

SENATE BILL NO. 150—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 1, 2005

Referred to Committee on Judiciary

SUMMARY—Prohibits false or fraudulent complaint against public employee. (BDR 23-1168)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to public employees; prohibiting a false or fraudulent complaint against a public employee; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a person who knowingly files a false or fraudulent written complaint or allegation of misconduct against a peace officer for conduct in the course and scope of the peace officer's employment is guilty of a misdemeanor. (NRS 199.325) The United States District Court for the District of Nevada found that NRS 199.325 criminalizes defamation that is critical of peace officers, but does not criminalize such defamation of other public officials. Therefore, the Court held that the statute was an impermissible content-based regulation of speech in violation of the First Amendment to the United States Constitution. (*Eakins v. Nevada*, 219 F.Supp. 2d 1113 (2002))

This bill repeals NRS 199.325 and in lieu of that provision makes it a misdemeanor for a person to knowingly file with the employer of a public employee a false or fraudulent written complaint or allegation of misconduct against any public employee for conduct in the course and scope of employment.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who knowingly files with the employer of a public employee a false or fraudulent written complaint or allegation of misconduct against a public employee for conduct in the course



1 *and scope of the employment of the public employee is guilty of a*
2 *misdemeanor.*

3 2. *As used in this section, "public employee" means a person*
4 *who performs public duties for compensation paid by the State, a*
5 *county, city, local government or other political subdivision of the*
6 *State or an agency thereof. The term does not include a person*
7 *elected to public office while performing duties related to his*
8 *public office.*

9 **Sec. 2.** NRS 199.325 is hereby repealed.

10 **Sec. 3.** This act becomes effective on July 1, 2005.

TEXT OF REPEALED SECTION

199.325 Filing false or fraudulent complaint or allegation of misconduct against peace officer.

1. A person who knowingly files a false or fraudulent written complaint or allegation of misconduct against a peace officer for conduct in the course and scope of his employment is guilty of a misdemeanor.

2. As used in this section, "peace officer" has the meaning ascribed to it in NRS 289.010.

