

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:

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

11 Existing law prohibits a law enforcement agency from: (1) suspending a peace
12 officer without pay during or pursuant to an investigation of certain complaints or
13 allegations against the peace officer until the conclusion of all related
14 investigations, except as otherwise provided in a collective bargaining agreement;
15 and (2) keeping or making a record of an investigation of a peace officer when a
16 policy of the law enforcement agency or a labor agreement requires the removal of
17 the record from the peace officer’s administrative file. (NRS 289.057) **Section 1** of
18 this bill revises these provisions, prohibiting the suspension of a peace officer,
19 without regard to contrary provisions in an applicable collective bargaining
20 agreement, until the conclusion of the investigations of the peace officer. **Section 1**
21 also prohibits, with certain exceptions, a law enforcement agency from keeping or
22 making a record of any inadmissible evidence from an investigation which is



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23 abated pursuant to an order by an arbitrator, a hearing officer or the court pursuant
24 to **section 2**.

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

1 **Section 1.** NRS 289.057 is hereby amended to read as follows:
2 289.057 1. An investigation of a peace officer may be
3 conducted in response to a complaint or allegation that the peace
4 officer has engaged in activities which could result in punitive
5 action.

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

11 3. After the conclusion of the investigation:

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

21 (b) If, pursuant to a policy of a law enforcement agency, ~~{or}~~ a
22 labor agreement ~~{}~~ *or an order of an arbitrator, a hearing officer*
23 *or the court pursuant to paragraph (b) of subsection 2 of NRS*
24 *289.085*, the record of the investigation or the imposition of punitive
25 action is subject to being removed from any administrative file
26 relating to the peace officer maintained by the law enforcement
27 agency, the law enforcement agency shall not, except as otherwise
28 required by federal or state law, keep or make a record of ~~{the}~~:

29 (1) *The investigation, including, without limitation, any*
30 *evidence which is inadmissible pursuant to NRS 289.085; or {the}*

31 (2) *The imposition of punitive action,*
32 ↪ after the record is required to be removed from the administrative
33 file.

34 **Sec. 2.** NRS 289.085 is hereby amended to read as follows:
35 289.085 If an arbitrator, *hearing officer* or court determines
36 that evidence was obtained during an investigation of a peace officer
37 concerning conduct that could result in punitive action in a manner
38 which violates any provision of NRS 289.010 to 289.120, inclusive,
39 and that such evidence may be prejudicial to the peace officer,



1 ~~such~~ all evidence *obtained during the investigation* is
2 inadmissible and the arbitrator , *hearing officer* or court shall
3 ~~exclude~~ :

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

7 *2. Enter an order:*

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

9 *(b) Mandating the removal of any record of the investigation*
10 *from any administrative file relating to the peace officer*
11 *maintained by the law enforcement agency;*

12 *(c) Dismissing the proceeding or action against the peace*
13 *officer; and*

14 *(d) Awarding to the peace officer all attorney's fees and costs*
15 *which were borne by the peace officer in defending against the*
16 *investigation and proceeding or action. Such fees and costs must*
17 *be paid by the State or the local government whose agency was*
18 *responsible for knowingly and willfully violating the rights of the*
19 *peace officer.*

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



