as having entered and as acting in the
14 regular course and scope of their employment from the instant such
15 persons commence responding to a call to active duty, whether to a fire
16 station or other place where firefighting equipment that their company or
17 unit is to use is located or to any activities that the volunteer
18 firefighters may be directed to do by the chief of the fire department or
19 some person authorized to act for such chief. Such volunteers shall be
20 deemed employees of such rural or suburban fire protection district,
21 city, village, or nonprofit corporation until their return to the
22 location from which they were initially called to active duty or until
23 they engage in any activity beyond the scope of the performance of their
24 duties, whichever occurs first.

25 Members of such volunteer fire department, before they are entitled
26 to benefits under the Nebraska Workers' Compensation Act, shall be
27 recommended by the chief of the fire department or some person authorized
28 to act for such chief for membership therein to the board of directors of
29 the rural or suburban fire protection district or nonprofit corporation,
30 the mayor and city commission, the mayor and council, or the chairperson
31 and board of trustees, as the case may be, and upon confirmation shall be

1 deemed employees of such entity. Members of such fire department after
2 confirmation to membership may be removed by a majority vote of the
3 entity's board of directors or governing body and thereafter shall not be
4 considered employees of such entity. Firefighters of any fire department
5 of any rural or suburban fire protection district, nonprofit corporation,
6 city, or village shall be considered as acting in the performance and
7 within the course and scope of their employment when performing
8 activities outside of the corporate limits of their respective districts,
9 cities, or villages, but only if directed to do so by the chief of the
10 fire department or some person authorized to act for such chief;

11 (4) Members of the Nebraska Emergency Management Agency, any city,
12 village, county, or interjurisdictional emergency management
13 organization, or any state emergency response team, which agency,
14 organization, or team is regularly organized under the laws of the State
15 of Nebraska. Such members shall be deemed employees of such agency,
16 organization, or team while in the performance of their duties as members
17 of such agency, organization, or team;

18 (5) Any person fulfilling conditions of probation, or community
19 service as defined in section 29-2277, pursuant to any order of any court
20 of this state who shall be working for a governmental body, or agency as
21 defined in section 29-2277, pursuant to any condition of probation, or
22 community service as defined in section 29-2277. Such person shall be
23 deemed an employee of the governmental body or agency for the purposes of
24 the Nebraska Workers' Compensation Act;

25 (6) Volunteer ambulance drivers and attendants and emergency care
26 providers who are members of an emergency medical service for any county,
27 city, village, rural or suburban fire protection district, nonprofit
28 corporation, or any combination of such entities under the authority of
29 section 13-303. Such volunteers shall be deemed employees of such entity
30 or combination thereof while in the performance of their duties as
31 ambulance drivers or attendants or emergency care providers and shall be

1 considered as having entered into and as acting in the regular course and
2 scope of their employment from the instant such persons commence
3 responding to a call to active duty, whether to a hospital or other place
4 where the ambulance they are to use is located or to any activities that
5 the volunteer ambulance drivers or attendants or emergency care providers
6 may be directed to do by the chief or some person authorized to act for
7 such chief of the volunteer ambulance service or emergency care service.
8 Such volunteers shall be deemed employees of such county, city, village,
9 rural or suburban fire protection district, nonprofit corporation, or
10 combination of such entities until their return to the location from
11 which they were initially called to active duty or until they engage in
12 any activity beyond the scope of the performance of their duties,
13 whichever occurs first. Before such volunteer ambulance drivers or
14 attendants or emergency care providers are entitled to benefits under the
15 Nebraska Workers' Compensation Act, they shall be recommended by the
16 chief or some person authorized to act for such chief of the volunteer
17 ambulance service or emergency care service for membership therein to the
18 board of directors of the rural or suburban fire protection district or
19 nonprofit corporation, the governing body of the county, city, or
20 village, or combination thereof, as the case may be, and upon such
21 confirmation shall be deemed employees of such entity or combination
22 thereof. Members of such volunteer ambulance or emergency care service
23 after confirmation to membership may be removed by majority vote of the
24 entity's board of directors or governing body and thereafter shall not be
25 considered employees of such entity. Volunteer ambulance drivers and
26 attendants and emergency care providers for any county, city, village,
27 rural or suburban fire protection district, nonprofit corporation, or any
28 combination thereof shall be considered as acting in the performance and
29 within the course and scope of their employment when performing
30 activities outside of the corporate limits of their respective county,
31 city, village, or district, but only if directed to do so by the chief or

1 some person authorized to act for such chief;

2 ~~(7) Members of a law enforcement reserve force appointed in~~
3 ~~accordance with section 81-1438. Such members shall be deemed employees~~
4 ~~of the county or city for which they were appointed;~~

5 ~~(7)~~ (8) Any offender committed to the Department of Correctional
6 Services who is employed pursuant to section 81-1827. Such offender shall
7 be deemed an employee of the Department of Correctional Services solely
8 for purposes of the Nebraska Workers' Compensation Act;

9 ~~(8)~~ (9) An executive officer of a corporation elected or appointed
10 under the provisions or authority of the charter, articles of
11 incorporation, or bylaws of such corporation who owns less than twenty-
12 five percent of the common stock of such corporation or an executive
13 officer of a nonprofit corporation elected or appointed under the
14 provisions or authority of the charter, articles of incorporation, or
15 bylaws of such corporation who receives annual compensation of more than
16 one thousand dollars from such corporation. Such executive officer shall
17 be an employee of such corporation under the Nebraska Workers'
18 Compensation Act.

19 An executive officer of a corporation who owns twenty-five percent
20 or more of the common stock of such corporation or an executive officer
21 of a nonprofit corporation who receives annual compensation of one
22 thousand dollars or less from such corporation shall not be construed to
23 be an employee of the corporation under the Nebraska Workers'
24 Compensation Act unless such executive officer elects to bring himself or
25 herself within the provisions of the act. Such election shall be in
26 writing and filed with the secretary of the corporation and with the
27 workers' compensation insurer. Such election shall be effective upon
28 receipt by the insurer for the current policy and subsequent policies
29 issued by such insurer and shall remain in effect until the election is
30 terminated, in writing, by the officer and the termination is filed with
31 the insurer or until the insurer ceases to provide coverage for the

1 corporation, whichever occurs first. Any such termination of election
2 shall also be filed with the secretary of the corporation. If insurance
3 is provided through a master policy or a multiple coordinated policy
4 pursuant to the Professional Employer Organization Registration Act on or
5 after January 1, 2012, then such election or termination of election
6 shall also be filed with the professional employer organization. If
7 coverage under the master policy or multiple coordinated policy ceases,
8 then such election shall also be effective for a replacement master
9 policy or multiple coordinated policy obtained by the professional
10 employer organization and shall remain in effect for the new policy as
11 provided in this subdivision. If such an executive officer has not
12 elected to bring himself or herself within the provisions of the Nebraska
13 Workers' Compensation Act pursuant to this subdivision and a health,
14 accident, or other insurance policy covering such executive officer
15 contains an exclusion of coverage if the executive officer is otherwise
16 entitled to workers' compensation coverage, such exclusion is null and
17 void as to such executive officer.

18 It is the intent of the Legislature that the changes made to this
19 subdivision by Laws 2002, LB 417, shall apply to policies of insurance
20 against liability arising under the act with an effective date on or
21 after January 1, 2003, but shall not apply to any such policy with an
22 effective date prior to January 1, 2003;

23 (9) ~~(10)~~ Each individual employer, partner, limited liability
24 company member, or self-employed person who is actually engaged in the
25 individual employer's, partnership's, limited liability company's, or
26 self-employed person's business on a substantially full-time basis who
27 elects to bring himself or herself within the provisions of the Nebraska
28 Workers' Compensation Act. Such election shall be in writing and filed
29 with the workers' compensation insurer. Such election shall be effective
30 upon receipt by the insurer for the current policy and subsequent
31 policies issued by such insurer and shall remain in effect until the

1 election is terminated, in writing, by such person and the termination is
2 filed with the insurer or until the insurer ceases to provide coverage
3 for the business, whichever occurs first. If insurance is provided
4 through a master policy or a multiple coordinated policy pursuant to the
5 Professional Employer Organization Registration Act on or after January
6 1, 2012, then such election or termination of election shall also be
7 filed with the professional employer organization. If coverage under the
8 master policy or multiple coordinated policy ceases, then such election
9 shall also be effective for a replacement master policy or multiple
10 coordinated policy obtained by the professional employer organization and
11 shall remain in effect for the new policy as provided in this
12 subdivision. If any such person who is actually engaged in the business
13 on a substantially full-time basis has not elected to bring himself or
14 herself within the provisions of the Nebraska Workers' Compensation Act
15 pursuant to this subdivision and a health, accident, or other insurance
16 policy covering such person contains an exclusion of coverage if such
17 person is otherwise entitled to workers' compensation coverage, such
18 exclusion shall be null and void as to such person; and

19 (10) ~~(11)~~ An individual lessor of a commercial motor vehicle leased
20 to a motor carrier and driven by such individual lessor who elects to
21 bring himself or herself within the provisions of the Nebraska Workers'
22 Compensation Act. Such election is made if he or she agrees in writing
23 with the motor carrier to have the same rights as an employee only for
24 purposes of workers' compensation coverage maintained by the motor
25 carrier. For an election under this subdivision, the motor carrier's
26 principal place of business must be in this state and the motor carrier
27 must be authorized to self-insure liability under the Nebraska Workers'
28 Compensation Act. Such an election shall (a) be effective from the date
29 of such written agreement until such agreement is terminated, (b) be
30 enforceable against such self-insured motor carrier in the same manner
31 and to the same extent as claims arising under the Nebraska Workers'

1 Compensation Act by employees of such self-insured motor carrier, and (c)
2 not be deemed to be a contract of insurance for purposes of Chapter 44.
3 Section 48-111 shall apply to the individual lessor and the self-insured
4 motor carrier with respect to personal injury or death caused to such
5 individual lessor by accident or occupational disease arising out of and
6 in the course of performing services for such self-insured motor carrier
7 in connection with such lease while such election is effective.

8 Sec. 4. Section 48-126.01, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 48-126.01 (1)(a) In determining the compensation to be paid any
11 member of the military forces of this state, ~~any member of a law~~
12 ~~enforcement reserve force,~~ or any member of the Nebraska Emergency
13 Management Agency, any city, village, county, or interjurisdictional
14 emergency management organization, or any state emergency response team,
15 which military forces, ~~law enforcement reserve force,~~ or emergency
16 management agency, organization, or team is organized under the laws of
17 the State of Nebraska, or any person fulfilling conditions of probation,
18 or community service as defined in section 29-2277, pursuant to any order
19 of any court of this state who shall be working for a governmental body,
20 or agency as defined in section 29-2277, pursuant to any condition of
21 probation, or community service as defined in section 29-2277, for
22 injuries resulting in disability or death received in the performance of
23 his or her duties as a member of such military forces, ~~reserve force,~~
24 agency, organization, or team, or pursuant to an order of any court, the
25 wages of such a member or person shall be taken to be those received by
26 him or her from his or her regular employer, and he or she shall receive
27 such proportion thereof as he or she is entitled to under the provisions
28 of section 48-121.

29 (b) If a member or person under subdivision (1)(a) of this section
30 is not regularly employed by some other person, for the purpose of such
31 determination, it shall be deemed and assumed that he or she is receiving

1 income from his or her business or from other employment equivalent to
2 wages in an amount one and one-half times the maximum weekly income
3 benefit specified in section 48-121.01.

4 (c) If the wages received for the performance of duties as a member
5 of such military forces, ~~reserve force~~, agency, organization, or team
6 exceed the wages received from a regular employer, such member shall be
7 entitled to a rate of compensation based upon wages received as a member
8 of such military forces, ~~reserve force~~, agency, organization, or team.

9 (2) In determining the compensation rate to be paid any member of a
10 volunteer fire department in any rural or suburban fire protection
11 district, city, village, or nonprofit corporation or any member of a
12 volunteer emergency medical service, which fire department or emergency
13 medical service is organized under the laws of the State of Nebraska, for
14 injuries resulting in disability or death received in the performance of
15 his or her duties as a member of such fire department or emergency
16 medical service, it shall be deemed and assumed that his or her wages are
17 in an amount one and one-half times the maximum weekly income benefit
18 specified in section 48-121.01 or the wages received by such member from
19 his or her regular employment, whichever is greater. Any member of such
20 volunteer fire department or volunteer emergency medical service shall
21 not lose his or her volunteer status under the Nebraska Workers'
22 Compensation Act if such volunteer receives reimbursement for expenses,
23 reasonable benefits, or a nominal fee, a nominal per call fee, a nominal
24 per shift fee, or combination thereof. It shall be conclusively presumed
25 that a fee is nominal if the fee does not exceed twenty percent of the
26 amount that otherwise would be required to hire a permanent employee for
27 the same services.

28 Sec. 5. Section 48-145, Revised Statutes Cumulative Supplement,
29 2020, is amended to read:

30 48-145 To secure the payment of compensation under the Nebraska
31 Workers' Compensation Act:

1 (1) Every employer in the occupations described in section 48-106,
2 except the State of Nebraska and any governmental agency created by the
3 state, shall either (a) insure and keep insured its liability under such
4 act in some corporation, association, or organization authorized and
5 licensed to transact the business of workers' compensation insurance in
6 this state, (b) in the case of an employer who is a lessor of one or more
7 commercial vehicles leased to a self-insured motor carrier, be a party to
8 an effective agreement with the self-insured motor carrier under section
9 48-115.02, (c) be a member of a risk management pool authorized and
10 providing group self-insurance of workers' compensation liability
11 pursuant to the Intergovernmental Risk Management Act, or (d) with
12 approval of the Nebraska Workers' Compensation Court, self-insure its
13 workers' compensation liability.

14 An employer seeking approval to self-insure shall make application
15 to the compensation court in the form and manner as the compensation
16 court may prescribe, meet such minimum standards as the compensation
17 court shall adopt and promulgate by rule and regulation, and furnish to
18 the compensation court satisfactory proof of financial ability to pay
19 direct the compensation in the amount and manner when due as provided for
20 in the Nebraska Workers' Compensation Act. Approval is valid for the
21 period prescribed by the compensation court unless earlier revoked
22 pursuant to this subdivision or subsection (1) of section 48-146.02.
23 Notwithstanding subdivision (1)(d) of this section, a professional
24 employer organization shall not be eligible to self-insure its workers'
25 compensation liability. The compensation court may by rule and regulation
26 require the deposit of an acceptable security, indemnity, trust, or bond
27 to secure the payment of compensation liabilities as they are incurred.
28 The agreement or document creating a trust for use under this section
29 shall contain a provision that the trust may only be terminated upon the
30 consent and approval of the compensation court. Any beneficial interest
31 in the trust principal shall be only for the benefit of the past or

1 present employees of the self-insurer and any persons to whom the self-
2 insurer has agreed to pay benefits under subdivision (10) ~~(11)~~ of section
3 48-115 and section 48-115.02. Any limitation on the termination of a
4 trust and all other restrictions on the ownership or transfer of
5 beneficial interest in the trust assets contained in such agreement or
6 document creating the trust shall be enforceable, except that any
7 limitation or restriction shall be enforceable only if authorized and
8 approved by the compensation court and specifically delineated in the
9 agreement or document. The trustee of any trust created to satisfy the
10 requirements of this section may invest the trust assets in the same
11 manner authorized under subdivisions (1)(a) through (i) of section
12 30-3209 for corporate trustees holding retirement or pension funds for
13 the benefit of employees or former employees of cities, villages, school
14 districts, or governmental or political subdivisions, except that the
15 trustee shall not invest trust assets into stocks, bonds, or other
16 obligations of the trustor. If, as a result of such investments, the
17 value of the trust assets is reduced below the acceptable trust amount
18 required by the compensation court, then the trustor shall deposit
19 additional trust assets to account for the shortfall.

20 Notwithstanding any other provision of the Nebraska Workers'
21 Compensation Act, a three-judge panel of the compensation court may,
22 after notice and hearing, revoke approval as a self-insurer if it finds
23 that the financial condition of the self-insurer or the failure of the
24 self-insurer to comply with an obligation under the act poses a serious
25 threat to the public health, safety, or welfare. The Attorney General,
26 when requested by the administrator of the compensation court, may file a
27 motion pursuant to section 48-162.03 for an order directing a self-
28 insurer to appear before a three-judge panel of the compensation court
29 and show cause as to why the panel should not revoke approval as a self-
30 insurer pursuant to this subdivision. The Attorney General shall be
31 considered a party for purposes of such motion. The Attorney General may

1 appear before the three-judge panel and present evidence that the
2 financial condition of the self-insurer or the failure of the self-
3 insurer to comply with an obligation under the act poses a serious threat
4 to the public health, safety, or welfare. The presiding judge shall rule
5 on a motion of the Attorney General pursuant to this subdivision and, if
6 applicable, shall appoint judges of the compensation court to serve on
7 the three-judge panel. The presiding judge shall not serve on such panel.
8 Appeal from a revocation pursuant to this subdivision shall be in
9 accordance with section 48-185. No such appeal shall operate as a
10 supersedeas unless the self-insurer executes to the compensation court a
11 bond with one or more sureties authorized to do business within the State
12 of Nebraska in an amount determined by the three-judge panel to be
13 sufficient to satisfy the obligations of the self-insurer under the act;

14 (2) An approved self-insurer shall furnish to the State Treasurer an
15 annual amount equal to two and one-half percent of the prospective loss
16 costs for like employment but in no event less than twenty-five dollars.
17 Prospective loss costs is defined in section 48-151. The compensation
18 court is the sole judge as to the prospective loss costs that shall be
19 used. All money which a self-insurer is required to pay to the State
20 Treasurer, under this subdivision, shall be computed and tabulated under
21 oath as of January 1 and paid to the State Treasurer immediately
22 thereafter. The compensation court or designee of the compensation court
23 may audit the payroll of a self-insurer at the compensation court's
24 discretion. All money paid by a self-insurer under this subdivision shall
25 be credited to the General Fund;

26 (3) Every employer who fails, neglects, or refuses to comply with
27 the conditions set forth in subdivision (1) or (2) of this section shall
28 be required to respond in damages to an employee for personal injuries,
29 or when personal injuries result in the death of an employee, then to his
30 or her dependents; and

31 (4) Any security, indemnity, trust, or bond provided by a self-

1 insurer pursuant to subdivision (1) of this section shall be deemed a
2 surety for the purposes of the payment of valid claims of the self-
3 insurer's employees and the persons to whom the self-insurer has agreed
4 to pay benefits under the Nebraska Workers' Compensation Act pursuant to
5 subdivision (10) ~~(11)~~ of section 48-115 and section 48-115.02 as
6 generally provided in the act.

7 Sec. 6. Section 48-147, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 48-147 Nothing in the Nebraska Workers' Compensation Act shall
10 affect any existing contract for employers liability insurance, or affect
11 the organization of any mutual or other insurance company, or any
12 arrangement existing between employers and employees, providing for
13 payment to such employees, their families, dependents, or
14 representatives, sick, accident, or death benefits in addition to the
15 compensation provided for by such act; but liability for compensation
16 under such act shall not be reduced or affected by any insurance of the
17 injured employee, or any contribution or other benefit whatsoever, due to
18 or received by the person entitled to such compensation, and the person
19 so entitled shall, irrespective of any insurance or other contract, have
20 the right to recover the same directly from the employer, and in addition
21 thereto, the right to enforce in his or her own name in the manner
22 provided in section 48-146 the liability of any insurer who may, in whole
23 or in part, have insured the liability for such compensation. Payment in
24 whole or in part of such compensation by either the employer or the
25 insurer, as the case may be, shall, to the extent thereof, be a bar to
26 recovery against the other of the amount so paid. No agreement by an
27 employee to pay any portion of premium paid by his or her employer or to
28 contribute to a benefit fund or department maintained by such employer
29 for the purpose of providing compensation as required by the Nebraska
30 Workers' Compensation Act shall be valid, and any employer who makes a
31 deduction for such purpose from the pay of any employee entitled to the

1 benefits of such act shall be guilty of a Class II misdemeanor. Nothing
2 in this section invalidates or prohibits agreements pursuant to
3 subdivision (10) ~~(11)~~ of section 48-115 or section 48-115.02.

4 Sec. 7. Section 48-2709, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 48-2709 (1) The responsibility to obtain workers' compensation
7 coverage for employees covered by the professional employer agreement and
8 for other employees of the client shall be allocated in the professional
9 employer agreement to the client, the professional employer organization,
10 or both, in accordance with this section. If any such responsibility is
11 allocated to the professional employer organization, the professional
12 employer organization shall:

13 (a) Advise the client of the provisions of subdivisions (8) ~~(9)~~ and
14 (9) ~~(10)~~ of section 48-115;

15 (b) Advise the client of its obligation to obtain an additional
16 workers' compensation insurance policy if the professional employer
17 organization's policy limits coverage to co-employees as specified in the
18 professional employer agreement; and

19 (c) Provide the client with the name of the insurer providing
20 coverage, the policy number, claim notification instructions, and any
21 itemized charges that are to be made for workers' compensation coverage
22 within ten days after enrollment.

23 (2)(a) If all employees of the client are not covered employees
24 under the professional employer agreement, then a workers' compensation
25 insurance policy obtained by the professional employer organization to
26 cover employees of the client may be written to limit coverage to those
27 employees who are co-employees of the professional employer organization
28 and the client. If a professional employer organization's policy limits
29 coverage to co-employees as specified in the professional employer
30 agreement, then the client shall obtain an additional workers'
31 compensation insurance policy. The policy obtained by the client shall be

1 written to cover any and all employees not covered by the professional
2 employer organization's policy, including any potential new or unknown
3 employees. All insurance policies issued pursuant to this subsection
4 shall be subject to and shall comply with the requirements of this
5 subsection and any rule or regulation adopted by the Department of
6 Insurance.

7 (b) If all employees of the client are covered employees under the
8 professional employer agreement, then a workers' compensation insurance
9 policy obtained by the professional employer organization to cover
10 employees of the client must be written to cover any and all employees of
11 the client, including potential new or unknown employees that may not be
12 covered employees under the agreement.

13 (c) A professional employer organization shall not split coverage
14 that it obtains for a client between two or more policies.

15 (d) A professional employer organization shall not split coverage
16 for its direct-hire employees between two or more policies.

17 (e) The Department of Insurance may adopt and promulgate rules and
18 regulations to implement this subsection.

19 (3) If the professional employer agreement allocates responsibility
20 to the professional employer organization to obtain workers' compensation
21 coverage only for co-employees, then the professional employer
22 organization shall provide the following information to the administrator
23 of the Nebraska Workers' Compensation Court. Such information shall be
24 provided for any such professional employer agreement in effect on
25 January 1, 2012, and prior to the effective date of any new professional
26 employer agreement or any amendment of an agreement adding such a
27 provision after January 1, 2012, and shall be provided in a form and
28 manner prescribed by the administrator:

29 (a) The names and addresses of the client and the professional
30 employer organization;

31 (b) The effective date of the professional employer agreement;

1 (c) A description of the employees covered under the professional
2 employer agreement;

3 (d) Evidence that any and all other employees of the client are
4 covered by a valid workers' compensation insurance policy; and

5 (e) Any other information the administrator may require regarding
6 workers' compensation coverage of the professional employer organization,
7 the client, or the covered employees.

8 (4) If workers' compensation coverage for a client's employees
9 covered by the professional employer agreement and for other employees of
10 the client is not entirely available in the voluntary market, then
11 assigned risk workers' compensation coverage written subject to section
12 44-3,158 may only be written on a single policy that covers all employees
13 and co-employees of the client. Assigned risk workers' compensation
14 insurance for the professional employer organization may also be written,
15 but only on a basis that covers its direct-hire employees and excludes
16 employees and co-employees of its clients. The Department of Insurance
17 may adopt and promulgate rules and regulations to implement this
18 subsection.

19 (5) If a master policy or multiple coordinated policy providing
20 coverage to a client is obtained by a professional employer organization,
21 then the professional employer organization shall provide the client with
22 a notice that the client shall conspicuously post at its workplace. Such
23 notice shall provide the name and address of the workers' compensation
24 insurer and the individual to whom claims shall be directed. If more than
25 one workers' compensation insurer provides coverage for employees and co-
26 employees of the client, the client shall post such information for all
27 such workers' compensation insurers.

28 (6) Both the client and the professional employer organization shall
29 be considered the employer for purposes of coverage under the Nebraska
30 Workers' Compensation Act. The protection of the exclusive remedy
31 provision of the act shall apply to the professional employer

1 organization, to the client, and to all covered employees and other
2 employees of the client regardless of which co-employer obtains such
3 workers' compensation coverage.

4 (7) If a client receives notice of the cancellation, nonrenewal, or
5 termination of workers' compensation coverage obtained by the
6 professional employer organization, then the client may withdraw from the
7 professional employer agreement without penalty unless the client is
8 notified by the professional employer organization of replacement
9 coverage within fifteen days after the notice.

10 (8) A professional employer organization shall not impose any fee
11 increase on a client based on the actual or anticipated cost of workers'
12 compensation coverage without giving the client at least thirty days'
13 advance notice and an opportunity to withdraw from the professional
14 employer agreement without penalty.

15 (9) The professional employer organization shall not make any
16 materially inaccurate, misleading, or fraudulent representations to the
17 client regarding the cost of workers' compensation coverage. If the
18 professional employer organization charges the client an itemized amount
19 for workers' compensation coverage, the professional employer
20 organization shall provide the client with an accurate and concise
21 description of the basis upon which it was calculated and the services
22 that are included. A professional employer organization shall not charge
23 a client an itemized amount for workers' compensation coverage that is
24 materially inconsistent with the actual amounts that the professional
25 employer organization is charged by the insurer, given reasonably
26 anticipated loss-sensitive charges, if applicable, reasonable recognition
27 of the professional employer organization's costs, and a margin for
28 profit.

29 Sec. 8. Section 81-1401, Revised Statutes Cumulative Supplement,
30 2020, is amended to read:

31 81-1401 For purposes of sections 81-1401 to 81-1414.10 and sections

1 11, 14 to 16, and 18 to 22 of this act, unless the context otherwise
2 requires:

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

5 (2) Council means the Nebraska Police Standards Advisory Council;

6 (3) Director means the director of the Nebraska Law Enforcement
7 Training Center;

8 (4) Felony means a crime punishable by imprisonment for a term of
9 more than one year or a crime committed outside of Nebraska which would
10 be punishable by imprisonment for a term of more than one year if
11 committed in Nebraska;

12 (5) Handgun means any firearm with a barrel less than sixteen inches
13 in length or any firearm designed to be held and fired by the use of a
14 single hand;

15 ~~(6) Incapacity means incapable of or lacking the ability to perform~~
16 ~~or carry out the usual duties of a law enforcement officer in accordance~~
17 ~~with the standards established by the commission due to physical, mental,~~
18 ~~or emotional factors. Incapacity does not exist if a law enforcement~~
19 ~~officer remains employed as a law enforcement officer, including~~
20 ~~employment as a law enforcement officer in a restricted or limited duty~~
21 ~~status;~~

22 (6) ~~(7)~~ Law enforcement agency means the police department or the
23 town marshal in incorporated municipalities, the office of sheriff in
24 unincorporated areas, and the Nebraska State Patrol;

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

- 1 (i) A full-time or part-time member of the Nebraska State Patrol;
- 2 (ii) A county sheriff;
- 3 (iii) A full-time, ~~or part-time, or reserve~~ employee of a county
4 sheriff's office;
- 5 (iv) A full-time, ~~or part-time, or reserve~~ employee of a municipal
6 or village police agency;
- 7 (v) A full-time or part-time Game and Parks Commission conservation
8 officer;
- 9 (vi) A full-time or part-time deputy state sheriff; or
- 10 (vii) A full-time employee of an organized and paid fire department
11 of any city of the metropolitan class who is an authorized arson
12 investigator and whose duties consist of determining the cause, origin,
13 and circumstances of fires or explosions while on duty in the course of
14 an investigation;
- 15 (b) Law enforcement officer does not include employees of the
16 Department of Correctional Services, probation officers under the
17 Nebraska Probation System, parole officers appointed by the Director of
18 Supervision and Services of the Division of Parole Supervision, or
19 employees of the Department of Revenue under section 77-366; and
- 20 (c) A law enforcement officer shall possess a valid law enforcement
21 officer certificate or diploma, as established by the council, in order
22 to be vested with the authority of this section, ~~but this subdivision~~
23 ~~does not prohibit an individual from receiving a conditional appointment~~
24 ~~as an officer pursuant to subsection (2) of section 81-1414;~~
- 25 (8) Misdemeanor crime of domestic violence has the same meaning as
26 in section 28-1206;
- 27 (9) Serious misconduct means improper or illegal actions taken by a
28 law enforcement officer in connection with the officer's official duties
29 and includes, but is not limited to:
- 30 (a) Conviction of a felony or misdemeanor crime of domestic
31 violence;

1 (b) Fabrication of evidence;

2 (c) Repeated substantiated allegations of the use of excessive
3 force;

4 (d) Acceptance of a bribe;

5 (e) Commission of fraud or perjury; or

6 (f) Sexual assault;

7 (10) (9) Training academy means the training center or such other
8 council-approved law enforcement training facility operated and
9 maintained by a law enforcement agency which offers certification
10 training that meets or exceeds the certification training curriculum of
11 the training center;

12 (11) (10) Training center means the Nebraska Law Enforcement
13 Training Center; and

14 (12) (11) Training school means a public or private institution of
15 higher education, including the University of Nebraska, the Nebraska
16 state colleges, and the community colleges of this state, that offers
17 training in a council-approved pre-certification course.

18 Sec. 9. Section 81-1403, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-1403 Subject to review and approval by the commission, the
21 council shall:

22 (1) Adopt and promulgate rules and regulations for law enforcement
23 pre-certification, certification, continuing education, and training
24 requirements. Such rules and regulations may include the authority to
25 impose a fine on any individual, political subdivision, or agency who or
26 which violates sections 81-1401 to 81-1414.10 and sections 11, 14 to 16,
27 and 18 to 22 of this act or any of such rules and regulations adopted and
28 promulgated thereunder. The fine for each separate violation of such
29 sections 81-1401 to 81-1414.10 or of any such rule or regulation adopted
30 and promulgated by the council pursuant to such sections shall not exceed
31 either (a) a one-time maximum fine of five hundred dollars or (b) a

1 maximum fine of one hundred dollars per day until the individual,
2 political subdivision, or agency complies with such rules or regulations.
3 ~~All fines collected pursuant to this subdivision shall be remitted to the~~
4 ~~State Treasurer for distribution in accordance with Article VII, section~~
5 ~~5, of the Constitution of Nebraska;~~

6 (2) Adopt and promulgate rules and regulations for the operation of
7 the training center;

8 (3) Recommend to the executive director of the commission the names
9 of persons to be appointed to the position of director of the training
10 center;

11 (4) Establish requirements for satisfactory completion of pre-
12 certification programs, certification programs, and advanced training
13 programs;

14 (5) Issue certificates or diplomas attesting satisfactory completion
15 of pre-certification programs, certification programs, and advanced
16 training programs;

17 (6) Revoke or suspend such certificates or diplomas according to
18 rules and regulations adopted and promulgated by the council pursuant to
19 sections 81-1401 to 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of
20 this act for reasons which shall include, but not be limited to: 7

21 ~~(a) Final~~ (a) ~~incompetence, (b) neglect of duty, (c) physical,~~
22 ~~mental, or emotional incapacity, and (d) final conviction of or pleading~~
23 ~~guilty or nolo contendere to a:~~

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

25 (ii) Misdemeanor crime of domestic violence; or

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

29 (b) Serious misconduct; or

30 (c) A violation of the officer's oath of office, code of ethics, or
31 statutory duties;

1 (7) The council shall adopt and promulgate rules and regulations
2 that:

3 (a) Provide felony. ~~The rules and regulations shall provide for the~~
4 ~~revocation of a certificate or diploma without a hearing upon the~~
5 ~~certificate or diploma holder's final conviction of or pleading guilty or~~
6 ~~nolo contendere to a felony or misdemeanor described in subdivision (6)~~
7 ~~of this section; and . When a law enforcement officer is separated from~~
8 ~~his or her agency due to physical, mental, or emotional incapacity, the~~
9 ~~law enforcement agency shall report the separation to the council, and~~
10 ~~the officer's law enforcement certificate shall be suspended pursuant to~~
11 ~~rules and regulations adopted and promulgated by the council until such~~
12 ~~time as the officer demonstrates to the council that the incapacity no~~
13 ~~longer prevents the officer from performing the essential duties of a law~~
14 ~~enforcement officer. The council shall adopt and promulgate rules and~~
15 ~~regulations to include~~

16 (b) Include a procedure for hearing appeals of any person who feels
17 that the revocation or suspension of his or her certificate or diploma
18 was in error;

19 (8) (7) Set the tuition and fees for the training center and all
20 officers of other training academies not employed by that training
21 academy's agency. The tuition and fees set for the training center
22 pursuant to this subdivision shall be adjusted annually pursuant to the
23 training center budget approved by the Legislature. All other tuition and
24 fees shall be set in order to cover the costs of administering sections
25 81-1401 to 81-1414.10 and sections 11, 14 to 16, and 18 to 22 of this
26 act. All tuition and fees shall be remitted to the State Treasurer for
27 credit to the Nebraska Law Enforcement Training Center Cash Fund;

28 (9) (8) Annually certify any training academies providing a basic
29 course of law enforcement training which complies with the qualifications
30 and standards promulgated by the council and offering training that meets
31 or exceeds training that is offered by the training center. The council

1 shall set the maximum and minimum applicant enrollment figures for
2 training academies training non-agency officers;

3 ~~(10) (9)~~ Extend the programs of the training center throughout the
4 state on a regional basis; and

5 ~~(10) Establish the qualifications, standards, and continuing~~
6 ~~education requirements and provide the training required by section~~
7 ~~81-1439; and~~

8 (11) Do all things necessary to carry out the purpose of the
9 training center, except that functional authority for budget and
10 personnel matters shall remain with the commission.

11 Any administrative fine imposed under this section shall constitute
12 a debt to the State of Nebraska which may be collected by lien
13 foreclosure or sued for and recovered in any proper form of action by the
14 office of the Attorney General in the name of the State of Nebraska in
15 the district court of the county where the final agency action was taken.
16 All fines imposed by the council shall be remitted to the State Treasurer
17 for distribution in accordance with Article VII, section 5, of the
18 Constitution of Nebraska.

19 Sec. 10. Section 81-1407, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 81-1407 (1)(a) ~~(1)~~ The Nebraska Police Standards Advisory Council
22 shall consist of nine ~~seven~~ members appointed by the Governor.

23 (b) Eight ~~Six~~ of the members shall be full-time officers or
24 employees of a law enforcement agency. Such members ~~and~~ shall include:

25 (i) A ~~one~~ representative chief of police or his or her designee from
26 a city of the metropolitan ~~or primary~~ class;

27 (ii) A representative chief of police or his or her designee from a
28 city of the primary class;

29 (iii) A ~~—~~ representative chief of police or his or her designee
30 from a city of the first class;

31 (iv) A ~~—~~ representative chief of police or his or her designee

1 from a city of the second class or village;

2 (v) A ~~a county sheriff or his or her designee from a county having~~
3 a population of forty thousand or more;

4 (vi) A ~~a county sheriff or his or her designee from a county~~
5 having a population of forty thousand or less;

6 (vii) A ~~and a member of the Nebraska State Patrol; and~~ -

7 (viii) A sworn law enforcement officer holding the rank of sergeant
8 or below.

9 (c) The ninth seventh member shall be a member of the Jail Standards
10 Board or a person from the public at large. ~~The representative chief of~~
11 ~~police or his or her designee from a city of the metropolitan or primary~~
12 ~~class shall not be a regular member of the commission.~~

13 (2) Except as otherwise provided in this subsection, the The members
14 of the council shall serve for terms of four years each. Within ninety
15 days after the effective date of this act, the Governor shall appoint the
16 new members added by this legislative bill. Of such members one shall
17 serve a term of three years and one shall serve a term of four years.
18 Each succeeding member shall be appointed for a term of four years. Of
19 ~~the members first appointed, one shall serve for a term of one year, one~~
20 ~~shall serve for a term of two years, one shall serve for a term of three~~
21 ~~years, and two shall serve for terms of four years from January 1 next~~
22 ~~succeeding their appointment. Within ninety days after July 16, 1994, the~~
23 ~~Governor shall appoint the two additional members who shall serve for~~
24 ~~terms of four years from January 1 next succeeding their appointment. A~~
25 member may be reappointed at the expiration of his or her term. Any
26 vacancy occurring otherwise than by expiration of a term shall be filled,
27 for the remainder of the unexpired term, in the same manner as the
28 original appointment. The council shall select one of its members as
29 chairperson.

30 (3) No member of the council shall serve beyond the time when he or
31 she holds the office or employment by reason of which he or she was

1 initially eligible for appointment. A member may be removed from the
2 council for cause upon notice and an opportunity to be heard at a public
3 hearing before the Governor. After the hearing, the Governor shall file
4 in the office of the Secretary of State a complete statement of the
5 charges, his or her findings and disposition, together with a complete
6 record of the proceedings.

7 Sec. 11. As part of entry-level law enforcement certification, each
8 training academy shall require completion of:

9 (1) Forty hours of instruction relating to de-escalation. Such forty
10 hours shall include twenty-four hours relating to mental health and
11 substance abuse and sixteen hours relating to human behavior and
12 communicating with a person in a crisis situation; and

13 (2) Eight hours of anti-bias and implicit bias training.

14 Sec. 12. Section 81-1412.02, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-1412.02 The person in charge of any agency employing law
17 enforcement officers shall submit to the council a register of full-time
18 and ~~, part-time, and reserve~~ law enforcement officers employed by his or
19 her agency and whether each law enforcement officer passed or failed the
20 handgun qualification. The council shall adopt and promulgate rules and
21 regulations governing the submission of agency registers. The register
22 shall include the name of each law enforcement officer, whether the law
23 enforcement officer passed or failed the handgun qualification, the name
24 of the instructor who administered the course, the date of handgun
25 qualification, and the type of handgun used in handgun qualification. An
26 agency that fails to submit a handgun qualification register pursuant to
27 this section shall be subject to a fine of one hundred dollars for each
28 day of noncompliance. All fines collected under this section shall be
29 remitted to the State Treasurer for credit to the Law Enforcement
30 Improvement Fund.

31 Sec. 13. Section 81-1414, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-1414 (1) On and after January 1, 1972, law enforcement officers
3 already serving under permanent appointment shall not be required to meet
4 any requirement of subsection (2) of this section as a condition of
5 tenure or continued employment.

6 (2) On and after January 1, 1972, no person shall receive
7 appointment as a law enforcement officer unless such person:

8 (a) ~~Has~~ he or she has been awarded a certificate or diploma by the
9 commission attesting to satisfactory completion of the minimum curriculum
10 of the training center as established by the council;

11 (b) ~~Has~~ or has been awarded a certificate or diploma attesting to
12 satisfactory completion of a training program approved by which the
13 council as finds equivalent to the curriculum in subdivision (1)(a) of
14 this section; or

15 (c) Is certified as a law enforcement officer in another state and
16 has applied and been approved as provided in section 16 of this act.

17 (3) ~~The thereto. Any person who has not been awarded such a~~
18 ~~certificate or diploma may receive an appointment conditioned on~~
19 ~~satisfactory completion of such training if he or she immediately applies~~
20 ~~for admission to the training center or any training academy and enrolls~~
21 ~~in the next available basic training class. If such training is not~~
22 ~~completed within one year after the appointment, the person's employment~~
23 ~~shall not be renewed by a political subdivision appointment or otherwise~~
24 ~~and such person shall no longer be recognized as a law enforcement~~
25 ~~officer, except that in cases of extreme hardship, upon application by~~
26 ~~the officer, the council may grant a waiver to allow the officer to~~
27 ~~complete the basic training program as soon as is practicable after the~~
28 ~~one-year time allowance. Any individual who is not certified in~~
29 ~~accordance with this section and has worked as a law enforcement officer~~
30 ~~for multiple law enforcement agencies or political subdivisions shall~~
31 ~~have his or her time of employment aggregated in order to determine if he~~

1 ~~or she has worked for more than one year. If that law enforcement~~
2 ~~officer's aggregate time of employment exceeds one year, that officer~~
3 ~~shall not be recognized as a law enforcement officer for any political~~
4 ~~subdivision until he or she has satisfactorily completed such~~
5 ~~certification training. For purposes of this section, the council shall~~
6 ~~deem the successful completion of the federal Bureau of Indian Affairs~~
7 ~~basic police training program as administered by the Federal Law~~
8 ~~Enforcement Training Center to constitute such equivalent training under~~
9 subdivision (1)(b) of this section, and officers certified by virtue of
10 such equivalent training may exercise full law enforcement authority
11 exclusively on tribal lands.

12 ~~(4) (3)~~ Law enforcement officers who are promoted in rank shall
13 satisfactorily complete such council-approved training within one year of
14 such promotion.

15 ~~(5) (4)~~ At the direction of the council, the director shall issue a
16 certificate or diploma attesting to a compliance with the requirements of
17 subsection (2), ~~or~~ (3), or (4) of this section to any applicant who
18 presents evidence of satisfactory completion of a council-approved
19 training program.

20 Sec. 14. Section 81-1457, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

22 ~~81-1457~~ (1) A person who is certified under section 81-1414 and who
23 seeks employment as a law enforcement officer in this state shall provide
24 a signed waiver to the prospective employer upon a conditional offer of
25 employment. The waiver must expressly allow the prospective employer to
26 contact the person's former employer or employers and obtain from each
27 copies of any records created under subsections (2) and (3) of section 19
28 of this act or under comparable laws in another jurisdiction ~~81-1456~~. The
29 prospective employer is responsible for providing the waiver to each
30 former employer.

31 (2) The waiver required by this section shall be executed on a form

1 provided by the commission ~~Nebraska Commission on Law Enforcement and~~
2 ~~Criminal Justice~~ to all agencies in this state that employ or administer
3 oaths of office to law enforcement officers certified by the commission.

4 (3) Within ten calendar days after receipt of the waiver, a former
5 employer shall provide the prospective employer, along with other
6 information required or allowed to be provided by law, copies of any
7 records created under subsections (2) and (3) of section 19 of this act
8 ~~81-1456~~. The names and any identifying information in any records created
9 under subsections (2) and (3) of this section of any individual, witness,
10 or law enforcement officer or officers other than the person who signed
11 the waiver shall be confidential and not disclosed to the prospective
12 employer.

13 (4) A prospective employer shall not hire as a law enforcement
14 officer a person to whom subsection (1) of this section applies unless
15 the prospective employer receives, from each of the person's former
16 employers that are located in Nebraska, copies of any records created
17 under subsections (2) and (3) of section 19 of this act ~~81-1456~~.

18 (5) A prospective employer shall not hire as a law enforcement
19 officer a person to whom subsection (1) of this section applies if such
20 person's former employer has provided notice to the commission ~~Nebraska~~
21 ~~Commission on Law Enforcement and Criminal Justice~~ that the person's
22 separation from the former employer occurred under circumstances that may
23 justify revocation of the person's certification unless the commission
24 has reviewed the notification and issued a determination that the person
25 shall retain such certification.

26 (6) For purposes of this section:

27 (a) Former employer means the law enforcement agency or other agency
28 that currently employs or previously employed the person as a law
29 enforcement officer, whether located in Nebraska or in another
30 jurisdiction; and

31 (b) ~~Incapacity has the same meaning as in section 81-1401;~~

1 ~~(c) Law enforcement agency has the same meaning as in section~~
2 ~~81-1401;~~

3 ~~(d) Law enforcement officer has the same meaning as in section~~
4 ~~81-1401; and~~

5 **(b)** ~~(e)~~ Prospective employer means the law enforcement agency or
6 other agency that is considering hiring the person as a law enforcement
7 officer.

8 Sec. 15. (1) Prior to hiring a person as a law enforcement officer,
9 a law enforcement agency shall cause such person to undergo a
10 psychological evaluation to determine fitness for duty. The cost of such
11 evaluation shall be the responsibility of the agency.

12 (2) The council may adopt and promulgate rules and regulations to
13 carry out this section.

14 Sec. 16. (1) A person seeking certification under subdivision (2)
15 (c) of section 81-1414 shall, in addition to any other applicable
16 requirements of the commission or of sections 81-1401 to 81-1414.10 and
17 sections 11, 14 to 16, and 18 to 22 of this act, submit an application to
18 the council as provided in this section. The application shall be made
19 under oath and made on a form provided by the council.

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

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

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

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

26 (ii) Misdemeanor crime of domestic violence; or

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

30 (c) That the applicant has not been separated from employment or
31 disciplined for serious misconduct or a violation of the officer's oath

1 of office, code of ethics, or statutory duties; and

2 (d) Any other information deemed necessary by the commission.

3 (3) The council shall deny certification to an applicant under this
4 section if the council finds that the applicant does not meet the
5 requirements of subsection (2) of this section, has omitted information
6 required by such subsection, or has provided false or misleading
7 information in the application.

8 (4) No law enforcement agency or other state or local agency shall
9 hire as a law enforcement officer a person whose certification is denied
10 under this section.

11 (5) The council may adopt and promulgate rules and regulations to
12 establish a process and requirements for approving certifications under
13 this section.

14 Sec. 17. Section 81-1414.07, Revised Statutes Cumulative Supplement,
15 2020, is amended to read:

16 81-1414.07 (1) In order to maintain his or her professional status
17 and serve the law enforcement profession, the community, and the
18 residents of Nebraska, each law enforcement officer shall attend at least
19 ~~forty~~ twenty hours of continuing education courses in the areas of
20 criminal justice and law enforcement ~~and at least two hours of anti-bias~~
21 ~~and implicit bias training designed to minimize apparent or actual racial~~
22 ~~profiling~~ during each calendar year beginning on January 1 and ending on
23 December 31. A law enforcement officer is not required to meet the
24 continuing education requirements in the year in which he or she first
25 becomes fully certified.

26 (2) The forty hours of annual continuing education required by this
27 section shall include:

28 (a) Refresher course on de-escalation, mental health, and substance
29 abuse issues – One hour;

30 (b) Anti-bias and implicit bias training – Two hours;

31 (c) Scenario- or decision-based training – Four hours;

- 1 (d) Firearms – Two hours;
- 2 (e) Officer wellness – One hour;
- 3 (f) Legal updates, including, but not limited to, legislative
- 4 changes and First Amendment and Fourth Amendment issues – Four hours;
- 5 (g) Defensive tactics and use of force report writing – Eight hours;
- 6 (h) Emergency vehicle operations – Two hours; and
- 7 (i) Training as determined by a law enforcement agency.

8 (3) {2} Continuing education courses may be offered in the form of
9 seminars, advanced education which may include college or university
10 classes, conferences, instruction conducted within the law enforcement
11 officer's law enforcement agency, or instruction conducted over the
12 Internet. Continuing education , ~~except that instruction conducted over~~
13 ~~the Internet shall be limited to ten hours annually, and shall be of a~~
14 type which has application to and seeks to maintain and improve the
15 skills of the law enforcement officer in carrying out his or her duties
16 and responsibilities.

17 Sec. 18. (1) Each law enforcement agency or agency employing a law
18 enforcement officer shall have a policy in its standard operating
19 procedures regarding accepting and investigating complaints of law
20 enforcement officer misconduct.

21 (2) If an agency receives a complaint of law enforcement misconduct
22 which could constitute grounds for revocation or suspension under
23 subdivision (6) of section 81-1403:

24 (a) The agency shall investigate the matter;

25 (b) The investigation shall be carried out by a law enforcement
26 officer who has at least twenty-four hours of training on how to
27 investigate such misconduct; and

28 (c) The agency shall complete the investigation within one hundred
29 days after the complaint. If criminal charges against the officer are
30 being considered, the one-hundred-day deadline shall be tolled until a
31 charging decision has been made and the prosecuting attorney has filed

1 charges or declined to file charges.

2 (3) If a law enforcement agency determines that a complaint
3 investigated under subsection (2) of this section may be grounds for
4 revocation of a law enforcement officer's certification, the agency may
5 forward the matter to the commission and the commission shall investigate
6 such complaint. Any investigation shall be completed within one hundred
7 eighty days after receipt of the complaint. If the investigation is not
8 completed within one hundred eighty days, the investigation shall be
9 deemed closed and the officer shall be notified. The commission may begin
10 a new investigation if new information not available during the previous
11 investigation is received and an investigation is warranted.

12 Sec. 19. Section 81-1456, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 ~~81-1456~~ (1) The chief of police, sheriff, Superintendent of Law
15 Enforcement and Public Safety, or the head administrator of a law
16 enforcement agency or an agency employing a law enforcement officer shall
17 submit a personnel change in status form as approved by the council
18 ~~Nebraska Police Standards Advisory Council~~ to the director of the
19 training center ~~Nebraska Law Enforcement Training Center~~ within seven
20 calendar days after the date a law enforcement officer is hired by the
21 agency or leaves employment with the agency.

22 (2) Each law enforcement agency or agency employing a law
23 enforcement officer shall maintain a record regarding the reason or
24 reasons for, and circumstances surrounding, a separation of service for
25 each law enforcement officer employed by that agency. Such record shall
26 be retained for five years following a law enforcement officer's
27 separation from the agency.

28 (3) Each law enforcement agency or agency employing a law
29 enforcement officer shall maintain any and all records of officer conduct
30 which could constitute grounds for revocation or suspension of a law
31 enforcement certification by the commission ~~Nebraska Commission on Law~~

1 ~~Enforcement and Criminal Justice.~~ Such record shall include any and all
2 records of conduct which could constitute grounds for revocation or
3 suspension under subdivision (6) of section 81-1403 : ~~(a) Incompetence;~~
4 ~~(b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a felony~~
5 ~~violation of state or federal law; (f) a misdemeanor violation of state~~
6 ~~or federal law, if the violation has a rational connection with the~~
7 ~~officer's fitness or capacity to serve as a law enforcement officer; or~~
8 ~~(g) a violation of the officer's oath of office, code of ethics, or~~
9 ~~statutory duties.~~ Such record shall be retained for the duration of the
10 law enforcement officer's employment with the agency and for ten years
11 following his or her separation from the agency.

12 (4) The chief of police, sheriff, Superintendent of Law Enforcement
13 and Public Safety, or the head administrator of a law enforcement agency
14 or an agency employing a law enforcement officer shall make a report to
15 the commission ~~Nebraska Commission on Law Enforcement and Criminal~~
16 ~~Justice~~ of any law enforcement officer who is terminated from employment
17 or allowed to resign in lieu of termination for conduct described in
18 subdivision (6) of section 81-1403 ~~that could constitute:~~ ~~(a)~~
19 ~~Incompetence; (b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a~~
20 ~~felony violation of state or federal law; (f) a misdemeanor violation of~~
21 ~~state or federal law, if the violation has a rational connection with the~~
22 ~~officer's fitness or capacity to serve as a law enforcement officer; or~~
23 ~~(g) a violation of the officer's oath of office, code of ethics, or~~
24 ~~statutory duties.~~ The report shall include, but not be limited to, a
25 summary of the allegations pertaining to the officer and identification
26 of any witnesses relevant to the allegations, and shall be filed with the
27 commission within thirty calendar days of the termination or resignation
28 in lieu of termination.

29 (5) Failure to comply with this section shall constitute neglect of
30 duty.

31 ~~(6) For purposes of this section:~~

- 1 ~~(a) Felony has the same meaning as in section 81-1401;~~
- 2 ~~(b) Incapacity has the same meaning as in section 81-1401;~~
- 3 ~~(c) Law enforcement agency has the same meaning as in section~~
- 4 ~~81-1401; and~~
- 5 ~~(d) Law enforcement officer has the same meaning as in section~~
- 6 ~~81-1401.~~

7 Sec. 20. (1) Except when the use of deadly force is authorized, a
8 law enforcement officer shall not intentionally use a chokehold on any
9 person.

10 (2) A law enforcement officer shall not intentionally use a carotid
11 restraint control hold on any person unless:

12 (a) Either:

13 (i) The law enforcement officer reasonably believes that the person
14 will otherwise cause death or bodily injury to any person, including a
15 law enforcement officer; or

16 (ii) Deadly force is otherwise authorized; and

17 (b) The officer has been trained on the use of such hold.

18 (3) Following use of a carotid restraint control hold, a law
19 enforcement officer shall create a report of the incident that
20 articulates in detail the events leading to and following the use of such
21 hold.

22 (4) For purposes of this section:

23 (a) Bodily injury has the same meaning as in section 28-109;

24 (b) Carotid restraint control hold means utilizing bilateral
25 pressure to the sides of a person's neck, restricting the flow of
26 oxygenated blood to the brain; and

27 (c) Chokehold means intentionally applying pressure to the front of
28 the throat and cutting off air flow for a sustained amount of time.

29 Sec. 21. On or before January 1, 2022:

30 (1) Each law enforcement agency shall adopt and provide to the
31 commission a policy requiring each law enforcement officer of such agency

1 to intervene when such officer reasonably believes that another law
2 enforcement officer is engaged in a use of excessive force; and

3 (2) The commission shall develop and distribute a suggested model
4 written policy for use by law enforcement agencies, but the commission
5 shall not mandate the adoption of the model policy except for any
6 particular law enforcement agency which fails to timely create and
7 provide to the commission a policy for the agency as required by this
8 section.

9 Sec. 22. (1) On or before January 1, 2023, each law enforcement
10 agency shall be accredited in a manner approved by the commission. A law
11 enforcement agency shall not be accredited unless it has adopted written
12 policies as determined by the commission and met other requirements as
13 determined by the commission.

14 (2) The commission shall develop accreditation requirements. The
15 commission may provide its own accreditation program and may approve
16 accreditations provided by third-party providers.

17 (3) The Nebraska Police Improvement and Professionalism Fund is
18 created. The fund shall be used to provide grants as provided in
19 subsection (4) of this section. The State Treasurer shall credit to the
20 fund any funds transferred or appropriated to the fund by the Legislature
21 and funds received as gifts or grants or other private or public funds
22 obtained for the purposes set forth in this section. Any money in the
23 fund available for investment shall be invested by the state investment
24 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
25 State Funds Investment Act.

26 (4) The commission shall develop a grant program to award grants to
27 law enforcement agencies and law enforcement officers to pay for costs of
28 accreditation.

29 (5) The commission may adopt and promulgate rules and regulations to
30 carry out this section.

31 Sec. 23. Original sections 48-147, 48-2709, 81-1403, 81-1407,

1 81-1412.02, and 81-1414, Reissue Revised Statutes of Nebraska, and
2 sections 23-1701.01, 29-2264, 48-115, 48-126.01, 48-145, 81-1401,
3 81-1414.07, 81-1456, and 81-1457, Revised Statutes Cumulative Supplement,
4 2020, are repealed.

5 Sec. 24. The following sections are outright repealed: Sections
6 81-1438, 81-1439, 81-1440, 81-1441, 81-1442, 81-1443, 81-1444, 81-1445,
7 and 81-1446, Reissue Revised Statutes of Nebraska.