

Assembly Bill No. 282—Assemblyman Bache

CHAPTER.....

AN ACT relating to peace officers; providing that a peace officer may not be required to submit to a polygraphic examination; providing certain protections to an officer who refuses to submit to such an examination; providing that a person who alleges that an officer has engaged in certain prohibited acts may not be required to submit to a polygraphic examination as a condition to an investigation of the allegation; and providing other matters properly relating thereto.

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

Section 1. NRS 289.050 is hereby amended to read as follows:

289.050 ~~{Except as otherwise provided in NRS 289.070:}~~

1. If a peace officer refuses to submit to a polygraphic examination:

(a) No law enforcement agency may take any disciplinary *or retaliatory* action against ~~{such}~~ *the* officer; and

(b) No investigator may make a notation of such *a* refusal in his report ~~{, absent independent evidence of unlawful conduct by the peace officer:}~~ *or in any other manner maintain evidence of such a refusal.*

2. Evidence of any refusal by a peace officer to submit to a polygraphic examination is not admissible ~~{if introduced by any governmental body or agency in this state}~~ at any subsequent hearing, trial or other judicial or administrative proceeding.

Sec. 2. NRS 289.070 is hereby amended to read as follows:

289.070 1. An investigation of a peace officer may be conducted in response to an allegation that ~~{an}~~ *the* 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}~~ *The* officer against whom the allegation is made ~~{must}~~ *may, but is not required to,* submit to a polygraphic examination concerning such activities.

2. A person who makes an allegation against an officer pursuant to subsection 1 may not be required to submit to a polygraphic examination as a condition to the investigation of his allegation, but may request or agree to be given a polygraphic examination. If such a person requests or agrees to be given a polygraphic examination, such an examination must be given.

3. If a polygraphic examination is given to an officer pursuant to this section, a sound or video recording must be made of the *polygraphic* examination, the preliminary interview and the post-examination interview. Before the opinion of the *polygraphic* examiner regarding the officer's veracity may be considered in a disciplinary action, all records, documents and recordings resulting from the *polygraphic* examination must be made available for review by one or more *polygraphic* 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}~~ *a reviewing polygraphic examiner* does not agree with the initial *polygraphic* examiner's opinion, the officer must be allowed to be

reexamined by ~~an~~ *a polygraphic* examiner of his choice who is licensed or qualified to be licensed in this state.

4. The opinion of ~~the~~ *a polygraphic* examiner regarding the officer's veracity may not be considered in a disciplinary action unless the *polygraphic* 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~~ *a polygraphic* 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.}~~