

SENATE INDIAN, RURAL AND CULTURAL
AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 33

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO LAW ENFORCEMENT; SPECIFYING PROCEDURES AND
CONDITIONS ON LAW ENFORCEMENT COMMISSIONING AGREEMENTS WITH
INDIAN NATIONS, TRIBES AND PUEBLOS AND BUREAU OF INDIAN AFFAIRS
OFFICERS; LIMITING STATE AND LOCAL LIABILITY; DISTINGUISHING
CITATIONS AND COURTS.

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

SECTION 1. Section 29-1-11 NMSA 1978 (being Laws 1972,
Chapter 8, Section 1, as amended) is amended to read:

"29-1-11. AUTHORIZATION OF TRIBAL AND PUEBLO POLICE
OFFICERS AND CERTAIN FEDERAL OFFICERS TO ACT AS NEW MEXICO
PEACE OFFICERS--AUTHORITY AND PROCEDURE FOR COMMISSIONED PEACE
OFFICERS.--

A. ~~[All persons who are duly]~~ Commissioned officers
of the police ~~[or sheriff's]~~ department of ~~[any]~~ a New Mexico

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1 Indian nation, tribe or pueblo or ~~[who are]~~ law enforcement
2 officers employed by the bureau of Indian affairs ~~[and are]~~
3 assigned in New Mexico are, when commissioned ~~[under]~~ pursuant
4 to a commissioning agreement in accordance with Subsection B of
5 this section and certified by the New Mexico law enforcement
6 academy or a basic law enforcement training program approved by
7 the New Mexico law enforcement academy, recognized and
8 authorized to act as New Mexico peace officers. These officers
9 have all the powers of New Mexico peace officers to enforce
10 state laws ~~[in New Mexico]~~, including the power to make arrests
11 for violation of state laws.

12 B. The chief of the New Mexico state police ~~[is~~
13 ~~granted authority to]~~ shall issue commissions as New Mexico
14 peace officers to ~~[members]~~ police officers of the police ~~[or~~
15 ~~sheriff's]~~ department of ~~[any]~~ a New Mexico Indian nation,
16 tribe or pueblo or a law enforcement officer employed by the
17 bureau of Indian affairs ~~[to implement the provisions of this~~
18 ~~section]~~ within thirty days of the officer meeting the
19 requirements for a state law enforcement commission. The
20 procedures to be followed in the issuance ~~[and]~~, denial,
21 suspension or revocation of commissions and the respective
22 rights and responsibilities of the departments shall be set
23 forth in a written commissioning agreement to be executed
24 between the chief of the New Mexico state police and the Indian
25 nation, tribe or pueblo or the appropriate federal official.

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1 C. The agreement referred to in Subsection B of
2 this section shall contain the following conditions:

3 (1) the Indian nation, tribe or pueblo, but
4 not the bureau of Indian affairs, shall submit proof of
5 adequate public liability and property damage insurance for
6 vehicles operated by the peace officers and police professional
7 liability insurance from a company licensed to sell insurance
8 in the state;

9 (2) each applicant for a commission shall
10 successfully ~~[complete]~~ have completed four hundred hours of
11 basic police training that is approved by the director of the
12 New Mexico law enforcement academy;

13 (3) the chief of the New Mexico state police
14 shall have the authority to suspend ~~[any]~~ or revoke a
15 commission granted pursuant to Subsection B of this section for
16 the same reasons ~~[solely within the chief's discretion]~~ any
17 other New Mexico law enforcement officer's commission would be
18 suspended or revoked;

19 (4) if ~~[any provision of]~~ there is a material
20 breach of the agreement ~~[is violated]~~ by the Indian nation,
21 tribe or pueblo or any of its agents, the chief of the New
22 Mexico state police ~~[shall]~~ may suspend the agreement on five
23 days' notice, which suspension shall last until the chief is
24 satisfied that the violation has been corrected and will not
25 recur;

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1 (5) ~~[the goldenrod-colored officer's second]~~ a
2 copy of ~~[any]~~ a citation issued pursuant to a commission
3 authorized by this section shall be submitted within five days
4 to the chief of the New Mexico state police;

5 (6) ~~[any]~~ a citation ~~[issued pursuant to a~~
6 ~~commission authorized by this section]~~ issued by tribal or
7 pueblo police officers pursuant to state law shall be to a
8 magistrate court of New Mexico ~~[except that any]~~. Tribal or
9 pueblo civil citations issued to a non-Indian and tribal
10 citations issued to Indians within the exterior boundaries of
11 an Indian reservation shall be cited into tribal court;

12 (7) the agreement or ~~[any]~~ a commission issued
13 pursuant to ~~[it]~~ the agreement shall not confer any authority
14 on a tribal court or other tribal authority that the court or
15 authority would not otherwise have; and

16 (8) the authority conferred by ~~[any]~~ an
17 agreement ~~[entered into pursuant to the provisions of this~~
18 ~~section]~~ shall be coextensive with the exterior boundaries of
19 the tribal or pueblo police officer's reservation except that
20 an officer ~~[commissioned under this section]~~ may proceed in hot
21 pursuit of an offender beyond the exterior boundaries of the
22 officer's reservation ~~[and]~~ or may transport persons who have
23 been arrested for a violation of state law to an appropriate
24 off-reservation detention facility or to the custody of a state
25 or local law enforcement agency.

1 D. The chief of the New Mexico state police shall
2 enter into a commissioning agreement with an Indian nation,
3 tribe or pueblo within sixty days of the request from the
4 Indian nation, tribe or pueblo unless the chief provides
5 specific written reasons why the Indian nation, tribe or pueblo
6 does not meet the statutory requirements for entering into a
7 commissioning agreement.

8 E. The authority conferred in [~~any~~] a written
9 agreement between the chief of the New Mexico state police and
10 the Navajo Nation may extend beyond the exterior boundaries of
11 the Navajo reservation to and including the area enclosed by
12 the following description:

13 Beginning at a point where the southern
14 boundary line of the Navajo Nation reservation
15 intersects the western right-of-way line of US 491,
16 and running thence; southerly along the western
17 right-of-way line of US 491 to the northerly city
18 limits of Gallup; thence, easterly along the
19 northerly city limits of Gallup to the northern side
20 of the right of way of I-40; thence, in an easterly
21 direction along the northerly side of the right of
22 way of I-40 to the northerly limits of the village
23 of Prewitt; thence, in a straight line between the
24 northerly boundary of the village of Prewitt to the
25 southerly boundary of Ambrosia Lake; thence in a

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1 straight line between the southerly boundary of
2 Ambrosia Lake to the southerly boundary of Hospah;
3 thence, east along a straight line from the
4 southerly boundary of Hospah to the southern
5 boundary of Torreon; thence along the easterly side
6 of the right of way of state road 197 to the
7 westerly city limits of Cuba; thence, north along
8 the westerly side of the right of way of state road
9 44 to the southerly boundary of the Jicarilla Apache
10 Nation reservation; thence, westerly along the
11 southerly boundary of the Jicarilla Apache Nation
12 reservation to the southwest corner of that
13 reservation; thence, northerly along the westerly
14 boundary of the Jicarilla Apache Indian reservation
15 to a point where the westerly boundary of the
16 reservation intersects the southerly side of the
17 right of way of state road 44; thence, northerly
18 along the southerly side of the right of way of
19 state road 44 to its intersection with the northerly
20 side of the right of way of Navajo road 3003;
21 thence, along the northerly side of the right of way
22 of Navajo road 3003 to a point where the northerly
23 side of the right of way of Navajo road 3003
24 intersects the westerly side of the right-of-way
25 line of state road 371; thence, northerly along the

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1 west side of the right of way of state road 371 to
 2 the southerly side of the right of way of Navajo
 3 road 36; thence, westerly along the southerly side
 4 of the right of way of Navajo road 36 to the eastern
 5 border of the Navajo Nation reservation; thence,
 6 along the eastern and southerly borders of the
 7 Navajo Nation reservation to the point of beginning.

8 F. The municipalities of Cuba and Gallup and the
 9 villages of Thoreau and Prewitt are excluded from the grant of
 10 authority that may be conferred in [~~any~~] the written agreement
 11 entered into pursuant to the provisions of this [~~section~~]
 12 subsection and Subsection E of this section; provided, however,
 13 [~~any~~] a written agreement may include under [~~such~~] the grant of
 14 authority the communities of Ambrosia Lake, Hospah, Torreon,
 15 Lybrook, Nageezi, Counselors and Blanco Trading Post and those
 16 communities commonly known as the Wingate community; the Navajo
 17 Nation Blue Water ranch area of the Thoreau community; the
 18 Prewitt community, exclusive of the village of Prewitt; the
 19 Haystack community; the Desidero community; the Sand Springs
 20 community; the Rincon Marquis community; the Charley Jesus
 21 Arviso and the Castillo community; and state road 264 beginning
 22 at the point where it intersects US 491 and ending where state
 23 road 264 intersects the Arizona-New Mexico state line. [~~and~~
 24 ~~(9)~~] The chief of the New Mexico state police or the chief's
 25 designee and the [~~Indian nation, tribe or pueblo or the~~

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1 ~~appropriate federal official]~~ Navajo Nation shall be required
2 to meet at least quarterly or more frequently at the call of
3 the chief of the New Mexico state police to discuss the status
4 of the agreement and invite other law enforcement or other
5 officials to attend as necessary.

6 ~~[D.]~~ G. Nothing in this section impairs or affects
7 the existing status and sovereignty of an Indian nation, tribe
8 or pueblo as established under the laws of the United States.

9 ~~[E.]~~ H. All persons who are duly commissioned
10 federal law enforcement officers employed by the federal bureau
11 of investigation; drug enforcement administration; bureau of
12 alcohol, tobacco and firearms; United States secret service;
13 United States customs ~~[service; immigration and naturalization~~
14 ~~service]~~ and border protection; United States immigration and
15 customs enforcement; United States marshals service; postal
16 inspection service; United States probation department; and
17 United States pretrial services agency; and other appropriate
18 federal officers whose primary duty is law enforcement related,
19 who are assigned in New Mexico and who are required to be
20 designated by the county sheriff on a case-by-case basis in the
21 county in which they are working, are recognized and authorized
22 to act as New Mexico peace officers and have all the powers of
23 New Mexico peace officers to enforce state laws in New Mexico,
24 including the power to make arrests for violation of state
25 laws. The department of public safety shall maintain a

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1 registry that lists the name and affiliated federal agency of
2 every federal law enforcement officer recognized and authorized
3 to act as a New Mexico peace officer pursuant to the provisions
4 of this subsection. This subsection shall not be construed to
5 impose liability upon or to require indemnification by the
6 state for any act performed by a federal law enforcement
7 officer pursuant to this subsection.

8 ~~[F.]~~ I. The provisions of Subsection ~~[E]~~ H of this
9 section regarding designation of federal law enforcement
10 officers by a county sheriff do not apply to federal law
11 enforcement officers who are duly commissioned officers of a
12 police ~~[or sheriff's]~~ department for an Indian nation, tribe or
13 pueblo in New Mexico or who are federal law enforcement
14 officers employed by the bureau of Indian affairs.

15 ~~[G.]~~ J. Nothing in this section limits, impairs or
16 nullifies the authority of county sheriffs to appoint pursuant
17 to Chapter 4, Article 41 NMSA 1978 duly commissioned state or
18 federally certified officers who are employees of a police or
19 sheriff's department of an Indian nation, tribe or pueblo in
20 New Mexico or who are federal law enforcement officers employed
21 by the bureau of Indian affairs as deputy sheriffs authorized
22 to enforce New Mexico criminal and traffic law."

23 **SECTION 2.** That version of Section 29-7-7 NMSA 1978
24 (being Laws 1981, Chapter 114, Section 6, as amended) that is
25 effective July 1, 2023 is amended to read:

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1 "29-7-7. DEFINITIONS.--For the purpose of the Law
2 Enforcement Training Act:

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

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

9 C. "board" means the law enforcement certification
10 board;

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

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

16 F. "director" means the director of the division;

17 G. "division" means the New Mexico law enforcement
18 academy of the department of public safety;

19 H. "in-service law enforcement training" means a
20 course of instruction required of all certified peace officers
21 and designed to train and equip all police officers in the
22 state with specific law enforcement skills and to ensure the
23 continuing development of all police officers in the state.

24 The training and instruction shall be kept current and may be
25 conducted on a regional basis at the discretion of the

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1 director;

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

7 J. "police officer" means [~~any~~] a commissioned
8 employee of a law enforcement agency that is part of or
9 administered by the state or any political subdivision of the
10 state and includes any employee of a missile range civilian
11 police department who is a graduate of the academy or a
12 recognized certified regional law enforcement training facility
13 and who is currently certifiable by the academy or a state-
14 commissioned employee of a police department of an Indian
15 nation, tribe or pueblo, which employee is responsible for the
16 prevention and detection of crime or the enforcement of the
17 penal or traffic or highway laws of this state. The term
18 specifically includes deputy sheriffs. Sheriffs are eligible
19 to attend the academy and are eligible to receive certification
20 as provided in the Law Enforcement Training Act. As used in
21 this subsection, "commissioned" means an employee of a law
22 enforcement agency who is authorized by a sheriff or chief of
23 police to apprehend, arrest and bring before the court all
24 violators within the law enforcement agency's jurisdiction; and

25 K. "certified regional law enforcement training

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1 facility" means a law enforcement training facility within the
2 state certified by the director, with the approval of the
3 academy's board of directors, that offers basic law enforcement
4 training and in-service law enforcement training that is
5 comparable to or exceeds the standards of the programs of the
6 academy."

7 SECTION 3. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2023.

underscored material = new
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