

Amendment No. 315

Assembly Amendment to Assembly Bill No. 259	(BDR 23-546)
Proposed by: Committee on Judiciary	
Amendment Box:	
Resolves Conflicts with: N/A	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend sec. 2, page 2, line 12, by deleting “*may*” and inserting:

“may, except as otherwise prohibited by federal or state law,”.

Amend sec. 2, page 2, line 13, after “*administrative*” by inserting “*or investigative*”.

Amend sec. 2, page 2, line 20, by deleting “*not*” and inserting:

“not, except as otherwise required by federal or state law,”.

Amend sec. 3, page 2, by deleting lines 24 through 27 and inserting:

“Sec. 3. If an arbitrator or court determines that evidence was obtained during an investigation of a peace officer concerning conduct that could result in punitive action in a manner which violates any provision of this section, NRS 289.010 to 289.120, inclusive, and section 2 of this act, and that such evidence may be prejudicial to the peace officer, such evidence

is inadmissible and the arbitrator or court shall exclude such evidence during any administrative proceeding commenced or civil action filed against the peace officer.”.

Amend sec. 4, page 2, line 29, after “*officer*” by inserting:

“in the possession of a law enforcement agency”.

Amend sec. 5, page 3, by deleting line 10 and inserting:

“officer. The term”.

Amend sec. 6, page 3, lines 27 and 40, by deleting “*an*” and inserting “*any*”.

Amend sec. 6, page 3, line 42, by deleting “*misconduct;*” and inserting:

“misconduct if the allegation is sustained;”.

Amend sec. 6, page 4, line 2, after “*punitive*” by inserting “*or remedial*”.

Amend sec. 7, page 4, line 34, after “(b)” by inserting:

“Immediately before the interrogation or hearing begins, inform the officer orally on the record that:

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

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

(c)”.

Amend sec. 7, page 4, line 36, by deleting: “(c)” and inserting “~~{(c)}~~ (d)”.

Amend sec. 9, page 5, line 30, by deleting “2,” and inserting “~~{2,}~~ 3,”.

Amend sec. 9, page 5, line 37, after “2.” by inserting:

“A representative of a peace officer must assist the peace officer during the interrogation or hearing. The law enforcement agency conducting the interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

3.”

Amend sec. 9, page 5, line 39, by deleting “3.” and inserting “~~{3}~~ 4.”

Amend sec. 9, page 6, by deleting line 4 and inserting:

“~~{4}~~ 5. The peace officer, *any representative of the peace officer or the law enforcement agency may make*”.

Amend sec. 9, page 6, line 5, after “stenographic” by inserting “, *digital*”.

Amend sec. 9, page 6, by deleting line 9 and inserting:

“(b) Recording on the *digital or* magnetic tape.

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

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law provides that a peace officer may be investigated in response to an allegation that the officer engaged in activities which could result in punitive action and defines the types of discipline that constitute punitive action. (NRS 289.010, 289.020, 289.070)

This bill provides certain rights to a peace officer upon conclusion of an investigation, including certain rights concerning his administrative file. In addition, this bill prohibits the use of evidence obtained in violation of the statutory rights of a peace officer during an administrative proceeding commenced or civil action filed against the peace officer.

Existing law provides certain restrictions on information that a law enforcement agency may place in the file of a peace officer. (NRS 289.040)

This bill provides that the only information that may be placed into an administrative file of a peace officer who is under investigation is a copy of the disposition of the allegation of misconduct if the allegation is sustained and a copy of the notice or statement of adjudication of any punitive or remedial action taken against the peace officer. This bill further gives a peace officer the right to review his administrative file if the file does not relate to a current investigation. This bill also makes confidential the home address and photograph of a peace officer in the possession of a law enforcement agency, unless the officer consents to the release of the information or the officer is arrested.

Existing law requires a law enforcement agency, if practical, to notify a peace officer in writing within a reasonable time before interrogating or holding a hearing concerning an investigation of the peace officer. (NRS 289.060)

This bill requires such notice to be provided at least 48 hours before the interrogation or hearing and provides that the officer may waive such notice. This bill further requires the law enforcement agency to inform the peace officer immediately before the hearing or interrogation that failure to provide a statement or answer questions related to the alleged misconduct may result in a charge of insubordination.

Existing law authorizes a peace officer to have a lawyer or other representative present during an interrogation or hearing. (NRS 289.080)

This bill authorizes a peace officer to have two representatives of his choosing present during an interrogation or hearing and clarifies the role of the representatives. This bill also authorizes any representative of a peace officer to make a recording of the hearing or interrogation and allows digital recordings of a hearing or interrogation. This bill further allows a peace officer or any representative of a peace officer to copy the entire file related to an investigation if the officer appeals a recommendation to impose punitive action against the peace officer.