

AMENDMENTS TO LB791

Introduced by Business and Labor.

1 1. Strike the original sections and insert the following new
2 sections:

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

11 (2) Each law enforcement agency or agency employing a law
12 enforcement officer shall maintain a record regarding the reason or
13 reasons for, and circumstances surrounding, a separation of service for
14 each law enforcement officer employed by that agency. Such record shall
15 be retained for ten years following a law enforcement officer's
16 separation from the agency.

17 (3) Each law enforcement agency or agency employing a law
18 enforcement officer shall maintain a record of any and all records of
19 misconduct, disciplinary actions, and complaints against the law
20 enforcement officer during the time the law enforcement officer was
21 employed with the agency. Such record shall include any and all records
22 of conduct which could constitute: (a) Incompetence; (b) neglect of duty;
23 (c) incapacity; (d) dishonesty; (e) a felony violation of state or
24 federal law; (f) a misdemeanor violation of state or federal law, if the
25 violation has a rational connection with the officer's fitness or
26 capacity to serve as a law enforcement officer; and (g) a violation of
27 the officer's oath of office, code of ethics, or statutory duties. Such

1 record shall be retained for the duration of the law enforcement
2 officer's employment with the agency and for ten years following his or
3 her separation from the agency.

4 (4) The chief of police, sheriff, Superintendent of Law Enforcement
5 and Public Safety, or the head administrator of a law enforcement agency
6 or an agency employing a law enforcement officer shall make a report to
7 the Nebraska Commission on Law Enforcement and Criminal Justice of any
8 law enforcement officer who is terminated from employment or allowed to
9 resign in lieu of termination for conduct that could constitute: (a)
10 Incompetence; (b) neglect of duty; (c) incapacity; (d) dishonesty; (e) a
11 felony violation of state or federal law; (f) a misdemeanor violation of
12 state or federal law, if the violation has a rational connection with the
13 officer's fitness or capacity to serve as a law enforcement officer; and
14 (g) a violation of the officer's oath of office, code of ethics, or
15 statutory duties. The report shall include, but not be limited to, a
16 summary of the allegations pertaining to the officer and identification
17 of any witnesses relevant to the allegations, and shall be filed with the
18 commission within thirty calendar days of the termination or resignation
19 in lieu of termination.

20 (5) Failure to comply with this section shall constitute neglect of
21 duty.

22 (6) For purposes of this section:

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

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

25 (c) Law enforcement agency has the same meaning as in section
26 81-1401; and

27 (d) Law enforcement officer has the same meaning as in section
28 81-1401.

29 Sec. 2. (1) A person who is certified under section 81-1414 and who
30 seeks employment as a law enforcement officer in this state shall provide
31 a signed waiver to the prospective employer upon a conditional offer of

1 employment. The waiver must expressly allow the prospective employer to
2 contact the person's former employer or employers and obtain from each
3 copies of any records created under subsections (2) and (3) of section 1
4 of this act. The prospective employer is responsible for providing the
5 waiver to each former employer.

6 (2) The waiver required by this section shall be executed on a form
7 provided by the Nebraska Commission on Law Enforcement and Criminal
8 Justice to all agencies in this state that employ or administer oaths of
9 office to law enforcement officers certified by the commission.

10 (3) Upon receipt of the waiver, a former employer shall provide the
11 prospective employer, along with other information required or allowed to
12 be provided by law, copies of any records created under subsections (2)
13 and (3) of section 1 of this act. The names and any identifying
14 information in any records created under subsections (2) and (3) of this
15 section of any individual, witness, or law enforcement officer or
16 officers other than the person who signed the waiver shall be
17 confidential and not disclosed to the prospective employer.

18 (4) A prospective employer shall not hire as a law enforcement
19 officer a person to whom subsection (1) of this section applies unless
20 the prospective employer receives, from each of the person's former
21 employers, copies of any records created under subsections (2) and (3) of
22 section 1 of this act.

23 (5) A prospective employer shall not hire as a law enforcement
24 officer a person to whom subsection (1) of this section applies if such
25 person's former employer has provided notice to the Nebraska Commission
26 on Law Enforcement and Criminal Justice that the person's separation from
27 the former employer occurred under circumstances that may justify
28 revocation of the person's certification under section 81-1414 unless the
29 commission has reviewed the notification and issued a determination that
30 the person shall retain such certification.

31 (6) For purposes of this section:

1 (a) Former employer means the law enforcement agency or other agency
2 that currently employs or previously employed the person as a law
3 enforcement officer;

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

5 (c) Law enforcement agency has the same meaning as in section
6 81-1401;

7 (d) Law enforcement officer has the same meaning as in section
8 81-1401; and

9 (e) Prospective employer means the law enforcement agency or other
10 agency that is considering hiring the person as a law enforcement
11 officer.

12 Sec. 3. Section 81-1377, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 81-1377 (1) The Chief Negotiator or any other employer-
15 representative and the exclusive collective-bargaining agent for
16 employees under the Chief Negotiator's or employer-representative's
17 jurisdiction shall bargain and negotiate labor contracts in good faith
18 and reasonably in advance of the budget-making process.

19 (2) Retirement programs shall not be bargainable by or on behalf of
20 any state employee.

21 (3) Nothing in the disciplinary procedures or collective bargaining
22 agreement of the Nebraska State Patrol shall:

23 (a) Limit the discretion of the Superintendent of Law Enforcement
24 and Public Safety to disclose to the Legislature, the Nebraska Commission
25 on Law Enforcement and Criminal Justice, or a complainant the status or
26 outcome of an internal investigation or discipline;

27 (b) Limit the consideration by the patrol, for purposes of
28 progressive discipline, of disciplinary action in a prior case that
29 occurred within the ten years preceding the date such progressive
30 discipline is imposed;

31 (c) Limit the misconduct for which a new disciplinary proceeding may

1 be initiated to misconduct that occurred within the two years preceding
2 the date discipline is imposed;

3 (d) Require the release to a member who is under internal
4 investigation for an allegation that could result in a charge of a Class
5 I misdemeanor or felony or an allegation involving dishonesty, prior to
6 the initial internal investigation interview, of reports and materials
7 concerning the internal investigation of such member, except that the
8 member shall be entitled to know the nature of the complaint underlying
9 the investigation;

10 (e) Limit or restrict access by the individual or individuals
11 conducting the internal investigation to materials, including records of
12 current or past discipline or misconduct, regarding the member under
13 investigation; or

14 (f) Prevent, limit, or restrict access by the Nebraska Commission on
15 Law Enforcement and Criminal Justice to internal investigation reports or
16 materials.

17 (4) (3) The obligation to negotiate in good faith shall not compel
18 the Chief Negotiator or any other employer-representative or the
19 exclusive collective-bargaining agent to agree to a proposal or make a
20 concession.

21 (5) (4) All contracts involving state employees and negotiated
22 pursuant to the Industrial Relations Act or the State Employees
23 Collective Bargaining Act shall cover a two-year period coinciding with
24 the biennial state budget, except that the first contract entered into by
25 a bargaining unit may cover only the second fiscal year of the biennium.

26 Sec. 4. Section 81-1425, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-1425 The executive director of the commission shall:

29 (1) Supervise and be responsible for the administration of the
30 policies established by the commission;

31 (2) Establish a Jail Standards subdivision and a Community

1 Corrections Division within the commission and establish, consolidate, or
2 abolish any administrative subdivision within the commission and appoint
3 and remove for cause the heads thereof, and delegate appropriate powers
4 and duties to them;

5 (3) Establish and administer projects and programs for the operation
6 of the commission;

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

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

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

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

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

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

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

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

27 (12) Subpoena witnesses and documents, files, internal investigation
28 materials, administrative files, records, memoranda, reports, personnel
29 records, disciplinary histories, or any materials the executive director
30 determines to be relevant, relating to law enforcement officer
31 certification revocation, from any law enforcement agency in the state;

1 and

2 (13) (12) Exercise all powers and perform all duties necessary and
3 proper in carrying out his or her responsibilities.

4 Sec. 5. (1) A state employee may make a report of sexual harassment
5 to the Department of Administrative Services. The department shall
6 investigate the report or ensure that an investigation is conducted by
7 the agency which employs the reporting employee.

8 (2) The department and the agency which employs the reporting
9 employee shall maintain the confidentiality of the reporting employee and
10 any other person making a report of sexual harassment or participating in
11 an investigation or internal agency proceeding under this section except:

12 (a) When disclosure is authorized in writing by such employee or
13 other person;

14 (b) The identity of such employee or other person may be disclosed
15 to the individual alleged to have committed the sexual harassment; and

16 (c) When necessary for conducting the investigation or imposing
17 discipline.

18 (3) The agency employing the reporting employee shall not retaliate
19 or discriminate against the reporting employee or any other person for:

20 (a) Initiating or participating in the making of a report of sexual
21 harassment; or

22 (b) Testifying, assisting, or participating in an investigation,
23 proceeding, or action concerning the sexual harassment.

24 Sec. 6. The changes made by this legislative bill shall not
25 abrogate any labor contracts that are in effect through June 30, 2019.

26 Sec. 7. Original sections 81-1377 and 81-1425, Reissue Revised
27 Statutes of Nebraska, are repealed.

28 Sec. 8. Since an emergency exists, this act takes effect when
29 passed and approved according to law.