

Amendment No. 448

Senate Amendment to Senate Bill No. 282

(BDR 23-539)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DP/BAW



Date: 4/21/2017

S.B. No. 282—Revises provisions relating to peace officers. (BDR 23-539)



SENATE BILL NO. 282—SENATOR SEGERBLOM

MARCH 16, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to peace officers. (BDR 23-539)

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; prohibiting a law enforcement agency from performing certain actions relating to an investigation of a peace officer; requiring the dismissal of certain actions against a peace officer and the imposition of certain other sanctions against the State or a local government under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a law enforcement agency may charge a peace officer with insubordination for refusing to comply with a request by a superior officer to cooperate in a criminal investigation. (NRS 289.020) Section 1 of this bill provides that a peace officer may be charged with insubordination for refusing to comply with an order, rather than a request, by a superior officer.

Existing law prohibits the use, in an administrative proceeding or civil action against a peace officer, of evidence obtained in violation of the rights of a peace officer set forth in existing law. (NRS 289.085) **Section 2** of this bill provides that if evidence was obtained in willful and intentional violation of the peace officer's rights, the evidence is inadmissible and the arbitrator, hearing officer or court shall exclude the evidence and enter an order: (1) ruling that the entire investigation is void and abated; (2) mandating the removal of information relating to the investigation from the administrative file on the peace officer; and (3) dismissing the proceeding or action against the peace officer . ~~1.~~ and (4) awarding attorney's fees and costs to the peace officer.

Existing law prohibits a law enforcement agency from: (1) suspending a peace officer without pay during or pursuant to an investigation of certain complaints or allegations against the peace officer until the conclusion of all related investigations, except as otherwise provided in a collective bargaining agreement; and (2) keeping or making a record of an investigation of a peace officer when a policy of the law enforcement agency or a labor agreement requires the removal of the record from the peace officer's administrative file. (NRS 289.057) **Section ~~1.5~~ 1.5** of this bill revises these provisions, prohibiting the suspension of a peace officer, without regard to contrary provisions in an applicable collective bargaining agreement, until the conclusion of the investigations of the peace officer. **Section ~~1.5~~ 1.5** also prohibits, with certain exceptions, a law enforcement agency from keeping or making a record of any inadmissible evidence from an investigation which is abated pursuant to an order by an arbitrator, a hearing officer or the court pursuant to **section 2**.

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

Section 1. NRS 289.020 is hereby amended to read as follows:

289.020 1. A law enforcement agency shall not use punitive action against a peace officer if the peace officer chooses to exercise the peace officer's rights under any internal administrative grievance procedure.

2. If a peace officer is denied a promotion on grounds other than merit or other punitive action is used against the peace officer, a law enforcement agency shall provide the peace officer with an opportunity for a hearing.

3. If a peace officer refuses to comply with ~~to request~~ **an order** by a superior officer to cooperate with the peace officer's own or any other law enforcement agency in a criminal investigation, the agency may charge the peace officer with insubordination.

~~Section 1.5~~ **Sec. 1.5.** NRS 289.057 is hereby amended to read as follows:

289.057 1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. ~~Except as otherwise provided in a collective bargaining agreement, a~~ A law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the investigation causes a law enforcement agency to impose punitive action against the peace officer who was the subject of the investigation and the peace officer has received notice of the imposition of the punitive action, the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency, ~~or~~ a labor agreement ~~or~~ **or an order of an arbitrator, a hearing officer or the court pursuant to paragraph (b) of subsection 2 of NRS 289.085,** the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of ~~the~~:

(1) The investigation, including, without limitation, any evidence which is inadmissible pursuant to NRS 289.085; or ~~the~~

(2) The imposition of punitive action,

↪ after the record is required to be removed from the administrative file.

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

289.085 If an arbitrator, **hearing officer** or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of NRS 289.010 to 289.120, inclusive, and that such evidence may be prejudicial to the peace officer, ~~such~~ **all evidence obtained during the investigation as a result of a willful and intentional violation of any provision of NRS 289.010 to 289.120, inclusive,** is inadmissible and the arbitrator, **hearing officer** or court shall ~~exclude~~:

1. Exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer ~~or~~; **and**

1 2. Enter an order:

2 (a) Ruling that the entire investigation is void and abated;

3 (b) Mandating the removal of any record of the investigation from any
4 administrative file relating to the peace officer maintained by the law
5 enforcement agency; and

6 (c) Dismissing the proceeding or action against the peace officer. It and

7 ~~(d) Awarding to the peace officer all attorney's fees and costs which were~~
8 ~~borne by the peace officer in defending against the investigation and proceeding~~
9 ~~or action. Such fees and costs must be paid by the State or the local government~~
10 ~~whose agency was responsible for knowingly and willfully violating the rights of~~
11 ~~the peace officer.~~

12 Sec. 3. This act becomes effective on July 1, 2017.