

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 428

Introduced by Synowiecki, 7; Cornett, 45; McGill, 26; Nantkes, 46;
Rogert, 16;

Read first time January 16, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to labor; to adopt the Peace Officer
2 Employer-Employee Relations Act; and to provide a duty
3 for the Revisor of Statutes.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and
2 may be cited as the Peace Officer Employer-Employee Relations Act.

3 Sec. 2. (1) The Legislature finds and declares that
4 effective law enforcement is dependent upon the maintenance of
5 stable relations between peace officers and their employers.
6 Moreover, the existence of stable relations between peace officers
7 and their employers will enhance law enforcement services provided
8 to the citizens of Nebraska.

9 (2) The purpose of the Peace Officer Employer-Employee
10 Relations Act is to prescribe certain procedural rights for
11 peace officers, particularly when they are placed under formal
12 investigation or interrogation by their employer.

13 (3) The act only applies to administrative actions and
14 does not apply to criminal investigations of a peace officer except
15 as provided in section 7 of this act.

16 (4) The act does not apply to a police or sheriff's
17 department that has (a) adopted a set of policies or procedures
18 or (b) negotiated a collective bargaining agreement that, at a
19 minimum, provides the peace officer the same rights and protections
20 as provided under the act.

21 Sec. 3. For purposes of the Peace Officer
22 Employer-Employee Relations Act:

23 (1) Administrative proceeding means any nonjudicial
24 hearing which is authorized to recommend, approve, or order the
25 suspension, removal, or discharge of an officer;

1 (2) Chief administrator means an individual employed by
2 the employer who has the ultimate decision in whether or not to
3 terminate a peace officer;

4 (3) Commanding officer means a peace officer in command
5 of a unit comprised of peace officers, a station, or a precinct;

6 (4) Formal investigation means the process of
7 investigation ordered by a commanding officer during which the
8 questioning of an officer is intended to gather evidence of
9 misconduct which may be the basis for filing charges seeking his or
10 her removal, discharge, or suspension in excess of three days;

11 (5) Informal inquiry means a meeting by supervisory or
12 command personnel with a peace officer upon whom an allegation
13 of misconduct has come to the attention of such supervisory or
14 command personnel, the purpose of which meeting is to mediate
15 a citizen complaint or discuss the facts to determine whether a
16 formal investigation should be commenced;

17 (6) Interrogation means the questioning of a peace
18 officer in connection with an alleged violation of the agency
19 or unit rules which may be the basis for filing charges seeking his
20 or her suspension, removal, or discharge. The term does not include
21 questioning (a) as part of an informal inquiry or (b) relating to
22 minor infractions of agency or unit rules which may be noted in the
23 peace officer's personnel file;

24 (7) Interrogator means one who engages in an
25 interrogation; and

1 (8) Peace officer means any sworn officer with the power
2 to arrest who is responsible for the prevention or detection of
3 crime and the enforcement of the laws of this state and includes
4 sheriffs, deputy sheriffs, city or village police, probation
5 officers, and parole officers, but does not include the officers of
6 the Nebraska State Patrol or the Game and Parks Commission.

7 Sec. 4. When any peace officer is under formal
8 investigation for an administrative matter by his or her employer
9 for alleged actions that could result in administrative sanctions
10 being levied against the peace officer, the following requirements
11 shall be adhered to:

12 (1) Any interrogation of the peace officer shall be
13 conducted when the peace officer is on duty or during his or her
14 normal duty hours unless the urgency of the formal investigation
15 requires otherwise;

16 (2) Any interrogation of the peace officer shall be
17 conducted at the employer's facility unless the urgency of the
18 formal investigation requires otherwise;

19 (3) Prior to commencement of any interrogation session:

20 (a) If an employer chooses to record the interrogation of
21 the peace officer or any party affiliated with the investigation,
22 the employer shall notify the peace officer in writing;

23 (b) The peace officer shall be informed of the name and
24 rank of the person in charge of the interrogation and all other
25 persons who will be present during the interrogation;

1 (c) The peace officer shall be provided with written
2 notice of the nature of the formal investigation at least
3 twenty-four hours in advance of the interrogation by the employer.
4 The written notice to the peace officer required under this section
5 shall include a full description of the nature of the formal
6 investigation and the names of all known complainants unless the
7 chief administrator determines that disclosure of the name of a
8 complainant would jeopardize either (i) an informant or (ii) the
9 integrity or security of the formal investigation; and

10 (d) A reasonable attempt shall be made to notify the
11 peace officer's commanding officer of the pending interrogation;

12 (4) The twenty-four-hour period required under
13 subdivision (3) of this section may be waived only if the complaint
14 alleges intoxication or drug incapacitation during on-duty status.
15 The peace officer shall be permitted to have representation present
16 during the interrogation. If the peace officer is not able to
17 obtain and consult with his or her representation, the peace
18 officer may be granted up to an additional twenty-four hours by the
19 employer. The peace officer being interrogated shall be made aware
20 of the fact that any statement made by the peace officer may be
21 used by the employer as part of the formal investigation;

22 (5) The combined duration of a peace officer's work
23 shift and any interrogation session shall not exceed fourteen hours
24 within a twenty-four-hour period unless the urgency of the formal
25 investigation requires otherwise; and

1 (6) There shall not be more than two interrogators at any
2 given time.

3 Sec. 5. When any peace officer is under formal
4 investigation for an administrative matter, the peace officer
5 shall be permitted to produce any relevant documents, witnesses,
6 or other evidence to support his or her case and he or she may
7 cross-examine any adverse witnesses during any grievance process or
8 appeal involving disciplinary action.

9 Sec. 6. (1) No document containing comments adverse to
10 a peace officer shall be entered into his or her personnel file
11 unless the peace officer has read and signed the document. When a
12 peace officer refuses to sign a document containing such adverse
13 comments, the document may be entered into the peace officer's
14 personnel file if:

15 (a) The peace officer's refusal to sign the document is
16 noted on the document by the chief administrator; and

17 (b) The notation is witnessed by a third party.

18 (2) A peace officer may file a written response to
19 any document containing adverse comments entered into his or her
20 personnel file, and the response shall be filed with the peace
21 officer's employer within thirty days after the document is entered
22 into the personnel file. A peace officer's written response shall
23 be attached to the document.

24 Sec. 7. When any peace officer is under administrative
25 investigation and a determination is made to commence a criminal

1 investigation, the peace officer shall be immediately notified
2 of the criminal investigation unless the chief administrator
3 determines that notification should not be given because it
4 is necessary for the protection of an informant or because
5 notification would jeopardize or compromise the integrity or
6 security of the formal investigation.

7 Sec. 8. A peace officer shall not be subjected to
8 any retaliation by his or her employer due to his or her
9 lawful exercise of his or her rights under the Peace Officer
10 Employer-Employee Relations Act.

11 Sec. 9. The Revisor of Statutes shall assign sections 1
12 to 8 of this act to Chapter 48.