State of New Mexico
Senate

FIFTY-FIFTH LEGISLATURE **HB 68/a**
SECOND SESSION, 2022

February 16, 2022

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 68, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike all items of House Floor Amendment number 1.

2. On page 1, line 11, after the semicolon, strike the remainder of the line and strike lines 12 through 21 in their entirety and insert in lieu thereof "ENHANCING DEATH BENEFITS FOR PEACE OFFICERS, NEW MEXICO MOUNTED PATROL MEMBERS AND RESERVE POLICE OFFICERS; CHANGING DISTRIBUTIONS FROM THE LAW ENFORCEMENT PROTECTION FUND; EXPANDING THE DISTRIBUTION OF THE LAW ENFORCEMENT PROTECTION FUND TO THE NEW MEXICO LAW ENFORCEMENT ACADEMY; EXPANDING THE PURPOSES FOR WHICH A CRIME REDUCTION GRANT MAY BE MADE; CREATING ADDITIONAL JUDGESHIPS IN THE SECOND, FIFTH AND THIRTEENTH JUDICIAL DISTRICTS; CREATING THE LAW ENFORCEMENT RETENTION FUND; PROVIDING A RETENTION DIFFERENTIAL DISBURSEMENT TO CERTAIN LAW ENFORCEMENT OFFICERS; PROVIDING REPORTING REQUIREMENTS; REQUIRING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ESTABLISH A PROGRAM TO DISTRIBUTE FUNDS TO LOCAL LAW ENFORCEMENT AGENCIES; CREATING A LAW ENFORCEMENT OFFICER DATABASE; CREATING THE LAW ENFORCEMENT CERTIFICATION BOARD; CREATING THE NEW MEXICO LAW ENFORCEMENT STANDARDS AND TRAINING COUNCIL; INCREASING THE STATUTE OF LIMITATIONS FOR SECOND DEGREE MURDER; MAKING A THREAT OF A SHOOTING UNLAWFUL; CLARIFYING EXCEPTIONS FOR UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON; CLARIFYING THE PENALTY FOR RECEIPT, TRANSPORTATION OR POSSESSION OF A FIREARM OR DESTRUCTIVE DEVICE BY A SERIOUS VIOLENT FELON; ADDING PENALTIES FOR AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER; MAKING AVAILABLE GLOBAL POSITIONING SYSTEM DATA ON DEFENDANTS ON PRETRIAL RELEASE; CLARIFYING NONCAPITAL FELONY SENTENCING PROVISIONS; PROVIDING FOR A SENTENCING ENHANCEMENT WHEN A FIREARM IS USED DURING THE COMMISSION OF A DRUG TRANSACTION OR SERIOUS VIOLENT OFFENSE;

CLARIFYING THAT A FIREARM USED DURING THE COMMISSION OF A DRUG TRANSACTION OR SERIOUS VIOLENT OFFENSE MAY BE SEIZED; REQUIRING LAW ENFORCEMENT AGENCIES TO CONSULT INFORMATION IN THE LAW ENFORCEMENT OFFICER DATABASE WHEN MAKING EMPLOYMENT DECISIONS; ENACTING THE VIOLENCE INTERVENTION PROGRAM ACT; CREATING THE VIOLENCE INTERVENTION PROGRAM FUND; ESTABLISHING APPLICATION AND REPORTING REQUIREMENTS; CREATING THE CRIME OF THREATENING A JUDGE OR IMMEDIATE FAMILY MEMBER OF A JUDGE; CREATING THE CRIME OF MALICIOUS SHARING OF PERSONAL INFORMATION OF A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE; CREATING THE CRIME OF OPERATING A CHOP SHOP; CREATING THE CRIME OF CRIMINAL DAMAGE TO PROPERTY BY THEFT OR ATTEMPTED THEFT OF REGULATED MATERIAL; PROHIBITING A SECONDHAND METAL DEALER FROM PURCHASING OR RECEIVING REGULATED MATERIAL NOT LAWFULLY POSSESSED; PROHIBITING A DEFENSE BASED ON A DEFENDANT'S DISCOVERY OF, KNOWLEDGE ABOUT OR THE POTENTIAL DISCLOSURE OF A VICTIM'S OR WITNESS' GENDER, GENDER IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION; PROHIBITING A DEFENSE BASED ON A DEFENDANT BEING ROMANTICALLY PROPOSITIONED IN A NONVIOLENT OR NON-THREATENING MANNER BY A PERSON OF THE SAME GENDER OR A PERSON WHO IS TRANSGENDER; PROVIDING PENALTIES.".

3. On page 1, strike lines 24 and 25 in their entirety, strike pages 2 through 12 in their entirety and insert in lieu thereof the following new sections:

"**SECTION 1.** A new section of the Department of Finance and Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION OF FUNDS.--The department of finance and administration shall establish a program to distribute funds for local law enforcement agencies to provide recruitment and retention stipends to law enforcement officers. The program shall establish criteria for distribution of funds appropriated for that purpose, prioritizing recruitment and retention of personnel to increase investigative capacity. The program shall also establish appropriate guidelines on the use of those funds, including recruitment and retention stipends that may be distributed to:

A. a person who is not certified as a law enforcement officer pursuant to the Law Enforcement Training Act upon employment with a law enforcement agency; provided that the recipient successfully obtains such certification;

B. a person who is certified as a law enforcement officer pursuant to the Law Enforcement Training Act upon employment with a law enforcement agency; provided that the recipient remains employed with that agency for three months; and

C. a person who is certified as a law enforcement officer pursuant to the Law Enforcement Training Act currently employed by a law enforcement agency; provided that the law enforcement officer remains employed with that law enforcement officer's current agency for one additional year."

SECTION 2. Section 9-19-8 NMSA 1978 (being Laws 1987, Chapter 254, Section 8, as amended) is amended to read:

"9-19-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The governor's organized crime prevention commission, the New Mexico law enforcement standards and training council and the [~~New Mexico~~] law enforcement [~~academy~~] certification board are administratively attached to the department in accordance with the Executive Reorganization Act."

SECTION 3. Section 29-4A-5 NMSA 1978 (being Laws 1995, Chapter 59, Section 5, as amended) is amended to read:

"29-4A-5. PEACE OFFICERS', NEW MEXICO MOUNTED PATROL MEMBERS' AND RESERVE POLICE OFFICERS' SURVIVORS SUPPLEMENTAL DEATH BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee". The committee shall consist of the attorney general, the chief of the New Mexico state

police and the state president of the fraternal order of police or their designees.

B. The peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee shall determine whether a peace officer, New Mexico mounted patrol member or reserve police officer has been killed in the line of duty and advise the secretary of that determination. In addition to any other death benefits provided by law, the surviving spouse, children or parents shall be paid [~~two hundred fifty thousand dollars ($250,000)~~] one million dollars ($1,000,000) as supplemental death benefits whenever a peace officer, New Mexico mounted patrol member or reserve police officer is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid first to the surviving spouse. If there is no surviving spouse, the benefits shall be distributed in pro rata shares to all surviving children. If there are no surviving children or spouse, benefits shall be distributed to the surviving parents of the peace officer, New Mexico mounted patrol member or reserve police officer."

SECTION 4. Section 29-7-3 NMSA 1978 (being Laws 1979, Chapter 202, Section 42, as amended) is amended to read:

"29-7-3. NEW MEXICO LAW ENFORCEMENT [~~ACADEMY BOARD~~] STANDARDS AND TRAINING COUNCIL.--

A. There is created the "New Mexico law enforcement [~~academy board~~] standards and training council".

[~~B. The academy shall be controlled and supervised by policy set by the board. The board shall be composed of the attorney general, who shall serve automatically by reason of office and serve as chair of the board, and eight members who are qualified electors to be appointed by the governor and confirmed by the senate. An appointed board member shall serve and have all of the~~

~~duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointment.~~]

B. The council shall develop and adopt basic training and in-service training standards for police officers and telecommunicators in New Mexico.

C. The council shall consist of the director of the New Mexico law enforcement academy and the directors of all the satellite law enforcement academies, who shall serve automatically by reason of their position. The remaining seven members of the council shall be appointed by the governor and confirmed by the senate. An appointed council member shall serve and have all of the duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointment. The members appointed by the governor shall consist of one attorney who is currently employed in a district attorney's office; one attorney who is currently employed by the public defender department; one certified police chief of a New Mexico Indian nation, tribe or pueblo; two members who have experience and specialize in providing adult education; and two citizen-at-large members, one of whom shall have experience as a behavioral health provider and neither of whom shall be a police officer or retired police officer or have familial or financial connections to a police officer or any agency or department for which a police officer works. Vacancies shall be filled by the governor for the unexpired term.

[~~C.~~] D. Appointments to the [~~board~~] council shall be for terms of four years or less made in such manner that the terms of not more than two members expire on July 1 of each year. [~~At all times, the board shall have represented on it, as members, one municipal police chief, one sheriff, one state police officer, one attorney who is currently employed in a district attorney's office, one certified police chief of a New Mexico Indian tribe or pueblo, one certified New Mexico police officer holding the rank of sergeant~~

~~or below and two citizen-at-large members, neither of whom shall be a police officer or retired police officer or have familial or financial connections to a police officer or any agency or department for which a police officer works. Vacancies shall be filled by the governor for the unexpired term.~~

~~D.~~] E. Members of the [~~board~~] council shall receive, for their service as members of the [~~board~~] council, per diem and mileage as provided in the Per Diem and Mileage Act."

SECTION 5. Section 29-7-4 NMSA 1978 (being Laws 1969, Chapter 264, Section 6, as amended) is amended to read:

"29-7-4. POWERS AND DUTIES OF [~~BOARD~~] COUNCIL.--The [~~board~~] council shall:

[~~A. approve or disapprove the appointment of the director by the secretary;~~

~~B.~~] A. develop [~~and implement~~] a planned program, to be implemented by the director, of:

(1) basic law enforcement training and in-service law enforcement training, a portion of which may be conducted on a regional basis; and

(2) basic telecommunicator training and in-service telecommunicator training, as provided in the Public Safety Telecommunicator Training Act, a portion of which may be conducted on a regional basis;

[~~C.~~] B. prescribe qualifications for instructors and prescribe courses of instruction for:

(1) basic law enforcement training and in-service law enforcement training; and

(2) basic telecommunicator training and in-service telecommunicator training, as provided in the Public Safety Telecommunicator Training Act;

[~~D.~~] C. report annually to the governor;

[~~E.~~] D. in its discretion, accept donations, contributions, grants or gifts from whatever source for the benefit of the academy, which donations, contributions, grants or gifts are appropriated for the use of the academy; and

[~~F.~~] E. adopt, publish and file, in accordance with the provisions of the State Rules Act, all [~~regulations and~~] rules concerning [~~the operation of the academy and~~] the implementation and enforcement of [~~the provisions of the Law Enforcement Training Act and the Public Safety Telecommunicator Training Act.~~

~~G. issue, grant, deny, renew, suspend or revoke a:~~

~~(1) peace officer's certification for any cause set forth in the provisions of the Law Enforcement Training Act; and~~

~~(2) telecommunicator's certification for any just cause set forth in the Public Safety Telecommunicator Training Act;~~

~~H. administer oaths, subpoena persons and take testimony on any matter within the board's jurisdiction; and~~

~~I. perform all other acts appropriate to the development and operation of the academy~~] Sections 29-7-2 through 29-7-7.7, 29-7-12, 29-7-14, 29-7C-4, 29-7C-5 and 29-7C-7 NMSA 1978."

SECTION 6. A new section of the Law Enforcement Training Act, Section 29-7-4.4 NMSA 1978, is enacted to read:

"29-7-4.4. [NEW MATERIAL] LAW ENFORCEMENT OFFICER TRAINING.--The curriculum of each basic law enforcement training class and in-service training each year for certified police officers shall include:

A. crisis management and intervention;

B. dealing with individuals who are experiencing mental health issues;

C. methods of de-escalation;

D. peer-to-peer intervention;

E. stress management;

F. racial sensitivity;

G. reality-based situational training; and

H. use of force training that includes the elimination of vascular neck restraints."

SECTION 7. A new section of the Law Enforcement Training Act, Section 29-7-16 NMSA 1978, is enacted to read:

"29-7-16. [NEW MATERIAL] LAW ENFORCEMENT OFFICER DATABASE.--

A. By no later than June 30, 2023, the secretary of public safety shall create a database to coordinate the sharing of information among state, local and federal law enforcement agencies concerning instances of excessive use of force related to law enforcement matters. Ownership and responsibility to maintain the database shall transfer to the board on July 1, 2023.

B. The database provided for in Subsection A of this section shall include a mechanism to track terminations,

resignations and decertifications of law enforcement officers, criminal convictions of law enforcement officers for on-duty conduct and civil judgments against law enforcement officers for improper use of force; provided that the database shall distinguish between instances in which a judicial, administrative or other factual or legal determination was made and those in which no judicial, administrative or other factual or legal determination was made.

C. Each law enforcement agency shall notify the secretary of public safety regarding any notice of terminations, resignations, decertifications of law enforcement officers, criminal convictions of law enforcement officers for on-duty conduct and civil judgments against law enforcement officers for on-duty conduct. Each law enforcement agency shall also notify the secretary of public safety regarding each written agreement made between the agency and any of the agency's employees or former employees that includes terms of separation or otherwise relates to the law enforcement officer's employment with the agency. After July 1, 2023, notice shall be made to the board.

D. Upon a particularized showing of the need for the requested data, the board shall make available to a law enforcement agency data regarding specific law enforcement officers whose identity has been entered into the database described in Subsection A of this section.

E. The board shall annually provide a report to the governor and the legislature regarding the status of law enforcement officers and former law enforcement officers in the state, including aggregated and anonymized data from the database described in Subsection A of this section.

F. As used in this section "law enforcement officer" means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law

enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal or traffic or highway laws of this state. "Law enforcement officer" includes sheriffs and deputy sheriffs. As used in this subsection, "commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the law enforcement agency's jurisdiction."

SECTION 8. Section 29-7-5 NMSA 1978 (being Laws 1969, Chapter 264, Section 7, as amended) is amended to read:

"29-7-5. POWERS AND DUTIES OF THE DIRECTOR.--<u>The director shall be under the supervision and direction of the secretary of public safety.</u> The director shall:

A. be the chief executive officer of the academy and employ necessary personnel;

B. issue a certificate of completion to any person who:

(1) graduates from an approved basic law enforcement training program and who satisfies the qualifications for certification as set forth in Section 29-7-6 NMSA 1978; or

(2) graduates from an approved basic telecommunicator training program and who satisfies the qualifications for certification as set forth in the Public Safety Telecommunicator Training Act;

C. perform all other acts necessary and appropriate to the carrying out of [~~his~~] <u>the director's</u> duties;

[~~D. act as executive secretary to the board;~~

~~E. carry out the policy as set by the board~~]

D. implement the training standards and requirements developed and adopted by the council; and

[~~F.~~] E. annually evaluate the courses of instruction being offered by the academy and make necessary modifications and adjustments to the programs."

SECTION 9. Section 29-7-5.1 NMSA 1978 (being Laws 1979, Chapter 202, Section 45, as amended) is amended to read:

"29-7-5.1. REMOVAL OF DIRECTOR.--The director may be removed by the [~~board~~] secretary in accordance with the procedures provided in Section 29-2-11 NMSA 1978 for removal of members of the New Mexico state police holding permanent commissions. In the case of removal proceedings for the director under that section, "commission", as used in Subsections C and D of Section 29-2-11 NMSA 1978, shall be construed to mean the New Mexico law enforcement [~~academy board~~] standards and training council."

SECTION 10. Section 29-7-7 NMSA 1978 (being Laws 1981, Chapter 114, Section 6, as amended) is amended to read:

"29-7-7. DEFINITIONS.--For the purpose of the Law Enforcement Training Act:

A. "academy" means the New Mexico law enforcement academy;

B. "basic law enforcement training" means a course consisting of not less than four hundred hours of instruction in basic law enforcement training as required by the Law Enforcement Training Act;

C. "board" means the [~~New Mexico~~] law enforcement [~~academy~~] certification board;

D. "conviction" means an adjudication of guilt or a plea of no contest and includes convictions that are suspended or deferred;

E. "council" means the New Mexico law enforcement standards and training council;

[~~E.~~] F. "director" means the director of the division;

[~~F.~~] G. "division" means the New Mexico law enforcement academy of the department of public safety;

[~~G.~~] H. "in-service law enforcement training" means a course of instruction required of all certified peace officers and designed to train and equip all police officers in the state with specific law enforcement skills and to ensure the continuing development of all police officers in the state. The training and instruction shall be kept current and may be conducted on a regional basis at the discretion of the director;

I. "law enforcement agency" means an agency of the state or local political subdivision of the state that employs certified law enforcement officers or the police department of a tribe that has entered into an agreement with the department of public safety pursuant to Section 29-1-11 NMSA 1978;

[~~H.~~] J. "police officer" means any commissioned employee of a law enforcement agency that is part of or administered by the state or any political subdivision of the state, and includes any employee of a missile range civilian police department who is a graduate of a recognized certified regional law enforcement training facility and who is currently certifiable by the academy, which employee is responsible for the prevention and detection of crime or the enforcement of the penal, or traffic or highway laws of this state. The term specifically includes deputy sheriffs. Sheriffs are eligible to attend the academy and are eligible to receive certification as provided in the Law Enforcement Training Act. As

used in this subsection, "commissioned" means an employee of a law enforcement agency who is authorized by a sheriff or chief of police to apprehend, arrest and bring before the court all violators within the [~~state~~] law enforcement agency's jurisdiction; and

[~~I.~~] K. "certified regional law enforcement training facility" means a law enforcement training facility within the state certified by the director, with the approval of the academy's board of directors, that offers basic law enforcement training and in-service law enforcement training that is comparable to or exceeds the standards of the programs of the academy."

SECTION 11. Section 29-7-7.2 NMSA 1978 (being Laws 1981, Chapter 144, Section 8, as amended) is amended to read:

"29-7-7.2. REPORTS.--Every law enforcement agency within the state shall submit quarterly a report to the director and the board on the status of each police officer employed by the law enforcement agency. The reports shall include the status of in-service law enforcement training. The reporting forms and submittal dates shall be prescribed by the [~~director~~] board."

SECTION 12. Section 29-7-10 NMSA 1978 (being Laws 1971, Chapter 247, Section 4, as amended by Laws 1981, Chapter 107, Section 1 and also by Laws 1981, Chapter 114, Section 10) is amended to read:

"29-7-10. CERTIFICATION BY WAIVER.--

A. The [~~director shall~~] board may, with the approval of the [~~board~~] council, waive the basic law enforcement training program and certify applicants who are employed as full-time police officers and who furnish evidence of satisfactory completion of a basic law enforcement training program which is comparable to or exceeds the standards of the programs of the academy.

B. All individuals allowed a waiver under this section [~~must~~] shall meet the requirements set out in the Law Enforcement Training Act, and this section shall not be construed to exempt them from [~~such~~] those requirements in any manner."

SECTION 13. Section 29-7-12 NMSA 1978 (being Laws 1981, Chapter 114, Section 12, as amended) is amended to read:

"29-7-12. CHARGES--FUND CREATED--USE.--

A. The division shall not charge local public bodies or New Mexico Indian tribes or pueblos for any expenses associated with providing basic law enforcement training programs to applicants for certification seeking commission pursuant to the provisions of the Law Enforcement Training Act. The division may charge state agencies and institutions and federal agencies and shall charge civilian participants for the cost of providing basic law enforcement training programs, which charges shall be specified in a tuition and fee schedule promulgated by the [~~board~~] council and shall not exceed the actual cost of providing the training programs.

B. The division may charge state agencies and institutions, local public bodies, New Mexico Indian tribes and pueblos and federal agencies and shall charge civilian participants for the cost of providing advanced training programs, which charges shall be specified in a tuition and fee schedule promulgated by the [~~board~~] council and shall not exceed the actual cost of providing the training programs.

C. The division may charge for the rental or other use of the academy's facility, personnel and equipment, which charges shall be specified in a tuition and fee schedule promulgated by the [~~board~~] council and shall not exceed the actual cost of the facility, personnel or equipment.

D. The "law enforcement training and recruiting fund" is created in the state treasury. Money received by the division for

activities specified in this section shall be deposited in the fund. The department of public safety shall administer the fund, and money in the fund is appropriated to the division to offset the operational costs of the division. Money in the fund shall be nonreverting. Money shall be expended on warrants issued by the secretary of finance and administration upon vouchers signed by the secretary of public safety or the secretary of public safety's authorized representative.

E. As used in this section, "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions."

SECTION 14. A new section of the Law Enforcement Training Act, Section 29-7-4.3 NMSA 1978, is enacted to read:

"29-7-4.3. [NEW MATERIAL] LAW ENFORCEMENT CERTIFICATION BOARD--APPOINTMENT--POWERS AND DUTIES.--

A. The "law enforcement certification board" is established and administratively attached to the department of public safety as an independent board in accordance with the Executive Reorganization Act. The board consists of nine members appointed by the governor with the advice and consent of the senate. No more than five members of the board shall be members of the same political party. The members of the board shall be appointed for five-year terms. Two of the initial board members shall be appointed for one-year terms; two of the initial board members shall be appointed for two-year terms; two of the initial board members shall be appointed for three-year terms; two of the initial board members shall be appointed for four-year terms; and one of the initial board members shall be appointed for a five-year term.

B. The board shall include the following members:

(1) a retired judge, who shall serve as chair of the board;

(2) a municipal peace officer;

(3) a sheriff;

(4) a tribal law peace officer;

(5) an attorney in private practice who practices as a plaintiff's attorney in the area of civil rights or who represents criminal defendants;

(6) an attorney in private practice who represents public entities in civil rights claims; and

(7) an attorney who is employed by the public defender department.

C. The board shall:

(1) deny, suspend or revoke:

(a) a peace officer's certification for just cause as provided in the Law Enforcement Training Act; and

(b) a telecommunicator's certification for just cause as provided in the Public Safety Telecommunicator Training Act; and

(2) conduct investigations, administer oaths and subpoena persons as necessary to make determination regarding fitness of a law enforcement officer to execute a law enforcement officer's duties.

D. The board may require by subpoena the attendance of witnesses or the production of records and other evidence relevant to an investigation and shall have such other powers and duties and administer or enforce such other acts as further provided by law.

E. The board shall appoint a chief executive officer to assist the board in carrying out its functions. The chief executive officer shall employ persons as necessary to assist the board in carrying out its functions.

F. In carrying out its duties, including those described in Subsections C and H of this section, the board shall take into consideration any pertinent information that may be contained in the law enforcement officer database established in Section 29-7-16 NMSA 1978.

G. The board shall adopt, publish and file, in accordance with the provisions of the State Rules Act, all rules concerning the implementation and enforcement of the Law Enforcement Training Act and Public Safety Telecommunicator Training Act except those sections enumerated in Subsection E of Section 29-7-4 NMSA 1978 for which rules shall be adopted, published and filed by the council.

H. The board shall issue or renew a certification to:

(1) graduates from an approved basic law enforcement training program who satisfy the qualifications for certification as set forth in Section 29-7-6 NMSA 1978, considering how information contained in the law enforcement officer database established in Section 29-7-16 NMSA 1978 reflects upon the graduate's moral character pursuant to Paragraph (7) of Subsection A of Section 29-7-6 NMSA 1978; or

(2) graduates from an approved basic telecommunicator training program who satisfy the qualifications for certification as set forth in the Public Safety Telecommunicator Training Act.

I. Members of the board shall receive, for their service as members of the board, per diem and mileage as provided in the Per Diem and Mileage Act."

SECTION 15. Section 29-7C-2 NMSA 1978 (being Laws 2003, Chapter 320, Section 4) is amended to read:

"29-7C-2. DEFINITIONS.--As used in the Public Safety Telecommunicator Training Act:

A. "board" means the [~~New Mexico~~] law enforcement [~~academy~~] certification board;

B. "certified" means meeting the training standards established by statute and rule as determined by the board;

C. "council" means the New Mexico law enforcement standards and training council;

[~~C.~~] D. "director" means the director of the New Mexico law enforcement academy;

[~~D.~~] E. "dispatch" means the relay of information to public safety personnel by all forms of communication;

[~~E.~~] F. "safety agency" means a unit of state or local government, a special purpose district or a private business that provides police, firefighting or emergency medical services; and

[~~F.~~] G. "telecommunicator" means an employee or volunteer of a safety agency who:

(1) receives calls or dispatches the appropriate personnel or equipment in response to calls for police, fire or medical services; and

(2) makes decisions affecting the life, health or welfare of the public or safety employees."

SECTION 16. Section 29-7C-4 NMSA 1978 (being Laws 2003, Chapter 320, Section 6) is amended to read:

"29-7C-4. BASIC TELECOMMUNICATOR TRAINING PROGRAM.--The [~~board~~] council shall develop and adopt a basic telecommunicator training program for telecommunicator certification. The program shall be constructed to meet the minimum basic needs of telecommunicators in New Mexico."

SECTION 17. Section 29-7C-5 NMSA 1978 (being Laws 2003, Chapter 320, Section 7) is amended to read:

"29-7C-5. MINIMUM TRAINING STANDARDS FOR CERTIFICATION.--

A. A telecommunicator shall satisfy the qualifications for certification set forth in the Public Safety Telecommunicator Training Act within twelve months after beginning employment and shall provide a certificate of completion to the director.

B. The director shall waive the training requirements set forth in Subsection A of this section for a police radio dispatcher who is certified as a police radio dispatcher and has met all other requirements set forth by the [~~board~~] council."

SECTION 18. Section 29-7C-6 NMSA 1978 (being Laws 2003, Chapter 320, Section 8) is amended to read:

"29-7C-6. CERTIFICATION BY WAIVER.--

A. The [~~director shall~~] board may, with the approval of the council, waive the basic telecommunicator training program and certify applicants who furnish evidence of satisfactory completion of a basic telecommunicator training program that, in the director's opinion, is substantially equivalent to the board's basic telecommunicator training program.

B. A telecommunicator granted a waiver under this section shall meet all other requirements set out in the Public Safety Telecommunicator Training Act."

SECTION 19. Section 29-7C-8 NMSA 1978 (being Laws 2003, Chapter 320, Section 10) is amended to read:

"29-7C-8. REPORTS AND ROSTERS.--

A. A safety agency that operates within the state shall submit a quarterly report to the director and the board on the status of each telecommunicator. The reporting forms and submittal dates shall be prescribed by the director.

B. The director and the board shall maintain a roster of all certified telecommunicators."

SECTION 20. A new section of the Public Safety Telecommunicator Training Act is enacted to read:

"[NEW MATERIAL] PUBLIC SAFETY TELECOMMUNICATOR TRAINING.--The curriculum of each basic telecommunicator training class and in-service training each year for telecommunicators shall include:

A. crisis management and intervention;

B. dealing with individuals who are experiencing mental health issues;

C. methods of de-escalation;

D. peer-to-peer intervention;

E. stress management;

F. racial sensitivity; and

G. reality-based situational training."

SECTION 21. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in the state treasury the "law enforcement protection fund". Ten percent of all money received for fees, licenses and penalties from life, general casualty and title insurance business pursuant to the New Mexico Insurance Code shall be paid monthly to the state treasurer and credited to the fund. On or before June 30 of each year, the state treasurer shall transfer to the [~~general fund~~] law enforcement retention fund any balance in the law enforcement protection fund in excess of one hundred thousand dollars ($100,000) that is not obligated for expenses in that current fiscal year."

SECTION 22. That version of Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6, as amended) that is to become effective July 1, 2022 is amended to read:

"29-13-4. DETERMINATION OF NEEDS AND RATE OF DISTRIBUTION.--

A. Annually on or before April 15, the division shall consider and determine the relative needs as requested by tribal, municipal, school district and university police departments, county sheriff's departments, the department of public safety and the academy for money in the fund in the succeeding fiscal year pursuant to the provisions of Subsections C and E of this section.

B. As necessary during the year, the division shall transfer an amount from the fund to the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund that enables the balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund to be maintained at a minimum balance of three hundred fifty thousand dollars ($350,000) through fiscal year 2023 and one million dollars ($1,000,000) thereafter.

C. The division shall determine the rate of distribution of money in the fund as follows:

(1) all municipal police, school district police and county sheriff's departments shall be entitled to a rate of distribution of forty-five thousand dollars ($45,000) through fiscal year 2023 and ninety-five thousand dollars ($95,000) thereafter;

(2) university police departments shall be entitled to a rate of distribution of forty-five thousand dollars ($45,000) through fiscal year 2023 and ninety-five thousand dollars ($95,000) thereafter;

(3) the academy shall be entitled to a rate of distribution of twenty-four thousand five hundred dollars ($24,500) to carry out the purposes of Section 29-7-7.7 NMSA 1978 and to a rate of distribution of two hundred thousand dollars ($200,000) to carry out the purposes of the Law Enforcement Training Act;

(4) tribal police departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each commissioned peace officer in the tribe. To be counted as a commissioned peace officer for the purposes of this paragraph, a commissioned peace officer shall have been assigned to duty and have worked in New Mexico for no fewer than two hundred days in the calendar year immediately prior to the date of payment. Payments shall be made for only those divisions of the tribal police departments that perform services in New Mexico. A tribal police department shall not be eligible for any disbursement under the fund if commissioned peace officers cite non-Indians into the tribal court for civil or criminal citations;

(5) municipal, school district and university police and county sheriff's departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each police officer or sheriff's deputy employed full time by

that department who has been certified by the [~~academy, or by a regional law enforcement training facility in the state certified by the director of the academy~~] law enforcement certification board as a police officer or has been authorized to act as a New Mexico peace officer pursuant to the provisions of Section 29-1-11 NMSA 1978; and

(6) municipal police, sheriff's and school district police departments that assign officers as school resource officers shall be entitled to one thousand dollars ($1,000) through fiscal year 2023 and one thousand five hundred dollars ($1,500) thereafter for each assigned school resource officer's training pursuant to Section [~~1 of this 2020 act~~] 29-7-14 NMSA 1978.

D. After distributions are determined in accordance with Subsection A, Subsection B and Paragraphs (1), (2), (3) and (6) of Subsection C of this section, if the balance in the fund is insufficient to permit the total allocations provided by Paragraphs (4) and (5) of Subsection C of this section, the division shall reduce that allocation to the maximum amount permitted by available money.

E. After all distributions have been made in accordance with Subsections A through D of this section, and if the balance in the fund is sufficient, the department of public safety shall be entitled to a rate of distribution of not more than two million dollars ($2,000,000).

F. The division shall confirm, before making any distribution under this section, that the beneficiary is in compliance with all of the beneficiary's statutory reporting requirements, including those described in Subsection C of Section 29-3-11 NMSA 1978, Subsection B of Section 29-7-7.1 NMSA 1978 and Sections 29-7-7.2, 29-7-16, 29-7C-7 and 29-7C-8 NMSA 1978, and, beginning on July 1, 2023, that the beneficiary is in compliance with any active investigations by the law enforcement certification board and Section 34 of this 2022 act."

SECTION 23. That version of Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended by Laws 2020, Chapter 54, Section 1 and by Laws 2020, Chapter 67, Section 6) that is to become effective July 1, 2022 is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--

A. Except as provided for the academy and the department of public safety in Subsections B and C of this section, amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) the purchase of law enforcement equipment, including protective vests, for police dogs;

(3) expenses associated with advanced law enforcement planning and training;

(4) maintaining the balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund at a minimum amount of three hundred fifty thousand dollars ($350,000) <u>through fiscal year 2023 and one million dollars ($1,000,000) thereafter</u>;

(5) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs;

(6) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties participating in basic law enforcement training;

(7) a law enforcement officer retention [~~payment~~] differential in the amount of seven thousand five hundred dollars ($7,500); provided that:

(a) the distribution is requested by a municipality or county law enforcement agency [~~that on January 1, 2018 had a staffing vacancy rate of at least ten percent~~] to retain a law enforcement officer who is certified in accordance with the Law Enforcement Training Act and has at least twenty years of actual service credit earned under a municipal police member coverage plan as determined by the public employees retirement association;

(b) the municipality or county law enforcement agency provides seven thousand five hundred dollars ($7,500) in matching funds to the law enforcement officer; [~~and~~]

(c) the law enforcement officer remains employed with that municipality or county law enforcement agency for one additional year; and

[~~(c)~~] (d) the distribution and the matching funds paid to a law enforcement officer shall not constitute the officer's base salary or wages and shall not be considered to be salary or otherwise be used to determine a pension for the purposes of the Public Employees Retirement Act; and

(8) recruiting, providing [~~bonuses~~] stipends for and training law enforcement officers engaged in community-oriented policing; provided that any law enforcement officer who receives a stipend in accordance with this paragraph remains employed with the law enforcement agency providing the stipend for one additional year.

B. For the academy, amounts distributed from the fund shall be expended only for providing tourniquet and trauma kits and training on the use of tourniquet and trauma kits pursuant to Section 29-7-7.7 NMSA 1978 and to carry out the purposes of the Law

Enforcement Training Act.

C. The amount distributed to the department of public safety:

(1) shall:

(a) be used only to offset overtime-pay-related expenses incurred directly by the department of public safety from the special deployment of state police officers or other emergency assistance to counties or municipalities in response to critical circumstances as authorized by the governor; and

(b) not be expended to hire new personnel; and

(2) may be expended for costs, including travel, fuel, overtime, per diem and ammunition.

D. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

SECTION 24. Section 30-1-8 NMSA 1978 (being Laws 1963, Chapter 303, Section 1-8, as amended) is amended to read:

"30-1-8. TIME LIMITATIONS FOR COMMENCING PROSECUTION.--A person shall not be prosecuted, tried or punished in any court of this state unless the indictment is found or information or complaint is filed within the time as provided:

A. for a second degree felony, within six years from the time the crime was committed;

B. for a third or fourth degree felony, within five years from the time the crime was committed;

C. for a misdemeanor, within two years from the time the crime was committed;

D. for a petty misdemeanor, within one year from the time the crime was committed;

E. for any crime against or violation of Section 51-1-38 NMSA 1978, within three years from the time the crime was committed;

F. for a felony pursuant to Section 7-1-71.3, 7-1-72 or 7-1-73 NMSA 1978, within five years from the time the crime was committed; provided that for a series of crimes involving multiple filing periods within one calendar year, the limitation shall begin to run on December 31 of the year in which the crimes occurred;

G. for an identity theft crime pursuant to Section 30-16-24.1 NMSA 1978, within five years from the time the crime was discovered;

H. for any crime not contained in the Criminal Code or where a limitation is not otherwise provided for, within three years from the time the crime was committed; and

I. for a capital felony [~~or~~], a first degree violent felony <u>or second degree murder pursuant to Subsection B of Section 30-2-1 NMSA 1978</u>, no limitation period shall exist and prosecution for these crimes may commence at any time after the occurrence of the crime."

SECTION 25. Section 30-20-16 NMSA 1978 (being Laws 1975, Chapter 285, Section 1, as amended) is amended to read:

"30-20-16. BOMB SCARES <u>AND SHOOTING THREATS</u> UNLAWFUL.--

A. Making a bomb scare consists of falsely and maliciously stating to another person that a bomb or other explosive has been placed in such a position that property or persons are likely to be

injured or destroyed.

B. Making a shooting threat consists of intentionally communicating to another person that the person making the threat intends to bring a firearm to a property or use the firearm with the intent to:

(1) place a person or group of persons in fear of great bodily harm;

(2) prevent or interrupt the occupation or use of a public building; or

(3) cause a response to the threat by a law enforcement official or volunteer agency organized to deal with emergencies.

[~~B.~~] C. Whoever commits making a bomb scare is guilty of a fourth degree felony.

D. Whoever commits making a shooting threat is guilty of a misdemeanor.

[~~C.~~] E. A court may order a person convicted for the offense of making a bomb scare or shooting threat to reimburse the victim of the offense for economic harm caused by that offense.

[~~D.~~] F. As used in this section, "economic harm" means all direct, incidental and consequential financial harm suffered by a victim of the offense of making a bomb scare or shooting threat. "Economic harm" includes:

(1) wages, salaries or other compensation lost as a result of the commission of the offense of making a bomb scare or shooting threat;

(2) the cost of all wages, salaries or other

compensation paid to employees for time that those employees are prevented from working as a result of the commission of the offense of making a bomb scare or shooting threat; and

(3) overhead costs incurred for the period of time that a business is shut down as a result of the commission of the offense of making a bomb scare or shooting threat.

[~~E. This section shall not be construed to limit a court's authority to order restitution to a victim of the offense of making a bomb scare pursuant to other provisions of law.~~]"

SECTION 26. Section 30-7-2.2 NMSA 1978 (being Laws 1994, Chapter 22, Section 2) is amended to read:

"30-7-2.2. UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON--EXCEPTIONS--PENALTY.--

A. Unlawful possession of a handgun by a person consists of a person knowingly having a handgun in [~~his~~] the person's possession or knowingly transporting a handgun, except when the person is:

(1) in attendance at a hunter's safety course or [~~a~~] handgun safety course or participating in a lawful shooting activity;

(2) engaging in the use of a handgun for target shooting at an established range authorized by the governing body of the jurisdiction in which the range is located or in an area where the discharge of a handgun without legal justification is not prohibited by law;

(3) engaging in an organized competition involving the use of a handgun;

(4) participating in or practicing for a performance

by an organization that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of [~~1954~~] 1986, as amended or renumbered;

(5) engaging in legal hunting or trapping activities;

(6) traveling, with an unloaded handgun in [~~his~~] the person's possession, to or from an activity described in Paragraph (1), (2), (3), (4) or (5) of this subsection; or

(7) on real property under the control of the person's parent, grandparent or legal guardian and the person is being supervised by [~~his~~] a parent, grandparent or legal guardian.

B. A person who commits unlawful possession of a handgun by a person is guilty of a misdemeanor.

C. As used in this section:

(1) "person" means an individual who is less than nineteen years old; and

(2) "handgun" means a loaded or unloaded pistol, revolver or firearm [~~which~~] that will or is designed to or may readily be converted to expel a projectile by the action of an explosion and the barrel length of which, not including a revolving, detachable or magazine breech, does not exceed twelve inches."

SECTION 27. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to receive, transport or possess a firearm or destructive device in this state:

(1) a felon;

(2) a person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or

(3) a person convicted of any of the following crimes:

(a) battery against a household member pursuant to Section 30-3-15 NMSA 1978;

(b) criminal damage to property of a household member pursuant to Section 30-3-18 NMSA 1978;

(c) a first offense of stalking pursuant to Section 30-3A-3 NMSA 1978; or

(d) a crime listed in 18 U.S.C. 921.

B. A felon found in possession of a firearm shall be guilty of a third degree felony [~~and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act~~].

C. A serious violent felon that is found to be in possession of a firearm shall be guilty of a third degree felony, and notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a basic term of six years imprisonment.

[~~C.~~] D. Any person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted of a crime listed in Paragraph (3) of Subsection A of this section who receives, transports or possesses a firearm or destructive device is guilty of a misdemeanor.

[~~D.~~] E. As used in this section:

(1) except as provided in Paragraph (2) of this

subsection, "destructive device" means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; or

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled;

(2) the term "destructive device" does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(3) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred

sentence; [~~and~~]

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon; and

(5) "serious violent felon" means a person convicted of an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978; provided that:

(a) less than ten years have passed since the person completed serving a sentence or a period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence and completed the total term of deferment as provided in Section 31-20-9 NMSA 1978."

SECTION 28. Section 30-22-1.1 NMSA 1978 (being Laws 2003, Chapter 260, Section 5) is amended to read:

"30-22-1.1. AGGRAVATED FLEEING A LAW ENFORCEMENT OFFICER.--

A. Aggravated fleeing a law enforcement officer consists of a person willfully and carelessly driving [~~his~~] a vehicle in a manner that endangers the life of another person after being given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed law enforcement officer in an [~~appropriately marked law enforcement vehicle~~] authorized emergency vehicle pursuant to Section 66-7-6 NMSA 1978 in pursuit in accordance with the provisions of the Law Enforcement Safe Pursuit Act.

B. Whoever commits aggravated fleeing a law enforcement officer that does not result in injury or great bodily harm to another person is guilty of a fourth degree felony.

C. Whoever commits aggravated fleeing a law enforcement officer that results in injury to another person is guilty of a third degree felony."

SECTION 29. A new section of Chapter 31, Article 3 NMSA 1978 is enacted to read:

"[NEW MATERIAL] AVAILABILITY OF GLOBAL POSITIONING SYSTEM DATA ON DEFENDANTS ON PRETRIAL RELEASE.--Any public entity that possesses or controls global positioning system data with respect to a defendant on pretrial release shall make that data available without a warrant to a law enforcement officer pursuant to an ongoing and pending criminal investigation for which there is reasonable suspicion to believe the data will be probative. Any data provided to the law enforcement officer shall be limited to data that relates to the criminal investigation and is not more than one year old. The data shall not be made a part of any public record unless admitted as evidence during a criminal trial. The law enforcement officer may request immediate access to the data if it involves an investigation of:

A. any of the following serious violent felony offenses:

(1) murder in the first degree;

(2) first or second degree felony human trafficking of a child;

(3) first degree felony abuse of a child;

(4) sexual exploitation of a child constituting at

least a second degree felony; or

(5) a serious violent felony offense as provided in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978;

B. a felony offense during which a firearm was brandished pursuant to Section 31-18-16 NMSA 1978 or during which a firearm was discharged; or

C. a felony offense during which great bodily harm was inflicted as defined in Section 30-1-12 NMSA 1978 or that caused the death of a person."

SECTION 30. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.--

A. [~~If a person is convicted of~~] <u>As used in a statute that establishes</u> a noncapital felony, the <u>following defined felony classifications and associated</u> basic [~~sentence~~] <u>sentences</u> of imprisonment [~~is~~] <u>are</u> as follows:

[~~(1) for a first degree felony resulting in the death of a child, life imprisonment;~~

~~(2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;~~

~~(3) for a first degree felony, eighteen years imprisonment;~~

~~(4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;~~

~~(5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;~~

~~(6) for a second degree felony for sexual exploitation of children, twelve years imprisonment;~~

~~(7) for a second degree felony, nine years imprisonment;~~

~~(8) for a third degree felony resulting in the death of a human being, six years imprisonment;~~

~~(9) for a third degree felony for a sexual offense against a child, six years imprisonment;~~

~~(10) for a third degree felony for sexual exploitation of children, eleven years imprisonment;~~

~~(11) for a third degree felony, three years imprisonment;~~

~~(12) for a fourth degree felony for sexual exploitation of children, ten years imprisonment; or~~

~~(13) for a fourth degree felony, eighteen months imprisonment.~~]

FELONY CLASSIFICATION	BASIC SENTENCE
first degree felony resulting in the death of a child	life imprisonment
first degree felony for aggravated criminal sexual penetration	life imprisonment
first degree felony	eighteen years imprisonment

second degree felony resulting in the death of a human being	fifteen years imprisonment
second degree felony for a sexual offense against a child	fifteen years imprisonment
second degree felony for sexual exploitation of children	twelve years imprisonment
second degree felony	nine years imprisonment
third degree felony resulting in the death of a human being	six years imprisonment
third degree felony for a sexual offense against a child	six years imprisonment
third degree felony for sexual exploitation of children	eleven years imprisonment
third degree felony	three years imprisonment
fourth degree felony for sexual exploitation of children	ten years imprisonment
fourth degree felony	eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for felony convictions wherein a person is sentenced to imprisonment of more

than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars ($17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars ($17,500);

(3) for a first degree felony, fifteen thousand dollars ($15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars ($12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars ($12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars ($5,000);

(7) for a second degree felony, ten thousand dollars ($10,000);

(8) for a third degree felony resulting in the death of a human being, five thousand dollars ($5,000);

(9) for a third degree felony for a sexual offense against a child, five thousand dollars ($5,000);

(10) for a third degree felony for sexual exploitation of children, five thousand dollars ($5,000);

(11) for a third or fourth degree felony, five thousand dollars ($5,000); or

(12) for a fourth degree felony for sexual exploitation of children, five thousand dollars ($5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to

those provisions or if the court provides the offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

SECTION 31. Section 31-18-16 NMSA 1978 (being Laws 1977, Chapter 216, Section 5, as amended) is amended to read:

"31-18-16. USE, BRANDISHING OR DISCHARGE OF FIREARM--ALTERATION OF BASIC SENTENCE--SUSPENSION AND DEFERRAL LIMITED.--

A. When a separate finding of fact by the court or jury shows that a firearm was used in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by one year, except that when the offender is a serious youthful offender or a youthful offender who received an adult sentence, the sentence imposed by this subsection may be increased by one year.

[~~A.~~] B. When a separate finding of fact by the court or jury shows that a firearm was brandished in the commission of a noncapital felony, the basic sentence of imprisonment prescribed for

the offense in Section 31-18-15 NMSA 1978 shall be increased by three years, except that when the offender is a serious youthful offender or a youthful offender that received an adult sentence, the sentence imposed by this subsection may be increased by one year.

C. When a separate finding of fact by the court or jury shows that a firearm was discharged in the commission of a noncapital felony, the basic sentence of imprisonment prescribed for the offense in Section 31-18-15 NMSA 1978 shall be increased by five years, except that when the offender is a serious youthful offender or a youthful offender who received an adult sentence, the sentence imposed by this subsection may be increased by three years.

[~~B.~~] D. For a [~~second or subsequent noncapital felony in which a firearm is brandished~~] separate offense resulting in a second or subsequent finding of fact by the court or jury of use, brandishing or discharge of a firearm in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the [~~basic~~] sentence [~~of imprisonment prescribed in Section 31-18-15 NMSA 1978~~] shall be increased by [~~five~~] three years, except that when the offender is a serious youthful offender or a youthful offender, the sentence imposed by this subsection may be increased by three years.

[~~C.~~] E. If the case is tried before a jury and if a prima facie case has been established showing that a firearm was used, brandished [~~in the commission of the offense~~] or discharged in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the court shall submit the issue to the jury by special interrogatory. If the case is tried by the court [~~and if a prima facie case has been established showing that a firearm was brandished in the commission of the offense~~], the court shall decide the issue and shall make a separate finding of fact thereon.

F. When a separate finding of fact by the court or jury shows that a firearm was used, brandished or discharged in relation to a drug transaction or during the commission of aggravated burglary pursuant to Section 30-16-4 NMSA 1978 or a serious violent offense, the firearm is subject to seizure and forfeiture as an instrumentality pursuant to the provisions of the Forfeiture Act.

[~~D.~~] G. As used in this section:

(1) "brandished" means displaying or making a firearm known to another person while the firearm is present on the person of the offending party with intent to intimidate or injure a person;

(2) "in relation to a drug transaction" means participating or attempting to participate in the trafficking of a controlled substance pursuant to Section 30-31-20 NMSA 1978, distribution of a controlled substance to a minor pursuant to Section 30-31-21 NMSA 1978 or distribution of a controlled or counterfeit substance pursuant to Section 30-31-22 NMSA 1978 as a seller, purported seller or as an accomplice; and

(3) "serious violent offense" means an offense enumerated in Subparagraphs (a) through (n) of Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978."

SECTION 32. Section 31-28-1 NMSA 1978 (being Laws 2019, Chapter 192, Section 5) is amended to read:

"31-28-1. SHORT TITLE.--[~~Sections 5 through 10 of this act~~] Chapter 31, Article 28 NMSA 1978 may be cited as the "Crime Reduction Grant Act"."

SECTION 33. Section 31-28-4 NMSA 1978 (being Laws 2019, Chapter 192, Section 8) is amended to read:

"31-28-4. APPLICATIONS FOR GRANTS--PURPOSES--CONDITIONS.--

A. A member of a criminal justice coordinating council with the consent of the council may apply to a grant administration agency for a grant to accomplish any of the enumerated purposes provided in Subsection B of this section.

B. Crime reduction grants may be made to:

(1) develop, expand and improve evidence-based treatment and supervision alternatives to incarceration;

(2) reduce barriers to participation by criminal offenders in preprosecution diversion or specialty court programs;

(3) develop or improve pretrial service programs; [~~and~~]

(4) develop or improve coordination of services between law enforcement agencies and treatment programs;

(5) establish law enforcement crisis intervention teams;

(6) coordinate access to programs for transitional or reentry homes for individuals recently released from incarceration;

(7) recruit or retain law enforcement officers, prosecutors, public defenders, corrections officers and mental health workers;

(8) develop or expand data-driven policing programs and pretrial services;

(9) staff a criminal justice coordinating council; and

[~~(4)~~] (10) purchase equipment or provide training to support any of the purposes provided in this section.

C. Crime reduction grants shall be conditioned on the criminal justice coordinating council and the recipient member complying with the following:

(1) using not more than five percent of a grant for administrative costs of the recipient;

(2) in consultation with the commission, developing data-sharing agreements and methods of data sharing among criminal justice agencies and with the commission to allow system-wide analysis of criminal justice operations within the judicial district and statewide;

(3) using or developing evidence-based best practices for any programs operated with crime reduction grants;

(4) developing performance measures in consultation with the commission and the grant administration agency relevant to the grantee's application;

(5) collecting data to evaluate the effectiveness of programs operated with crime reduction grants;

(6) evaluating quarterly the process, outputs, outcomes and other performance measures of programs funded with grants for compliance with all provisions of the Crime Reduction Grant Act;

(7) providing a quarterly report to the commission for review and comparison with other programs receiving grants for similar purposes; and

(8) providing an annual report to the grant administration agency by October 1 of each year regarding program outcomes from use of the grant.

D. The commission shall assist with the implementation of

data-sharing agreements to ensure compliance with crime reduction grants.

E. Each grant administration agency shall identify and require the use or development of evidence-based best practices for programs operated with crime reduction grants distributed by that grant administration agency.

F. A grant administration agency may consider any outcome reported to it by a grant recipient from a previous year in making a determination of whether to make subsequent grants or the amount of a subsequent grant."

SECTION 34. A new section of Chapter 29, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] REQUIRING LAW ENFORCEMENT AGENCIES TO CONSULT INFORMATION IN THE LAW ENFORCEMENT OFFICER DATABASE WHEN MAKING EMPLOYMENT DECISIONS.--When considering hiring, promoting, disciplining or firing a law enforcement officer, a law enforcement agency shall consult the law enforcement officer database established in Section 29-7-16 NMSA 1978 and take into account any pertinent information found in that database."

SECTION 35. Section 34-6-5 NMSA 1978 (being Laws 1968, Chapter 69, Section 8, as amended) is amended to read:

"34-6-5. JUDGES--SECOND JUDICIAL DISTRICT.--There shall be [~~twenty-nine~~] thirty district judges in the second judicial district."

SECTION 36. Section 34-6-8 NMSA 1978 (being Laws 1968, Chapter 69, Section 11, as amended) is amended to read:

"34-6-8. JUDGES--FIFTH JUDICIAL DISTRICT.--There shall be [~~eleven~~] twelve district judges in the fifth judicial district."

SECTION 37. Section 34-6-16 NMSA 1978 (being Laws 1971, Chapter 52, Section 3, as amended) is amended to read:

"34-6-16. JUDGES--THIRTEENTH JUDICIAL DISTRICT.--There shall be [~~eight~~] nine district judges in the thirteenth judicial district."

SECTION 38. A new section of the Department of Public Safety Act is enacted to read:

"[NEW MATERIAL] LAW ENFORCEMENT RETENTION FUND--CREATED--RETENTION DIFFERENTIAL DISBURSEMENT--REPORTING.--

A. The "law enforcement retention fund" is created in the state treasury. The fund consists of money appropriated by the legislature, federal money granted to the state for the purposes of the fund, income from investment of the fund and money otherwise accruing to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The department shall administer the fund to provide:

(1) retention differential disbursements for law enforcement officers meeting certain levels of tenure; and

(2) support for disbursement administration processes and reporting compliance.

B. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of public safety.

C. Contingent on the completion of reporting requirements provided in Subsection G of this section, the department shall determine and distribute annually the amount necessary to provide to a law enforcement agency for the purpose of providing a retention differential disbursement to law enforcement officers employed by that law enforcement agency. A law enforcement agency shall expend

funding received for no other purpose than that permitted by this section, and any unexpended balance received by a law enforcement agency pursuant to this section at the end of a fiscal year shall revert to the law enforcement retention fund. The department shall monitor the use of funding and ensure the proper reversions to the law enforcement retention fund.

D. A law enforcement officer shall receive a retention differential disbursement in the amount of five percent of the law enforcement officer's salary upon reaching four, nine, fourteen and nineteen years of service from the anniversary of the law enforcement officer's date of hire with that law enforcement agency; provided that:

(1) the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year; and

(2) the retention differential disbursement shall be calculated based on the salary of the law enforcement officer on those dates.

E. After the calculations for retention differential disbursements are made in accordance with Subsection D of this section, if the balance in the fund is insufficient to permit the total disbursements provided by Subsection D of this section, the department shall reduce that allocation to the maximum amount permitted by available money in the fund.

F. The amount provided for a retention differential disbursement shall include the amount of employer tax liabilities, which shall be paid by the employer at the time the retention differential disbursement is provided to the law enforcement officer.

G. To receive funding pursuant to Subsection C of this section, a law enforcement agency shall make that request to the

department prior to June 1 of each fiscal year, and in that request, the agency shall report the following:

(1) the number of officers that are projected to become eligible for a retention differential disbursement in the upcoming fiscal year and the projected amount of the retention differential disbursement, including any employer tax liabilities;

(2) the number of law enforcement officers employed by the law enforcement agency for the last five years;

(3) the number of years of service of each law enforcement officer employed by the law enforcement agency;

(4) the number of law enforcement officers that left the employ of the law enforcement agency in the last year and the stated reasons why each law enforcement officer left the employ of the law enforcement agency;

(5) the number of years of service of each law enforcement officer that left the employ of the law enforcement agency in the last year;

(6) the number of applicants to the law enforcement agency in the last year;

(7) the number of applicants to the law enforcement agency in the last year that attended a law enforcement academy;

(8) the number of law enforcement officers that received one or more certifications in the last year;

(9) the number of law enforcement officers added to the law enforcement agency via lateral transfer and the years of service of each law enforcement officer at each previous law enforcement agency;

(10) any changes to compensation, recruiting, retention or benefits implemented by the law enforcement agency in the last year; and

(11) any other information that is used for determining retention rates unless disclosure of such information is otherwise prohibited by law.

H. The department shall:

(1) provide forms, standards and procedures and related training to law enforcement agencies as necessary for the agencies to report retention information;

(2) maintain the privacy and security of information in accordance with applicable state and federal laws; and

(3) adopt and promulgate rules as necessary to implement the provisions of this section.

I. The annual report and other statistical data reports generated by the department shall include an evaluation of a program's efficacy in law enforcement retention and shall be made available to law enforcement agencies and the public.

J. The department shall provide monthly reports to the department of finance and administration and the legislative finance committee about expenditures from the law enforcement retention fund, including an itemized list of expenditures and the balance remaining in the fund.

K. The department may waive reporting information required by a law enforcement agency pursuant to Subsection G of this section; provided that the department shall provide an explanation of its decision in writing.

L. The department shall submit an annual report providing

information collected pursuant to Subsection G of this section to the governor and the legislature no later than December 15 of each year.

M. As used in this section:

(1) "law enforcement agency" means an agency of the state or local political subdivision of the state that employs certified law enforcement officers or the police department of a tribe that has entered into an agreement with the department pursuant to Section 29-1-11 NMSA 1978;

(2) "law enforcement officer" means a full- time salaried public employee of a law enforcement agency, or a certified part-time salaried police officer employed by a law enforcement agency, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes; and

(3) "retention differential disbursement" means the amount disbursed from the law enforcement retention fund based on a law enforcement officer's service at a law enforcement agency but is not considered salary for the purpose of calculating retirement benefits."

SECTION 39. A new section of Chapter 34, Article 9 NMSA 1978 is enacted to read:

"[NEW MATERIAL] CRITERIA FOR DISTRIBUTION OF GRANTS.--The administrative office of the courts shall establish criteria for the distribution of grants supporting pretrial services statewide and develop a framework for the standardization of pretrial services and supervision, including performance measurement and reporting. The framework and criteria for grant distribution shall incorporate national best practices and modify them as needed and shall explore the use of electronic location monitoring or other modes of pretrial services to enhance the certainty and celerity of punishment of low-

level offenses with minimal impact on correctional institutions."

SECTION 40. [NEW MATERIAL] SHORT TITLE.--Sections 40 through 48 of this act may be cited as the "Violence Intervention Program Act".

SECTION 41. [NEW MATERIAL] DEFINITIONS.--As used in the Violence Intervention Program Act:

A. "commission" means the New Mexico sentencing commission;

B. "community-based service provider" means an entity that is eligible to be awarded a contract to provide services that accomplish the purposes of the Violence Intervention Program Act;

C. "department" means the department of health; and

D. "grantee" means a state agency, county, municipality or tribal government that has applied for and received funding pursuant to the Violence Intervention Program Act for the purposes of addressing gun violence and aggravated assaults in a locally focused geographic area.

SECTION 42. [NEW MATERIAL] VIOLENCE INTERVENTION PROGRAM FUND--CREATED--PURPOSE.--The "violence intervention program fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations. The department shall administer the fund, and money in the fund is appropriated to the department to administer the provisions of the Violence Intervention Program Act and award violence intervention program grants to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of health. The department may

expend no more than three percent of the balance of the fund each fiscal year for administering the Violence Intervention Program Act. No money in the fund may be expended in any way except as provided by the Violence Intervention Program Act.

SECTION 43. [NEW MATERIAL] VIOLENCE INTERVENTION PROGRAM REQUIREMENTS.--A violence intervention program shall:

A. use an evidence- or research-based public health approach to reduce gun violence and aggravated assaults;

B. use focused deterrence, problem-oriented policing and proven law enforcement strategies to reduce gun violence and aggravated assaults;

C. target a population that is at high risk for victimization or retaliation that results from gun violence or aggravated assault through engaging in the cycles of violence in the community;

D. use data-driven methods for program development; and

E. use program funding in a manner that is directly related to the reduction of gun violence and aggravated assaults.

SECTION 44. [NEW MATERIAL] GRANT AWARDS.--

A. On or after July 1, 2022, the department shall receive and review applications for grants from the violence intervention program fund. The department may make grants from the fund to state agencies, counties, municipalities or tribal governments that the department finds are disproportionately impacted by violent crimes, including homicides, shootings and aggravated assaults.

B. The department shall make awards of grants from the fund in accordance with the following limitations:

(1) grant awards shall be made to at least two counties, municipalities or tribal governments with a population of fifty thousand or less according to the most recent annual university of New Mexico intercensal population estimate;

(2) at least twenty percent of the total annual amount appropriated to the fund shall be awarded to counties or municipalities with a population of five hundred forty thousand or greater according to the most recent federal decennial census; and

(3) the department of health shall utilize the funds in accordance with department of finance and administration guidelines.

SECTION 45. [NEW MATERIAL] APPLICATION REQUIREMENTS.--

A. Each application for a grant from the violence intervention program fund shall include:

(1) clearly defined, measurable objectives for a proposal to improve public health and safety through evidence-based violence reduction interventions;

(2) a comprehensive violence reduction strategic plan, including consistent quality improvement and quality assurance measures, and a description of the strategies and tasks developed by a state agency, county, municipality or tribal government describing the goals of the plan, including community-based services or joint community-based services and law enforcement intervention strategies;

(3) a description of how a grant award would be used if awarded; and

(4) a list of community-based service providers in the locally focused geographic area in which the grant funds would be used, including those with an expressed commitment to

participating in a violence intervention program.

B. The commission shall provide state agencies, counties, municipalities and tribal governments with data relevant to grant applications.

C. An applicant shall notify the appropriate criminal justice coordinating council established pursuant to Section 31-28-3 NMSA 1978 of its grant application.

SECTION 46. [NEW MATERIAL] CONDITIONS OF GRANT.--

A. As a condition of each grant made pursuant to the Violence Intervention Program Act, the department shall require each grantee to use at least fifty percent of its grant for the purpose of entering into contracts with one or more community-based service providers.

B. Each grantee shall report to the appropriate criminal justice coordinating council established pursuant to Section 31-28-3 NMSA 1978 regarding outcomes of the grant.

C. A grant may be awarded to a county or municipality, but shall not be awarded to both a county and a municipality falling within the county.

SECTION 47. [NEW MATERIAL] RULES.--The department shall adopt rules necessary to administer the provisions of the Violence Intervention Program Act, including standardized rules pertaining to the collection and sharing of data by grantees.

SECTION 48. [NEW MATERIAL] REPORTS.--

A. Each grantee shall report to the department and the commission by November 1 of each year regarding the:

(1) purpose and amount of each grant received by the

grantee for the previous fiscal year; and

(2) processes, outputs and outcomes resulting from each grant approved by the department for the previous fiscal year, including relevant data as required by department rules.

B. Each year through 2027, the department and the commission shall report to the legislature by December 1 regarding the awards and outcomes of each grantee.

SECTION 49. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] THREATENING A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE--PENALTY.--

A. No person shall threaten a judge or the immediate family member of a judge with the intent to:

(1) place the judge or the immediate family member of a judge in fear of great bodily harm to the judge or to an immediate family member of the judge;

(2) prevent or interrupt the ability to carry out the judge's job duties; or

(3) retaliate against a judge on account of the performance of the judge's official duties during the judge's term of service.

B. A person who violates the provisions of this section is guilty of a fourth degree felony.

C. As used in this section:

(1) "immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and "immediate family

member" includes a stepparent, a stepchild, a stepsibling and an adoptive relationship;

(2) "judge" means a current or former justice, judge, magistrate, domestic violence special commissioner or hearing officer; and

(3) "retaliate" means intentionally threatening bodily injury to or damage to the property of a judge or a family member of a judge with the intent to retaliate against the judge for the judge's exercise of the judge's judicial duties and causing the judge or the family member to reasonably believe that the judge's or the family member's person or property is in danger."

SECTION 50. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] MALICIOUS SHARING OF PERSONAL INFORMATION OF A JUDGE OR AN IMMEDIATE FAMILY MEMBER OF A JUDGE--PENALTY.--

A. No person shall share the personal information of a judge or an immediate family member of a judge with the intent to:

(1) cause harm to the judge or an immediate family member of a judge;

(2) place the judge or an immediate family member of a judge in fear of great bodily harm to the judge or to an immediate family member of the judge; or

(3) prevent or interrupt the ability to carry out the judge's job duties.

B. A person who violates the provisions of this section is guilty of a misdemeanor.

C. As used in this section:

(1) "immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and "immediate family member" includes a stepparent, a stepchild, a stepsibling and an adoptive relationship;

(2) "judge" means a current or former justice, judge, magistrate, domestic violence special commissioner or hearing officer; and

(3) "personal information" means a person's personal physical address, personal phone number or physical location."

SECTION 51. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] OPERATING A CHOP SHOP--PENALTY.--

A. Operating a chop shop consists of a person owning, operating, maintaining, controlling or conducting operations in a chop shop, who knows or should have known that it is a chop shop.

B. Whoever commits operating a chop shop is guilty of a third degree felony.

C. As used in this section:

(1) "chop shop" means a premises where a person possesses, receives, stores, disassembles or alters an unlawfully obtained motor vehicle or vehicle as defined in the Motor Vehicle Code, including the alteration or concealment of any identifying feature or number, including the manufacturer's serial number, engine number, decal or other distinguishing number or identification mark or number placed under assignment of the motor vehicle division of the taxation and revenue department; and

(2) "unlawfully obtained" means obtained by theft, fraud or deceit or obtained without the permission of the owner.

D. Nothing in this section shall be construed to preclude a claim made pursuant to any other section of law."

SECTION 52. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] CRIMINAL DAMAGE TO PROPERTY BY THEFT OR ATTEMPTED THEFT OF REGULATED MATERIAL--PENALTY.--

A. Criminal damage to property by theft or attempted theft of regulated material consists of the unlawful taking or attempted taking of any regulated material from another that results in any damage to real or personal property. Whoever commits criminal damage to property by theft or attempted theft of regulated material resulting in property damage or property loss, based on the fair market value of that damage or loss, in an amount of:

(1) less than one thousand dollars ($1,000) is guilty of a petty misdemeanor;

(2) one thousand dollars ($1,000) or more but less than two thousand five hundred dollars ($2,500) is guilty of a misdemeanor; or

(3) two thousand five hundred dollars ($2,500) or more is guilty of a fourth degree felony.

B. For the purposes of this section:

(1) "aluminum material" means wire or coil products made from aluminum, an aluminum alloy or an aluminum byproduct;

(2) "copper or brass material" means:

(a) insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at

least twenty-five percent copper; or

(b) a copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier;

(3) "regulated material" means:

(a) aluminum material;

(b) copper or brass material;

(c) steel material;

(d) a utility access cover;

(e) a water meter cover;

(f) a road or bridge guard rail;

(g) a highway or street sign;

(h) a traffic directional or control sign or signal; or

(i) a catalytic converter that is not part of an entire motor vehicle; and

(4) "steel material" means infrastructure-grade or construction products made from an alloy of iron, chromium, nickel or manganese.

C. Nothing in this section shall be construed to preclude a claim made pursuant to any other section of law."

SECTION 53. Section 57-30-2.4 NMSA 1978 (being Laws 2012, Chapter 29, Section 16 and Laws 2012, Chapter 33, Section 16) is

amended to read:

"57-30-2.4. RESTRICTED TRANSACTIONS--ADDITIONAL DOCUMENTATION REQUIRED.--

A. A secondhand metal dealer shall not purchase any of the following without written documentation indicating that the seller is the rightful owner or has permission from the rightful owner [~~or~~] <u>and</u> that the material was otherwise lawfully obtained:

(1) infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned;

(2) regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered;

(3) regulated material marked with the name, initials or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, a railroad or a governmental entity;

(4) a utility access cover;

(5) a water meter cover;

(6) a road or bridge guard rail;

(7) a highway or street sign;

(8) a traffic directional or control sign or signal;

(9) a metal beer keg that is clearly marked as being the property of the beer manufacturer; or

(10) a catalytic converter that is not part of an entire motor vehicle.

B. The department shall promulgate rules that more specifically describe the type of documentation required before a secondhand metal dealer may engage in a transaction described in this section.

C. A secondhand metal dealer shall not purchase or otherwise receive any regulated material that the secondhand metal dealer knows is not lawfully possessed by the person offering to sell or provide the regulated material."

SECTION 54. A new section of Chapter 30, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFENSE BASED ON VICTIM'S GENDER, GENDER IDENTITY, GENDER EXPRESSION OR SEXUAL ORIENTATION PROHIBITED.--

A. It shall not be a defense, justification or excuse in a criminal proceeding that the defendant's conduct was a reaction to the discovery of, knowledge about or potential disclosure of a victim's or witness's actual or perceived:

(1) gender;

(2) gender expression;

(3) gender identity; or

(4) sexual orientation.

B. It shall not be a defense, justification or excuse in a criminal proceeding that the defendant was romantically propositioned in a nonviolent or non-threatening manner by a person of the same gender or a person who is transgender.

C. Nothing in this section shall prevent a defendant from raising other recognized affirmative defense.

D. As used in this section:

(1) "gender expression" means the external appearance of a person's gender identity, often expressed through the person's behavior, physical appearance or voice, which expression may or may not conform to socially defined behaviors and characteristics typically associated with masculinity or femininity;

(2) "gender identity" means a person's self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth; and

(3) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

SECTION 55. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 7, 22, 23 and 35 through 37 of this act is July 1, 2022.

B. The effective date of the provisions of Sections 2 through 6, 8 through 21 and 32 through 34 of this act is July 1, 2023.".

State of New Mexico
Senate

FIFTY-FIFTH LEGISLATURE
SECOND SESSION, 2022

Respectfully submitted,

Joseph Cervantes, Chair

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date 2-16-22

The roll call vote was 5 For 0 Against
Yes: 5
No: 0
Excused: Baca, Ivey-Soto, Moores, Pirtle
Absent: None