

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1046**

Introduced by Harr, 8.

Read first time January 18, 2012

Committee:

A BILL

1 FOR AN ACT relating to law enforcement; to amend sections 23-1701.01,  
2 81-1401, 81-1406, 81-1412.02, 81-1414, 81-1414.04,  
3 81-1414.05, and 81-1439, Reissue Revised Statutes of  
4 Nebraska, and sections 81-1403 and 81-1404, Revised  
5 Statutes Supplement, 2011; to change provisions relating  
6 to law enforcement certification and continuing  
7 education; to provide penalties; to define terms; to  
8 provide powers and duties for the director of the  
9 Nebraska Law Enforcement Training Center and the Nebraska  
10 Police Standards Advisory Council; to eliminate obsolete  
11 provisions; to harmonize provisions; to provide an  
12 operative date; to repeal the original sections; and to  
13 outright repeal sections 81-1414.01 and 81-1414.02,  
14 Reissue Revised Statutes of Nebraska.

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

1                   Section 1. Section 23-1701.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

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

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

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

22                   (2) Each sheriff shall attend the Nebraska Law  
23 Enforcement Training Center and receive a certificate attesting to  
24 satisfactory completion of the Sheriff's Certification Course within  
25 eight months ~~of~~after taking office unless such sheriff has already

1 been awarded a certificate by the Nebraska Commission on Law  
2 Enforcement and Criminal Justice attesting to satisfactory completion  
3 of such course or unless such sheriff can demonstrate to the Nebraska  
4 Police Standards Advisory Council that his or her previous training  
5 and education is such that he or she will professionally discharge  
6 the duties of the office. Any sheriff in office prior to July 19,  
7 1980, shall not be required to obtain a certificate attesting to  
8 satisfactory completion of the Sheriff's Certification Course but  
9 shall otherwise be subject to this section. ~~Each~~ Notwithstanding  
10 sections 81-1401 to 81-1414.06 and sections 10 to 13 of this act,  
11 each sheriff shall attend twenty hours of continuing education in  
12 criminal justice and law enforcement courses approved by the council  
13 each year following the first year of such sheriff's term of office.  
14 Such continuing education shall be offered through seminars, advanced  
15 education which may include college or university classes, ~~or~~  
16 conferences, instruction conducted within the sheriff's office, or  
17 instruction conducted over the Internet, except that instruction  
18 conducted over the Internet shall be limited to ten hours annually,  
19 and shall be of a type which has application to and seeks to maintain  
20 and improve the skills of the sheriffs in carrying out the  
21 responsibilities of their office.

22 (3) ~~Unless~~ Notwithstanding section 81-1403, unless a  
23 sheriff is able to show good cause for not complying with subsection  
24 (2) of this section or obtains a waiver of the training requirements  
25 from the council, any sheriff who violates subsection (2) of this

1 section shall be punished by a fine equal to such sheriff's monthly  
2 salary. Each month in which such violation occurs shall constitute a  
3 separate offense.

4           Sec. 2. Section 81-1401, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           81-1401 For purposes of sections 81-1401 to ~~81-1414,~~  
7 81-1414.06 and sections 10 to 13 of this act, unless the context  
8 otherwise requires:

9           (1) Commission means the Nebraska Commission on Law  
10 Enforcement and Criminal Justice;

11           (2) Council means the Nebraska Police Standards Advisory  
12 Council;

13           (3) Director means the director of the Nebraska Law  
14 Enforcement Training Center;

15           ~~(3)-(4)~~ (4) 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           ~~(4)-(5)~~ (5) Law enforcement agency means the police  
19 department or the town marshal in incorporated municipalities, the  
20 office of sheriff in unincorporated areas, and the Nebraska State  
21 Patrol;

22           ~~(5)(a)-(6)(a)~~ (6)(a) Law enforcement officer means any person  
23 who is responsible for the prevention or detection of crime or the  
24 enforcement of the penal, traffic, or highway laws of the state or  
25 any political subdivision of the state for more than one hundred

1 hours per year and is authorized by law to make arrests and includes,  
2 but is not limited to:

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

5 (ii) A county sheriff;

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

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

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

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

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

18 (b) Law enforcement officer does not include employees of  
19 the Department of Correctional Services, probation officers under the  
20 Nebraska Probation System, parole officers appointed by the Parole  
21 Administrator, or employees of the Department of Revenue under  
22 section 77-366; and

23 (c) A law enforcement officer shall possess a valid law  
24 enforcement officer certificate or diploma, as established by the  
25 council, in order to be vested with the authority of this section,

1 but this subdivision does not prohibit an individual from receiving a  
2 conditional appointment as an officer pursuant to subsection (2) of  
3 section 81-1414;

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

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

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

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

17 Sec. 3. Section 81-1403, Revised Statutes Supplement,  
18 2011, is amended to read:

19 81-1403 Subject to review and approval by the commission,  
20 the council shall:

21 (1) Adopt and promulgate rules and regulations for law  
22 enforcement pre-certification, certification, continuing education,  
23 and training requirements. Such rules and regulations may include the  
24 authority to impose a fine on any individual, political subdivision,  
25 or agency who or which violates sections 81-1401 to 81-1414.06 and

1 sections 10 to 13 of this act or any of such rules and regulations.  
2 The fine for each separate violation of sections 81-1401 to  
3 81-1414.06 and sections 10 to 13 of this act or of any rule or  
4 regulation adopted and promulgated by the council pursuant to such  
5 sections shall not exceed either (a) a one-time maximum fine of five  
6 hundred dollars or (b) a maximum fine of one hundred dollars per day  
7 until the individual, political subdivision, or agency complies with  
8 such rules or regulations. All fines collected pursuant to this  
9 subdivision shall be remitted to the State Treasurer for distribution  
10 in accordance with Article VII, section 5, of the Constitution of  
11 Nebraska;

12 (2) Adopt and promulgate rules and regulations for the  
13 operation of the training center;

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

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

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

23 (6) Revoke or suspend such certificates or diplomas  
24 according to rules and regulations ~~established~~adopted and  
25 promulgated by the council pursuant to sections 81-1401 to 81-1414.06

1 and sections 10 to 13 of this act for reasons which shall include,  
2 but not be limited to, (a) incompetence, (b) neglect of duty, (c)  
3 physical, mental, or emotional incapacity, and (d) final conviction  
4 of or pleading guilty or nolo contendere to a felony. The rules and  
5 regulations shall provide for revocation of a ~~certificate holder's~~  
6 certificate without a hearing upon ~~his or her~~ the certificate  
7 holder's final conviction of or pleading guilty or nolo contendere to  
8 a felony. For purposes of this subdivision, felony means a crime  
9 punishable by imprisonment for a term of more than one year or a  
10 crime committed outside of Nebraska which would be punishable by  
11 imprisonment for a term of more than one year if committed in  
12 Nebraska. The rules and regulations shall include a procedure for  
13 hearing appeals of any person who feels that the revocation or  
14 suspension of his or her certificate or diploma was in error;

15 (7) Set the tuition and fees for the training center and  
16 all officers of other training academies not employed by that  
17 training academy's agency. The tuition and fees set for the training  
18 center pursuant to this subdivision shall be adjusted annually  
19 pursuant to the training center budget approved by the Legislature.  
20 All other tuition and fees shall be set in order to cover the costs  
21 of administering sections 81-1401 to ~~81-1414.~~ 81-1414.06 and sections  
22 10 to 13 of this act. All tuition and fees shall be remitted to the  
23 State Treasurer for credit to the Nebraska Law Enforcement Training  
24 Center Cash Fund;

25 (8) Annually certify any training academies providing a



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

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

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

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

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

23 Sec. 4. Section 81-1404, Revised Statutes Supplement,  
24 2011, is amended to read:

25 81-1404 The director of the Nebraska Law Enforcement

1 Training Center shall devote full time to the duties of the office  
2 and shall not engage in any other business or profession or hold any  
3 other state public office. The director shall be responsible to the  
4 executive director of the commission for the operation of the  
5 training center and the conducting of training programs. The director  
6 of the training center shall:

7 (1) Appoint and remove for cause such employees as may be  
8 necessary for the operation of the training center and delegate  
9 appropriate powers and duties to them;

10 (2) Conduct research for the purpose of evaluating and  
11 improving the effectiveness of law enforcement training programs;

12 (3) Consult with the council on all matters pertaining to  
13 training schools, ~~and training academies, and continuing education;~~

14 (4) Supervise the administration of the pre-certification  
15 competency test;

16 (5) Ensure that all council rules and regulations with  
17 respect to law enforcement pre-certification, certification,  
18 continuing education, and training requirements are implemented and  
19 followed, ~~and complied with and,~~ in that capacity, act as the  
20 director of standards for the council;

21 (6) Advise the council concerning the operation of the  
22 training center, the requirements, as set by the council, for all  
23 training schools and training academies, and the formulation of  
24 training policies and regulations; ~~and~~

25 (7) Issue diplomas to students who successfully complete

1 the prescribed basic course of study; and -

2 (8) Maintain continuing education records in a central  
3 registry.

4 Sec. 5. Section 81-1406, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 81-1406 There is hereby created the Nebraska Police  
7 Standards Advisory Council. The council shall be a special standing  
8 committee of the commission with the express purpose of overseeing  
9 all training schools and training academies and the operation of the  
10 training center and ensuring that all rules, regulations, and  
11 policies with respect to pre-certification, certification, continuing  
12 education, and training requirements are implemented and complied  
13 with. The council shall act for the commission in all matters  
14 relating to law enforcement training, ~~and the training center, and~~  
15 continuing education but shall not have any other powers and duties  
16 with respect to the commission or any of its duties. The council  
17 shall conduct regular meetings in order to carry out its statutory  
18 duties.

19 Sec. 6. Section 81-1412.02, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 81-1412.02 The person in charge of any agency employing  
22 law enforcement officers ~~as defined in section 81-1401~~ shall submit  
23 to the council a register of full-time, part-time, and reserve law  
24 enforcement officers employed by his or her agency and whether each  
25 law enforcement officer passed or failed the handgun qualification.

1 The council shall adopt and promulgate rules and regulations  
2 governing the submission of agency registers. The register shall  
3 include the name of each law enforcement officer, whether the law  
4 enforcement officer passed or failed the handgun qualification, the  
5 name of the instructor who administered the course, the date of  
6 handgun qualification, and the type of handgun used in handgun  
7 qualification. An agency that fails to submit a handgun qualification  
8 register pursuant to this section shall be subject to a fine of one  
9 hundred dollars for each day of noncompliance. All fines collected  
10 under this section shall be remitted to the State Treasurer for  
11 credit to the Law Enforcement Improvement Fund.

12           Sec. 7. Section 81-1414, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           81-1414 (1) On and after January 1, 1972, law enforcement  
15 officers already serving under permanent appointment shall not be  
16 required to meet any requirement of subsection (2) of this section as  
17 a condition of tenure or continued employment.

18           (2) On and after January 1, 1972, no person shall receive  
19 appointment as a law enforcement officer unless he or she has been  
20 awarded a certificate or diploma by the commission attesting to  
21 satisfactory completion of the minimum curriculum of the training  
22 center as established by the council or has been awarded a  
23 certificate or diploma attesting to satisfactory completion of a  
24 training program which the council finds equivalent thereto. Any  
25 person who has not been awarded such a certificate or diploma may

1 receive an appointment conditioned on satisfactory completion of such  
2 training if he or she immediately applies for admission to the  
3 training center or any training academy and enrolls in the next  
4 available basic training class. If such training is not completed  
5 within one year after the appointment, the person's employment shall  
6 not be renewed by a political subdivision appointment or otherwise  
7 and such person shall no longer be recognized as a law enforcement  
8 officer, ~~as defined in section 81-1401,~~ except that in cases of  
9 extreme hardship, upon application by the officer, the council may  
10 grant a waiver to allow the officer to complete the basic training  
11 program as soon as is practicable after the one-year time allowance.  
12 Any individual who is not certified in accordance with this section  
13 and has worked as a law enforcement officer for multiple law  
14 enforcement agencies or political subdivisions shall have his or her  
15 time of employment aggregated in order to determine if he or she has  
16 worked for more than one year. If that law enforcement officer's  
17 aggregate time of employment exceeds one year, that officer shall not  
18 be recognized as a law enforcement officer for any political  
19 subdivision until he or she has satisfactorily completed such  
20 certification training. For purposes of this section, the council  
21 shall deem the successful completion of the federal Bureau of Indian  
22 Affairs basic police training program as administered by the Federal  
23 Law Enforcement Training Center to constitute such equivalent  
24 training, and officers certified by virtue of such equivalent  
25 training may exercise full law enforcement authority exclusively on

1 tribal lands.

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

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

10 Sec. 8. Section 81-1414.04, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 81-1414.04 There is hereby created, for the use of the  
13 ~~Nebraska Commission on Law Enforcement and Criminal Justice,~~  
14 commission, a fund to be known as the Nebraska Law Enforcement  
15 Training Center Fund, to consist of such money as appropriated to  
16 such fund by the Legislature. Any money in the fund available for  
17 investment shall be invested by the state investment officer pursuant  
18 to the Nebraska Capital Expansion Act and the Nebraska State Funds  
19 Investment Act.

20 Sec. 9. Section 81-1414.05, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 81-1414.05 The proceeds of the Nebraska Law Enforcement  
23 Training Center Fund ~~created by section 81-1414.04~~ shall be expended  
24 by the ~~Nebraska Commission on Law Enforcement and Criminal Justice,~~  
25 commission, as and when appropriated by the Legislature, to be used

1 for the costs and payments to be made by the State of Nebraska to the  
2 city of Grand Island for the use by the state of such building or  
3 facility or portion thereof, and equipping the same.

4           Sec. 10. (1) In order to maintain his or her professional  
5 status and serve the law enforcement profession, the community, and  
6 the residents of Nebraska, each law enforcement officer shall attend  
7 at least twenty hours of continuing education courses in the areas of  
8 criminal justice and law enforcement during each calendar year  
9 beginning on January 1 and ending on December 31. A law enforcement  
10 officer is not required to meet the continuing education requirements  
11 in the year in which he or she first becomes fully certified.

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

21           Sec. 11. Every law enforcement agency of the state or any  
22 of its political subdivisions shall send the director certified  
23 reports, on a form designed by the director, of the completion of the  
24 continuing education requirements by its law enforcement officers at  
25 such time and in such manner and detail as the director may

1 prescribe. The director shall maintain a record of the reports in a  
2 central registry.

3           Sec. 12. (1) Failure to complete the continuing education  
4 requirements of sections 11 and 12 of this act shall result in the  
5 suspension of a law enforcement officer's certificate or diploma from  
6 the Nebraska Law Enforcement Training Center and a fine under section  
7 81-1403 until the continuing education is completed, unless the  
8 officer is able to show good cause for not completing the continuing  
9 education requirements or unless a waiver has been granted.

10           (2) Any law enforcement officer who fails to fulfill his  
11 or her continuing education requirements for two consecutive  
12 reporting periods may have his or her certificate or diploma from the  
13 Nebraska Law Enforcement Training Center revoked and a fine incurred  
14 under section 81-1403, unless the officer is able to show good cause  
15 for not completing the continuing education requirements or unless a  
16 waiver has been granted.

17           Sec. 13. The continuing education requirements of  
18 sections 10 to 12 of this act shall be suspended for any law  
19 enforcement officer while he or she is on active duty with the armed  
20 forces of the United States.

21           Sec. 14. Section 81-1439, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           81-1439 (1) The Nebraska Commission on Law Enforcement  
24 and Criminal Justice shall establish minimum physical, mental,  
25 educational, and moral qualifications for all members of any law



1 enforcement reserve force. The commission shall also establish  
2 ~~minimum~~ training and continuing education standards and be  
3 responsible for providing such training for all members. The  
4 commission shall delegate its responsibilities pursuant to this  
5 section to the Nebraska Police Standards Advisory Council.

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

13 (3) Members of the law enforcement reserve force shall be  
14 subject to the same continuing education requirements as all other  
15 law enforcement officers pursuant to sections 81-1401 to 81-1414.06  
16 and sections 10 to 13 of this act.

17 ~~(3)-(4)~~ The governing body establishing a law enforcement  
18 reserve force shall adopt and publish a reserve force manual setting  
19 forth the minimum qualifications, training standards, ~~and~~ standard  
20 operating procedures, and continuing education requirements for such  
21 force and such higher qualifications, standards, and operating  
22 procedures as may actually be used.

23 Sec. 15. This act becomes operative on January 1, 2014.

24 Sec. 16. Original sections 23-1701.01, 81-1401, 81-1406,  
25 81-1412.02, 81-1414, 81-1414.04, 81-1414.05, and 81-1439, Reissue

1 Revised Statutes of Nebraska, and sections 81-1403 and 81-1404,  
2 Revised Statutes Supplement, 2011, are repealed.

3           Sec. 17. The following sections are outright repealed:  
4 Sections 81-1414.01 and 81-1414.02, Reissue Revised Statutes of  
5 Nebraska.