

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 51

FINAL READING

Introduced by Lathrop, 12; Pansing Brooks, 28; DeBoer, 10; McCollister,
20.

Read first time January 07, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 29-215,
2 81-1403, 81-1407, 81-1414, 81-1438, 81-1439, 81-1440, and 81-1443,
3 Reissue Revised Statutes of Nebraska, and sections 23-1701.01,
4 29-2264, 81-1401, 81-1414.07, 81-1456, 81-1457, and 81-2014, Revised
5 Statutes Cumulative Supplement, 2020; to change sheriff
6 requirements; to authorize Class I railroad police officers and
7 noncertified conditional officers; to define and redefine terms; to
8 change conviction set aside provisions; to change annual and initial
9 training provisions for law enforcement officers; to change
10 membership of and provide powers and duties for the Nebraska Police
11 Standards Advisory Council; to require de-escalation training; to
12 provide for certification of persons certified as law enforcement
13 officers in other states and change provisions relating to law
14 enforcement officer certification; to require psychological
15 evaluations of law enforcement officers as prescribed; to change
16 continuing education requirements for law enforcement officers; to
17 provide for policies and requirements for investigating law
18 enforcement officer misconduct; to change law enforcement officer
19 certification revocation and suspension record provisions; to
20 provide duties for the Nebraska Commission on Law Enforcement and
21 Criminal Justice; to prohibit chokeholds and carotid holds as

1 prescribed; to require policies on excessive force and a duty to
2 intervene; to require accreditation of law enforcement agencies; to
3 create a fund; to require posting of certain law enforcement officer
4 information as prescribed; to change provisions relating to law
5 enforcement reserve forces; to harmonize provisions; and to repeal
6 the original sections.

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

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

20 Sec. 2. Section 29-215, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 29-215 (1) A law enforcement officer has the power and authority to
23 enforce the laws of this state and of the political subdivision which
24 employs the law enforcement officer or otherwise perform the functions of
25 that office anywhere within his or her primary jurisdiction.

26 (2) Any law enforcement officer who is within this state, but beyond
27 his or her primary jurisdiction, has the power and authority to enforce
28 the laws of this state or any legal ordinance of any city or incorporated
29 village or otherwise perform the functions of his or her office,
30 including the authority to arrest and detain suspects, as if enforcing
31 the laws or performing the functions within his or her primary

1 jurisdiction in the following cases:

2 (a) Any such law enforcement officer, if in a fresh attempt to
3 apprehend a person suspected of committing a felony, may follow such
4 person into any other jurisdiction in this state and there arrest and
5 detain such person and return such person to the law enforcement
6 officer's primary jurisdiction;

7 (b) Any such law enforcement officer, if in a fresh attempt to
8 apprehend a person suspected of committing a misdemeanor or a traffic
9 infraction, may follow such person anywhere in an area within twenty-five
10 miles of the boundaries of the law enforcement officer's primary
11 jurisdiction and there arrest and detain such person and return such
12 person to the law enforcement officer's primary jurisdiction;

13 (c) Any such law enforcement officer shall have such enforcement and
14 arrest and detention authority when responding to a call in which a
15 local, state, or federal law enforcement officer is in need of
16 assistance. A law enforcement officer in need of assistance shall mean
17 (i) a law enforcement officer whose life is in danger or (ii) a law
18 enforcement officer who needs assistance in making an arrest and the
19 suspect (A) will not be apprehended unless immediately arrested, (B) may
20 cause injury to himself or herself or others or damage to property unless
21 immediately arrested, or (C) may destroy or conceal evidence of the
22 commission of a crime; and

23 (d) Any municipality or county may, under the provisions of the
24 Interlocal Cooperation Act or the Joint Public Agency Act, enter into a
25 contract with any other municipality or county for law enforcement
26 services or joint law enforcement services. Under such an agreement, law
27 enforcement personnel may have such enforcement authority within the
28 jurisdiction of each of the participating political subdivisions if
29 provided for in the agreement. Unless otherwise provided in the
30 agreement, each participating political subdivision shall provide
31 liability insurance coverage for its own law enforcement personnel as

1 provided in section 13-1802.

2 (3) When probable cause exists to believe that a person is operating
3 or in the actual physical control of any motor vehicle, motorboat,
4 personal watercraft, or aircraft while under the influence of alcoholic
5 liquor or of any drug or otherwise in violation of section 28-1465,
6 28-1466, 28-1472, 37-1254.01, 37-1254.02, 60-4,163, 60-4,164, 60-6,196,
7 60-6,197, 60-6,211.01, or 60-6,211.02, the law enforcement officer has
8 the power and authority to do any of the following or any combination
9 thereof:

10 (a) Transport such person to a facility outside of the law
11 enforcement officer's primary jurisdiction for appropriate chemical
12 testing of the person;

13 (b) Administer outside of the law enforcement officer's primary
14 jurisdiction any post-arrest test advisement to the person; or

15 (c) With respect to such person, perform other procedures or
16 functions outside of the law enforcement officer's primary jurisdiction
17 which are directly and solely related to enforcing the laws that concern
18 a person operating or being in the actual physical control of any motor
19 vehicle, motorboat, personal watercraft, or aircraft while under the
20 influence of alcoholic liquor or of any other drug or otherwise in
21 violation of section 28-1465, 28-1466, 28-1472, 37-1254.01, 37-1254.02,
22 60-4,163, 60-4,164, 60-6,196, 60-6,197, 60-6,211.01, or 60-6,211.02.

23 (4) For purposes of this section:

24 (a) Class I railroad has the same meaning as in section 81-1401;

25 (b) ~~(a)~~ Law enforcement officer has the same meaning as peace
26 officer as defined in section 49-801 and also includes conservation
27 officers of the Game and Parks Commission and Class I railroad police
28 officers; and

29 (c) ~~(b)~~ Primary jurisdiction means the geographic area within the
30 territorial limits of the state or political subdivision which employs
31 the law enforcement officer.

1 Sec. 3. Section 29-2264, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 29-2264 (1) Whenever any person is placed on probation by a court
4 and satisfactorily completes the conditions of his or her probation for
5 the entire period or is discharged from probation prior to the
6 termination of the period of probation, the sentencing court shall issue
7 an order releasing the offender from probation. Such order in all felony
8 cases shall provide notice that the person's voting rights are restored
9 two years after completion of probation. The order shall include
10 information on restoring other civil rights through the pardon process,
11 including application to and hearing by the Board of Pardons.

12 (2) Whenever any person is convicted of an offense and is placed on
13 probation by the court, is sentenced to a fine only, or is sentenced to
14 community service, he or she may, after satisfactory fulfillment of the
15 conditions of probation for the entire period or after discharge from
16 probation prior to the termination of the period of probation and after
17 payment of any fine and completion of any community service, petition the
18 sentencing court to set aside the conviction.

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

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

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

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

31 (iii) For any misdemeanor or felony motor vehicle offense under

1 section 28-306 or the Nebraska Rules of the Road; or

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

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

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

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

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

10 (5) The court may grant the offender's petition and issue an order
11 setting aside the conviction when in the opinion of the court the order
12 will be in the best interest of the offender and consistent with the
13 public welfare. The order shall:

14 (a) Nullify the conviction;

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

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

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

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

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

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

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

3 (e) Preclude the proof of the conviction as evidence of the
4 commission of the offense in the event an offender is charged with a
5 subsequent offense and the penalty provided by law is increased if the
6 prior conviction is proved;

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

10 (g) Preclude use of the conviction as evidence of commission of the
11 offense for purposes of determining whether an application filed or a
12 license issued under sections 71-1901 to 71-1906.01, the Child Care
13 Licensing Act, or the Children's Residential Facilities and Placing
14 Licensure Act or a certificate issued under sections 79-806 to 79-815
15 should be denied, suspended, or revoked;

16 (h) Preclude use of the conviction as evidence of serious misconduct
17 or incompetence, neglect of duty, physical, mental, or emotional
18 incapacity, or final conviction of or pleading guilty or nolo contendere
19 to a felony or misdemeanor for purposes of determining whether an
20 application filed or a certificate issued under sections 81-1401 to
21 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act should be
22 denied, suspended, or revoked;

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

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

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

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

1 (m) Affect the assessment or accumulation of points under section
2 60-4,182; or

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

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

10 (8) Except as otherwise provided for the notice in subsection (1) of
11 this section, changes made to this section by Laws 2005, LB 713, shall be
12 retroactive in application and shall apply to all persons, otherwise
13 eligible in accordance with the provisions of this section, whether
14 convicted prior to, on, or subsequent to September 4, 2005.

15 (9) The changes made to this section by Laws 2018, LB146, and Laws
16 2020, LB881, shall apply to all persons otherwise eligible under this
17 section, without regard to the date of the conviction sought to be set
18 aside.

19 Sec. 4. Section 81-1401, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 81-1401 For purposes of sections 81-1401 to 81-1414.10 and sections
22 7, 9 to 11, and 13 to 18 of this act, unless the context otherwise
23 requires:

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

26 (2) {1} Commission means the Nebraska Commission on Law Enforcement
27 and Criminal Justice;

28 (3) {2} Council means the Nebraska Police Standards Advisory
29 Council;

30 (4) {3} Director means the director of the Nebraska Law Enforcement
31 Training Center;

1 (5) (4) Felony means a crime punishable by imprisonment for a term
2 of more than one year or a crime committed outside of Nebraska which
3 would be punishable by imprisonment for a term of more than one year if
4 committed in Nebraska;

5 (6) (5) Handgun means any firearm with a barrel less than sixteen
6 inches in length or any firearm designed to be held and fired by the use
7 of a single hand;

8 ~~(6) Incapacity means incapable of or lacking the ability to perform~~
9 ~~or carry out the usual duties of a law enforcement officer in accordance~~
10 ~~with the standards established by the commission due to physical, mental,~~
11 ~~or emotional factors. Incapacity does not exist if a law enforcement~~
12 ~~officer remains employed as a law enforcement officer, including~~
13 ~~employment as a law enforcement officer in a restricted or limited-duty~~
14 ~~status;~~

15 (7) Law enforcement agency means the police department or the town
16 marshal in incorporated municipalities, the office of sheriff in
17 unincorporated areas, ~~and~~ the Nebraska State Patrol, and Class I railroad
18 police departments;

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

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

27 (ii) A county sheriff;

28 (iii) A full-time, or part-time, ~~or reserve~~ employee of a county
29 sheriff's office;

30 (iv) A full-time, or part-time, ~~or reserve~~ employee of a municipal
31 or village police agency;

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

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

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

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

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

12 (b) Law enforcement officer includes a noncertified conditional
13 officer;

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

19 (d) Except for a noncertified conditional officer, a (e) ~~A law~~
20 ~~enforcement officer shall possess a valid law enforcement officer~~
21 ~~certificate or diploma, as established by the council, in order to be~~
22 ~~vested with the authority of this section, but this subdivision does not~~
23 ~~prohibit an individual from receiving a conditional appointment as an~~
24 ~~officer pursuant to subsection (2) of section 81-1414;~~

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

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

29 (11) Serious misconduct means improper or illegal actions taken by a
30 law enforcement officer that have a rational connection with the person's
31 fitness or capacity to serve as a law enforcement officer and includes,

1 but is not limited to:

2 (a) Conviction of a felony or misdemeanor crime of domestic
3 violence;

4 (b) Fabrication of evidence;

5 (c) Repeated substantiated allegations of the use of excessive
6 force;

7 (d) Acceptance of a bribe;

8 (e) Commission of fraud or perjury; or

9 (f) Sexual assault;

10 (12) (9) Training academy means the training center or such other
11 council-approved law enforcement training facility operated and
12 maintained by a law enforcement agency which offers certification
13 training that meets or exceeds the certification training curriculum of
14 the training center;

15 (13) (10) Training center means the Nebraska Law Enforcement
16 Training Center; and

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

21 Sec. 5. Section 81-1403, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 81-1403 Subject to review and approval by the commission, the
24 council shall:

25 (1) Adopt and promulgate rules and regulations for law enforcement
26 pre-certification, certification, continuing education, and training
27 requirements. Such rules and regulations may include the authority to
28 impose a fine on any individual, political subdivision, or agency who or
29 which violates sections 81-1401 to 81-1414.10 and sections 7, 9 to 11,
30 and 13 to 18 of this act or any of such rules and regulations adopted and
31 promulgated thereunder. The fine for each separate violation of such

1 sections ~~81-1401 to 81-1414.10~~ or of any such rule or regulation adopted
2 and promulgated by the council pursuant to such sections shall not exceed
3 either (a) a one-time maximum fine of five hundred dollars or (b) a
4 maximum fine of one hundred dollars per day until the individual,
5 political subdivision, or agency complies with such rules or regulations.
6 ~~All fines collected pursuant to this subdivision shall be remitted to the~~
7 ~~State Treasurer for distribution in accordance with Article VII, section~~
8 ~~5, of the Constitution of Nebraska;~~

9 (2) Adopt and promulgate rules and regulations for the operation of
10 the training center;

11 (3) Recommend to the executive director of the commission the names
12 of persons to be appointed to the position of director of the training
13 center;

14 (4) Establish requirements for satisfactory completion of pre-
15 certification programs, certification programs, and advanced training
16 programs;

17 (5) Issue certificates or diplomas attesting satisfactory completion
18 of pre-certification programs, certification programs, and advanced
19 training programs;

20 (6) Revoke or suspend such certificates or diplomas according to
21 rules and regulations adopted and promulgated by the council pursuant to
22 sections 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of
23 this act for reasons which shall include, but not be limited to: 7

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

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

28 (ii) Misdemeanor crime of domestic violence; or

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

1 (b) Serious misconduct; or

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

4 (7) The council shall adopt and promulgate rules and regulations
5 that:

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

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

22 (8) (7) Set the tuition and fees for the training center and all
23 officers of other training academies not employed by that training
24 academy's agency. The tuition and fees set for the training center
25 pursuant to this subdivision shall be adjusted annually pursuant to the
26 training center budget approved by the Legislature. All other tuition and
27 fees shall be set in order to cover the costs of administering sections
28 81-1401 to 81-1414.10 and sections 7, 9 to 11, and 13 to 18 of this act.
29 All tuition and fees shall be remitted to the State Treasurer for credit
30 to the Nebraska Law Enforcement Training Center Cash Fund;

31 (9) (8) Annually certify any training academies providing a basic

1 course of law enforcement training which complies with the qualifications
2 and standards promulgated by the council and offering training that meets
3 or exceeds training that is offered by the training center. The council
4 shall set the maximum and minimum applicant enrollment figures for
5 training academies training non-agency officers;

6 (10) ~~(9)~~ Extend the programs of the training center throughout the
7 state on a regional basis;

8 (11) ~~(10)~~ Establish the qualifications, standards, and continuing
9 education requirements and provide the training required by section
10 81-1439; and

11 (12) ~~(11)~~ Do all things necessary to carry out the purpose of the
12 training center, except that functional authority for budget and
13 personnel matters shall remain with the commission.

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

22 Sec. 6. Section 81-1407, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 81-1407 (1)(a) ~~(1)~~ The Nebraska Police Standards Advisory Council
25 shall consist of nine ~~seven~~ members appointed by the Governor.

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

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

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

1 (iii) A ~~, a~~ representative chief of police or his or her designee
2 from a city of the first class;

3 (iv) A ~~, a~~ representative chief of police or his or her designee
4 from a city of the second class or village;

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

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

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

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

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

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

1 chairperson.

2 (3) No member of the council shall serve beyond the time when he or
3 she holds the office or employment by reason of which he or she was
4 initially eligible for appointment. A member may be removed from the
5 council for cause upon notice and an opportunity to be heard at a public
6 hearing before the Governor. After the hearing, the Governor shall file
7 in the office of the Secretary of State a complete statement of the
8 charges, his or her findings and disposition, together with a complete
9 record of the proceedings.

10 Sec. 7. As part of entry-level law enforcement certification, each
11 training academy shall require completion of de-escalation training. The
12 de-escalation training shall include training related to mental health
13 behaviors, substance abuse, anti-bias, implicit bias, and communicating
14 with a person in a crisis.

15 Sec. 8. Section 81-1414, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 81-1414 (1) On and after January 1, 1972, law enforcement officers
18 already serving under permanent appointment shall not be required to meet
19 any requirement of subsection (2) of this section as a condition of
20 tenure or continued employment.

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

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

27 (b) Has ~~or~~ been awarded a certificate or diploma attesting to
28 satisfactory completion of a training program approved by which the
29 council as finds equivalent to the curriculum in subdivision (2)(a) of
30 this section; or

31 (c) Is certified as a law enforcement officer in another state and

1 has applied, completed a reciprocity program, and been approved as
2 provided in section 11 of this act.

3 ~~(3) The thereto. Any person who has not been awarded such a~~
4 ~~certificate or diploma may receive an appointment conditioned on~~
5 ~~satisfactory completion of such training if he or she immediately applies~~
6 ~~for admission to the training center or any training academy and enrolls~~
7 ~~in the next available basic training class. If such training is not~~
8 ~~completed within one year after the appointment, the person's employment~~
9 ~~shall not be renewed by a political subdivision appointment or otherwise~~
10 ~~and such person shall no longer be recognized as a law enforcement~~
11 ~~officer, except that in cases of extreme hardship, upon application by~~
12 ~~the officer, the council may grant a waiver to allow the officer to~~
13 ~~complete the basic training program as soon as is practicable after the~~
14 ~~one year time allowance. Any individual who is not certified in~~
15 ~~accordance with this section and has worked as a law enforcement officer~~
16 ~~for multiple law enforcement agencies or political subdivisions shall~~
17 ~~have his or her time of employment aggregated in order to determine if he~~
18 ~~or she has worked for more than one year. If that law enforcement~~
19 ~~officer's aggregate time of employment exceeds one year, that officer~~
20 ~~shall not be recognized as a law enforcement officer for any political~~
21 ~~subdivision until he or she has satisfactorily completed such~~
22 ~~certification training. For purposes of this section, the council shall~~
23 ~~deem the successful completion of the federal Bureau of Indian Affairs~~
24 ~~basic police training program as administered by the Federal Law~~
25 ~~Enforcement Training Center to constitute such equivalent training under~~
26 subdivision (2)(b) of this section, and officers certified by virtue of
27 such equivalent training may exercise full law enforcement authority
28 exclusively on tribal lands.

29 ~~(4) (3)~~ Law enforcement officers who are promoted in rank shall
30 satisfactorily complete such council-approved training within one year of
31 such promotion.

1 (5) ~~(4)~~ At the direction of the council, the director shall issue a
2 certificate or diploma attesting to a compliance with the requirements of
3 subsection (2), ~~or (3)~~, or (4) of this section to any applicant who
4 presents evidence of satisfactory completion of a council-approved
5 training program.

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

9 (b) A noncertified conditional officer shall meet all requirements
10 for admission to the training center and shall immediately apply for
11 admission to the training center and enroll in the next available basic
12 training class.

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

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

17 (ii) Sixteen hours of firearms training and passing the minimum
18 requirements for the handgun qualification course as provided in section
19 81-1412.01;

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

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

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

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

25 (vii) Four hours of substance abuse training.

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

30 (e) A noncertified conditional officer shall not interact with the
31 public unless such officer is under the direct supervision of a field

1 training officer approved by the law enforcement agency employing such
2 noncertified conditional officer.

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

5 (i) Ride in a marked police cruiser;

6 (ii) Make arrests;

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

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

9 (g) A noncertified conditional officer may be employed for a period
10 not to exceed sixteen consecutive weeks. The council may extend such
11 period as follows:

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

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

17 (A) That the noncertified conditional officer immediately applied
18 for admission to the training center upon appointment under this
19 subsection;

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

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

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

27 (h) Failure to follow the requirements and restrictions of this
28 subsection shall be considered a violation of the law and neglect of
29 duty.

30 (i) The council may adopt and promulgate rules and regulations as
31 necessary to carry out this subsection, including, but not limited to,

1 rules and regulations permitting the virtual or online completion of
2 required training and minimum standards and qualifications for field
3 training officers. Prior to the expiration of ninety days after any such
4 rules and regulations adopted become effective, any certified law
5 enforcement officer with not less than three years of experience may
6 serve as a field training officer.

7 Sec. 9. Section 81-1457, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 ~~81-1457~~ (1) A person who ~~is certified under section 81-1414 and who~~
10 seeks employment as a law enforcement officer in this state shall provide
11 a signed waiver to the prospective employer upon a conditional offer of
12 employment. The waiver must expressly allow the prospective employer to
13 contact the person's former employer or employers and obtain from each
14 copies of any records created under subsections (2) and (3) of section 14
15 of this act or under comparable laws in another jurisdiction ~~81-1456~~. The
16 prospective employer is responsible for providing the waiver to each
17 former employer.

18 (2) The waiver required by this section shall be executed on a form
19 provided by the commission ~~Nebraska Commission on Law Enforcement and~~
20 ~~Criminal Justice~~ to all agencies in this state that employ or administer
21 oaths of office to law enforcement officers certified by the commission.

22 (3) Within ten calendar days after receipt of the waiver, a former
23 employer shall provide the prospective employer, along with other
24 information required or allowed to be provided by law, copies of any
25 records created under subsections (2) and (3) of section 14 of this act
26 ~~81-1456~~. The names and any identifying information in any records created
27 under subsections (2) and (3) of this section of any individual, witness,
28 or law enforcement officer or officers other than the person who signed
29 the waiver shall be confidential and not disclosed to the prospective
30 employer.

31 (4) A prospective employer shall not hire as a law enforcement

1 officer a person to whom subsection (1) of this section applies unless
2 the prospective employer receives, from each of the person's former
3 employers whether located in Nebraska or in another jurisdiction, copies
4 of any records created under subsections (2) and (3) of section 14 of
5 this act or such other jurisdiction's comparable laws ~~81-1456~~.

6 (5) A prospective employer shall not hire as a law enforcement
7 officer a person to whom subsection (1) of this section applies if such
8 person's former employer has provided notice to the commission ~~Nebraska~~
9 ~~Commission on Law Enforcement and Criminal Justice~~ that the person's
10 separation from the former employer occurred under circumstances that may
11 justify revocation of the person's certification unless the commission
12 has reviewed the notification and issued a determination that the person
13 shall retain such certification.

14 (6) For purposes of this section:

15 (a) Former employer means the law enforcement agency or other agency
16 that currently employs or previously employed the person as a law
17 enforcement officer, whether located in Nebraska or in another
18 jurisdiction; and

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

20 ~~(c) Law enforcement agency has the same meaning as in section~~
21 ~~81-1401;~~

22 ~~(d) Law enforcement officer has the same meaning as in section~~
23 ~~81-1401; and~~

24 ~~(b)~~ (e) Prospective employer means the law enforcement agency or
25 other agency that is considering hiring the person as a law enforcement
26 officer.

27 Sec. 10. (1) Prior to hiring a person as a law enforcement officer,
28 a law enforcement agency shall, if such person has not previously worked
29 as a law enforcement officer in Nebraska, cause such person to undergo a
30 psychological evaluation to determine fitness for duty. The cost of such
31 evaluation shall be the responsibility of the agency.

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

3 Sec. 11. (1) A person seeking certification under subdivision (2)
4 (c) of section 81-1414 shall, in addition to any other applicable
5 requirements of the commission or of sections 81-1401 to 81-1414.10 and
6 sections 7, 9 to 11, and 13 to 18 of this act, submit an application to
7 the council and complete a reciprocity program as provided in this
8 section. The application shall be made under oath and made on a form
9 provided by the council.

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

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

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

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

16 (ii) Misdemeanor crime of domestic violence; or

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

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

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

24 (3) The council shall develop or approve a reciprocity program that
25 an applicant shall complete prior to receiving certification under this
26 section.

27 (4) The council shall deny certification to an applicant under this
28 section if the council finds that the applicant does not meet the
29 requirements of subsection (2) of this section, has omitted information
30 required by such subsection, has provided false or misleading information
31 in the application, or has not completed the reciprocity program.

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

4 (6) The council may adopt and promulgate rules and regulations as
5 necessary to carry out this section.

6 Sec. 12. Section 81-1414.07, Revised Statutes Cumulative Supplement,
7 2020, is amended to read:

8 81-1414.07 (1)(a) {1} In order to maintain his or her professional
9 status and serve the law enforcement profession, the community, and the
10 residents of Nebraska, each law enforcement officer, other than a
11 noncertified conditional officer, shall attend at least twenty hours of
12 continuing education courses for the number of hours required in
13 subdivision (1)(b) of this section in the areas of criminal justice and
14 law enforcement and at least two hours of anti-bias and implicit bias
15 training designed to minimize apparent or actual racial profiling during
16 each calendar year beginning on January 1 and ending on December 31. A
17 law enforcement officer is not required to meet the continuing education
18 requirements in the year in which he or she first becomes fully
19 certified.

20 (b) The numbers of continuing education hours required under this
21 subsection shall be:

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

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

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

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

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

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

31 (c) Firearms;

1 (d) Officer wellness;

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

4 (f) Vehicular pursuit policy review; and

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

6 (3) (2) Continuing education courses may be offered in the form of
7 seminars, advanced education which may include college or university
8 classes, conferences, instruction conducted within the law enforcement
9 officer's law enforcement agency, or instruction conducted over the
10 Internet. Continuing education , except that instruction conducted over
11 the Internet shall be limited to ten hours annually, and shall be of a
12 type which has application to and seeks to maintain and improve the
13 skills of the law enforcement officer in carrying out his or her duties
14 and responsibilities.

15 Sec. 13. (1) Each law enforcement agency or agency employing a law
16 enforcement officer shall have a policy in its standard operating
17 procedures regarding accepting and investigating complaints of law
18 enforcement officer misconduct.

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

22 (a) The agency shall investigate the matter;

23 (b) The investigation shall be carried out by a law enforcement
24 officer who has experience investigating allegations of misconduct by law
25 enforcement officers; and

26 (c) The agency shall complete the investigation within one hundred
27 days after the complaint. If criminal charges against the officer are
28 being considered, the one-hundred-day deadline shall be tolled until a
29 charging decision has been made and the prosecuting attorney has filed
30 charges or declined to file charges. Upon completion of any investigation
31 under this subsection, the agency shall report the results of the

1 investigation to the executive director of the commission.

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 shall
5 forward the matter to the commission and the commission shall investigate
6 such complaint. Any investigation by the commission shall be completed
7 within one hundred eighty days after receipt of the complaint. If such
8 investigation is not completed within one hundred eighty days, the
9 investigation shall be deemed closed and the officer shall be notified.
10 The commission may begin a new investigation if new information not
11 available during the previous investigation is received and an
12 investigation is warranted.

13 Sec. 14. Section 81-1456, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

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

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

29 (3) Each law enforcement agency or agency employing a law
30 enforcement officer shall maintain any and all records of officer conduct
31 which could constitute grounds for revocation or suspension of a law

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

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

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

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

2 ~~(a) Felony has the same meaning as in section 81-1401;~~

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

4 ~~(c) Law enforcement agency has the same meaning as in section~~

5 ~~81-1401; and~~

6 ~~(d) Law enforcement officer has the same meaning as in section~~

7 ~~81-1401.~~

8 Sec. 15. (1) Except when the use of deadly force is authorized, a
9 law enforcement officer shall not intentionally use a chokehold on any
10 person.

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

13 (a) Either:

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

17 (ii) The person is actively resisting arrest in a manner that poses
18 a risk of bodily injury to the officer or any other person; or

19 (iii) Deadly force is otherwise authorized; and

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

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

25 (4) For purposes of this section:

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

27 (b) Carotid restraint control hold means utilizing bilateral
28 pressure to the sides of a person's neck, restricting the flow of
29 oxygenated blood to the brain;

30 (c) Chokehold means intentionally applying pressure to the front of
31 the throat and cutting off air flow for a sustained amount of time; and

1 (d) Serious bodily injury has the same meaning as in section 28-109.

2 Sec. 16. On or before January 1, 2022:

3 (1) Each law enforcement agency shall adopt and provide to the
4 commission for approval a policy requiring each law enforcement officer
5 of such agency to intervene when such officer reasonably believes that
6 another law enforcement officer is engaged in a use of excessive force;
7 and

8 (2) The commission shall develop and distribute a suggested model
9 written policy for use by law enforcement agencies, but the commission
10 shall not mandate the adoption of the model policy except for any
11 particular law enforcement agency which fails to timely create and
12 provide to the commission a policy for the agency as required by this
13 section or when the commission does not approve an agency's policy.

14 Sec. 17. (1)(a) On or before January 1, 2023, each law enforcement
15 agency shall be accredited in a manner approved by the commission. A law
16 enforcement agency shall not be accredited unless it has adopted written
17 policies as determined by the commission and met other requirements as
18 determined by the commission.

19 (b) Beginning January 1, 2023, the commission shall post on its web
20 site a list of all law enforcement agencies that are not accredited as
21 required by this subsection. The commission shall update the list at
22 least annually, and more frequently as the commission deems necessary.

23 (c) A law enforcement agency that is not accredited as required by
24 this subsection shall be ineligible to receive loans, grants, funds, or
25 donations administered by the commission until the commission determines
26 that such agency has been properly accredited.

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

30 (3) The Nebraska Police Improvement and Professionalism Fund is
31 created. The fund shall be used to provide grants as provided in

1 subsection (4) of this section. The State Treasurer shall credit to the
2 fund any funds transferred or appropriated to the fund by the Legislature
3 and funds received as gifts or grants or other private or public funds
4 obtained for the purposes set forth in this section. Any money in the
5 fund available for investment shall be invested by the state investment
6 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
7 State Funds Investment Act.

8 (4) The commission shall develop a grant program to award grants to
9 law enforcement agencies to pay for costs of accreditation incurred
10 pursuant to this section. In awarding such grants, the commission shall
11 prioritize smaller law enforcement agencies.

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

14 Sec. 18. (1) On or before July 1, 2022, the commission shall post
15 on its public web site a list of all law enforcement officers who have,
16 on or after January 1, 2021:

17 (a) Voluntarily surrendered their certifications or had their
18 certifications revoked;

19 (b) Been convicted of or pleaded guilty or nolo contendere to a
20 felony or a Class I misdemeanor; or

21 (c) Upon adjudication by the council, been found to have engaged in
22 serious misconduct.

23 (2) The list provided for in this section shall be accompanied on
24 the commission's public web site by a letter that includes, for each law
25 enforcement officer on such list:

26 (a) The officer's name, rank, and the law enforcement agency for
27 which such officer works or most recently worked;

28 (b) A statement indicating the reason such officer's name is on the
29 list;

30 (c) A description of any discipline imposed; and

31 (d) An affirmation, signed by the chief of police, sheriff, or the

1 head administrator of the officer's law enforcement agency or the
2 Superintendent of Law Enforcement and Public Safety affirming the truth
3 and accuracy of the matters stated in the letter.

4 (3) Beginning July 1, 2022, any time a law enforcement officer
5 voluntarily surrenders such officer's certification, has such
6 certification revoked, or is adjudicated by the council to have engaged
7 in serious misconduct, the council shall notify the commission within
8 thirty days after such surrender, revocation, or adjudication.

9 (4) By July 1, 2022, the council shall establish a procedure,
10 including an opportunity for a hearing, by which a law enforcement
11 officer may challenge the inclusion of such officer's name on the list.

12 Sec. 19. Section 81-1438, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1438 (1) The governing body of any county or city of this state,
15 other than (a) ~~(1)~~ a county containing a city of the metropolitan or
16 primary class or (b) ~~(2)~~ a city of the metropolitan or primary class, may
17 establish a law enforcement reserve force. Members of such force shall be
18 appointed at the discretion of the governing body. The governing body may
19 limit the size of such reserve force.

20 (2)(a) A member of a law enforcement reserve force appointed under
21 this section cannot make arrests, issue citations, detain members of the
22 public, or seize evidence without being under the direct supervision of a
23 physically present certified law enforcement officer.

24 (b) A reserve officer may perform functions at the direction of the
25 county sheriff or chief of police when under the direct supervision of
26 the county sheriff or chief of police. Such functions shall not include
27 making arrests, issuing citations, detaining members of the public, or
28 seizing evidence.

29 (c) A reserve officer is not limited with respect to the amount of
30 hours worked annually.

31 Sec. 20. Section 81-1439, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-1439 (1) The Nebraska Commission on Law Enforcement and Criminal
3 Justice shall establish minimum physical, mental, educational, and moral
4 qualifications for all members of any law enforcement reserve force. The
5 commission shall also establish training and continuing education
6 standards and be responsible for providing such training for all members.
7 The commission shall delegate its responsibilities pursuant to this
8 section to the Nebraska Police Standards Advisory Council.

9 (2) Individuals appointed to a law enforcement reserve force shall
10 receive training through or under the supervision of the Nebraska Law
11 Enforcement Training Center and shall achieve the minimum training
12 standards within one year after the date of appointment. Such training
13 may be provided by the training center through regional workshops,
14 training sessions, or similar means of instruction anywhere in the state.

15 (3) Members of the law enforcement reserve force shall be subject to
16 the same continuing education requirements as ~~all other~~ law enforcement
17 officers pursuant to sections 81-1401 to 81-1414.10 and sections 7, 9 to
18 11, and 13 to 18 of this act.

19 (4) The governing body establishing a law enforcement reserve force
20 shall adopt and publish a reserve force manual setting forth the minimum
21 qualifications, training standards, standard operating procedures, and
22 continuing education requirements for such force and such higher
23 qualifications, standards, and operating procedures as may actually be
24 used.

25 Sec. 21. Section 81-1440, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1440 Subject to the restrictions set forth in subsection (2) of
28 section 81-1438, law Law enforcement reserve officers shall serve as
29 peace officers on the orders and at the discretion of the sheriff, the
30 mayor, or the chief of police.

31 Sec. 22. Section 81-1443, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-1443 (1) Subject to the restrictions set forth in subsection (2)
3 of section 81-1438, law Law enforcement reserve officers, upon being
4 activated by the sheriff, the mayor, or the chief of police, and while on
5 assigned duty, shall be vested with the same rights, privileges,
6 obligations, and duties of any other peace officer of this state.

7 (2) No person appointed to the reserve force may carry a weapon or
8 otherwise act as a peace officer until such person ~~he~~ has been approved
9 by the governing body. After approval, such person ~~he~~ may carry a weapon
10 only when authorized by the sheriff or chief of police and when
11 discharging official duties as a duly constituted peace officer.

12 (3) Law enforcement reserve officers shall be subordinate to regular
13 force officers, shall not serve as a peace officer unless under the
14 direction of regular officers, and when serving with regular force
15 officers shall wear no insignia of rank. Each department for which a
16 reserve force is established shall appoint a regular force officer as the
17 reserve force coordinating and supervising officer. Such regular officer
18 shall report directly to the sheriff or the chief of police.

19 Sec. 23. Section 81-2014, Revised Statutes Cumulative Supplement,
20 2020, is amended to read:

21 81-2014 For purposes of the Nebraska State Patrol Retirement Act:

22 (1)(a) Actuarial equivalent means the equality in value of the
23 aggregate amounts expected to be received under different forms of
24 payment or to be received at an earlier retirement age than the normal
25 retirement age.

26 (b) For an officer hired before July 1, 2017, the determinations
27 shall be based on the 1994 Group Annuity Mortality Table reflecting sex-
28 distinct factors blended using seventy-five percent of the male table and
29 twenty-five percent of the female table. An interest rate of eight
30 percent per annum shall be reflected in making the determinations until
31 such percent is amended by the Legislature.

1 (c) For an officer hired on or after July 1, 2017, or rehired on or
2 after July 1, 2017, after termination of employment and being paid a
3 retirement benefit or taking a refund of contributions, the
4 determinations shall be based on a unisex mortality table and an interest
5 rate specified by the board. Both the mortality table and the interest
6 rate shall be recommended by the actuary and approved by the board
7 following an actuarial experience study, a benefit adequacy study, or a
8 plan valuation. The mortality table, interest rate, and actuarial factors
9 in effect on the officer's retirement date will be used to calculate
10 actuarial equivalency of any retirement benefit. Such interest rate may
11 be, but is not required to be, equal to the assumed rate of return;

12 (2) Board means the Public Employees Retirement Board;

13 (3)(a)(i) Compensation means gross wages or salaries payable to the
14 member for personal services performed during the plan year. Compensation
15 does not include insurance premiums converted into cash payments,
16 reimbursement for expenses incurred, fringe benefits, per diems, or
17 bonuses for services not actually rendered, including, but not limited
18 to, early retirement inducements, cash awards, and severance pay, except
19 for retroactive salary payments paid pursuant to court order,
20 arbitration, or litigation and grievance settlements. Compensation
21 includes overtime pay, member retirement contributions, and amounts
22 contributed by the member to plans under sections 125 and 457 of the
23 Internal Revenue Code as defined in section 49-801.01 or any other
24 section of the code which defers or excludes such amounts from income.

25 (ii) For any officer employed on or prior to January 4, 1979,
26 compensation includes compensation for unused sick leave or unused
27 vacation leave converted to cash payments.

28 (iii) For any officer employed after January 4, 1979, and prior to
29 July 1, 2016, compensation does not include compensation for unused sick
30 leave or unused vacation leave converted to cash payments and includes
31 compensation for unused holiday compensatory time and unused compensatory

1 time converted to cash payments.

2 (iv) For any officer employed on or after July 1, 2016, compensation
3 does not include compensation for unused sick leave, unused vacation
4 leave, unused holiday compensatory time, unused compensatory time, or any
5 other type of unused leave, compensatory time, or similar benefits,
6 converted to cash payments.

7 (b) Compensation in excess of the limitations set forth in section
8 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01
9 shall be disregarded. For an employee who was a member of the retirement
10 system before the first plan year beginning after December 31, 1995, the
11 limitation on compensation shall not be less than the amount which was
12 allowed to be taken into account under the retirement system as in effect
13 on July 1, 1993;

14 (4) Creditable service means service granted pursuant to section
15 81-2034 and all service rendered while a contributing member of the
16 retirement system. Creditable service includes working days, sick days,
17 vacation days, holidays, and any other leave days for which the officer
18 is paid regular wages except as specifically provided in the Nebraska
19 State Patrol Retirement Act. Creditable service does not include
20 eligibility and vesting credit nor service years for which member
21 contributions are withdrawn and not repaid;

22 (5) Current benefit means the initial benefit increased by all
23 adjustments made pursuant to the Nebraska State Patrol Retirement Act;

24 (6) DROP means the deferred retirement option plan as provided in
25 section 81-2041;

26 (7) DROP account means an individual DROP participant's defined
27 contribution account under section 414(k) of the Internal Revenue Code;

28 (8) DROP period means the amount of time the member elects to
29 participate in DROP which shall be for a period not to exceed five years
30 from and after the date of the member's DROP election;

31 (9) Eligibility and vesting credit means credit for years, or a

1 fraction of a year, of participation in a Nebraska government plan for
2 purposes of determining eligibility for benefits under the Nebraska State
3 Patrol Retirement Act. Such credit shall be used toward the vesting
4 percentage pursuant to subsection (2) of section 81-2031 but shall not be
5 included as years of service in the benefit calculation;

6 (10) Hire date or date of hire means the first day of compensated
7 service subject to retirement contributions;

8 (11) Initial benefit means the retirement benefit calculated at the
9 time of retirement;

10 (12) Officer means law enforcement officer as defined in section
11 81-1401 and as provided for in sections 81-2001 to 81-2009, but does not
12 include a noncertified conditional law enforcement officer as defined in
13 section 81-1401 who has been granted an appointment conditioned on
14 satisfactory completion of a training program approved by the Nebraska
15 Police Standards Advisory Council;

16 (13) Plan year means the twelve-month period beginning on July 1 and
17 ending on June 30 of the following year;

18 (14) Regular interest means interest fixed at a rate equal to the
19 daily treasury yield curve for one-year treasury securities, as published
20 by the Secretary of the Treasury of the United States, that applies on
21 July 1 of each year, which may be credited monthly, quarterly,
22 semiannually, or annually as the board may direct;

23 (15) Required beginning date means, for purposes of the deferral of
24 distributions, April 1 of the year following the calendar year in which a
25 member has:

26 (a)(i) Terminated employment with the State of Nebraska; and

27 (ii)(A) Attained at least seventy and one-half years of age for a
28 member who attained seventy and one-half years of age on or before
29 December 31, 2019; or

30 (B) Attained at least seventy-two years of age for a member who
31 attained seventy and one-half years of age on or after January 1, 2020;

1 or

2 (b)(i) Terminated employment with the State of Nebraska; and

3 (ii) Otherwise reached the date specified by section 401(a)(9) of
4 the Internal Revenue Code and the regulations issued thereunder;

5 (16) Retirement application means the form approved and provided by
6 the retirement system for acceptance of a member's request for either
7 regular or disability retirement;

8 (17) Retirement date means (a) the first day of the month following
9 the date upon which a member's request for retirement is received on a
10 retirement application if the member is eligible for retirement and has
11 terminated employment or (b) the first day of the month following
12 termination of employment if the member is eligible for retirement and
13 has filed an application but has not yet terminated employment;

14 (18) Retirement system or system means the Nebraska State Patrol
15 Retirement System as provided in the act;

16 (19) Service means employment as a member of the Nebraska State
17 Patrol and shall not be deemed to be interrupted by (a) temporary or
18 seasonal suspension of service that does not terminate the employee's
19 employment, (b) leave of absence authorized by the employer for a period
20 not exceeding twelve months, (c) leave of absence because of disability,
21 or (d) military service, when properly authorized by the board. Service
22 does not include any period of disability for which disability retirement
23 benefits are received under subsection (1) of section 81-2025;

24 (20) Surviving spouse means (a) the spouse married to the member on
25 the date of the member's death if married for at least one year prior to
26 death or if married on the date of the member's retirement or (b) the
27 spouse or former spouse of the member if survivorship rights are provided
28 under a qualified domestic relations order filed with the board pursuant
29 to the Spousal Pension Rights Act. The spouse or former spouse shall
30 supersede the spouse married to the member on the date of the member's
31 death as provided under a qualified domestic relations order. If the

1 benefits payable to the spouse or former spouse under a qualified
2 domestic relations order are less than the value of benefits entitled to
3 the surviving spouse, the spouse married to the member on the date of the
4 member's death shall be the surviving spouse for the balance of the
5 benefits; and

6 (21) Termination of employment occurs on the date on which the
7 Nebraska State Patrol determines that the officer's employer-employee
8 relationship with the patrol is dissolved. The Nebraska State Patrol
9 shall notify the board of the date on which such a termination has
10 occurred. Termination of employment does not include ceasing employment
11 with the Nebraska State Patrol if the officer returns to regular
12 employment with the Nebraska State Patrol or another agency of the State
13 of Nebraska and there are less than one hundred twenty days between the
14 date when the employee's employer-employee relationship ceased and the
15 date when the employer-employee relationship commenced with the Nebraska
16 State Patrol or another state agency. Termination of employment does not
17 occur upon an officer's participation in DROP pursuant to section
18 81-2041. It is the responsibility of the employer that is involved in the
19 termination of employment to notify the board of such change in
20 employment and provide the board with such information as the board deems
21 necessary. If the board determines that termination of employment has not
22 occurred and a retirement benefit has been paid to a member of the
23 retirement system pursuant to section 81-2026, the board shall require
24 the member who has received such benefit to repay the benefit to the
25 retirement system.

26 Sec. 24. Original sections 29-215, 81-1403, 81-1407, 81-1414,
27 81-1438, 81-1439, 81-1440, and 81-1443, Reissue Revised Statutes of
28 Nebraska, and sections 23-1701.01, 29-2264, 81-1401, 81-1414.07, 81-1456,
29 81-1457, and 81-2014, Revised Statutes Cumulative Supplement, 2020, are
30 repealed.