

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1339

Introduced by Brewer, 43; Aguilar, 35; Albrecht, 17; Ballard, 21; Bosn, 25; Bostelman, 23; Brandt, 32; Clements, 2; DeKay, 40; Dorn, 30; Dover, 19; Erdman, 47; Halloran, 33; Hansen, 16; Hardin, 48; Holdcroft, 36; Ibach, 44; Jacobson, 42; Kauth, 31; Linehan, 39; Lippincott, 34; Lowe, 37; McDonnell, 5; Meyer, 41; Moser, 22; Murman, 38; Sanders, 45; Slama, 1; von Gillern, 4.

Read first time January 17, 2024

Committee:

1 A BILL FOR AN ACT relating to schools; to amend section 28-1204.04,
2 Revised Statutes Cumulative Supplement, 2022, and sections 28-1201,
3 28-1202.01, and 79-3109, Revised Statutes Supplement, 2023; to
4 change provisions relating to carrying a concealed handgun and to
5 possession of a firearm in a school, on school grounds, or at school
6 events; to define and redefine terms; to provide for public and
7 private schools to provide emergency response mapping data to public
8 safety agencies; to provide for grants; to provide powers and duties
9 for educational service units, the State Department of Education and
10 the State Board of Education; to change permitted uses of the School
11 Safety and Security Fund; to harmonize provisions; and to repeal the
12 original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-1201, Revised Statutes Supplement, 2023, is
2 amended to read:

3 28-1201 For purposes of sections 28-1201 to 28-1212.04, unless the
4 context otherwise requires:

5 (1) Case means (a) a hard-sided or soft-sided box, container, or
6 receptacle intended or designed for the primary purpose of storing or
7 transporting a firearm or (b) the firearm manufacturer's original
8 packaging. ~~This definition does not apply to section 28-1204.04;~~

9 (2) Concealed handgun means a handgun that is entirely obscured from
10 view. If any part of the handgun is capable of being seen or observed by
11 another person, it is not a concealed handgun;

12 (3) Firearm means any weapon which is designed to or may readily be
13 converted to expel any projectile by the action of an explosive or frame
14 or receiver of any such weapon;

15 (4) Fugitive from justice means any person who has fled or is
16 fleeing from any peace officer to avoid prosecution or incarceration for
17 a felony;

18 (5) Handgun means any firearm with a barrel less than sixteen inches
19 in length or any firearm designed to be held and fired by the use of a
20 single hand;

21 (6) Home school means a school which: (i) Elects pursuant to section
22 79-1601 not to meet accreditation or approval requirements; and (ii) is
23 located in a personal residence;

24 (7) (6) Juvenile means any person under the age of eighteen years;

25 (8) (7) Knife means:

26 (a) Any dagger, dirk, knife, or stiletto with a blade over three and
27 one-half inches in length and which, in the manner it is used or intended
28 to be used, is capable of producing death or serious bodily injury; or

29 (b) Any other dangerous instrument which is capable of inflicting
30 cutting, stabbing, or tearing wounds and which, in the manner it is used
31 or intended to be used, is capable of producing death or serious bodily

1 injury;

2 (9) ~~(8)~~ Knuckles and brass or iron knuckles means any instrument
3 that consists of finger rings or guards made of a hard substance and that
4 is designed, made, or adapted for the purpose of inflicting serious
5 bodily injury or death by striking a person with a fist enclosed in the
6 knuckles;

7 (10) ~~(9)~~ Machine gun means any firearm, whatever its size and usual
8 designation, that shoots automatically more than one shot, without manual
9 reloading, by a single function of the trigger;

10 (11)(a) ~~(10)(a)~~ Minor means a person who is under twenty-one years
11 of age.

12 (b) Minor does not include a person who is eighteen years of age or
13 older if the person is (i) a member of the armed forces of the United
14 States, active or reserve, National Guard of this state, or Reserve
15 Officers' Training Corps or (ii) a peace officer or other duly authorized
16 law enforcement officer;

17 (12)(a) ~~(11)(a)~~ Prohibited person means:

18 (i) A person prohibited from possessing a firearm or ammunition by
19 state law, including, but not limited to, section 28-1206; or

20 (ii) A person prohibited from possessing a firearm or ammunition by
21 18 U.S.C. 922(d) or (g), as such section existed on January 1, 2023.

22 (b) This definition does not apply to the use of the term prohibited
23 person in section 28-1206;

24 (13) ~~(12)~~ Qualified law enforcement officer and qualified retired
25 law enforcement officer have the same meanings as in 18 U.S.C. 926B and
26 926C, respectively, as such sections existed on January 1, 2023;

27 (14)(a) ~~(13)~~ School means a public, private, denominational, or
28 parochial elementary, vocational, or secondary school, a private
29 postsecondary career school as defined in section 85-1603, a community
30 college, a public or private college, a junior college, or a
31 university. ÷

1 (b) School does not include a home school;

2 (15) (14) Short rifle means a rifle having a barrel less than
3 sixteen inches long or an overall length of less than twenty-six inches;
4 and

5 (16) (15) Short shotgun means a shotgun having a barrel or barrels
6 less than eighteen inches long or an overall length of less than twenty-
7 six inches.

8 Sec. 2. Section 28-1202.01, Revised Statutes Supplement, 2023, is
9 amended to read:

10 28-1202.01 (1) Except as otherwise provided in this section and
11 section 28-1204.04, a person, other than a minor or a prohibited person,
12 may carry a concealed handgun anywhere in Nebraska, with or without a
13 permit under the Concealed Handgun Permit Act.

14 (2) Except as provided in subsection (10) of this section, a person
15 shall not carry a concealed handgun into or onto any place or premises
16 where the person, persons, entity, or entities in control of the place or
17 premises or employer in control of the place or premises has prohibited
18 the carrying of concealed handguns into or onto the place or premises.

19 (3) Except as provided in subsection (10) of this section, a person
20 shall not carry a concealed handgun into or onto any: Police, sheriff, or
21 Nebraska State Patrol station or office; detention facility, prison, or
22 jail; courtroom or building which contains a courtroom; polling place
23 during a bona fide election; meeting of the governing body of a county,
24 public school district, municipality, or other political subdivision;
25 meeting of the Legislature or a committee of the Legislature; financial
26 institution; professional or semiprofessional athletic event; building,
27 grounds, vehicle, or sponsored activity or athletic event of any school;
28 ~~public, private, denominational, or parochial elementary, vocational, or~~
29 ~~secondary school, a private postsecondary career school as defined in~~
30 ~~section 85-1603, a community college, or a public or private college,~~
31 ~~junior college, or university;~~ place of worship; hospital, emergency

1 room, or trauma center; political rally or fundraiser; establishment
2 having a license issued under the Nebraska Liquor Control Act that
3 derives over one-half of its total income from the sale of alcoholic
4 liquor; place where the possession or carrying of a firearm is prohibited
5 by state or federal law; or any other place or premises where handguns
6 are prohibited by state law.

7 (4)(a) A financial institution may authorize its security personnel
8 to carry concealed handguns in the financial institution while on duty so
9 long as each member of the security personnel, as authorized, is not
10 otherwise prohibited by state law from possessing or carrying a concealed
11 handgun and is in compliance with sections 28-1202.02 to 28-1202.04.

12 (b) A place of worship may authorize its security personnel to carry
13 concealed handguns on its property if:

14 (i) Each member of the security personnel, as authorized, is not
15 otherwise prohibited by state law from possessing or carrying a concealed
16 handgun and is in compliance with sections 28-1202.02 to 28-1202.04;

17 (ii) Written notice is given to the congregation; and

18 (iii) For leased property, the carrying of concealed handguns on the
19 property does not violate the terms of any real property lease agreement
20 between the place of worship and the lessor.

21 (5) If a person, persons, entity, or entities in control of the
22 place or premises or an employer in control of the place or premises
23 prohibits the carrying of concealed handguns into or onto the place or
24 premises and such place or premises are open to the public, a person does
25 not violate this section unless the person, persons, entity, or entities
26 in control of the place or premises or employer in control of the place
27 or premises has posted conspicuous notice that carrying a concealed
28 handgun is prohibited in or on the place or premises or has made a
29 request, directly or through an authorized representative or management
30 personnel, that the person remove the concealed handgun from the place or
31 premises.

1 (6) A person carrying a concealed handgun in a vehicle or on his or
2 her person while riding in or on a vehicle into or onto any parking area,
3 which is open to the public, used by any location listed in subsection
4 (2) or (3) of this section, does not violate this section if, prior to
5 exiting the vehicle, the handgun is locked inside the glove box, trunk,
6 or other compartment of the vehicle, a storage box securely attached to
7 the vehicle, or, if the vehicle is a motorcycle, other than an autocycle,
8 a hardened compartment securely attached to the motorcycle. This
9 subsection does not apply to any parking area used by such location when
10 the carrying of a concealed handgun into or onto such parking area is
11 prohibited by federal law.

12 (7) An employer may prohibit employees or other persons from
13 carrying concealed handguns in vehicles owned by the employer.

14 (8) A violation of this section is a Class III misdemeanor for a
15 first offense and a Class I misdemeanor for any second or subsequent
16 offense.

17 (9)(a) Except as provided in subdivision (9)(b) of this section, it
18 is an affirmative defense to a violation of subsection (3) of this
19 section that the defendant was engaged in any lawful business, calling,
20 or employment at the time the defendant was carrying a concealed handgun
21 and the circumstances in which the defendant was placed at the time were
22 such as to justify a prudent person in carrying a concealed handgun for
23 the defense of his or her person, property, or family.

24 (b) The affirmative defense provided for in this subsection:

25 (i) Does not prevent a prosecution for a violation of section
26 28-1204.04; and

27 (ii) Is not available if the defendant refuses to remove the
28 concealed handgun from the place or premises after a person in control of
29 the place or premises has made a request, directly or through an
30 authorized representative or management personnel, that the defendant
31 remove the concealed handgun from the place or premises.

1 (10) Subsections (2) and (3) of this section do not apply to a
2 qualified law enforcement officer or qualified retired law enforcement
3 officer carrying a concealed handgun pursuant to 18 U.S.C. 926B or 926C,
4 respectively, as such sections existed on January 1, 2023.

5 (11) Action taken in compliance with section 28-1204.04 shall not be
6 a violation of this section.

7 Sec. 3. Section 28-1204.04, Revised Statutes Cumulative Supplement,
8 2022, is amended to read:

9 28-1204.04 (1) Any person who possesses a firearm in a school, on
10 school grounds, in a school-owned vehicle, or at a school-sponsored
11 activity or athletic event is guilty of the offense of unlawful
12 possession of a firearm at a school. Unlawful possession of a firearm at
13 a school is a Class IV felony.

14 (2) Subsection (1) of this section does ~~This subsection shall~~ not
15 apply to:

16 (a) The ~~the~~ issuance of firearms to or possession by members of the
17 armed forces of the United States, active or reserve, National Guard of
18 this state, or Reserve Officers' ~~Officers~~ Training Corps or peace
19 officers or other duly authorized law enforcement officers when on duty
20 or training; ~~r~~

21 (b) The ~~the~~ possession of firearms by peace officers or other duly
22 authorized law enforcement officers;

23 (c) The carrying of concealed handguns by qualified law enforcement
24 officers or qualified retired law enforcement officers carrying pursuant
25 to 18 U.S.C. 926B or 926C, respectively, as such sections existed on
26 January 1, 2023;

27 (d) Possession of a firearm by a person who is (i) employed or when
28 contracted by a school to provide school security or school event control
29 services and (ii) acting in conformance with a written policy adopted by
30 such school that complies with subsection (3) of this section; ~~r-(c)~~

31 (e) Firearms ~~firearms~~ which may lawfully be possessed by the person

1 receiving instruction, for instruction under the immediate supervision of
2 an adult instructor; ~~τ~~

3 (f) Firearms ~~(d) firearms~~ which may lawfully be possessed by a
4 member of a college or university firearm team, to include rifle, pistol,
5 and shotgun disciplines, within the scope of such person's duties as a
6 member of the team; ~~τ~~

7 (g) Firearms ~~(e) firearms~~ which may lawfully be possessed by a
8 person employed by a college or university in this state as part of an
9 agriculture or a natural resources program of such college or university,
10 within the scope of such person's employment; ~~τ~~

11 (h) Firearms ~~(f) firearms~~ contained within a private vehicle
12 operated by a nonstudent adult which are not loaded and (i) are enclosed
13 in a case ~~encased~~ or (ii) are in a locked firearm rack that is on a motor
14 vehicle; ~~τ~~

15 (i) Firearms ~~(g) firearms~~ which may lawfully be possessed by a
16 person for the purpose of using them, with the approval of the school, in
17 a historical reenactment, in a hunter education program, or as part of an
18 honor guard; ~~τ~~ or

19 (j) A ~~(h) a~~ handgun carried as a concealed handgun by a person other
20 than a minor or prohibited person ~~valid holder of a permit issued under~~
21 ~~the Concealed Handgun Permit Act~~ in a vehicle or on his or her person
22 while riding in or on a vehicle into or onto any parking area, which is
23 open to the public and used by a school if, prior to exiting the vehicle,
24 the handgun is locked inside the glove box, trunk, or other compartment
25 of the vehicle, a storage box securely attached to the vehicle, or, if
26 the vehicle is a motorcycle, other than an autocycle, a hardened
27 compartment securely attached to the motorcycle while the vehicle is in
28 or on such parking area, ~~except as prohibited by federal law. For~~
29 ~~purposes of this subsection, encased means enclosed in a case that is~~
30 ~~expressly made for the purpose of containing a firearm and that is~~
31 ~~completely zipped, snapped, buckled, tied, or otherwise fastened with no~~

1 ~~part of the firearm exposed.~~

2 (3) A school board or other governing body of a school may authorize
3 the carrying of firearms by authorized security personnel in a school, on
4 school grounds, in a school-owned vehicle, or at a school-sponsored
5 activity or athletic event by adopting a written policy governing such
6 conduct. Such written policy shall, at a minimum, include requirements
7 for personal qualifications, training, appropriate firearms and
8 ammunition, and appropriate use of force.

9 (4) ~~(2)~~ Any firearm possessed in violation of subsection (1) of this
10 section shall be confiscated without warrant by a peace officer or may be
11 confiscated without warrant by school administrative or teaching
12 personnel. Any firearm confiscated by school administrative or teaching
13 personnel shall be delivered to a peace officer as soon as practicable.

14 (5) ~~(3)~~ Any firearm confiscated by or given to a peace officer
15 pursuant to subsection (4) ~~(2)~~ of this section shall be declared a common
16 nuisance and shall be held by the peace officer prior to his or her
17 delivery of the firearm to the property division of the law enforcement
18 agency which employs the peace officer. The property division of such law
19 enforcement agency shall hold such firearm for as long as the firearm is
20 needed as evidence. After the firearm is no longer needed as evidence, it
21 shall be destroyed in such manner as the court may direct.

22 (6)(a) ~~(4)~~ Whenever a firearm is confiscated and held pursuant to
23 this section or section 28-1204.02, the peace officer who received such
24 firearm shall cause to be filed within ten days after the confiscation a
25 petition for destruction of such firearm. The petition shall be filed in
26 the district court of the county in which the confiscation is made. The
27 petition shall describe the firearm held, state the name of the owner, if
28 known, allege the essential elements of the violation which caused the
29 confiscation, and conclude with a prayer for disposition and destruction
30 in such manner as the court may direct.

31 (b) At any time after the confiscation of the firearm and prior to

1 court disposition, the owner of the firearm seized may petition the
2 district court of the county in which the confiscation was made for
3 possession of the firearm. The court shall release the firearm to such
4 owner only if the claim of ownership can reasonably be shown to be true
5 and either:

6 (i) The (a) the owner of the firearm can show that the firearm was
7 taken from his or her property or place of business unlawfully or without
8 the knowledge and consent of the owner and that such property or place of
9 business is different from that of the person from whom the firearm was
10 confiscated; or

11 (ii) The (b) the owner of the firearm is acquitted of the charge of
12 unlawful possession of a handgun in violation of section 28-1204,
13 unlawful transfer of a firearm to a juvenile, or unlawful possession of a
14 firearm at a school.

15 (c) No firearm having significant antique value or historical
16 significance as determined by the Nebraska State Historical Society shall
17 be destroyed. If a firearm has significant antique value or historical
18 significance, it shall be sold at auction and the proceeds shall be
19 remitted to the State Treasurer for distribution in accordance with
20 Article VII, section 5, of the Constitution of Nebraska.

21 Sec. 4. (1) For purposes of this section:

22 (a) Mapping data means maps relating to a school building or school
23 property with data for an efficient emergency response to such school
24 building or school property that meets the requirements of this section;
25 and

26 (b) Public safety agency means a local agency consisting of members
27 who serve a public or governmental agency or political subdivision in an
28 official capacity, with or without compensation, as either peace
29 officers, firefighters, or emergency care providers as defined in section
30 38-1206.04.

31 (2)(a) A school board of a school district or a governing authority

1 of a private, denominational, or parochial school in this state may vote
2 to adopt a policy in accordance with this section to provide mapping data
3 to public safety agencies for use in response to emergencies.

4 (b) A school board or a governing authority that adopts such a
5 policy shall provide mapping data in an electronic or digital format to
6 assist public safety agencies in responding to an emergency at a school.

7 (c) The mapping data shall, at a minimum, meet all of the following
8 requirements:

9 (i) Be compatible with and able to be integrated into software
10 platforms used by public safety agencies that provide emergency services
11 to the specific school for which the data is provided without requiring:

12 (A) The purchase of additional software by such public safety
13 agencies; or

14 (B) The integration of third-party software to view the data;

15 (ii) Be a finished map product in a file format easily accessible
16 using a standard or open-source file reader, depending on the needs of
17 the school and the public safety agency;

18 (iii) Be provided in a printable format;

19 (iv) Be verified for accuracy, during production and annually,
20 through a walk-through of school buildings and grounds;

21 (v) Give an indication of what direction is true north;

22 (vi) Be overlaid on current aerial imagery or plans of school
23 buildings;

24 (vii) Contain site-specific labeling that matches the structure of
25 school buildings, including room labels, hallway names, external door or
26 stairwell numbers, locations of hazards, key utility locations, key
27 boxes, automated external defibrillators, and trauma kits using standard
28 labeling rules set by the State Department of Education;

29 (viii) Contain site-specific labeling that matches the school
30 grounds, including parking areas, athletic fields, surrounding roads, and
31 neighboring properties using standard labeling rules set by the State

1 Department of Education; and

2 (ix) Be overlaid with a grid and coordinates.

3 (3) The school board of each school district and the governing
4 authority of each private, denominational, or parochial school that
5 adopts a policy in accordance with this section shall annually (a)
6 certify to the appropriate public safety agencies that the mapping data
7 required to be provided under subsection (2) of this section is accurate
8 or (b) if such information has changed, provide the appropriate public
9 safety agencies with updated mapping data.

10 (4) A school board of a school district or a governing authority of
11 a private, denominational, or parochial school that adopts a policy in
12 accordance with this section and a public safety agency providing
13 services to a school that adopts such a policy may apply to the
14 appropriate educational service unit for the educational service unit to
15 pay the costs of and facilitate the implementation of mapping data in
16 accordance with this section for such school district, school, or public
17 safety agency. Such application shall include a copy of the appropriate
18 school policy, an estimate from a vendor on the cost of providing such
19 mapping data that meets the requirements of subdivision (2)(c) of this
20 section, and such other information as the educational service unit may
21 require.

22 (5) An educational service unit may apply to the State Department of
23 Education, in a form and manner prescribed by the department, for a grant
24 to cover the costs of providing payments to vendors on behalf of a school
25 district, school, or public safety agency within such educational service
26 unit's geographical area in order for such school district, school, or
27 public safety agency to provide or access mapping data in accordance with
28 this section. The educational service unit shall include with such
29 application the information provided to the educational service unit by
30 the school district, school, or public safety agency and any other
31 information the department may require.

1 (6) Mapping data shall not be a public record subject to disclosure
2 pursuant to sections 84-712 to 84-712.09.

3 (7) It is the intent of the Legislature that grants awarded pursuant
4 to this section shall be funded from the School Safety and Security Fund.

5 (8) The State Board of Education may adopt and promulgate rules and
6 regulations to carry out this section.

7 Sec. 5. Section 79-3109, Revised Statutes Supplement, 2023, is
8 amended to read:

9 79-3109 The School Safety and Security Fund is created. The fund
10 shall be administered by the State Department of Education and shall
11 consist of any money transferred by the Legislature and any gifts,
12 grants, or bequests. The department shall use money in the fund for
13 grants for security-related infrastructure projects pursuant to section
14 79-3108 and section 4 of this act. Any money in the fund available for
15 investment shall be invested by the state investment officer pursuant to
16 the Nebraska Capital Expansion Act and the Nebraska State Funds
17 Investment Act.

18 Sec. 6. Original section 28-1204.04, Revised Statutes Cumulative
19 Supplement, 2022, and sections 28-1201, 28-1202.01, and 79-3109, Revised
20 Statutes Supplement, 2023, are repealed.