

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1222

Introduced by Wayne, 13.

Read first time July 23, 2020

Committee:

- 1 A BILL FOR AN ACT relating to municipalities; to adopt the Municipal
- 2 Police Oversight Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 16 of this act shall be known and may be
2 cited as the Municipal Police Oversight Act.

3 Sec. 2. The Legislature finds that oversight of local law
4 enforcement agencies is a matter of state concern, particularly in larger
5 cities which maintain sizeable police forces. Local law enforcement
6 agencies are the primary agencies providing enforcement of criminal laws
7 adopted under state law. Under the Civil Service Act, the state requires
8 that certain cities having a population of more than five thousand
9 inhabitants, as determined by the most recent federal decennial census or
10 the most recent revised certified count by the United States Bureau of
11 the Census, which employ full-time police officers maintain a civil
12 service commission. The Legislature further finds that certain cities
13 should also establish an oversight board to monitor, investigate, and
14 evaluate police standards and practices.

15 Sec. 3. For purposes of the Municipal Police Oversight Act:

16 (1) City means (a) any city which is required to have a civil
17 service commission under the Civil Service Act or (b) any city which has
18 adopted a home rule charter pursuant to sections 2 to 5 of Article XI of
19 the Constitution of Nebraska and which employs full-time police officers;
20 and

21 (2) Oversight board means a citizen police oversight board created
22 under section 4 of this act.

23 Sec. 4. On or before January 1, 2021, each city shall create a
24 citizen police oversight board by ordinance, specifying its composition,
25 jurisdiction, and powers as provided in the Municipal Police Oversight
26 Act.

27 Sec. 5. Each oversight board shall be composed of seven members of
28 the public who shall serve for terms of five years. The members of the
29 oversight board shall be appointed by the mayor with the approval of the
30 city council and shall consist of individuals who represent a cross-
31 section of the residents of the city. Any member of the oversight board

1 shall be eligible for reappointment to the oversight board at the end of
2 the term for which appointed. No person may serve on an oversight board
3 who, at the time of appointment, during the term for which appointed, or
4 at any time prior to such appointment, is or was affiliated with or
5 employed by any law enforcement agency, department, or office of the city
6 for which the oversight board was created or of the county in which the
7 city is located.

8 Sec. 6. Each oversight board shall be mandated and empowered by
9 ordinance to:

10 (1) Investigate and address grievances and complaints filed by
11 members of the public against the police department of the city for which
12 the oversight board was created and any officers of such department;

13 (2) Investigate all shootings involving officers of the police
14 department of such city;

15 (3) Independently investigate all cases of alleged ill-treatment or
16 misconduct by the police department of such city and any officers of such
17 department that come to the attention of the oversight board, regardless
18 of whether those cases are the subject of any specific formal complaint
19 or grievance;

20 (4) Identify all instances of police misconduct by the officers of
21 the police department of such city and report findings and
22 recommendations in those cases to the police department, the mayor, and
23 the city council of such city and all federal and state registries of
24 police misconduct;

25 (5) When appropriate, provide the police department of such city and
26 other law enforcement agencies with evidence in support of any criminal
27 proceedings, disciplinary proceedings, or other management actions or
28 measures;

29 (6) Provide the police department of such city with feedback from
30 members of the public who have direct experience with police practices;
31 and

1 (7) Monitor, investigate, and evaluate policing standards, patterns,
2 and practices of the police department of such city.

3 Sec. 7. (1) An oversight board may summarily dismiss a grievance or
4 complaint filed by a member of the public without investigation only when
5 the oversight board determines that:

6 (a) The complainant's interest is not sufficiently related to the
7 subject matter of the grievance or complaint;

8 (b) The grievance or complaint is trivial, frivolous, vexatious, or
9 not made in good faith;

10 (c) The oversight board's resources are insufficient for an adequate
11 investigation of the grievance or complaint; or

12 (d) The grievance or complaint has been delayed too long to justify
13 a present examination of its merit.

14 (2) A decision by the oversight board to summarily dismiss a
15 grievance or complaint filed by a member of the public without
16 investigation shall not bar the oversight board from incorporating the
17 facts related to such grievance or complaint in other matters
18 investigated by the oversight board.

19 Sec. 8. A city shall provide the oversight board created in such
20 city with sufficient funding and resources to adequately perform its
21 duties under the Municipal Police Oversight Act. Each investigation
22 carried out under the authority of the oversight board shall be conducted
23 independently of the police department of such city. The oversight board
24 shall employ dedicated staff investigators, none of whom shall have
25 previously been affiliated with or employed by any law enforcement
26 agency, department, or office of such city or of the county in which the
27 city is located.

28 Sec. 9. Each oversight board and the investigators employed by the
29 oversight board shall be empowered by ordinance with the full range of
30 investigative powers necessary to enable such board and investigators to
31 conduct fair, independent, and effective investigations. Such powers

1 shall include, but not be limited to, the power to:

2 (a) Request and receive from the police department of the city which
3 created the oversight board any assistance and information the oversight
4 board deems necessary for the discharge of its duties and
5 responsibilities;

6 (b) Notwithstanding any other provision of law, inspect and examine
7 all police department records and documents, including police department
8 personnel records and documents, that the oversight board deems relevant
9 to any matter being investigated by the oversight board; and

10 (c) Issue subpoenas, enforceable by action in an appropriate court,
11 to compel any person to appear, give sworn testimony, or produce
12 documentary or other evidence deemed relevant to a matter under
13 investigation by the oversight board.

14 Sec. 10. To the extent applicable, each oversight board and the
15 investigators employed by an oversight board shall, in evaluating matters
16 under investigation or review by the oversight board, consult relevant
17 standards promulgated by the Nebraska Commission on Law Enforcement and
18 Criminal Justice and the Nebraska Police Standards Advisory Council.

19 Sec. 11. (1) After an investigator employed by an oversight board
20 has completed an investigation of any matter within the authority of the
21 oversight board, the investigator shall submit a report in writing to the
22 oversight board summarizing the:

23 (a) Findings of fact relative to the matter; and

24 (b) Recommendations to the oversight board relating to the
25 disposition of the matter.

26 (2) After receiving such report, the oversight board shall place the
27 matter on its agenda for the oversight board's next public meeting, and
28 at that meeting the oversight board shall determine the disposition of
29 the matter by a majority vote of all members of the oversight board. The
30 oversight board shall immediately thereafter publish its conclusions and
31 recommendations in a written summary transmitted to the city police

1 department, the mayor, and the city council of the city for which the
2 oversight board was created.

3 (3) When it appears there may have been criminal conduct by any
4 police officer involved in a matter that was investigated by the
5 oversight board, the oversight board shall also submit its written
6 summary on the matter, along with any evidence in support of possible
7 criminal proceedings, to the county attorney of the county in which such
8 potential criminal conduct occurred.

9 (4) All written summaries prepared by an oversight board shall
10 incorporate verbatim copies of the written report submitted to the
11 oversight board by the investigator. The oversight board may also submit
12 such special reports as the oversight board may deem necessary to the
13 police department, the mayor, and the city council of such city.

14 (5) At its sole discretion, an oversight board may publish any of
15 its written summaries and reports by releasing such written summaries and
16 reports to the news media.

17 Sec. 12. If an oversight board submits a summary or report to the
18 police department making specific recommendations for action to be taken
19 by the police department, the police department shall be required by city
20 ordinance to submit a timely response to the oversight board explaining
21 the reasons for the police department's acceptance or rejection of such
22 recommendations.

23 Sec. 13. No member or employee of an oversight board shall be held
24 civilly liable for any good faith actions taken or decisions made under
25 the Municipal Police Oversight Act.

26 Sec. 14. (1) All written summaries and reports prepared by an
27 oversight board, including the verbatim copies of the written reports
28 submitted to the oversight board by investigators employed by the
29 oversight board, shall be considered public records for purposes of
30 sections 84-712 to 84-712.09.

31 (2) All responses submitted to an oversight board pursuant to

1 section 12 of this act shall be considered public records for purposes of
2 sections 84-712 to 84-712.09.

3 (3) Subsection (7) of section 84-712.05 shall not be applicable to
4 exempt the written summaries and reports prepared by an oversight board,
5 including verbatim copies of the written reports submitted to the
6 oversight board by investigators, or the responses submitted to the
7 oversight board pursuant to section 12 of this act, from being treated as
8 accessible to the public as otherwise provided in sections 84-712 to
9 84-712.09.

10 Sec. 15. All meetings of an oversight board shall be public
11 meetings conducted in compliance with the Open Meetings Act.

12 Sec. 16. No city or city police department may negotiate or agree
13 to any employment contract or collective-bargaining agreement that would
14 conflict with or abrogate the authority of an oversight board created
15 pursuant to the Municipal Police Oversight Act. Any provision of any
16 employment contract or collective-bargaining agreement entered into after
17 the effective date of this act that conflicts with or abrogates the
18 authority of an oversight board created pursuant to the Municipal Police
19 Oversight Act is null and void.