

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 538

Introduced by Chambers, 11.

Read first time January 23, 2013

Committee:

A BILL

1 FOR AN ACT relating to law enforcement training; to amend sections
2 81-1401 and 81-1403, Revised Statutes Cumulative
3 Supplement, 2012; to change provisions relating to
4 revocation and suspension of certificates or diplomas for
5 physical, mental, or emotional incapacity; to define a
6 term; to provide powers to and duties for the Nebraska
7 Police Standards Advisory Council; to harmonize
8 provisions; to provide an operative date; and to repeal
9 the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1401, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 81-1401 For purposes of sections 81-1401 to 81-1414.10,
4 unless the context otherwise requires:

5 (1) Commission means the Nebraska Commission on Law
6 Enforcement and Criminal Justice;

7 (2) Council means the Nebraska Police Standards Advisory
8 Council;

9 (3) Director means the director of the Nebraska Law
10 Enforcement Training Center;

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

15 ~~(4)~~-(5) Handgun means any firearm with a barrel less than
16 sixteen inches in length or any firearm designed to be held and fired
17 by the use of a single hand;

18 (6) Incapacity means incapable of or lacking the ability
19 to perform or carry out the usual duties of a law enforcement officer
20 in accordance with the standards established by the commission due to
21 physical, mental, or emotional factors;

22 ~~(5)~~-(7) Law enforcement agency means the police
23 department or the town marshal in incorporated municipalities, the
24 office of sheriff in unincorporated areas, and the Nebraska State
25 Patrol;

1 ~~(6)(a)~~—(8)(a) Law enforcement officer means any person
2 who is responsible for the prevention or detection of crime or the
3 enforcement of the penal, traffic, or highway laws of the state or
4 any political subdivision of the state for more than one hundred
5 hours per year and is authorized by law to make arrests and includes,
6 but is not limited to:

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

9 (ii) A county sheriff;

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

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

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

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

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

22 (b) Law enforcement officer does not include employees of
23 the Department of Correctional Services, probation officers under the
24 Nebraska Probation System, parole officers appointed by the Parole
25 Administrator, or employees of the Department of Revenue under

1 section 77-366; and

2 (c) A law enforcement officer shall possess a valid law
3 enforcement officer certificate or diploma, as established by the
4 council, in order to be vested with the authority of this section,
5 but this subdivision does not prohibit an individual from receiving a
6 conditional appointment as an officer pursuant to subsection (2) of
7 section 81-1414;

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

13 ~~(8)~~ (10) Training center means the Nebraska Law
14 Enforcement Training Center; and

15 ~~(9)~~ (11) Training school means a public or private
16 institution of higher education, including the University of
17 Nebraska, the Nebraska state colleges, and the community colleges of
18 this state, that offers training in a council-approved pre-
19 certification course.

20 Sec. 2. Section 81-1403, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 81-1403 Subject to review and approval by the commission,
23 the council shall:

24 (1) Adopt and promulgate rules and regulations for law
25 enforcement pre-certification, certification, continuing education,

1 and training requirements. Such rules and regulations may include the
2 authority to impose a fine on any individual, political subdivision,
3 or agency who or which violates sections 81-1401 to 81-1414.10 or any
4 of such rules and regulations. The fine for each separate violation
5 of sections 81-1401 to 81-1414.10 or of any rule or regulation
6 adopted and promulgated by the council pursuant to such sections
7 shall not exceed either (a) a one-time maximum fine of five hundred
8 dollars or (b) a maximum fine of one hundred dollars per day until
9 the individual, political subdivision, or agency complies with such
10 rules or regulations. All fines collected pursuant to this
11 subdivision shall be remitted to the State Treasurer for distribution
12 in accordance with Article VII, section 5, of the Constitution of
13 Nebraska;

14 (2) Adopt and promulgate rules and regulations for the
15 operation of the training center;

16 (3) Recommend to the executive director of the commission
17 the names of persons to be appointed to the position of director of
18 the training center;

19 (4) Establish requirements for satisfactory completion of
20 pre-certification programs, certification programs, and advanced
21 training programs;

22 (5) Issue certificates or diplomas attesting satisfactory
23 completion of pre-certification programs, certification programs, and
24 advanced training programs;

25 (6) Revoke or suspend such certificates or diplomas

1 according to rules and regulations adopted and promulgated by the
2 council pursuant to sections 81-1401 to 81-1414.10 for reasons which
3 shall include, but not be limited to, (a) incompetence, (b) neglect
4 of duty, (c) physical, mental, or emotional incapacity, and (d) final
5 conviction of or pleading guilty or nolo contendere to a felony. ~~The~~
6 ~~rules and regulations shall~~ If a physical, a mental, or an emotional
7 incapacity is determined by the council to exist and be temporary, a
8 certificate or diploma shall be suspended until such time as the
9 incapacity is determined to no longer exist. The council shall adopt
10 and promulgate rules and regulations to establish a procedure by
11 which reinstatement of a suspended certificate or diploma may be
12 procured. If a physical, a mental, or an emotional incapacity is
13 determined by the council to exist and be permanent, a certificate or
14 diploma shall be revoked. The provisions of this subdivision
15 regarding the suspension or revocation of a certificate or diploma
16 for a temporary or permanent physical, mental, or emotional
17 disability shall be applied retroactively. If the revocation of a
18 certificate or diploma involves final conviction of or pleading
19 guilty or nolo contendere to a felony, the council shall adopt and
20 promulgate rules and regulations to provide for the revocation of a
21 certificate or diploma without a hearing upon the certificate or
22 diploma holder's final conviction of or pleading guilty or nolo
23 contendere to a felony. For purposes of this subdivision, felony
24 means a crime punishable by imprisonment for a term of more than one
25 year or a crime committed outside of Nebraska which would be

1 ~~punishable by imprisonment for a term of more than one year if~~
2 ~~committed in Nebraska.~~ The council shall adopt and promulgate rules
3 and regulations ~~shall to~~ include a procedure for hearing appeals of
4 any person who feels that the revocation or suspension of his or her
5 certificate or diploma was in error;

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

15 (8) Annually certify any training academies providing a
16 basic course of law enforcement training which complies with the
17 qualifications and standards promulgated by the council and offering
18 training that meets or exceeds training that is offered by the
19 training center. The council shall set the maximum and minimum
20 applicant enrollment figures for training academies training non-
21 agency officers;

22 (9) Extend the programs of the training center throughout
23 the state on a regional basis;

24 (10) Establish the qualifications, standards, and
25 continuing education requirements and provide the training required

1 by section 81-1439; and

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

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

13 Sec. 3. This act becomes operative on January 1, 2014.

14 Sec. 4. Original sections 81-1401 and 81-1403, Revised
15 Statutes Cumulative Supplement, 2012, are repealed.