

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

AN ACT relating to the Attorney General; authorizing the Attorney General to file a civil action to eliminate certain patterns or practices that deprive persons of certain rights, privileges or immunities; requiring a law enforcement agency to provide notice to the Attorney General if a peace officer uses physical force that results in substantial bodily harm to or the death of another person; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 1** of this bill authorizes the Attorney General to file a civil action to
2 eliminate certain patterns or practices that deprive persons of certain rights,
3 privileges or immunities. For the purposes of enabling the Attorney General to
4 proceed with such a civil action, **section 1** also authorizes the Attorney General
5 to require certain persons to appear and testify and to produce certain
6 documentation and tangible items. **Section 2** of this bill makes a conforming
7 change to indicate the appropriate placement of **section 1** in the Nevada Revised
8 Statutes. **Section 4** of this bill makes a conforming change relating to
9 the information that is made confidential and not a public record pursuant to
10 **section 1**.

11 **Section 3** of this bill: (1) provides that if a peace officer uses physical force
12 that results in substantial bodily harm to or the death of another person, the law
13 enforcement agency that employs the peace officer must notify the Attorney
14 General within 72 hours after the incident; (2) authorizes the Attorney General to
15 assign personnel to observe any ensuing investigation of the incident; and (3)
16 requires the district attorney to determine whether he or she intends to prosecute



17 the incident or refer the case to the Attorney General and to notify the Attorney
18 General of that determination.

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

11 *2. If the Attorney General has reasonable cause to believe*
12 *that a violation of subsection 1 has occurred, the Attorney*
13 *General, for or in the name of the State of Nevada, may, in*
14 *accordance with the requirements of this section, file a civil action*
15 *seeking to obtain any and all appropriate equitable and*
16 *declaratory relief to eliminate the identified pattern or practice.*
17 *Before filing a civil action, the Attorney General must notify the*
18 *governmental authority or an agent thereof and provide the*
19 *factual basis that supports his or her reasonable cause to believe*
20 *that a violation of subsection 1 has occurred. If the governmental*
21 *authority or an agent thereof has not changed or eliminated the*
22 *pattern or practice within 60 days after receiving such notification,*
23 *the Attorney General may file a civil action seeking to obtain any*
24 *and all appropriate equitable and declaratory relief to eliminate*
25 *the pattern or practice.*

26 *3. For the purpose of carrying out the provisions of this*
27 *section, the Attorney General or his or her designee may issue a*
28 *subpoena to compel the attendance or testimony of a witness or*
29 *the production of any relevant materials, including, without*
30 *limitation, books, papers, documents, records, photographs,*
31 *recordings, reports and tangible objects. If a witness refuses to*
32 *attend, testify or produce materials as required by the subpoena,*
33 *the Attorney General may report to the district court by petition,*
34 *setting forth that:*

35 *(a) Due notice has been given of the time and place of*
36 *attendance or testimony of the witness or the production of*
37 *materials;*

38 *(b) The witness has been subpoenaed pursuant to this section;*
39 *and*



1 (c) *The witness has failed or refused to attend, testify or*
2 *produce materials as required by the subpoena, or has refused to*
3 *answer questions propounded to him or her,*

4 *↳ and asking for an order of the court compelling the witness to*
5 *attend, testify or produce materials. Upon receipt of such a*
6 *petition, the court shall enter an order directing the witness to*
7 *appear before the court at a time and place to be fixed by the court*
8 *in its order, the time to be not more than 10 days after the date of*
9 *the order, and then and there show cause why the witness has not*
10 *attended, testified or produced materials. A certified copy of the*
11 *order must be served upon the witness. If it appears to the court*
12 *that the subpoena was regularly issued by the Attorney General or*
13 *his or her designee, the court shall enter an order that the witness*
14 *appear at a time and place fixed in the order and testify or produce*
15 *materials, and that upon failure to obey the order, the witness*
16 *must be dealt with as for contempt of court.*

17 4. *All public officers and their deputies, assistants, clerks,*
18 *subordinates or employees shall render and furnish to the*
19 *Attorney General or his or her designee, when so requested,*
20 *assistance and all information in the possession or within the*
21 *power of the person relating to investigations carried out under*
22 *the provisions of this section. Any person who willfully fails to*
23 *comply with this subsection is guilty of a misdemeanor.*

24 5. *Except as otherwise provided in NRS 239.0115, any*
25 *procedure, testimony taken, document or other tangible evidence*
26 *produced, or answer made under this section is confidential and*
27 *not subject to disclosure as a public book or record unless and*
28 *until the filing of a civil action pursuant to this section, except if:*

29 (a) *Confidentiality is waived by the person upon whom the*
30 *investigative demand is made;*

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

32 (c) *Disclosure is made by a federal court, federal agency,*
33 *governmental agency in another state or other governmental*
34 *agency in this State.*

35 6. *As used in this section, "peace officer" means a person*
36 *upon whom some or all of the powers of a peace officer are*
37 *conferred pursuant to NRS 289.150 to 289.360, inclusive.*

38 **Sec. 2.** NRS 41.0305 is hereby amended to read as follows:

39 41.0305 As used in NRS 41.0305 to 41.039, inclusive, *and*
40 *section 1 of this act*, the term "political subdivision" includes an
41 organization that was officially designated as a community action
42 agency pursuant to 42 U.S.C. § 2790 before that section was
43 repealed and is included in the definition of an "eligible entity"
44 pursuant to 42 U.S.C. § 9902, the Nevada Rural Housing Authority,
45 an airport authority created by special act of the Legislature, a



1 regional transportation commission and a fire protection district, an
2 irrigation district, a school district, the governing body of a charter
3 school, any other special district that performs a governmental
4 function, even though it does not exercise general governmental
5 powers, and the governing body of a university school for
6 profoundly gifted pupils.

7 **Sec. 3.** Chapter 228 of NRS is hereby amended by adding
8 thereto a new section to read as follows:

9 *1. If a peace officer uses physical force that results in*
10 *substantial bodily harm to or the death of another person, the law*
11 *enforcement agency which employs the peace officer shall, within*
12 *72 hours after the use of such physical force, provide notice of the*
13 *incident to the Office of the Attorney General.*

14 *2. Upon receipt of notice of an incident pursuant to*
15 *subsection 1, the Attorney General may assign personnel to*
16 *observe any ensuing investigation. For purposes of maintaining*
17 *the confidentiality of the investigative process, the personnel*
18 *assigned to such an investigation are considered members of the*
19 *investigatory team and are entitled to full access to all*
20 *investigation materials and findings afforded to other members of*
21 *the investigatory team.*

22 *3. Upon completion of the investigation of an incident*
23 *described in subsection 1, the district attorney of the county in*
24 *which the incident occurred shall determine if he or she intends to*
25 *prosecute the incident or refer the incident to the Attorney General*
26 *and shall notify the Attorney General of his or her determination.*
27 *The district attorney shall not decline to prosecute an incident*
28 *before a determination by the Attorney General that the Attorney*
29 *General does not intend to prosecute the incident.*

30 *4. As used in this section:*

31 *(a) "Law enforcement agency" means any agency, office or*
32 *bureau of this State or a political subdivision of this State, the*
33 *primary duty of which is to enforce the law.*

34 *(b) "Peace officer" means a person upon whom some or all of*
35 *the powers of a peace officer are conferred pursuant to NRS*
36 *289.150 to 289.360, inclusive.*

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

38 239.010 1. Except as otherwise provided in this section and
39 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
40 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
41 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
42 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
43 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
44 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
45 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,



1 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
2 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
3 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
4 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
5 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
6 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
7 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
8 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
9 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
10 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
11 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
12 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
13 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
14 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,
15 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
16 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
17 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
18 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
19 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
20 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
21 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
22 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
23 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
24 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
25 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
26 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
27 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
28 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
29 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
30 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
31 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
32 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
33 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
34 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
35 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
36 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
37 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
38 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
39 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
40 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
41 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
42 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
43 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
44 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
45 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,



1 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
2 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
3 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
4 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
5 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
6 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
7 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
8 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
9 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
10 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
11 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
12 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
13 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
14 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
15 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
16 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
17 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
18 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
19 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
20 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
21 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
22 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
23 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
24 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
25 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
26 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
27 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
28 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and*
29 *section 1 of this act*, sections 35, 38 and 41 of chapter 478, Statutes
30 of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada
31 2013 and unless otherwise declared by law to be confidential, all
32 public books and public records of a governmental entity must be
33 open at all times during office hours to inspection by any person,
34 and may be fully copied or an abstract or memorandum may be
35 prepared from those public books and public records. Any such
36 copies, abstracts or memoranda may be used to supply the general
37 public with copies, abstracts or memoranda of the records or may be
38 used in any other way to the advantage of the governmental entity or
39 of the general public. This section does not supersede or in any
40 manner affect the federal laws governing copyrights or enlarge,
41 diminish or affect in any other manner the rights of a person in any
42 written book or record which is copyrighted pursuant to federal law.
43 2. A governmental entity may not reject a book or record
44 which is copyrighted solely because it is copyrighted.



1 3. A governmental entity that has legal custody or control of a
2 public book or record shall not deny a request made pursuant to
3 subsection 1 to inspect or copy or receive a copy of a public book or
4 record on the basis that the requested public book or record contains
5 information that is confidential if the governmental entity can
6 redact, delete, conceal or separate, including, without limitation,
7 electronically, the confidential information from the information
8 included in the public book or record that is not otherwise
9 confidential.

10 4. If requested, a governmental entity shall provide a copy of a
11 public record in an electronic format by means of an electronic
12 medium. Nothing in this subsection requires a governmental entity
13 to provide a copy of a public record in an electronic format or by
14 means of an electronic medium if:

15 (a) The public record:

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

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

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

20 (1) Give access to proprietary software; or

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

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

26 (a) Shall not refuse to provide a copy of that public record in the
27 medium that is requested because the officer, employee or agent has
28 already prepared or would prefer to provide the copy in a different
29 medium.

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

