

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 390

FINAL READING

Introduced by Pansing Brooks, 28; Hansen, M., 26; Linehan, 39; Walz, 15;
Wayne, 13.

Read first time January 17, 2019

Committee: Judiciary

1 A BILL FOR AN ACT relating to public safety; to state findings; to define
2 terms; and to provide duties for the State Department of Education,
3 law enforcement agencies, security agencies, and school districts
4 relating to school resource officers and security guards as
5 prescribed.

6 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

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

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

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

8 (4) Parents and guardians of students have a vested interest in
9 being informed of school discipline matters involving their children and
10 to be notified as soon as possible if their children are contacted in
11 response to a possible law violation, questioned, searched, cited, or
12 arrested by a peace officer working with school officials;

13 (5) A comprehensive and clear memorandum of understanding between
14 law enforcement and school officials will delineate the roles and
15 responsibilities of school resource officers, security guards, and school
16 officials to balance the interests of safety for students and school
17 staff in relation to parental rights, student success, and family
18 integrity, with the goal that an increased law enforcement presence at
19 schools will not result in a disparate impact on students in federally
20 identified demographic categories; and

21 (6) Schools have a duty to respond to and manage disciplinary
22 issues. The primary role of school resource officers and security
23 officers should be to enhance safety with the understanding that school
24 resource officers also work to prevent and respond to law violations and
25 serve as a community resource for students, parents, and school staff.

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

28 (1) Department means the State Department of Education;

29 (2) Law enforcement agency means an agency or department of this
30 state or of any political subdivision of this state that is responsible
31 for the prevention and detection of crime, the enforcement of the penal,

1 traffic, or highway laws of this state or any political subdivision of
2 this state, and the enforcement of arrest warrants. Law enforcement
3 agency includes a police department, an office of a town marshal, an
4 office of a county sheriff, the Nebraska State Patrol, and any department
5 to which a deputy state sheriff is assigned as provided in section
6 84-106;

7 (3) Peace officer has the same meaning as in section 28-109;

8 (4) School resource officer means any peace officer who is assigned,
9 as his or her primary duty, to any school district to provide law
10 enforcement and security services to any public elementary or secondary
11 school and does not mean a peace officer responding to a call for
12 service, providing proactive enforcement, providing law enforcement or
13 traffic direction for a school-related event, or providing temporary
14 services as a school resource officer when the assigned school resource
15 officer is not available;

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

18 (6) Security guard means a person who is contracted or employed by a
19 security agency to protect buildings and people and who does not have law
20 enforcement authority or the power to arrest under any apparent authority
21 in the jurisdiction where such person is contracted or employed as a
22 security guard. A security guard may be an off-duty peace officer.

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

30 (2) On and after January 1, 2021, any law enforcement agency which
31 provides school resource officers and any security agency which provides

1 security guards to schools in a school district shall have in effect the
2 model memorandum of understanding or a different written memorandum of
3 understanding with such school district as adopted by such law
4 enforcement agency or security agency. Such different written memorandum
5 of understanding shall be substantially similar to the model memorandum
6 of understanding, shall include provisions in conformance with the
7 minimum standards set forth in the model memorandum of understanding, and
8 may include any other procedures and provisions the school district and
9 the law enforcement agency or security agency mutually deem appropriate.

10 (3) The superintendent of a school district required to adopt a
11 memorandum of understanding under this section shall, within three months
12 after its adoption, provide a copy of such memorandum of understanding to
13 the department or publicly post such memorandum of understanding on the
14 school district web site.

15 (4) On or before January 1, 2021, and each January 1 thereafter,
16 when any school district required to adopt a memorandum of understanding
17 under this section has made any change to its memorandum of
18 understanding, in conjunction with the law enforcement agency or security
19 agency, in the preceding year, the superintendent of such school district
20 shall provide an updated copy of such memorandum of understanding to the
21 department or publicly post such memorandum of understanding on the
22 school district web site.

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

26 (1) Require each school resource officer or security guard to attend
27 a minimum of twenty hours of training focused on school-based law
28 enforcement, including, but not limited to, coursework focused on school
29 law, student rights, understanding special needs students and students
30 with disabilities, conflict de-escalation techniques, ethics for school
31 resource officers, teenage brain development, adolescent behavior,

1 implicit bias training, diversity and cultural awareness, trauma-informed
2 responses, and preventing violence in school settings;

3 (2) Require a minimum of one administrator in each elementary or
4 secondary school where a school resource officer or security guard is
5 assigned to attend a minimum of twenty hours of training focused on
6 school-based law enforcement, including, but not limited to, coursework
7 focused on school law, student rights, understanding special needs
8 students and students with disabilities, conflict de-escalation
9 techniques, ethics for school resource officers and security guards,
10 teenage brain development, adolescent behavior, implicit bias training,
11 diversity and cultural awareness, trauma-informed responses, and
12 preventing violence in school settings;

13 (3) Ensure records are kept on each student referral for prosecution
14 from a school resource officer in response to an incident occurring at
15 school, on school grounds, or at a school-sponsored event and ensure that
16 such records allow for analysis of related data and delineate:

17 (a) The reason for such referral; and

18 (b) Federally identified demographic characteristics of such
19 student;

20 (4) Identify school policies that address when a parent or guardian
21 will be notified or present, in a language that such parent or guardian
22 understands, if a student is subjected to questioning or interrogation by
23 a school official or by a school resource officer or security guard
24 operating in conjunction with a school official;

25 (5) Identify the school or law enforcement agency policies that
26 address under what circumstances a student will be advised of
27 constitutional rights prior to being questioned or interrogated by a
28 school official or by a school resource officer or security guard
29 operating in conjunction with a school official;

30 (6) Identify the school policy required by section 79-262 that
31 addresses the type or category of student conduct or actions that will be

1 referred to law enforcement for prosecution and the type of student
2 conduct or actions that will be resolved as a disciplinary matter by a
3 school official and not subject to referral to law enforcement; and

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