

SENATE BILL 8

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

INTRODUCED BY

Joseph Cervantes

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS; REQUIRING LAW ENFORCEMENT AGENCIES TO ADOPT CERTAIN POLICIES AND PROCEDURES; REVOKING A POLICE OFFICER'S CERTIFICATION AFTER CONVICTION OR MAKING CERTAIN PLEAS; ADDING A CAUSE OF ACTION FOR SPOILIATION BY A LAW ENFORCEMENT OFFICER IN THE TORT CLAIMS ACT SJC→, ~~CLARIFYING APPLICABILITY OF CERTAIN PROVISIONS OF THE TORT CLAIMS ACT; DECLARING AN EMERGENCY~~←SJC.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

.218008.5AIC June 21, 2020 (2:12 pm)

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SECTION 1. [NEW MATERIAL] REQUIRING CERTAIN LAW

ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS WHILE ON DUTY--
ADOPTION OF POLICIES AND PROCEDURES GOVERNING USE.--

A. A law enforcement agency shall require peace officers the agency employs and who routinely interact with the public to wear a body-worn camera while on duty. Each law enforcement agency subject to the provisions of this section shall adopt policies and procedures governing the use of body-worn cameras, including:

(1) requiring activation of a body-worn camera whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a peace officer and a member of the public;

(2) prohibiting deactivation of a body-worn camera until the conclusion of a law enforcement or investigative encounter;

SJC→(3) ~~prohibiting the recording of general activity;~~←SJC

SJC→(4)←SJC SJC→(3)←SJC requiring that any video recorded by a body-worn camera shall be retained by the law enforcement agency for not less than one hundred twenty days; and

SJC→(5)←SJC SJC→(4)←SJC establishing disciplinary rules for peace officers who:

(a) fail to operate a body-worn camera in accordance with law enforcement agency policies;

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(b) intentionally manipulate a body-worn camera recording; or

(c) prematurely erase a body-worn camera recording in violation of law enforcement agency policies.

B. Peace officers who fail to comply with the policies and procedures required to be adopted pursuant to Subsection A of this section shall be ~~SJC~~→presumed to have acted in bad faith and shall be←SJC deemed liable for the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence.

C. As used in this section:

(1) "body-worn camera" means an electronic device worn on a person's body that records both audio and video data;

(2) "law enforcement agency" means the police department of a municipality, the sheriff's office of a county, the New Mexico state police or the department of public safety; and

(3) "peace officer" means any full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace.

SECTION 2. A new section of the Law Enforcement Training Act is enacted to read:

"[NEW MATERIAL] REVOKE POLICE OFFICER CERTIFICATION AFTER

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CONVICTION OR MAKING CERTAIN PLEAS.--Notwithstanding any other provision of law, if any police officer is convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or threatened use of physical force or a crime involving the failure to intervene in the use of unlawful force SF11→~~or is found to be civilly liable for the use of unlawful~~←SF11 SF11→~~physical force or for failure to intervene in the use of unlawful force~~←SF11, the board shall permanently revoke the police officer's certification. The board shall not, under any circumstance, reinstate the police officer's certification or grant new certification to the police officer unless the police officer is exonerated by a court Sf12→~~or~~ pardoned by the governor←Sf12."

SECTION 3. Section 41-4-12 NMSA 1978 (being Laws 1976, Chapter 58, Section 12, as amended) is amended to read:

"41-4-12. LIABILITY--LAW ENFORCEMENT OFFICERS SJC→~~RETROACTIVE APPLICATION~~←SJC.--SJC→~~A.~~←SJC The immunity granted pursuant to Subsection A of Section 41-4-4 NMSA 1978 does not apply to liability for personal injury, bodily injury, wrongful death or property damage resulting from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, defamation of character, violation of property rights, the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence, failure to comply with duties established pursuant

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to statute or law or any other deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties. For purposes of this section, "law enforcement officer" means a public officer or employee vested by law with the power to maintain order, to make arrests for crime or to detain persons suspected of or convicted of committing a crime, whether that duty extends to all crimes or is limited to specific crimes. SJC→"←SJC

SJC→~~B. The provisions of this section apply to all cases pending or on appeal on or after May 20, 2020.~~"

~~SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.~~←SJC