

LEGISLATIVE BILL 1241

Approved by the Governor April 18, 2022

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

A BILL FOR AN ACT relating to law enforcement training; to amend sections 81-1401, 81-1414, 81-1414.07, and 81-1414.13, Revised Statutes Supplement, 2021; to change provisions relating to law enforcement officer training and certification; to provide duties for the Nebraska Police Standards Advisory Council; to redefine a term; to adopt the Law Enforcement Attraction and Retention Act; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) A county sheriff;

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

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

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

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

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

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

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

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

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

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

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

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

(11) Serious misconduct means improper or illegal actions taken by a law enforcement officer that have a rational connection with the person's fitness or capacity to serve as a law enforcement officer and includes, but is not limited to:

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

(b) Fabrication of evidence;

- (c) Repeated substantiated allegations of the use of excessive force;
- (d) Acceptance of a bribe;
- (e) Commission of fraud or perjury; or
- (f) Sexual assault;
- (12) Training academy means:
 - (a) ~~The the~~ training center; or
 - (b) ~~Another such other~~ council-approved law enforcement training facility ~~operated and maintained by a law enforcement agency which:~~
 - (i) ~~Offers offers~~ certification training that meets or exceeds the certification training curriculum of the training center; ~~and~~
 - (ii) ~~Is operated and maintained by a law enforcement agency or by multiple law enforcement agencies pursuant to the Interlocal Cooperation Act.~~
- (13) Training center means the Nebraska Law Enforcement Training Center; and
- (14) Training school means a public or private institution of higher education, including the University of Nebraska, the Nebraska state colleges, and the community colleges of this state, that offers training in a council-approved pre-certification course.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Eight hours of de-escalation training;

(v) Eight hours of mental health crisis training;

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

(vii) Four hours of substance abuse training.

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

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

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

(i) Ride in a marked police cruiser;

(ii) Make arrests;

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

(iv) Carry out any other law enforcement function.

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

follows:

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

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

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

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

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

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

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

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

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

81-1414.07 (1)(a) In order to maintain his or her professional status and serve the law enforcement profession, the community, and the residents of Nebraska, each law enforcement officer, other than a noncertified conditional officer, shall attend continuing education courses for the number of hours required in subdivision (1)(b) of this section in the areas of criminal justice and law enforcement during each calendar year beginning on January 1 and ending on December 31. A law enforcement officer is not required to meet the continuing education requirements in the year in which he or she first becomes fully certified. A law enforcement officer may retire from service in good standing without meeting the continuing education requirements in the calendar year of the officer's retirement.

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

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

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

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

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

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

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

(c) Firearms;

(d) Officer wellness;

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

(f) Vehicular pursuit policy review; and

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

(3) Continuing education courses may be offered in the form of seminars, advanced education which may include college or university classes, conferences, instruction conducted within the law enforcement officer's law enforcement agency, or instruction conducted over the Internet. Continuing education shall be of a type which has application to and seeks to maintain and improve the skills of the law enforcement officer in carrying out his or her duties and responsibilities.

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

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

(2) The applicant shall attest to the following:

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

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

(i) Felony violation of state or federal law;

(ii) Misdemeanor crime of domestic violence; or

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

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

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

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

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

~~(b) Pass a physical fitness test;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3) To be eligible for a tier 2 retention incentive payment, a law enforcement officer must complete three years of full-time employment as a law enforcement officer after July 1, 2022. No law enforcement officer shall receive more than one tier 2 retention incentive payment.~~

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

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

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

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

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

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

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

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

~~(b) Such law enforcement officer has ever been convicted of a felony or~~

Class I misdemeanor. This subdivision shall not apply if the law enforcement officer received a pardon or set aside for such conviction;

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

(d) Such law enforcement officer was allowed to resign instead of being terminated from employment. This subdivision shall only apply if the law enforcement officer's certification would have been revoked had he or she not resigned.

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

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

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

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

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

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

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

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

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

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