HOUSE FLOOR SUBSTITUTE FOR
SENATE BILL 8

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

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; REQUIRING A
LAW ENFORCEMENT AGENCY TO REPORT TO THE NEW MEXICO LAW
ENFORCEMENT ACADEMY BOARD A POLICE OFFICER WHO USES UNLAWFUL
USE OF FORCE.

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

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
.218110.2
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 investigative encounter between a peace officer and a member of the public, except when the peace officer is engaged in an undercover assignment or investigation, is working with a confidential informant, if the immediate activation of the body-worn camera is not feasible due to immediate risk to the safety of the peace officer or others or as the situation may require to maintain a member of the public's reasonable expectation of privacy as provided by policy;

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

(3) prohibiting the recording of general activity;

(4) 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

(5) establishing disciplinary rules for peace officers who:

(a) knowingly fail to operate a body-worn camera in accordance with law enforcement agency policies;
(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 intentionally fail to comply with the policies and procedures required to be adopted pursuant to Subsection A of this section shall make their agency liable for 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. [NEW MATERIAL] STATE TO PAY COSTS FOR DATA STORAGE.--Beginning July 1, 2021, the state shall reimburse the law enforcement agencies required to comply with the provisions of this act for the costs associated with storing body-worn .218110.2
camera data, including audio and video recordings.

SECTION 3. A new section of the Law Enforcement Training Act is enacted to read:

"[NEW MATERIAL] LAW ENFORCEMENT AGENCY REPORTING TO BOARD POLICE OFFICERS WHO USE UNLAWFUL FORCE.--If any law enforcement agency finds that an officer it employs uses unlawful force while on duty, the law enforcement agency shall report that police officer to the board for discipline, including revocation of the police officer's certification."

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

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