

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 390**

Introduced by Pansing Brooks, 28; Hansen, M., 26; Linehan, 39; Walz, 15.

Read first time January 17, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to public safety; to state findings; to define
- 2 terms; and to provide duties for the Nebraska Commission on Law
- 3 Enforcement and Criminal Justice, law enforcement agencies, security
- 4 agencies, and school districts relating to school resource officers
- 5 and security guards as prescribed.
- 6 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Legislature finds and declares that:

2           (1) Our public school children, faculty, and staff are entitled to  
3 be safe in schools when they attend school and study or work;

4           (2) Schools have an interest in keeping students safe;

5           (3) The interest of schools in keeping students safe may include  
6 accommodating the presence of school resource officers or security guards  
7 if a school district determines such resources are necessary to keep  
8 schools safe;

9           (4) Parents and guardians of students have a vested interest in  
10 being informed of school discipline matters involving their children and  
11 to be notified as soon as possible if their children are contacted,  
12 disciplined, questioned, searched, sanctioned, cited, or arrested by a  
13 school official or by a security guard or peace officer working with  
14 school officials; and

15           (5) A comprehensive and clear memorandum of understanding between  
16 law enforcement or security agencies and school officials will delineate  
17 the roles and responsibilities of school resource officers, security  
18 guards, and school officials to balance the interests of safety for  
19 students and school staff in relation to parental rights, student  
20 success, and family integrity, ensuring that an increased law enforcement  
21 presence at schools will not result in a disparate impact on students  
22 from disadvantaged or minority communities.

23           (6) Schools have a duty to respond and manage disciplinary issues  
24 while school resource officers and security officers should be utilized  
25 only for school safety and actual law violations.

26           Sec. 2. For purposes of sections 1 to 4 of this act, unless the  
27 context otherwise requires:

28           (1) Commission means the Nebraska Commission on Law Enforcement and  
29 Criminal Justice;

30           (2) Law enforcement agency means an agency or department of this  
31 state or of any political subdivision of this state that is responsible

1 for the prevention and detection of crime, the enforcement of the penal,  
2 traffic, or highway laws of this state or any political subdivision of  
3 this state, and the enforcement of arrest warrants. Law enforcement  
4 agency includes a police department, an office of a town marshal, an  
5 office of a county sheriff, the Nebraska State Patrol, and any department  
6 to which a deputy state sheriff is assigned as provided in section  
7 84-106;

8 (3) Peace officer means any officer or employee of a law enforcement  
9 agency authorized by law to make arrests;

10 (4) School resource officer means any peace officer or security  
11 guard with apparent authority to act as a peace officer who is assigned,  
12 as his or her primary duty, to any school district to provide law  
13 enforcement and security services to any public elementary or secondary  
14 schools;

15 (5) Security agency means a contractor that employs security guards  
16 used by a school district; and

17 (6) Security guard means a person employed to protect buildings and  
18 people and may include off-duty peace officers.

19 Sec. 3. (1) On or before December 1, 2019, the commission shall  
20 develop and distribute a model memorandum of understanding that includes  
21 the policies required by section 4 of this act. Any law enforcement  
22 agency or security agency required to adopt a memorandum of understanding  
23 with a school district pursuant to this section that has not developed  
24 and adopted a different model memorandum of understanding shall adopt the  
25 model memorandum of understanding developed by the commission.

26 (2) Any law enforcement agency which provides school resource  
27 officers or security agency which provides security guards to schools as  
28 of January 1, 2020, shall, on or before January 1, 2021, adopt a written  
29 memorandum of understanding with such school district. Such memorandum of  
30 understanding shall include provisions in conformance with the minimum  
31 standards set forth in the model policy developed by the commission and

1 may include any other procedures and provisions the school district and  
2 the law enforcement agency or security agency mutually deem appropriate.

3 (3) The head of a law enforcement agency or security agency required  
4 to adopt a memorandum of understanding under this section shall provide a  
5 copy of such memorandum of understanding to the commission within three  
6 months after its adoption.

7 (4) On or before January 1, 2020, and each January 1 thereafter,  
8 when any law enforcement agency or security agency required to adopt a  
9 memorandum of understanding under this section has made any change to its  
10 memorandum of understanding, in conjunction with the school district, in  
11 the preceding year, the head of such agency shall provide an updated copy  
12 of such memorandum of understanding to the commission.

13 Sec. 4. Each memorandum of understanding required by section 3 of  
14 this act shall govern the use of school resource officers or security  
15 guards and shall include, but not be limited to, policies that:

16 (1) Require each school resource officer or security guard to attend  
17 a minimum of forty hours of training focused on school-based law  
18 enforcement, including, but not limited to, coursework focused on school  
19 law, student rights, understanding special needs students and students  
20 with disabilities, conflict de-escalation techniques, ethics for school  
21 resource officers, teenage brain development, adolescent behavior,  
22 diversity and cultural awareness, trauma-informed responses, and  
23 preventing violence in school settings;

24 (2) Require a minimum of one administrator and one teacher to attend  
25 a minimum of twenty hours of training focused on school-based law  
26 enforcement, including, but not limited to, coursework focused on school  
27 law, student rights, understanding special needs students and students  
28 with disabilities, conflict de-escalation techniques, ethics for school  
29 resource officers and security guards, teenage brain development,  
30 adolescent behavior, diversity and cultural awareness, trauma-informed  
31 responses, and preventing violence in school settings;

1       (3) Ensure records are kept on each student referral for prosecution  
2 from a school resource officer or security guard and that such records  
3 allow for analysis of related data and delineate:

4       (a) The reason for such referral;

5       (b) If the occurrence prompting such referral occurred at school, on  
6 school grounds, or at a school-sponsored event; and

7       (c) Demographic characteristics of such student and any other  
8 students involved in the occurrence prompting such referral, including,  
9 but not limited to, race, ethnicity, national origin, gender, grade  
10 level, and whether the student has an identified disability;

11       (4) Specify when parents or guardians are to be notified or present,  
12 in a language that such parent or guardian understands, if a student is  
13 subjected to questioning or interrogation by a school official or by a  
14 school resource officer or security guard operating in conjunction with a  
15 school official;

16       (5) Specify under what circumstances school resource officers and  
17 security guards are to advise students of their constitutional rights  
18 prior to being questioned or interrogated by a school official or by a  
19 school resource officer or security guard operating in conjunction with a  
20 school official;

21       (6) Specify the type or category of student conduct or actions that  
22 will be referred to law enforcement for prosecution and the type of  
23 student conduct or actions that will be resolved as a disciplinary matter  
24 by a school official and not subject to referral to law enforcement; and

25       (7) Accommodate a student and parent complaint process to express a  
26 concern or file a complaint about a school resource officer or security  
27 guard and the practices of such school resource officer or security guard  
28 with the school district or the law enforcement agency or security  
29 agency.