

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1065

Introduced by Lippincott, 34; Brewer, 43; Clements, 2; Dorn, 30; Dover, 19; Erdman, 47; Halloran, 33; Hansen, 16; Hardin, 48; Holdcroft, 36; Kauth, 31; Lowe, 37; Murman, 38.

Read first time January 08, 2024

Committee:

- 1 A BILL FOR AN ACT relating to education; to amend sections 79-804,
- 2 79-805, and 79-814.01, Reissue Revised Statutes of Nebraska; to
- 3 allow a school district to hire a chaplain to perform the duties of
- 4 a school counselor without a certificate issued by the Commissioner
- 5 of Education as prescribed; to provide powers and duties to the
- 6 State Board of Education; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1)(a) A school district may employ a chaplain to act as
2 or perform the duties typically required of a school counselor. A
3 chaplain employed pursuant to this section shall not be required to hold
4 a certificate to teach, administer, or perform special services in this
5 state.

6 (b) The employment of a chaplain pursuant to this section shall not
7 be construed as an endorsement of any particular religion.

8 (2) The eligibility of a chaplain to perform the duties of a school
9 counselor pursuant to this section shall be subject to a criminal history
10 record information check pursuant to section 79-814.01 and payment of any
11 required fees. A school district shall not hire a chaplain to perform the
12 duties of a school counselor who is denied the ability to perform the
13 duties of a school counselor by the Commissioner of Education based on
14 the criminal history record information check pursuant to section
15 79-814.01.

16 (3) A school board of a school district shall, prior to hiring a
17 chaplain pursuant to this section, develop a policy not inconsistent with
18 this section relating to employing an uncertified individual as a school
19 counselor. The policy shall include provisions relating to the hiring,
20 discipline, continued education, and termination of employment of a
21 chaplain as an uncertified school counselor.

22 (4) Nothing in this section shall require that a school district
23 hire a chaplain pursuant to this section.

24 Sec. 2. Section 79-804, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 79-804 (1) Each teacher or administrator shall register his or her
27 certificate with the public, private, denominational, or parochial school
28 in which the teacher or administrator is employed. The superintendent or
29 administrator of the school shall endorse upon the certificate that it
30 has been registered and the date of registration. Such registration shall
31 be without fee. No employment of a teacher or administrator shall be

1 valid until the certificate is so registered. On or before September 15
2 of each year, the public, private, denominational, and parochial schools
3 shall file with the State Department of Education a fall personnel report
4 which shall specify the names of all individuals employed by the school
5 who are required by law to hold a certificate and such other information
6 as the Commissioner of Education directs. The superintendent or
7 administrator of the school shall transmit within ten days to the State
8 Department of Education the name of the teacher or administrator to be
9 employed, together with the position to which employed, if the teacher or
10 administrator is employed after the submission of the fall personnel
11 report. The Commissioner of Education shall certify to the school the
12 name of any teacher or administrator who has not been issued a
13 certificate or given evidence of application to the State Department of
14 Education and qualification for a certificate or permit. The teacher or
15 administrator shall not be reimbursed for any services to the school
16 after the date of receipt of notification by the school.

17 (2) The Commissioner of Education shall notify the county treasurer
18 to withhold all school money belonging to any district employing an
19 uncertificated teacher or administrator until the teacher or
20 administrator has obtained a certificate or has been dismissed by the
21 board employing such teacher or administrator. The county treasurer shall
22 withhold such money.

23 (3) This section shall not apply to a chaplain employed to perform
24 the duties of a school counselor pursuant to section 1 of this act.

25 Sec. 3. Section 79-805, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 79-805 (1) The school board or board of education shall be
28 personally liable for all public money paid to teachers or administrators
29 who are not qualified under sections 79-806 to 79-815. A teacher or
30 administrator violating such sections shall not recover any money for
31 services while teaching during the time that such contract and

1 certificate are invalid. Any person having knowledge of the employment by
2 a school district of an uncertified teacher or administrator may prefer
3 charges against the board.

4 (2) This section shall not apply to a chaplain employed to perform
5 the duties of a school counselor pursuant to section 1 of this act.

6 Sec. 4. Section 79-814.01, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 79-814.01 (1) Upon request by the commissioner, the Nebraska State
9 Patrol shall undertake a search for criminal history record information
10 relating to an applicant for a certificate pursuant to subdivision (1)(c)
11 of section 79-808 or an applicant that is a chaplain seeking employment
12 to perform the duties of a school counselor pursuant to section 1 of this
13 act, including transmittal of the applicant's fingerprints to the Federal
14 Bureau of Investigation for a national criminal history record
15 information check. The criminal history record information check shall
16 include information concerning the applicant from federal repositories of
17 such information and repositories of such information in other states if
18 authorized by federal law. The Nebraska State Patrol shall issue a report
19 to the commissioner that shall include the criminal history record
20 information concerning the applicant.

21 (2) The commissioner may deny issuance of a certificate or permit or
22 the eligibility of a chaplain to perform the duties of a school counselor
23 pursuant to section 1 of this act to any applicant who has a felony
24 conviction or who has any misdemeanor conviction involving abuse,
25 neglect, or sexual misconduct. In reviewing an applicant's criminal
26 history record information, the commissioner shall take into
27 consideration any information, including information submitted by the
28 applicant, regarding (a) the facts and circumstances surrounding a
29 conviction, (b) the type of offense and the sentence imposed, (c) whether
30 the conduct resulting in a conviction would constitute a crime in
31 Nebraska, (d) the date of the offense, (e) the age of the applicant at

1 the time of the offense, and (f) the applicant's conduct and positive
2 social contributions since the offense.

3 (3) The board shall determine and set the costs for processing
4 criminal history record information checks pursuant to this section, ~~and~~
5 section 79-808, and section 1 of this act which shall be borne by the
6 applicant ~~for a certificate or permit~~. The costs shall be limited to the
7 actual direct costs arising from the processing of the criminal history
8 record information checks.

9 (4) Criminal history record information subject to federal
10 confidentiality requirements shall remain confidential and may be
11 released only upon the written authorization by the applicant, except
12 that if the applicant appeals the denial by the commissioner of a
13 certificate or permit or eligibility of a chaplain to perform the duties
14 of a school counselor pursuant to section 1 of this act ~~by the~~
15 ~~commissioner~~, the filing of an administrative appeal shall constitute a
16 release of the information for the limited purpose of the appeal. If the
17 applicant requests a closed hearing, such request shall be subject to the
18 Open Meetings Act.

19 Sec. 5. Original sections 79-804, 79-805, and 79-814.01, Reissue
20 Revised Statutes of Nebraska, are repealed.