

ASSEMBLY BILL NO. 282—ASSEMBLYMAN BACHE

MARCH 6, 2001

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to refusal of peace officer to submit to polygraphic examination. (BDR 23-1271)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 circumstances under which an investigator may note the refusal of a peace officer to submit to a polygraphic examination in his report; eliminating the requirement that a peace officer who is the subject of an investigation of alleged misconduct submit to a polygraphic examination in 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~~ *the* officer; and
- 6 (b) No investigator may make a notation of ~~such~~ *the* refusal in his
- 7 report. ~~absent independent evidence of unlawful conduct by the peace~~
- 8 ~~officer.~~
- 9 2. Evidence of any refusal by a peace officer to submit to a
- 10 polygraphic examination is not admissible if introduced by any
- 11 governmental body or agency in this state at any subsequent hearing, trial
- 12 or other judicial or administrative proceeding.
- 13 **Sec. 2.** NRS 289.070 is hereby amended to read as follows:
- 14 289.070 1. An investigation of a peace officer may be conducted in
- 15 response to an allegation that ~~an~~ *the* officer has engaged in activities
- 16 which could result in punitive action.
- 17 ~~2. If a person who makes such an allegation against an officer submits~~
- 18 ~~to a polygraphic examination and the results of that examination indicate~~
- 19 ~~that the person examined is telling the truth about the purported activities;~~
- 20 ~~the~~ *The* officer against whom the allegation is made ~~must~~ *may, but is*



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1 ~~not required to~~, submit to a polygraphic examination concerning such
2 activities.

3 ~~3-1~~ 2. If a polygraphic examination is given to an officer pursuant to
4 this section, a sound or video recording must be made of the *polygraphic*
5 examination, the preliminary interview and the post-examination interview.
6 Before the opinion of the *polygraphic* examiner regarding the officer's
7 veracity may be considered in a disciplinary action, all records, documents
8 and recordings resulting from the *polygraphic* examination must be made
9 available for review by one or more *polygraphic* examiners licensed or
10 qualified to be licensed in this state who are acceptable to the law
11 enforcement agency and the officer. If the opinion of ~~the reviewing~~
12 ~~examiners~~ *a reviewing polygraphic examiner* does not agree with the
13 initial *polygraphic* examiner's opinion, the officer must be allowed to be
14 reexamined by ~~an~~ *a polygraphic* examiner of his choice who is licensed
15 or qualified to be licensed in this state.

16 ~~4-1~~ 3. The opinion of ~~the~~ *a polygraphic* examiner regarding the
17 officer's veracity may not be considered in a disciplinary action unless the
18 *polygraphic* examination was conducted in a manner which complies with
19 the provisions of chapter 648 of NRS. In any event, the law enforcement
20 agency shall not use ~~the~~ *a polygraphic* examiner's opinion regarding the
21 veracity of the officer as the sole basis for disciplinary action against the
22 officer.

23 ~~5-1~~ ~~If the~~

24 4. ~~If an~~ officer refuses to submit to a polygraphic examination
25 ~~required by~~ *pursuant to* this section ~~:-~~

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

28 ~~-(b) An~~ , *an* investigator may make a notation of the refusal in his
29 report.

30 ~~6-1~~ ~~Evidence of any refusal by a peace officer to submit to a~~
31 ~~polygraphic examination required by this section is admissible if~~
32 ~~introduced by any governmental body or agency in this state at any~~
33 ~~subsequent hearing, trial or other judicial or administrative proceeding.~~

