

LEGISLATIVE BILL 390

Approved by the Governor April 24, 2019

Introduced by Pansing Brooks, 28; Hansen, M., 26; Linehan, 39; Walz, 15; Wayne, 13.

A BILL FOR AN ACT relating to public safety; to state findings; to define terms; and to provide duties for the State Department of Education, law enforcement agencies, security agencies, and school districts relating to school resource officers and security guards as prescribed.
Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares that:

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

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

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

(4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted in response to a possible law violation, questioned, searched, cited, or arrested by a peace officer working with school officials;

(5) A comprehensive and clear memorandum of understanding between law enforcement and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, with the goal that an increased law enforcement presence at schools will not result in a disparate impact on students in federally identified demographic categories; and

(6) Schools have a duty to respond to and manage disciplinary issues. The primary role of school resource officers and security officers should be to enhance safety with the understanding that school resource officers also work to prevent and respond to law violations and serve as a community resource for students, parents, and school staff.

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

(1) Department means the State Department of Education;

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

(3) Peace officer has the same meaning as in section 28-109;

(4) School resource officer means any peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary school and does not mean a peace officer responding to a call for service, providing proactive enforcement, providing law enforcement or traffic direction for a school-related event, or providing temporary services as a school resource officer when the assigned school resource officer is not available;

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

(6) Security guard means a person who is contracted or employed by a security agency to protect buildings and people and who does not have law enforcement authority or the power to arrest under any apparent authority in the jurisdiction where such person is contracted or employed as a security guard. A security guard may be an off-duty peace officer.

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

(2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security guards to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and

provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

(3) The superintendent of a school district required to adopt a memorandum of understanding under this section shall, within three months after its adoption, provide a copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

(4) On or before January 1, 2021, and each January 1 thereafter, when any school district required to adopt a memorandum of understanding under this section has made any change to its memorandum of understanding, in conjunction with the law enforcement agency or security agency, in the preceding year, the superintendent of such school district shall provide an updated copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

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

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

(2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(3) Ensure records are kept on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:

(a) The reason for such referral; and

(b) Federally identified demographic characteristics of such student;

(4) Identify school policies that address when a parent or guardian will be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(5) Identify the school or law enforcement agency policies that address under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Identify a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the law enforcement agency or security agency.