

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 515

Introduced by McKinney, 11.

Read first time January 19, 2021

Committee:

- 1 A BILL FOR AN ACT relating to municipalities; to adopt the Municipal
- 2 Police Oversight Act; and to provide a duty for the Revisor of
- 3 Statutes.
- 4 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 municipal law
4 enforcement agencies is a matter of state concern, particularly in larger
5 cities which maintain sizeable police forces. Municipal law enforcement
6 agencies are the primary agencies providing enforcement of criminal laws
7 adopted under state law. Under the Civil Service Act, certain cities
8 having a population of more than five thousand inhabitants, as determined
9 by the most recent federal decennial census or the most recent revised
10 certified count by the United States Bureau of the Census, which employ
11 full-time police officers must maintain a civil service commission. The
12 Legislature further finds that certain cities should also establish an
13 oversight board to monitor, investigate, and evaluate police standards
14 and practices.

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

16 (1) City means any city of the metropolitan class or city of the
17 primary class, including any city which has adopted a home rule charter
18 pursuant to sections 2 to 5 of Article XI of the Constitution of
19 Nebraska, which employs full-time police officers; and

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

22 Sec. 4. On or before January 1, 2022, each city shall create a
23 citizen police oversight board by ordinance, specifying its composition,
24 jurisdiction, and powers as provided in the Municipal Police Oversight
25 Act.

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

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

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

9 (1) Investigate and address grievances and complaints filed by
10 members of the public against the police department of the city and any
11 officers of such department;

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

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

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

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

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

31 (7) Monitor, investigate, and evaluate policing standards, patterns,

1 and practices of the police department of such city.

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

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

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

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

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

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

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

26 Sec. 9. Each oversight board and the investigators employed by the
27 oversight board shall be empowered by ordinance with the full range of
28 investigative powers necessary to enable such board and investigators to
29 conduct fair, independent, and effective investigations. Such powers
30 shall include, but are not limited to, the power to:

31 (a) Request and receive from the police department of the city any

1 assistance and information the oversight board deems necessary for the
2 discharge of its duties and responsibilities;

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

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

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

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

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

21 (b) Recommendations to the oversight board relating to the
22 disposition of the matter.

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

30 (3) When it appears there may have been criminal conduct by any
31 police officer involved in a matter that was investigated by the

1 oversight board, the oversight board shall also submit its written
2 summary on the matter, along with any evidence in support of possible
3 criminal proceedings, to the county attorney of the county in which such
4 potential criminal conduct occurred.

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

10 (5) At its sole discretion, an oversight board may publish any of
11 its written summaries and reports, including by releasing such written
12 summaries and reports to the news media.

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

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

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

27 (2) All responses submitted to an oversight board pursuant to
28 section 12 of this act shall be considered public records for purposes of
29 sections 84-712 to 84-712.09.

30 (3) Subdivision (7) of section 84-712.05 shall not apply to the
31 written summaries and reports prepared by an oversight board, including

1 verbatim copies of the written reports submitted to the oversight board
2 by investigators, or the responses submitted to the oversight board
3 pursuant to section 12 of this act.

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

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

14 Sec. 17. The Revisor of Statutes shall assign sections 1 to 16 of
15 this act to Chapter 18.