

SENATE BILL NO. 144—SENATOR SEGERBLOM

FEBRUARY 18, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the investigation of peace officers. (BDR 23-100)

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 peace officers; revising provisions governing the investigation of peace officers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a law enforcement agency to provide notice to a peace officer before any interrogation or hearing is held in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action. (NRS 289.060) **Section 1** of this bill requires that such notice must include the right to review certain audio or video recordings before the interrogation or hearing is held.

Existing law also authorizes a peace officer who is the subject of an investigation, in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action, to have two representatives present during any phase of an interview, interrogation or hearing related to the investigation. (NRS 289.080) **Section 2** of this bill provides that a peace officer who is the subject of such an investigation: (1) may not be precluded from having a representative present; (2) may not be limited to having only one representative; and (3) may have two representatives present during any phase of an interview, interrogation or hearing related to the investigation. **Section 2** also provides that a peace officer who is a witness in such an investigation: (1) may not be precluded from having a representative present; (2) may not be limited to having only one representative; and (3) may have two representatives during an interview relating to the investigation.



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 a written notice to the
6 peace officer who is the subject of the investigation. If the law
7 enforcement agency believes that any other peace officer has any
8 knowledge of any fact relating to the complaint or allegation against
9 the peace officer who is the subject of the investigation, the law
10 enforcement agency shall provide a written notice to the peace
11 officer advising the peace officer that he or she must appear and be
12 interviewed as a witness in connection with the investigation. Any
13 peace officer who serves as a witness during an interview must be
14 allowed a reasonable opportunity to arrange for the presence and
15 assistance of a representative authorized by NRS 289.080. Any
16 peace officer specified in this subsection may waive the notice
17 required pursuant to this section.
18 2. The notice provided to the peace officer who is the subject
19 of the investigation must include:
20 (a) A description of the nature of the investigation;
21 (b) A summary of alleged misconduct of the peace officer;
22 (c) *The right to review any audio or video recording pursuant*
23 *to subsection 3;*
24 (d) The date, time and place of the interrogation or hearing;
25 ~~(d)~~ (e) The name and rank of the officer in charge of the
26 investigation and the officers who will conduct any interrogation or
27 hearing;
28 ~~(e)~~ (f) The name of any other person who will be present at
29 any interrogation or hearing; and
30 ~~(f)~~ (g) A statement setting forth the provisions of subsection 1
31 of NRS 289.080.
32 3. *Immediately before any interrogation or hearing begins,*
33 *the peace officer who is the subject of the investigation must be*
34 *afforded the right to review, except as otherwise provided in this*
35 *subsection, as otherwise prohibited by federal or state law or as*
36 *proscribed by the officer in charge of the investigation, any audio*
37 *or video recording of any incident relating to the complaint or*
38 *allegation against the peace officer that is in the possession of the*
39 *law enforcement agency. Such an audio or video recording of the*
40 *incident:*
41 (a) *May include, without limitation, any:*



1 (1) *Audio or video recording taken from a dashboard*
2 *camera;*

3 (2) *Footage from a surveillance camera in a residential or*
4 *commercial location; or*

5 (3) *Footage from a camera located in an interview room.*

6 (b) *Must not include an audio or video recording of any*
7 *complainant or witness.*

8 4. The law enforcement agency shall:

9 (a) Interview or interrogate the peace officer during the peace
10 officer's regular working hours, if reasonably practicable, or revise
11 the peace officer's work schedule to allow any time that is required
12 for the interview or interrogation to be deemed a part of the peace
13 officer's regular working hours. Any such time must be calculated
14 based on the peace officer's regular wages for his or her regularly
15 scheduled working hours. If the peace officer is not interviewed or
16 interrogated during his or her regular working hours or if his or her
17 work schedule is not revised pursuant to this paragraph and the law
18 enforcement agency notifies the peace officer to appear at a time
19 when he or she is off duty, the peace officer must be compensated
20 for appearing at the interview or interrogation based on the wages
21 and any other benefits the peace officer is entitled to receive for
22 appearing at the time set forth in the notice.

23 (b) Immediately before any interrogation or hearing begins,
24 inform the peace officer who is the subject of the investigation
25 orally on the record that:

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

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

32 (c) Limit the scope of the questions during the interrogation or
33 hearing to the alleged misconduct of the peace officer who is the
34 subject of the investigation. If any evidence is discovered during the
35 course of an investigation or hearing which establishes or may
36 establish any other possible misconduct engaged in by the peace
37 officer, the law enforcement agency shall notify the peace officer of
38 that fact and shall not conduct any further interrogation of the peace
39 officer concerning the possible misconduct until a subsequent notice
40 of that evidence and possible misconduct is provided to the peace
41 officer pursuant to this chapter.

42 (d) Allow the peace officer who is the subject of the
43 investigation or who is a witness in the investigation to explain an
44 answer or refute a negative implication which results from
45 questioning during an interview, interrogation or hearing.



* S B 1 4 4 R 1 *

~~14~~ 5. If a peace officer provides a statement or answers a question relating to the alleged misconduct of a peace officer who is the subject of an investigation pursuant to NRS 289.057 after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him or her, the statement or answer must not be used against the peace officer who provided the statement or answer in any subsequent criminal proceeding.

Sec. 2. NRS 289.080 is hereby amended to read as follows:

289.080 1. Except as otherwise provided in subsection 4, a peace officer who is the subject of an investigation conducted pursuant to NRS 289.057 ~~may upon~~ :

(a) *May not be precluded from having a representative;*

(b) *May not be limited to having only one representative; and*

(c) *May, upon request, have two representatives ~~of the peace officer's choosing~~, who may not be chosen by the employer,* present with the peace officer during any phase of an interrogation or hearing relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. Except as otherwise provided in subsection 4, a peace officer who is a witness in an investigation conducted pursuant to NRS 289.057 ~~may upon~~ :

(a) *May not be precluded from having a representative;*

(b) *May not be limited to having only one representative; and*

(c) *May, upon request, have two representatives ~~of the peace officer's choosing~~, who may not be chosen by the employer,* present with the peace officer during an interview relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer. The presence of the second representative must not create an undue delay in either the scheduling or conducting of the interview.

3. A representative of a peace officer must assist the peace officer during the interview, interrogation or hearing. The law enforcement agency conducting the interview, interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

4. A representative must not otherwise be connected to, or the subject of, the same investigation.

5. Any information that a representative obtains from the peace officer who is a witness concerning the investigation is confidential and must not be disclosed.



* S B 1 4 4 R 1 *

1 6. Any information that a representative obtains from the peace
2 officer who is the subject of the investigation is confidential and
3 must not be disclosed except upon the:

4 (a) Request of the peace officer; or

5 (b) Lawful order of a court of competent jurisdiction.

6 ➤ A law enforcement agency shall not take punitive action against a
7 representative for the representative's failure or refusal to disclose
8 such information.

9 7. The peace officer, any representative of the peace officer or
10 the law enforcement agency may make a stenographic, digital or
11 magnetic record of the interview, interrogation or hearing. If the
12 agency records the proceedings, the agency shall at the peace
13 officer's request and expense provide a copy of the:

14 (a) Stenographic transcript of the proceedings; or

15 (b) Recording on the digital or magnetic tape.

16 8. After the conclusion of the investigation, the peace officer
17 who was the subject of the investigation or any representative of the
18 peace officer may, if the peace officer appeals a recommendation to
19 impose punitive action, review and copy the entire file concerning
20 the internal investigation, including, without limitation, any
21 recordings, notes, transcripts of interviews and documents contained
22 in the file.

