

SENATE BILL NO. 182—SENATOR PARKS

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to peace officers.
(BDR 23-561)

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 law enforcement; conferring the powers of a peace officer on certain law enforcement personnel relating to Indian tribes under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing federal law, Congress delegated limited authority relating to Indian tribes to the states, authorizing certain states, including Nevada, to exercise broad criminal jurisdiction and limited civil jurisdiction over tribal lands within those states. Existing state law, however, prohibits this State from assuming such jurisdiction unless the affected Indian tribe consents to the delegation of authority. (Pub. Law No. 83-280, 25 U.S.C. §§ 1321-1326; NRS 41.430)

Existing law recognizes certain persons as peace officers. (NRS 289.150-289.360) **Section 1** of this bill confers the same powers of a peace officer on persons employed by Indian tribes as law enforcement officers under certain circumstances. **Section 1** requires such an officer to receive certification as a category I peace officer by the Peace Officers' Standards and Training Commission. Additionally, **section 1** limits the authority of the officer acting as a peace officer to within the boundaries of the Indian reservation or Indian colony, unless the Indian tribe executes a written agreement with a county sheriff. **Section 1** provides that the agreement must include: (1) information relating to the rights and responsibilities of certain persons; and (2) the authority of the officer to act outside of the Indian reservation or Indian colony and within the geographic boundaries of the county.

Section 1 provides that a county sheriff shall have the jurisdiction and authority to enter into a written agreement with an Indian tribe on behalf of a metropolitan police department or the police department of an incorporated city located within the geographic boundaries of the county. **Section 1** also provides that such a police department is deemed to have consented to: (1) the jurisdiction and authority of the county sheriff to execute such an agreement with the Indian tribe on behalf of the law enforcement agency; and (2) all of the terms of the executed agreement.



Section 1 also prohibits such law enforcement agencies from independently executing a written agreement with an Indian tribe for the purposes set forth in **section 1**. Finally, **section 1** provides that nothing in that section impairs or affects the sovereignty of the Indian tribe. **Section 3** of this bill makes a conforming change.

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

Section 1. Chapter 289 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In accordance with the provisions of NRS 41.430 and 194.040, a person employed as a police officer by an Indian tribe may exercise the powers of a peace officer.

2. Before any officer pursuant to subsection 1 shall exercise the powers of a peace officer, he or she must be certified as a category I peace officer by the Peace Officers' Standards and Training Commission.

3. The authority of an officer pursuant to subsection 1 to exercise the powers of a peace officer is limited to the boundaries of the Indian reservation or Indian colony, unless a county sheriff and the Indian tribe, in consultation, execute a written agreement. Such an agreement must include, without limitation:

(a) The respective rights and responsibilities of the county sheriff, the Indian tribe and any law enforcement agency pursuant to subsection 4; and

(b) The authority of the officer to act within the geographic boundaries of the county.

4. The county sheriff shall have jurisdiction and authority to execute a written agreement with an Indian tribe pursuant to subsection 3 on behalf of all law enforcement agencies who have authority to act within the geographic boundaries of the county, and such an agreement shall unilaterally bind all such law enforcement agencies to the terms of the written agreement.

5. For the purpose of this section, a law enforcement agency pursuant to subsection 4:

(a) Is deemed to have consented to:

(1) The jurisdiction and authority of the county sheriff to execute a written agreement pursuant to subsection 3 on behalf of the law enforcement agency; and

(2) All of the terms of the written agreement executed pursuant to subsection 3; and

(b) Shall not independently execute a written agreement with an Indian tribe for any purpose set forth in this section.



6. *Nothing in this section impairs or affects the existing status and sovereignty of an Indian tribe as established under the laws of the United States.*

7. *As used in this section:*

(a) *"Category I peace officer" has the meaning ascribed to it in NRS 289.460.*

(b) *"Indian tribe" means any tribe, band, nation or other organized group or community of Indians which is recognized as eligible for the special programs and services provided by the United States to native Indians because of their status as native Indians and has executed a written agreement with the Peace Officers' Standards and Training Commission.*

(c) *"Law enforcement agency" means a metropolitan police department or the police department of an incorporated city.*

(d) *"Written agreement" includes, without limitation, an interlocal agreement or memorandum of understanding executed between a county sheriff and an Indian tribe.*

Sec. 2. NRS 289.010 is hereby amended to read as follows:

289.010 As used in this chapter, unless the context otherwise requires:

1. "Administrative file" means any file of a peace officer containing information, comments or documents about the peace officer. The term does not include any file relating to an investigation conducted pursuant to NRS 289.057 or a criminal investigation of a peace officer.

2. "Choke hold" means the holding of a person's neck in a manner specifically intended to restrict the flow of oxygen or blood to the person's lungs or brain. The term includes the arm-bar restraint, carotid restraint and lateral vascular neck restraint.

3. "Peace officer" means any person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive **H**, and section 1 of this act.

4. "Punitive action" means any action which may lead to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer of a peace officer for purposes of punishment.

Sec. 3. NRS 171.1255 is hereby amended to read as follows:

171.1255 1. Except as otherwise provided in subsection 2, an officer or agent of the Bureau of Indian Affairs or a person employed as a police officer by an Indian tribe may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

(a) For a public offense committed or attempted in the officer or agent's presence.

(b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer or agent's presence.



(c) When a felony or gross misdemeanor has in fact been committed, and the officer or agent has reasonable cause for believing the person arrested to have committed it.

(d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

(e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer or agent has reasonable cause to believe that the person arrested is the person so named or described.

(f) When the peace officer has probable cause to believe that the person to be arrested has committed a battery upon that person's spouse and the peace officer finds evidence of bodily harm to the spouse.

2. Such an officer or agent may make an arrest pursuant to subsection 1 only:

(a) Within the boundaries of an Indian reservation or Indian colony for an offense committed on that reservation or colony; or

(b) Outside the boundaries of an Indian reservation or Indian colony if the officer or agent is ~~fresh~~:

(1) Acting under an agreement pursuant to subsection 3 of section 1 of this act; or

(2) In fresh pursuit of a person who is reasonably believed by the officer or agent to have committed a felony within the boundaries of the reservation or colony or has committed, or attempted to commit, any criminal offense within those boundaries in the presence of the officer or agent.

➡ For the purposes of this subsection, "fresh pursuit" has the meaning ascribed to it in NRS 171.156.

Sec. 4. This act becomes effective on July 1, 2019.

