

ASSEMBLY BILL NO. 282—ASSEMBLYMAN BACHE

MARCH 6, 2001

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing use of polygraphic examinations for peace officers and as part of investigation of peace officers. (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; 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:

- 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 *or retaliatory*
- 5 action against ~~{such}~~ *the* officer; and
- 6 (b) No investigator may make a notation of such *a* refusal in his report
- 7 ~~{, absent independent evidence of unlawful conduct by the peace officer.}~~
- 8 *or in any other manner maintain evidence of such a refusal.*
- 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 2. *A person who makes an allegation against an officer pursuant to*
4 *subsection 1 may not be required to submit to a polygraphic examination*
5 *as a condition to the investigation of his allegation, but may request or*
6 *agree to be given a polygraphic examination. If such a person requests or*
7 *agrees to be given a polygraphic examination, such an examination must*
8 *be given.*

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

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

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

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

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

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

