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ASSEMBLY BILL NO. 58—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Makes changes relating to the authority and duties of the Attorney General. (BDR 3-417)

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 ~~fornitted material~~ is material to be omitted.

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AN ACT relating to the Attorney General; authorizing the Attorney General to investigate whether a state governmental authority, any agent thereof or any person acting on behalf of a state governmental authority has engaged in certain patterns or practices that deprive persons of certain rights, privileges or immunities and file a civil action to eliminate such an identified pattern or practice in certain circumstances; establishing provisions relating to such an investigation; requiring the Attorney General to participate and cooperate in any investigation by the United States Department of Justice regarding whether the Office of the Attorney General has engaged in certain patterns or practices that deprive persons of certain rights, privileges or immunities; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1     **Section 1** of this bill authorizes the Attorney General to investigate whether a  
2 state governmental authority, any agent thereof or any person acting on behalf of a  
3 state governmental authority has engaged in certain patterns or practices that  
4 deprive persons of certain rights, privileges or immunities. **Section 1** requires the  
5 Attorney General to notify the governmental authority if the Attorney General has  
6 reasonable cause to believe that any such conduct has occurred and authorizes the  
7 governmental authority to respond to the notification within 30 days. If the  
8 Attorney General and the governmental authority cannot reach an agreement as to  
9 the course of action for the governmental authority to take to remedy, change or



10 eliminate the identified pattern or practice within 60 days after the last day on  
11 which the governmental authority may respond to the notification, **section 1**  
12 authorizes the Attorney General to file a civil action against the governmental  
13 authority to eliminate the identified pattern or practice. For the purposes of  
14 enabling the Attorney General to carry out an investigation, **section 1** also  
15 authorizes the Attorney General to require certain persons to appear and testify  
16 and to produce certain documentation and tangible items. At the conclusion of  
17 such an investigation, **section 1** requires the Attorney General to issue a report that  
18 includes a determination based on the results of the investigation.

19 **Section 1** additionally requires that any state officer or employee or local  
20 governmental officer or employee who discloses a pattern or practice of conduct by  
21 a state governmental authority, any agent thereof or any person acting on behalf of  
22 a state governmental authority be afforded all protections against reprisal or  
23 retaliation provided by the provisions of law relating to the disclosure of improper  
24 governmental action.

25 Finally, **section 1** requires the Attorney General to participate and cooperate in  
26 any investigation by the United States Department of Justice regarding whether the  
27 Office of the Attorney General has engaged in certain patterns or practices that  
28 deprive persons of certain rights, privileges or immunities.

29 **Section 4** of this bill makes a conforming change relating to the information  
30 that is made confidential and not a public record pursuant to **section 1**.

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

1 **Section 1.** Chapter 41 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. A state governmental authority, any agent thereof or any*  
4 *person acting on behalf of a state governmental authority shall not*  
5 *engage in a pattern or practice of conduct by peace officers,*  
6 *officials or employees of any state law enforcement agency or*  
7 *officials or employees of any governmental authority with*  
8 *responsibility for the administration of juvenile justice or the*  
9 *detention of juveniles that deprives persons of rights, privileges or*  
10 *immunities secured or protected by the Constitution or laws of the*  
11 *United States or this State.*

12 *2. The Attorney General may investigate any violation of*  
13 *subsection 1. If the Attorney General has reasonable cause to*  
14 *believe that a violation of subsection 1 has occurred, the Attorney*  
15 *General must, before filing a civil action, notify the governmental*  
16 *authority and provide the factual basis that supports his or her*  
17 *reasonable cause to believe that a violation of subsection 1 has*  
18 *occurred. The governmental authority may respond to the*  
19 *notification at any time within 30 days after the date on which the*  
20 *governmental authority receives the notification.*

21 *3. The Attorney General may, in accordance with the*  
22 *requirements of this section, file a civil action against the*  
23 *governmental authority, for or in the name of the State of Nevada:*



1 (a) To obtain any and all appropriate equitable and  
2 declaratory relief to eliminate the identified pattern or practice if  
3 the Attorney General and the governmental authority cannot  
4 reach an agreement regarding the course of action for the  
5 governmental authority to take to remedy, change or eliminate the  
6 identified pattern or practice within 60 days after the last day on  
7 which the governmental authority may respond to the notification;  
8 or

9 (b) To enforce the terms of any such agreement that is reached  
10 by the Attorney General and the governmental authority.

11 4. Any civil action filed by the Attorney General pursuant to  
12 subsection 3 must be filed in the district court of the county where  
13 the governmental authority maintains its headquarters.

14 5. For the purpose of carrying out an investigation pursuant  
15 to the provisions of this section, the Attorney General or his or her  
16 designee may issue a subpoena to compel the attendance or  
17 testimony of a witness or the production of any relevant evidence,  
18 including, without limitation, books, papers, documents, records,  
19 photographs, recordings, reports and tangible objects maintained  
20 by the governmental authority. If a witness refuses to attend,  
21 testify or produce materials as required by the subpoena, the  
22 Attorney General may report to the district court by petition,  
23 setting forth that:

24 (a) Due notice has been given of the time and place of  
25 attendance or testimony of the witness or the production of  
26 materials;

27 (b) The witness has been subpoenaed pursuant to this section;  
28 and

29 (c) The witness has failed or refused to attend, testify or  
30 produce materials as required by the subpoena, or has refused to  
31 answer questions propounded to him or her,

32 ↪ and asking for an order of the court compelling the witness to  
33 attend, testify or produce materials. Upon receipt of such a  
34 petition, the court shall enter an order directing the witness to  
35 appear before the court at a time and place to be fixed by the court  
36 in its order, the time to be not more than 10 days after the date of  
37 the order, and then and there show cause why the witness has not  
38 attended, testified or produced materials. A certified copy of the  
39 order must be served upon the witness. If it appears to the court  
40 that the subpoena was properly issued by the Attorney General or  
41 his or her designee, the court shall enter an order that the witness  
42 appear at a time and place fixed in the order and testify or produce  
43 materials, and that upon failure to obey the order, the witness  
44 must be dealt with as for contempt of court.



1       6. *Except as otherwise provided in NRS 239.0115, the content*  
2 *of any investigation, including, without limitation, the identity of a*  
3 *witness, any procedure, testimony taken, document or other*  
4 *tangible evidence produced, or any answer made under this*  
5 *section is confidential and not subject to disclosure as a public*  
6 *book or record unless and until the filing of a civil action pursuant*  
7 *to this section, except if:*

8       (a) *Confidentially is waived by the person upon whom the*  
9 *investigative demand is made;*

10       (b) *Disclosure is authorized by the district court; or*

11       (c) *Disclosure is made by a federal court or federal agency.*

12       7. *At the conclusion of an investigation by the Attorney*  
13 *General pursuant to this section, the Office of the Attorney*  
14 *General shall issue:*

15       (a) *A report that includes a determination that the*  
16 *governmental authority did not engage in a pattern or practice of*  
17 *conduct that deprives persons of rights, privileges or immunities*  
18 *secured or protected by the Constitution or laws of the United*  
19 *States or this State;*

20       (b) *A report that includes a determination that the allegations*  
21 *that the governmental authority engaged in a pattern or practice*  
22 *of conduct that deprives persons of rights, privileges or immunities*  
23 *secured or protected by the Constitution or laws of the United*  
24 *States or this State could not be substantiated; or*

25       (c) *A report that includes:*

26           (1) *A determination that the governmental authority*  
27 *engaged in a pattern or practice of conduct that deprives persons*  
28 *of rights, privileges or immunities secured or protected by the*  
29 *Constitution or laws of the United States or this State; and*

30           (2) *The course of action mutually agreed upon by the*  
31 *Attorney General and the governmental authority to remedy,*  
32 *change or eliminate the identified pattern or practice, or a copy of*  
33 *the civil action filed against the governmental authority pursuant*  
34 *to paragraph (a) of subsection 3.*

35       8. *Any state officer, state employee, local officer or local*  
36 *employee who discloses a pattern or practice of conduct prohibited*  
37 *by subsection 1 must be afforded all protections against reprisal or*  
38 *retaliation as provided by NRS 281.611 to 281.671, inclusive.*

39       9. *In addition to the requirements set forth in this section, the*  
40 *Attorney General shall participate and cooperate in any*  
41 *investigation by the United States Department of Justice regarding*  
42 *whether the Office of the Attorney General has engaged in a*  
43 *pattern or practice of conduct that deprives persons of rights,*  
44 *privileges or immunities secured or protected by the Constitution*  
45 *or laws of the United States or this State.*



1 **10. As used in this section:**

2 (a) **"Law enforcement agency" has the meaning ascribed to it**  
3 **in NRS 289.010.**

4 (b) **"Peace officer" means a person upon whom some or all of**  
5 **the powers of a peace officer are conferred pursuant to NRS**  
6 **289.150 to 289.360, inclusive.**

7 (c) **"Relevant evidence" has the meaning ascribed to it in**  
8 **NRS 48.015.**

9 **Sec. 2.** (Deleted by amendment.)

10 **Sec. 3.** (Deleted by amendment.)

11 **Sec. 4.** NRS 239.010 is hereby amended to read as follows:

12 239.010 1. Except as otherwise provided in this section and  
13 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,  
14 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,  
15 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,  
16 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,  
17 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,  
18 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,  
19 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,  
20 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,  
21 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,  
22 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,  
23 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,  
24 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,  
25 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,  
26 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,  
27 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,  
28 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,  
29 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,  
30 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,  
31 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,  
32 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,  
33 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,  
34 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,  
35 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,  
36 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,  
37 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,  
38 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,  
39 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,  
40 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,  
41 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,  
42 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,  
43 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,  
44 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,  
45 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,



1 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,  
2 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,  
3 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,  
4 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,  
5 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,  
6 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,  
7 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,  
8 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,  
9 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,  
10 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,  
11 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,  
12 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,  
13 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,  
14 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,  
15 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,  
16 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,  
17 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,  
18 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,  
19 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,  
20 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,  
21 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,  
22 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,  
23 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,  
24 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,  
25 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,  
26 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,  
27 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,  
28 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,  
29 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,  
30 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,  
31 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,  
32 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,  
33 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,  
34 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,  
35 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,  
36 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,  
37 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,  
38 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,  
39 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,  
40 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,  
41 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,  
42 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,  
43 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,  
44 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,  
45 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,



1 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,  
2 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*  
3 *section 1 of this act*, sections 35, 38 and 41 of chapter 478, Statutes  
4 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada  
5 2013 and unless otherwise declared by law to be confidential, all  
6 public books and public records of a governmental entity must be  
7 open at all times during office hours to inspection by any person,  
8 and may be fully copied or an abstract or memorandum may be  
9 prepared from those public books and public records. Any such  
10 copies, abstracts or memoranda may be used to supply the general  
11 public with copies, abstracts or memoranda of the records or may be  
12 used in any other way to the advantage of the governmental entity or  
13 of the general public. This section does not supersede or in any  
14 manner affect the federal laws governing copyrights or enlarge,  
15 diminish or affect in any other manner the rights of a person in any  
16 written book or record which is copyrighted pursuant to federal law.

17 2. A governmental entity may not reject a book or record  
18 which is copyrighted solely because it is copyrighted.

19 3. A governmental entity that has legal custody or control of a  
20 public book or record shall not deny a request made pursuant to  
21 subsection 1 to inspect or copy or receive a copy of a public book or  
22 record on the basis that the requested public book or record contains  
23 information that is confidential if the governmental entity can  
24 redact, delete, conceal or separate, including, without limitation,  
25 electronically, the confidential information from the information  
26 included in the public book or record that is not otherwise  
27 confidential.

28 4. If requested, a governmental entity shall provide a copy of a  
29 public record in an electronic format by means of an electronic  
30 medium. Nothing in this subsection requires a governmental entity  
31 to provide a copy of a public record in an electronic format or by  
32 means of an electronic medium if:

33 (a) The public record:

34 (1) Was not created or prepared in an electronic format; and

35 (2) Is not available in an electronic format; or

36 (b) Providing the public record in an electronic format or by  
37 means of an electronic medium would:

38 (1) Give access to proprietary software; or

39 (2) Require the production of information that is confidential  
40 and that cannot be redacted, deleted, concealed or separated from  
41 information that is not otherwise confidential.

42 5. An officer, employee or agent of a governmental entity who  
43 has legal custody or control of a public record:

44 (a) Shall not refuse to provide a copy of that public record in the  
45 medium that is requested because the officer, employee or agent has



1 already prepared or would prefer to provide the copy in a different  
2 medium.

3 (b) Except as otherwise provided in NRS 239.030, shall, upon  
4 request, prepare the copy of the public record and shall not require  
5 the person who has requested the copy to prepare the copy himself  
6 or herself.

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