

SENATE BILL NO. 397—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing an investigation of a peace officer by a law enforcement agency. (BDR 23-1085)

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; revising provisions governing the review by a peace officer of certain administrative or investigative files maintained by a law enforcement agency; revising provisions governing investigations of or hearings concerning peace officers that are conducted by a law enforcement agency; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Under existing law, a law enforcement agency that investigates an allegation of
- 2 misconduct by a peace officer or takes any punitive action against the peace officer
- 3 must comply with certain requirements for providing notice and a hearing, using
- 4 polygraphic examinations, maintaining confidentiality and taking other actions
- 5 relating to the rights of the peace officer. (NRS 289.010-289.120)
- 6 **Section 1** of this bill authorizes a peace officer who is the subject of an
- 7 investigation by a law enforcement agency to review and copy any administrative
- 8 or investigative file maintained by the law enforcement agency concerning the
- 9 investigation if, after the conclusion of the investigation, the charges against the
- 10 peace officer are sustained and the law enforcement agency imposes or considers
- 11 the imposition of punitive action against the peace officer.
- 12 **Section 2** of this bill requires a law enforcement agency that intends to conduct
- 13 an interrogation or to hold a hearing concerning an investigation of a peace officer
- 14 to provide a written notice of that fact to both the peace officer who is the subject of
- 15 the investigation and to any peace officer believed by the law enforcement agency
- 16 to have knowledge of any fact concerning the complaint or allegation made against
- 17 the peace officer who is the subject of the investigation. **Section 2** also provides
- 18 that, if a peace officer provides a statement or answers a question relating to the
- 19 alleged misconduct of the peace officer who is the subject of an investigation after
- 20 the peace officer is informed that failure to provide the statement or answer may



21 result in punitive action against him or her, the peace officer's answer or statement
22 cannot be used against him or her in any criminal investigation of him or her.

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. A law enforcement agency shall not suspend a peace officer
7 without pay during or pursuant to an investigation conducted
8 pursuant to this section until all investigations relating to the matter
9 have concluded.

10 3. After the conclusion of the investigation:

11 (a) If the ~~investigation causes a~~ *charges brought against the*
12 *peace officer are sustained and, based on those charges, the* law
13 enforcement agency ~~to impose~~ :

14 (1) *Imposes or considers the imposition of* punitive action
15 against the peace officer ~~who was the subject of the investigation~~
16 ~~and the~~ ; and

17 (2) *The* peace officer has received *a* notice of the imposition
18 *or proposed imposition* of the punitive action, *including a notice of*
19 *the right of the peace officer to attend any hearing conducted*
20 *before the imposition or proposed imposition of the punitive*
21 *action,*

22 ↳ the peace officer or a representative authorized by the peace
23 officer may, except as otherwise prohibited by federal or state law,
24 review *and copy* any administrative or investigative file maintained
25 by the law enforcement agency relating to the investigation,
26 including any recordings, notes, transcripts of interviews and
27 documents.

28 (b) If, pursuant to a policy of a law enforcement agency or a
29 labor agreement, the record of the investigation or the imposition of
30 punitive action is subject to being removed from any administrative
31 file relating to the peace officer maintained by the law enforcement
32 agency, the law enforcement agency shall not, except as otherwise
33 required by federal or state law, keep or make a record of the
34 investigation or the imposition of punitive action after the record is
35 required to be removed from the administrative file.

36 **Sec. 2.** NRS 289.060 is hereby amended to read as follows:

37 289.060 1. Except as otherwise provided in this subsection, a
38 law enforcement agency shall, not later than 48 hours before any
39 interrogation or hearing is held relating to an investigation



1 conducted pursuant to NRS 289.057, provide written notice to the
2 peace officer ~~[A]~~ *who is the subject of the investigation and to*
3 *any peace officer believed by the law enforcement agency to have*
4 *knowledge of any fact relating to the complaint or allegation*
5 *against the peace officer who is the subject of the investigation.*
6 *Each of those peace officers* 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 *who is the subject of the investigation;*

12 (c) The date, time and place of the interrogation or hearing;

13 (d) The name and rank of the officer in charge of the
14 investigation and the officers who will conduct any interrogation;

15 (e) The name of any other person who will be present at any
16 interrogation or hearing; and

17 (f) A statement setting forth the provisions of subsection 1 of
18 NRS 289.080.

19 3. The law enforcement agency shall:

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

25 (b) Immediately before the interrogation or hearing begins,
26 inform the peace officer orally on the record that:

27 (1) The peace officer is required to provide a statement and
28 answer questions related to the ~~[peace officer's]~~ alleged misconduct
29 ~~[]~~ *of the peace officer who is the subject of the investigation;* and

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

33 (c) Limit the scope of the questions during the interrogation or
34 hearing to the alleged misconduct of the peace officer ~~[]~~ *who is the*
35 *subject of the investigation.*

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

39 4. *If a peace officer provides a statement or answers a*
40 *question relating to the alleged misconduct of the peace officer*
41 *who is the subject of the investigation pursuant to this section*
42 *after the peace officer is informed that failing to provide the*
43 *statement or answer may result in punitive action against him or*
44 *her, the statement or answer must not be used against the peace*



- 1 *officer who provided the statement or answer in any criminal*
- 2 *investigation of that peace officer.*
- 3 **Sec. 3.** This act becomes effective on July 1, 2011.

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