

# One Hundred Third Legislature - First Session - 2013

## Introducer's Statement of Intent

### LB538

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**Chairperson: Senator Brad Ashford**

**Committee: Judiciary**

**Date of Hearing: February 22, 2013**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

This bill deals with the suspension and revocation of a law enforcement diploma or certificate. These matters fall under the jurisdiction of the Nebraska Law enforcement and Criminal Justice Commission.

Within the Commission is the Police Standards Advisory Council which is empowered by section 81-1403(6) to:

Revoke or suspend such certificates or diplomas. . .for reasons which shall include, but not be limited to, (a) incompetence, (b) neglect of duty, (c) physical, mental, or emotional incapacity . . .

The Office of the Attorney General, in a letter to me dated November 26, 2012, explained that because "there is no statutory definition of 'physical, mental or emotional incapacity' as that phrase is used in § 81-1403," dismissal by the Commission of a complaint I had filed was "[not] clearly unwarranted." Hence, LB 538 amends section 81-1401 by providing the following definition:

Incapacity means incapable of or lacking the ability to perform or carry out the usual duties of a law enforcement officer in accordance with the standards established by the commission due to physical, mental, or emotional factors.

This section is amended also by transferring the definition of "felony" from section 81-1403.

Returning to section 81-1403, new, amendatory language is found on page 6 of LB 538 which addresses "temporary" and "permanent" disability. In the case of temporary disability, suspension of a certificate or diploma occurs. If such disability is permanent, revocation is warranted.

The provisions are retroactive.

Because a law enforcement certificate or diploma is evidence that the holder is fully qualified to hold it and is capable of performing all the duties of a law enforcement officer, no person should hold such a document if he/she has an incapacity as defined by law.

An amendment will be proposed which will specify that "temporary incapacity" does not apply if a person remains employed as a law enforcement officer albeit in a restricted or limited duty status.

**Principal Introducer:** \_\_\_\_\_

**Senator Ernie Chambers**