
ASSEMBLY BILL NO. 570—ASSEMBLYWOMAN CHOWNING (BY REQUEST)

MARCH 15, 1999

Referred to Committee on Government Affairs

SUMMARY—Revises provisions regarding rights of peace officers. (BDR 23-1555)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to peace officers; revising the provisions regarding the rights of a peace officer during an investigation of his alleged misconduct; repealing the requirement that a peace officer take a polygraphic examination under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 289.050 is hereby amended to read as follows:
2 289.050 ~~[Except as otherwise provided in NRS 289.070:]~~
3 1. If a peace officer refuses to submit to a polygraphic examination:
4 (a) No law enforcement agency may take any disciplinary action against
5 such officer; and
6 (b) No investigator may make a notation of such refusal in his report,
7 absent independent evidence of unlawful conduct by the peace officer.
8 2. Evidence of any refusal by a peace officer to submit to a
9 polygraphic examination is not admissible if introduced by any
10 governmental body or agency in this state at any subsequent hearing, trial
11 or other judicial or administrative proceeding.
12 **Sec. 2.** NRS 289.060 is hereby amended to read as follows:
13 289.060 1. The agency shall, within a reasonable time before any
14 interrogation or hearing is held relating to an investigation of the activities
15 of a peace officer which may result in punitive action, provide written
16 notice to the officer if practical under the circumstances.
17 2. The notice must include:
18 (a) A description of the nature of the investigation;
19 (b) A summary of alleged misconduct of the peace officer;

- 1 (c) The date, time and place of the interrogation or hearing;
- 2 (d) The name and rank of the officer in charge of the investigation and
- 3 the officers who will conduct any interrogation;
- 4 (e) The name of any other person who will be present at any
- 5 interrogation or hearing; and
- 6 (f) A statement setting forth the provisions of subsection 1 of NRS
- 7 289.080.

8 3. The agency shall:

- 9 (a) Interrogate the officer during his regular working hours, if
- 10 reasonably practicable, or compensate him for that time based on his
- 11 regular wages if no charges arise from the interrogation.
- 12 (b) Limit the scope of the questions during the interrogation or hearing
- 13 to the alleged misconduct of the officer.
- 14 (c) Allow the officer to explain an answer or refute a negative
- 15 implication which results from questioning during an interrogation or
- 16 hearing.

17 ***4. Any information obtained involuntarily from a peace officer is***
18 ***confidential and is not admissible in this state at a subsequent civil or***
19 ***criminal proceeding.***

20 **Sec. 3.** NRS 289.080 is hereby amended to read as follows:

21 289.080 1. Except as otherwise provided in subsection 2, a peace
22 officer may upon request have a lawyer or other representative of his
23 choosing present with the peace officer during any phase of an
24 interrogation or hearing.

25 2. The representative must not otherwise be connected to, or the
26 subject of, the same investigation.

27 3. Any information that the representative obtains from the peace
28 officer concerning the investigation is ~~confidential~~ :

29 ***(a) Inadmissible in this state at a subsequent civil or criminal***
30 ***proceeding.***

31 ***(b) Confidential*** and must not be disclosed except upon the:

32 ~~[(a)]~~ (1) Request of the peace officer; or

33 ~~[(b)]~~ (2) Lawful order of a court of competent jurisdiction.

34 A law enforcement agency shall not take punitive action against the
35 representative for his failure or refusal to disclose such information.

36 4. The peace officer or the law enforcement agency may make a
37 stenographic or magnetic record of the interrogation or hearing. If the
38 agency records the proceedings, the agency shall at the officer's request
39 and expense provide a copy of the:

- 40 (a) Stenographic transcript of the proceedings; or
- 41 (b) Recording on the magnetic tape.

- 1 **Sec. 4.** NRS 289.090 is hereby amended to read as follows:
2 289.090 The provisions of NRS 289.060 ~~[-, 289.070]~~ and 289.080 do
3 not apply to any investigation which concerns alleged criminal activities.
4 **Sec. 5.** NRS 289.070 is hereby repealed.

TEXT OF REPEALED SECTION

289.070 Investigation of allegation of misconduct; when officer may be required to take polygraphic examination; procedure and requirements for examination.

1. An investigation of a peace officer may be conducted in response to an allegation that an officer has engaged in activities which could result in punitive action.

2. If a person who makes such an allegation against an officer submits to a polygraphic examination and the results of that examination indicate that the person examined is telling the truth about the purported activities, the officer against whom the allegation is made must submit to a polygraphic examination concerning such activities.

3. If a polygraphic examination is given to an officer pursuant to this section, a sound or video recording must be made of the examination, the preliminary interview and the post-examination interview. Before the opinion of the examiner regarding the officer's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the examination must be made available for review by one or more examiners licensed or qualified to be licensed in this state who are acceptable to the law enforcement agency and the officer. If the opinion of the reviewing examiners does not agree with the initial examiner's opinion, the officer must be allowed to be reexamined by an examiner of his choice who is licensed or qualified to be licensed in this state.

4. The opinion of the examiner regarding the officer's veracity may not be considered in a disciplinary action unless the examination was conducted in a manner which complies with the provisions of chapter 648 of NRS. In any event, the law enforcement agency shall not use the examiner's opinion regarding the veracity of the officer as the sole basis for disciplinary action against the officer.

5. If the officer refuses to submit to a polygraphic examination required by this section:

(a) A law enforcement agency may take disciplinary action against that officer; and

(b) An investigator may make a notation of the refusal in his report.

6. Evidence of any refusal by a peace officer to submit to a polygraphic examination required by this section is admissible if introduced by any governmental body or agency in this state at any subsequent hearing, trial or other judicial or administrative proceeding.

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