
ASSEMBLY BILL NO. 207—COMMITTEE ON JUDICIARY

MARCH 15, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning peace officers.
(BDR 23-684)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; requiring a law enforcement agency to follow certain procedures before placing unfavorable comments or documents about a peace officer in certain files; making various other changes concerning certain files of a law enforcement agency; requiring a law enforcement agency to provide certain information to a peace officer concerning the consequences of failing to provide certain information during an interrogation or hearing; authorizing a peace officer to have more than one representative present during an interrogation or hearing; excluding certain evidence obtained in violation of law from proceedings concerning a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law prohibits unfavorable comments or documents from being placed
- 2 in the personnel file of a peace officer unless the officer has been provided an
- 3 opportunity to read and initial the comment or document. (NRS 289.040)
- 4 This bill expands the applicability of this provision to any file in the control or
- 5 possession of the law enforcement agency, rather than just the personnel file of a
- 6 peace officer.
- 7 Existing law requires that a peace officer be provided with a copy of any
- 8 comment or document that is placed in his personnel file. (NRS 289.040)
- 9 This bill authorizes a peace officer to review and, upon request, obtain a copy
- 10 of any comment or document that is placed in certain other files in addition to his
- 11 personnel file.



12 Existing law requires that written notice be given to a peace officer before any
13 hearing or interrogation that could result in punitive action against him, if practical.
14 (NRS 289.060)

15 This bill requires the law enforcement agency to further inform the peace
16 officer immediately before the hearing or interrogation that failure to provide a
17 statement or answer questions related to the alleged misconduct may result in the
18 agency charging the officer with insubordination.

19 Existing law allows a peace officer to have a lawyer or other representative at
20 an interrogation or hearing. Existing law also allows a peace officer and his
21 employer to make a stenographic record or tape recording of a an interrogation or
22 hearing. (NRS 289.080)

23 This bill clarifies that a peace officer may have more than one representative
24 present at an interrogation or hearing. This bill also allows any representative of a
25 peace officer to make a recording of the hearing or interrogation and allows digital
26 recordings of a hearing or interrogation. This bill also allows a peace officer or any
27 representative of a peace officer to copy the entire file related to an investigation if
28 the officer appeals a recommendation to impose punitive action against the peace
29 officer.

30 Existing law allows a peace officer aggrieved by an action of his employer to
31 appeal to district court if the employer did not follow applicable provisions of law
32 in certain circumstances. (NRS 289.120)

33 This bill requires any information or evidence obtained in violation of a
34 provision of law to be excluded from any proceedings of a court, state or local
35 review board, arbitrator or internal agency review board if the officer may be
36 unfairly prejudiced by such information or evidence.

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

1 **Section 1.** NRS 289.040 is hereby amended to read as follows:

2 289.040 1. No law enforcement agency may place any
3 unfavorable comment or document ~~in the file of~~ *concerning* a
4 peace officer *in any file which is in the control or possession of the*
5 *law enforcement agency* unless:

6 (a) The officer has read and initialed the comment or document;
7 or

8 (b) If the officer refuses to initial the comment or document, a
9 notation to that effect is noted on or attached to the comment or
10 document.

11 2. If the peace officer submits to the law enforcement agency a
12 written response within 30 days after he is asked to initial the
13 comment or document, his response must be attached to and
14 accompany the comment or document.

15 3. A peace officer *may review and, upon request,* must be
16 given a copy of any comment or document that is placed in ~~his~~ :

17 (a) *His* personnel file ~~{};~~

18 (b) *A file concerning an internal investigation in which the*
19 *peace officer is the subject of the investigation; or*



1 (c) *A file concerning an internal investigation in which the*
2 *peace officer is not the subject of the investigation, but in which*
3 *the peace officer provided information, to the extent that the*
4 *comment or document was provided by the peace officer.*

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

6 289.060 1. The agency shall, within a reasonable time before
7 any interrogation or hearing is held relating to an investigation of
8 the activities of a peace officer which may result in punitive action,
9 provide written notice to the officer if practical under the
10 circumstances.

11 2. The notice must include:

12 (a) A description of the nature of the investigation;

13 (b) A summary of alleged misconduct of the peace officer;

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

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

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

19 (f) A statement setting forth the provisions of subsection 1 of
20 NRS 289.080.

21 3. The agency shall:

22 (a) Interrogate the officer during his regular working hours, if
23 reasonably practicable, or compensate him for that time based on his
24 regular wages if no charges arise from the interrogation.

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

27 (1) *He is required to provide a statement and answer*
28 *questions related to his alleged misconduct; and*

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

31 (c) Limit the scope of the questions during the interrogation or
32 hearing to the alleged misconduct of the officer.

33 ~~(e)~~ (d) Allow the officer to explain an answer or refute a
34 negative implication which results from questioning during an
35 interrogation or hearing.

36 **Sec. 3.** NRS 289.080 is hereby amended to read as follows:

37 289.080 1. Except as otherwise provided in subsection 2, a
38 peace officer may , upon request , have ~~{a lawyer or other~~
39 ~~representative}~~ *one or more representatives* of his choosing present
40 with the peace officer during any phase of an interrogation or
41 hearing. *Such representatives may include, without limitation, one*
42 *or more lawyers.*

43 2. ~~{The}~~ *Any* representative must not otherwise be connected
44 to, or the subject of, the same investigation.



1 3. Any information that ~~the~~ a representative obtains from the
2 peace officer concerning the investigation is confidential and must
3 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
7 ~~the~~ a representative for his failure or refusal to disclose such
8 information.

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

- 14 (a) Stenographic transcript of the proceedings; or
- 15 (b) Recording on the *digital or* magnetic tape.

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

23 **Sec. 4.** NRS 289.120 is hereby amended to read as follows:

24 289.120 1. Any peace officer aggrieved by an action of his
25 employer in violation of this chapter may, after exhausting any
26 applicable internal grievance procedures, grievance procedures
27 negotiated pursuant to chapter 288 of NRS and other administrative
28 remedies, apply to the district court for judicial relief. If the court
29 determines that the employer has violated a provision of this
30 chapter, the court shall order appropriate injunctive or other
31 extraordinary relief to prevent the further occurrence of the violation
32 and the taking of any reprisal or retaliatory action by the employer
33 against the peace officer.

34 2. *If a court, state or local review board, arbitrator or internal*
35 *agency review board holds that a law enforcement agency or an*
36 *employee, agent or representative of a law enforcement agency*
37 *acting within the scope of his relationship with the law*
38 *enforcement agency violates any provision of this chapter, the*
39 *court, board or arbitrator shall exclude any evidence or*
40 *information obtained as a result of the violation from any*
41 *proceeding before it in which the peace officer may be unfairly*
42 *prejudiced by the evidence or information obtained as a result of*
43 *the violation.*

