

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 792

Introduced by Ebke, 32; at the request of the Governor.

Read first time January 04, 2018

Committee:

1 A BILL FOR AN ACT relating to law enforcement; to amend sections 81-1425
2 and 81-2009, Reissue Revised Statutes of Nebraska; to define and
3 redefine terms; to provide duties for law enforcement agencies
4 regarding the hiring and separation from service of law enforcement
5 officers; to provide for civil immunity as prescribed; to provide
6 investigative and subpoena powers to the executive director of the
7 Nebraska Commission on Law Enforcement and Criminal Justice as
8 prescribed; to change powers and duties of the Attorney General; to
9 repeal the original sections; and to declare an emergency.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The chief of police, sheriff, Superintendent of the
2 Nebraska State Patrol, or the head administrator of a law enforcement
3 agency or an agency employing a law enforcement officer shall submit a
4 personnel change in status form as approved by the Police Standards
5 Advisory Council to the director of the Nebraska Law Enforcement Training
6 Center within seven calendar days after the date a law enforcement
7 officer is hired by the agency or leaves employment with the agency.

8 (2) Each law enforcement agency or agency employing a law
9 enforcement officer shall maintain a record regarding the reason or
10 reasons for, and circumstances surrounding, a separation of service for
11 each law enforcement officer employed by that agency.

12 (3) The chief of police, sheriff, Superintendent of the Nebraska
13 State Patrol, or the head administrator of a law enforcement agency or an
14 agency employing a law enforcement officer shall make a report to the
15 Nebraska Commission on Law Enforcement and Criminal Justice of any law
16 enforcement officer who is terminated from employment or allowed to
17 resign in lieu of termination for conduct that could constitute (a)
18 incompetence, (b) neglect of duty, (c) incapacity, (d) final conviction
19 of or pleading guilty or nolo contendere to a felony, or (e) dishonesty
20 or other violations of the officer's oath of office, code of ethics, or
21 statutory duties. The report shall include, but not be limited to, a
22 summary of the allegations pertaining to the officer and identification
23 of any witnesses relevant to the allegations, and shall be filed with the
24 commission within thirty days of the termination or resignation in lieu
25 of termination.

26 (4) A person subject to the requirements of this section shall be
27 immune from civil liability for complying with such requirements.

28 (5) Failure to comply with this section shall constitute neglect of
29 duty.

30 (6) For purposes of this section:

31 (a) Felony has the same meaning as in section 81-1401;

1 (b) Incapacity has the same meaning as in section 81-1401;

2 (c) Law enforcement agency has the same meaning as in section
3 81-1401; and

4 (d) Law enforcement officer has the same meaning as in section
5 81-1401.

6 Sec. 2. (1) A person who is licensed and certified under section
7 81-1414, who was previously employed as a law enforcement officer in this
8 state, and who separated from his or her former employer and who
9 subsequently seeks to become reemployed as a law enforcement officer in
10 this state shall provide a signed waiver to the prospective employer upon
11 a conditional offer of employment. The waiver must expressly allow the
12 prospective employer to contact the law enforcement officer's former
13 employer or employers and obtain from each a copy of any record regarding
14 the reason or reasons for, and circumstances surrounding, his or her
15 separation of service. The prospective employer is responsible for
16 providing the waiver to each former employer.

17 (2) The waiver required by this section shall be executed on a form
18 provided by the Nebraska Commission on Law Enforcement and Criminal
19 Justice to all law enforcement agencies in this state that employ or
20 administer oaths of office to law enforcement officers licensed by the
21 commission.

22 (3) Upon receipt of the waiver, a former employer shall provide,
23 along with other information required or allowed to be provided by law, a
24 copy of any change in status form, record, or report created under
25 section 1 of this act.

26 (4) A prospective employer shall not hire a law enforcement officer
27 to whom subsection (1) of this section applies unless the prospective
28 employer receives, from each of the law enforcement officer's former
29 employers, a copy of any change in status form, record, or report created
30 under section 1 of this act.

31 (5) A prospective employer shall not hire a law enforcement officer

1 to whom subsection (1) of this section applies if the reasons for the
2 person's separation from his or her prior law enforcement employment
3 imply incompetence, neglect of duty, or incapacity or if the reason for
4 such separation has a rational connection to the person's fitness or
5 capacity to serve as a law enforcement officer.

6 (6) Following receipt of a waiver, an official or administrator of a
7 former employer, or such official's or administrator's designee, shall be
8 immune from civil liability for disclosing information under this section
9 in good faith. Such official, administrator, or designee shall be
10 presumed to be acting in good faith unless a preponderance of the
11 evidence establishes one or more of the following:

12 (a) That he or she knew that the information disclosed was false or
13 misleading;

14 (b) That he or she disclosed the information with a reckless
15 disregard for the truth; or

16 (c) That the disclosure was specifically prohibited by state or
17 federal law.

18 (7) For purposes of this section:

19 (a) Former employer means a law enforcement agency that previously
20 employed a person as a law enforcement officer;

21 (b) Incapacity has the same meaning as in section 81-1401;

22 (c) Law enforcement agency has the same meaning as in section
23 81-1401;

24 (d) Law enforcement officer has the same meaning as in section
25 81-1401; and

26 (e) Prospective employer means a law enforcement agency that is
27 considering hiring a person as a law enforcement officer.

28 Sec. 3. Section 81-1425, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 81-1425 The executive director of the commission shall:

31 (1) Supervise and be responsible for the administration of the

1 policies established by the commission;

2 (2) Establish a Jail Standards subdivision and a Community
3 Corrections Division within the commission and establish, consolidate, or
4 abolish any administrative subdivision within the commission and appoint
5 and remove for cause the heads thereof, and delegate appropriate powers
6 and duties to them;

7 (3) Establish and administer projects and programs for the operation
8 of the commission;

9 (4) Appoint and remove employees of the commission and delegate
10 appropriate powers and duties to them;

11 (5) Make rules and regulations for the management and the
12 administration of policies of the commission and the conduct of employees
13 under his or her jurisdiction;

14 (6) Collect, develop, maintain, and analyze statistical information,
15 records, and reports as the commission may determine relevant to its
16 functions, including, but not limited to, the statistical information set
17 forth in section 47-627;

18 (7) Transmit monthly to the commission a report of the operations of
19 the commission for the preceding calendar month;

20 (8) Execute and carry out the provisions of all contracts, leases,
21 and agreements authorized by the commission with agencies of federal,
22 state, or local government, corporations, or persons;

23 (9) Perform such additional duties as may be assigned to him or her
24 by the commission, by the chairperson of the commission, or by law;

25 (10) Appoint and remove for cause the director of the Nebraska Law
26 Enforcement Training Center;

27 (11) Appoint and remove for cause the director of the Office of
28 Violence Prevention;~~and~~

29 (12) Subpoena witnesses and documents, files, internal
30 investigations, administrative files, records, memoranda, reports,
31 personnel records, disciplinary histories, or any materials the executive

1 director determines to be relevant, relating to law enforcement officer
2 certification revocation, from any law enforcement agency in the state;
3 and

4 (13) (12) Exercise all powers and perform all duties necessary and
5 proper in carrying out his or her responsibilities.

6 Sec. 4. Section 81-2009, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 81-2009 ~~(1) The Attorney General, or a member of his staff, or a~~
9 ~~practicing attorney designated by the Attorney General, shall defend all~~
10 ~~civil and criminal actions instituted against the superintendent or any~~
11 ~~subordinate officer or employee of the Nebraska State Patrol arising from~~
12 ~~their employment.~~

13 (2) The superintendent shall provide not less than three agency
14 legal counsels stationed with the Nebraska State Patrol to assist county
15 attorneys in the preparation of cases involving drug abuse and to advise
16 the patrol on all legal matters.

17 Sec. 5. Original sections 81-1425 and 81-2009, Reissue Revised
18 Statutes of Nebraska, are repealed.

19 Sec. 6. Since an emergency exists, this act takes effect when
20 passed and approved according to law.