

ASSEMBLY BILL NO. 265—ASSEMBLYMAN DALY (BY REQUEST)

MARCH 11, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the rights of peace officers. (BDR 23-716)

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; requiring a law enforcement agency to release a peace officer from his or her regular working hours to attend certain hearings and administrative proceedings under certain circumstances; requiring a law enforcement agency to compensate a peace officer for attending certain hearings and administrative proceedings; providing a civil penalty for certain violations of the rights of a peace officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 If a peace officer is the subject of an investigation of alleged misconduct,
2 existing law provides that a law enforcement agency must interrogate the peace
3 officer during his or her regular working hours, if practical, or compensate the
4 peace officer for his or her time based on the peace officer's wages, if no charges
5 arise from the interrogation. (NRS 289.060) **Section 1** of this bill requires instead
6 that any time a peace officer is required to attend any interrogation, hearing or
7 administrative proceeding concerning the peace officer, such interrogation, hearing or
8 administrative proceeding must be held during the peace officer's regular
9 working hours, or the peace officer must be released from his or her regular
10 working hours the day before the interrogation, hearing or administrative
11 proceeding and must be compensated for the day of the interrogation, hearing or
12 administrative proceeding at his or her regular wages.

13 Existing law provides that, if prejudicial evidence is obtained in violation of a
14 peace officer's rights during an investigation of the peace officer which could result
15 in punitive action, that evidence is inadmissible in any administrative proceeding or
16 civil action against the peace officer. (NRS 289.085) **Section 2** of this bill provides
17 that, in addition to the exclusion of the evidence, a person who violates a peace
18 officer's rights intentionally, knowingly or willfully in such an investigation is



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19 liable to the peace officer for a civil penalty of not more than \$5,000, plus
20 reasonable attorney's fees and costs.

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

1 **Section 1.** NRS 289.060 is hereby amended to read as follows:
2 289.060 1. Except as otherwise provided in this subsection, a
3 law enforcement agency shall, not later than 48 hours before any
4 interrogation or hearing is held relating to an investigation
5 conducted pursuant to NRS 289.057, provide written notice to the
6 peace officer. A peace officer may waive the notice required
7 pursuant to this section.

8 2. The notice must include:
9 (a) A description of the nature of the investigation;
10 (b) A summary of alleged misconduct of the peace officer;
11 (c) The date, time and place of the interrogation or hearing;
12 (d) The name and rank of the officer in charge of the
13 investigation and the officers who will conduct any interrogation;
14 (e) The name of any other person who will be present at any
15 interrogation or hearing; and
16 (f) A statement setting forth the provisions of subsection 1 of
17 NRS 289.080.

18 3. The law enforcement agency shall:

19 (a) ~~Interrogate the peace officer during the peace officer's~~
20 ~~regular working hours, if reasonably practicable, or compensate the~~
21 ~~peace officer for that time based on the peace officer's regular~~
22 ~~wages if no charges arise from the interrogation.~~

23 ~~(b)~~ Immediately before ~~the~~ any interrogation or hearing
24 begins, inform the peace officer orally on the record that:

25 (1) The peace officer is required to provide a statement and
26 answer questions related to the peace officer's alleged misconduct;
27 and

28 (2) If the peace officer fails to provide such a statement or to
29 answer any such questions, the agency may charge the peace officer
30 with insubordination.

31 ~~(e)~~ (b) Limit the scope of the questions during the
32 interrogation or hearing to the alleged misconduct of the peace
33 officer.

34 ~~(d)~~ (c) Allow the peace officer to explain an answer or refute a
35 negative implication which results from questioning during an
36 interrogation or hearing.

37 4. *If a peace officer is required to attend any interrogation,*
38 *hearing or other administrative proceeding held relating to an*
39 *investigation of the peace officer conducted pursuant to*



1 *NRS 289.057 or any internal administrative grievance procedure*
2 *conducted pursuant to NRS 289.020, the law enforcement agency*
3 *shall:*

4 *(a) If the law enforcement agency interrogates the peace*
5 *officer, interrogate the peace officer during the peace officer's*
6 *regular working hours, if reasonably practicable; or*

7 *(b) Release the peace officer from his or her regular working*
8 *hours the day before the interrogation, hearing or other*
9 *administrative proceeding and compensate the peace officer for*
10 *the day of the interrogation, hearing or other administrative*
11 *proceeding based on the peace officer's regular wages.*

12 **Sec. 2.** NRS 289.085 is hereby amended to read as follows:

13 289.085 **1.** If an arbitrator or court determines that evidence
14 was obtained during an investigation of a peace officer concerning
15 conduct that could result in punitive action in a manner which
16 violates any provision of NRS 289.010 to 289.120, inclusive, and
17 that such evidence may be prejudicial to the peace officer, such
18 evidence is inadmissible and the arbitrator or court shall exclude
19 such evidence during any administrative proceeding commenced or
20 civil action filed against the peace officer.

21 **2.** *A person who intentionally, knowingly or willfully violates*
22 *a provision of NRS 289.010 to 289.120, inclusive, during an*
23 *investigation of a peace officer is liable for a civil penalty of not*
24 *more than \$5,000 for each violation, payable to the peace officer,*
25 *together with reasonable attorney's fees and costs.*

26 **Sec. 3.** This act becomes effective on July 1, 2011.

