

Proposed

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 252

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

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE LAW ENFORCEMENT  
OFFICER PROCEDURES ACT; REGULATING THE USE OF PHYSICAL FORCE BY  
LAW ENFORCEMENT OFFICERS; DEFINING UNLAWFUL FORCE; REQUIRING  
INDEPENDENT REVIEW OF A LAW ENFORCEMENT OFFICER'S USE OF FORCE;  
ESTABLISHING A DUTY FOR OFFICERS TO INTERVENE; PROHIBITING  
RETALIATORY ACTION BY A LAW ENFORCEMENT AGENCY AGAINST AN  
OFFICER WHO INTERVENES; REQUIRING A LAW ENFORCEMENT AGENCY TO  
PREVENT, STOP AND INVESTIGATE RETALIATORY ACTION; REQUIRING USE  
OF FORCE POLICIES AND TRAINING BY ALL LAW ENFORCEMENT AGENCIES;  
PRESCRIBING STANDARDS FOR SERVING SEARCH WARRANTS; AMENDING THE  
WHISTLEBLOWER PROTECTION ACT TO PROHIBIT RETALIATORY ACTION  
AGAINST A PUBLIC EMPLOYEE WHO INTERVENES OR REPORTS PURSUANT TO  
THE LAW ENFORCEMENT OFFICER PROCEDURES ACT; REQUIRING THE  
DEVELOPMENT AND PUBLICATION OF USE OF FORCE INVESTIGATIONS;  
PROVIDING FOR THE INSPECTION OF LAW ENFORCEMENT MISCONDUCT

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1 INVESTIGATIONS; REQUIRING REPORTING OF OFFICER-INVOLVED  
2 INJURIES OR DEATHS; AMENDING THE CRIME OF JUSTIFIABLE HOMICIDE  
3 BY A PUBLIC OFFICER OR PUBLIC EMPLOYEE; PRESCRIBING PENALTIES.  
4

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

6 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
7 through 13 of this act may be cited as the "Law Enforcement  
8 Officer Procedures Act".

9 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
10 Law Enforcement Officer Procedures Act:

11 A. "chokehold" means the use of the lateral  
12 vascular neck restraint, carotid restraint, chokehold, neck  
13 hold or any other action that involves placing any part of an  
14 officer's body on or around a person's neck;

15 B. "commissioned" means an employee of a law  
16 enforcement agency who is authorized by a sheriff or chief of  
17 police to apprehend, arrest and bring before the court all  
18 violators within the law enforcement agency's jurisdiction;

19 C. "deadly force" means physical force that can be  
20 reasonably expected to cause death or great bodily harm and  
21 includes a chokehold;

22 D. "deadly weapon" means a firearm, whether loaded  
23 or unloaded; any object manifestly designed, made or adapted  
24 for the purpose of inflicting death or great bodily harm; or  
25 any object that, in the manner of its use, is capable of

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1 causing death or great bodily harm. "Deadly weapon" includes  
2 any type of dagger, brass knuckles, knife, swordcane,  
3 slingshot, slung shot and bludgeon and any weapon with which  
4 dangerous wounds can be inflicted;

5 E. "de-escalation tactics and techniques" means  
6 proactive actions and approaches used by a law enforcement  
7 officer to stabilize a law enforcement situation so that more  
8 time, options and resources are available to gain a person's  
9 voluntary compliance and to reduce or eliminate the need to use  
10 force, including verbal persuasion, warnings, slowing down the  
11 pace of an incident, waiting out a person, creating distance  
12 between the law enforcement officer and a threat and requesting  
13 additional resources to resolve the incident, including calling  
14 in medical or mental health professionals to address a  
15 potential medical or mental health crisis;

16 F. "department" means the department of public  
17 safety;

18 G. "electronic control weapon" means a portable  
19 device or weapon, regardless of whether it passes an electrical  
20 shock by means of a dart or projectile via a wire lead, from  
21 which an electrical current, impulse, wave or beam that is  
22 designed to incapacitate temporarily, injure or kill may be  
23 directed;

24 H. "firearm" means a weapon that will or is  
25 designed to or may readily be converted to expel a projectile

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1 by the action of an explosion or the frame or receiver of any  
2 such weapon;

3 I. "great bodily harm" means injury to a person  
4 that:

5 (1) results in serious disfigurement;

6 (2) results in permanent loss or protracted  
7 impairment of a bodily function, member, limb or organ; or

8 (3) creates a high probability of death;

9 J. "imminent harm" means when a person creating a  
10 risk has the present ability, opportunity and apparent intent  
11 to immediately cause great bodily harm or death and that a  
12 reasonable person would believe must be instantly confronted  
13 and addressed;

14 K. "law enforcement agency" means an agency of the  
15 state or political subdivision of the state that employs  
16 certified law enforcement officers and is authorized by law or  
17 a government agency to engage in or supervise the prevention,  
18 detection, investigation or enforcement of any violation of law  
19 or ordinance or the police department of a tribe that has  
20 entered into an agreement with the department pursuant to  
21 Section 29-1-11 NMSA 1978;

22 L. "law enforcement officer" means a public  
23 official or public officer vested by law with a duty to  
24 maintain public order, enforce the law, seize evidence,  
25 investigate crime, make arrests for crime, detain a person

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1 suspected of or convicted of committing a crime, whether that  
2 duty extends to all crimes or is limited to specific crimes, or  
3 hold in custody a person accused of a criminal offense or  
4 members of the national guard of New Mexico when called to  
5 active duty by the governor;

6 M. "necessary" means that all available  
7 alternatives have been exhausted and no available, effective  
8 alternative is known or should be known to a reasonable person  
9 in the circumstances, without regard to the subjective beliefs  
10 of a law enforcement officer;

11 N. "officer-involved injury or death" means an  
12 event during which a law enforcement officer:

13 (1) discharges a firearm, actually or  
14 proximately causing injury or death to another;

15 (2) discharges an electronic control weapon,  
16 actually or proximately causing injury or death to another;

17 (3) uses a chokehold, discharges tear gas or  
18 other chemical weapon, discharges kinetic impact projectiles  
19 from a propulsion device or attacks a person using a dog,  
20 actually or proximately causing injury or death to a person; or

21 (4) engages in a physical altercation with a  
22 member of the public who sustains great bodily harm or requests  
23 or receives medical care as a result;

24 O. "prone position" means a body position in which  
25 the person lies face down;

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1           P. "proportional" means not excessive in relation  
2 to a direct and legitimate law enforcement objective, based on  
3 the totality of circumstances;

4           Q. "secretary" means the secretary of public  
5 safety; and

6           R. "totality of the circumstances" means the entire  
7 duration of an interaction between a law enforcement officer  
8 and a victim of force, from the first contact through the  
9 conclusion of the incident, including consideration of  
10 contextual factors, pursuant to Section 5 of the Law  
11 Enforcement Officer Procedures Act, that the law enforcement  
12 officer knew or should have known.

13           SECTION 3. [NEW MATERIAL] RIGHT AGAINST USE OF FORCE--  
14 REVIEW--UNLAWFUL USE OF FORCE--PROPORTIONALITY.--

15           A. A person has a right against an unlawful use of  
16 force.

17           B. Each use of force shall be reviewed  
18 independently to determine if it was unlawful.

19           C. A law enforcement officer's use of force is  
20 unlawful if:

21                   (1) there is no legitimate law enforcement  
22 objective;

23                   (2) the officer fails to reasonably exhaust  
24 de-escalation tactics and techniques or other feasible actions  
25 based on the totality of the circumstances;

1 (3) the physical force is not proportional or  
2 necessary to:

3 (a) prevent an imminent threat to an  
4 identifiable person, where the amount of force used is  
5 proportional to the threat of imminent harm to the identifiable  
6 person;

7 (b) effect an arrest of a person whom  
8 the law enforcement officer has probable cause to believe has  
9 committed a criminal offense;

10 (c) effect a lawful detention;

11 (d) prevent the escape from custody of a  
12 person whom the law enforcement officer has probable cause to  
13 believe has committed an offense, unless the law enforcement  
14 officer knows that the custody is unauthorized; or

15 (e) carry out a search that the law  
16 enforcement officer reasonably believes is lawful when an  
17 individual actively resists arrest;

18 (4) the law enforcement officer fails to  
19 modulate the use of physical force as the threat diminishes or  
20 cease the use of physical force as soon as possible after:

21 (a) the person upon whom the physical  
22 force is being used is under the officer's control or no longer  
23 poses a threat of physical injury to the officer or another  
24 person; or

25 (b) the use of physical force will no

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1 longer accomplish or is no longer reasonable and proportional  
2 to accomplish a legitimate law enforcement objective; or

3 (5) the officer violates a provision of  
4 Section 4 of the Law Enforcement Officer Procedures Act; and

5 (6) there is no justification for an otherwise  
6 unlawful use of force.

7 D. A law enforcement officer's use of deadly force  
8 is unlawful:

9 (1) unless it is used as a last resort after  
10 the officer has reasonably exhausted de-escalation tactics and  
11 techniques and, based on the totality of the circumstances, the  
12 officer reasonably believes that the force is necessary to  
13 prevent imminent death or serious physical injury to an  
14 identifiable person and the amount of force used is  
15 proportional to the threat of imminent harm to an identifiable  
16 person; and

17 (2) if the use of deadly force presents a  
18 threat of serious physical injury to a third person;

19 (3) against a person who poses a danger only  
20 to the person's self;

21 (4) solely to protect property; or

22 (5) if the officer is in the path of a fleeing  
23 motor vehicle and uses deadly force instead of moving to a  
24 position of safety.

25 E. To be proportional, force used by a law



1 enforcement officer need not be of the same type or amount as  
2 the force used by the other person.

3 F. To the extent an employment contract conflicts  
4 with the provisions of this section, the contract shall be  
5 amended at the earliest available opportunity to conform with  
6 this section.

7 SECTION 4. [NEW MATERIAL] UNLAWFUL USE OF FORCE.--A law  
8 enforcement officer shall not:

9 A. use force without first identifying the  
10 officer's self as a law enforcement officer and providing a  
11 clear verbal warning of the officer's intent to use force with  
12 clear instructions on how to comply, unless doing so would  
13 place the officer at significant risk of injury;

14 B. threaten to use force in a circumstance in which  
15 the officer is not lawfully authorized to use force;

16 C. transport a person in a prone position or  
17 restrain a person in a prone position any longer than is  
18 necessary to properly secure the person. If a law enforcement  
19 officer restrains a person in a prone position, the officer  
20 shall immediately release the person from the prone position as  
21 soon as the person:

22 (1) is properly secured or under the officer's  
23 control; or

24 (2) no longer poses a threat of physical  
25 injury to the officer or another person;

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1           D. discharge a firearm into or at a moving vehicle  
2 without having reasonably exhausted de-escalation tactics and  
3 techniques based on the totality of the circumstances, unless  
4 an occupant of the vehicle uses deadly force, other than the  
5 vehicle itself, against the officer or an identifiable person;

6           E. intentionally position the officer's body or  
7 vehicle in front of a fleeing motor vehicle, unless the  
8 positioning is a tactic approved by the law enforcement agency  
9 that employs the officer;

10          F. deploy a police dog to:

11                 (1) assist in effecting an arrest of a person  
12 suspected only of a non-violent crime; or

13                 (2) apprehend a person who does not pose a  
14 threat of imminent harm to the officer or a third person;

15          G. deploy a police dog at a protest, demonstration  
16 or other similar public gathering;

17          H. use an electronic control weapon to assist in  
18 effecting an arrest of a person suspected only of a non-violent  
19 crime or apprehend a person who does not pose a threat of  
20 imminent harm to the officer or a third person, unless the law  
21 enforcement officer determines that a lesser degree of force is  
22 unavailable or would result in a significant risk of injury to  
23 the officer or an identifiable person;

24          I. use a chokehold, unless the use of deadly force  
25 is lawful;

1 J. discharge tear gas or other chemical weapons  
2 except to disperse a riot when:

3 (1) the chief law enforcement officer in the  
4 jurisdiction or the chief law enforcement officer's designee  
5 determines that the riot constitutes an unlawful assembly and  
6 that the use of force is necessary to disperse the crowd; and

7 (2) the commanding officer at the scene or the  
8 commanding officer's designee issues an order to disperse in a  
9 manner sufficient to ensure that the order is heard and allows  
10 sufficient time and space for compliance with the order;

11 K. discharge kinetic impact projectiles from a  
12 propulsion device, unless:

13 (1) such force is necessary to effect a lawful  
14 arrest or detention, to prevent the destruction of property or  
15 to protect against imminent harm to the law enforcement officer  
16 or an identifiable person; and

17 (2) the law enforcement officer determines  
18 that a lesser degree of force is unavailable or would result in  
19 a significant risk of injury to the officer or an identifiable  
20 person; or

21 L. permit a police dog to bite a person, unless the  
22 person poses an imminent risk of harm to the law enforcement  
23 officer or an identifiable person and a lesser degree of force  
24 would not be reasonably expected to eliminate the imminent  
25 risk.

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1           SECTION 5.   [NEW MATERIAL] TOTALITY OF CIRCUMSTANCES

2   REVIEW.--A totality of the circumstances review shall include  
3   consideration of whether:

4           A.   the law enforcement officer's conduct during an  
5   interaction contributed to the risk of imminent harm to an  
6   identifiable person by the victim of force;

7           B.   there existed an opportunity for de-escalation  
8   tactics and techniques or other feasible alternative actions  
9   during an interaction;

10          C.   the law enforcement officer identified the  
11   officer's self as a law enforcement officer to the victim of  
12   force;

13          D.   an arrest could have been effected at a later  
14   time with a lower risk to the safety of the public or the  
15   victim of force;

16          E.   the law enforcement officer made reasonable  
17   accommodations in light of the victim of force's physical  
18   disability, mental illness, developmental or neurological  
19   condition or disability, linguistic limitations, then-existing  
20   mental, emotional or physical condition or other  
21   characteristics that may have interfered with the victim of  
22   force's ability to cooperate or comply with the law enforcement  
23   officer's instructions;

24          F.   the law enforcement officer called in an  
25   available medical or mental health professional in response to

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1 a potential medical or mental health crisis;

2 G. the law enforcement officer gave any warnings to  
3 the victim of force before using force or otherwise escalating;

4 H. the law enforcement officer exacerbated the  
5 injury sustained by the victim of force by taking subsequent  
6 actions;

7 I. there existed any disparities between the  
8 officer and victim of force in other relevant circumstantial  
9 factors of the interaction, including physical size, age,  
10 weapons, the number of officers compared to the number of  
11 victims or non-officers involved, injuries or special knowledge  
12 or skills that may have placed the officer at an advantage or  
13 disadvantage;

14 J. there was a threat of harm to the officer or  
15 another person and the nature and immediacy of the threat; and

16 K. the law enforcement officer acted in accordance  
17 with lawful training received and policies of the employing law  
18 enforcement agency.

19 SECTION 6. [NEW MATERIAL] UNLAWFUL USE OF FORCE--  
20 PRESCRIBING PENALTIES.--

21 A. If a law enforcement officer is found to have  
22 used physical force in violation of the Law Enforcement Officer  
23 Procedures Act, the officer shall be disciplined within thirty  
24 days and, depending on the seriousness of the violation, may be  
25 decommissioned and terminated from the officer's position or

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1 have any officer certification revoked. Upon a finding by a  
2 court, the secretary or the head of the law enforcement agency  
3 employing the officer that a law enforcement officer used  
4 physical force in a reckless or willful manner, including  
5 deadly force, in violation of the Law Enforcement Officer  
6 Procedures Act, which resulted in great bodily harm or death,  
7 or that the law enforcement officer violated Subsection I of  
8 Section 4 of the Law Enforcement Officer Procedures Act, the  
9 law enforcement officer shall within thirty days be  
10 decommissioned, have any officer certification revoked, be  
11 terminated from the officer's position and disqualified from  
12 future employment as a law enforcement officer in New Mexico.

13 B. A law enforcement officer who uses force against  
14 a person in a manner inconsistent with the provisions of  
15 Section 3 or 4 of the Law Enforcement Officer Procedures Act  
16 that does not result in death may be charged with battery or  
17 aggravated battery pursuant to the provisions of Sections  
18 30-3-4 and 30-3-5 NMSA 1978.

19 C. A law enforcement officer who uses force against  
20 a person in a manner inconsistent with the provisions of  
21 Section 3 or 4 of the Law Enforcement Officer Procedures Act  
22 that results in death may be charged with manslaughter or  
23 murder pursuant to the provisions of Chapter 30, Article 2 NMSA  
24 1978.

25 SECTION 7. [NEW MATERIAL] DUTY TO INTERVENE.--

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1           A. A law enforcement officer present and observing  
2 another officer using or about to use physical force, including  
3 deadly force, that the law enforcement officer has probable  
4 cause to believe is unlawful based on the totality of the  
5 circumstances shall intercede to prevent the use of unlawful  
6 force, unless interceding would result in imminent harm to the  
7 officer or another identifiable individual.

8           B. A law enforcement officer who observes another  
9 officer using physical force, including deadly force, that the  
10 law enforcement officer has probable cause to believe is  
11 unlawful based on the totality of the circumstances shall  
12 report the incident to the officer's direct supervisor  
13 immediately. The law enforcement officer shall prepare a  
14 detailed statement describing the incident consistent with the  
15 uniform protocols set forth in Subsection A of Section 11 of  
16 the Law Enforcement Officer Procedures Act. The law  
17 enforcement officer's written statement shall be included in  
18 the supervisor's report.

19           C. A person has a right to the intervention of law  
20 enforcement officers in the circumstances set forth in this  
21 section. A law enforcement officer who had a duty to intervene  
22 and failed to do so shall be disciplined and, depending on the  
23 seriousness of the violation, may be decertified,  
24 decommissioned or terminated from the officer's position. A  
25 law enforcement officer who had a duty to intervene and failed

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1 to do so may be held liable jointly and severally with any law  
2 enforcement officer who used unreasonable force for any  
3 injuries or death caused by such officer's unreasonable use of  
4 force.

5 SECTION 8. [NEW MATERIAL] RETALIATORY ACTION PROHIBITED--  
6 PUBLIC EMPLOYER RESPONSIBLE FOR PREVENTING AND STOPPING.--

7 A. A law enforcement agency and its agents shall  
8 not take, encourage or provoke direct or indirect retaliatory  
9 action against a law enforcement officer because the officer  
10 intervenes or reports pursuant to Section 7 of the Law  
11 Enforcement Officer Procedures Act.

12 B. A law enforcement agency is responsible for  
13 preventing, stopping and investigating retaliatory action. If  
14 a law enforcement agency knows or reasonably should know of a  
15 retaliatory action taken against a law enforcement officer, the  
16 agency shall immediately intervene.

17 C. The department shall promulgate rules to  
18 implement the provisions of this section and establish  
19 procedures for reporting and investigating alleged retaliation.

20 SECTION 9. [NEW MATERIAL] REQUIRING USE OF FORCE  
21 POLICIES--PUBLISHING POLICIES--FAILURE TO COMPLY.--

22 A. Every law enforcement agency shall adopt a  
23 policy regarding the use of force by its law enforcement  
24 officers, and the agency shall incorporate the policy into the  
25 training of every law enforcement officer. The law enforcement

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1 certification board shall develop a model use of force policy,  
2 publish the model policy to its website and transmit a copy to  
3 all law enforcement agencies in the state.

4 B. The use of force policy required pursuant to  
5 Subsection A of this section shall be consistent with the  
6 provisions of the Law Enforcement Officers Procedures Act and  
7 shall address at minimum the:

8 (1) required procedures for de-escalation  
9 tactics and techniques before using or increasing the use of  
10 force;

11 (2) procedures to determine the appropriate  
12 level of force to be used in particular situations, with  
13 examples;

14 (3) the limitations, pursuant to the  
15 provisions of the Law Enforcement Officer Procedures Act, on  
16 the discharge of tear gas or other chemical weapons, the  
17 discharge of kinetic impact projectiles from a propulsion  
18 device, attacking a person using a police dog and the use of a  
19 chokehold;

20 (4) required procedures for issuing warnings  
21 prior to discharging a firearm, discharging an electronic  
22 control weapon or using physical force;

23 (5) clear limits on the use of force pursuant  
24 to Section 3 of the Law Enforcement Officer Procedures Act,  
25 ensuring that less than deadly force is used only to the extent

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1 that it is proportional and the least amount of force necessary  
2 to achieve its lawful objective and that deadly force is only  
3 used as a last resort when necessary to defend against imminent  
4 threats to human life;

5 (6) the duty of officers to intervene pursuant  
6 to Section 7 of the Law Enforcement Officer Procedures Act; and

7 (7) comprehensive reporting protocols pursuant  
8 to Subsection A of Section 11 of the Law Enforcement Officer  
9 Procedures Act.

10 C. Not later than ninety days after the effective  
11 date of the Law Enforcement Officer Procedures Act, the head of  
12 each law enforcement agency shall publish the use of force  
13 policy required by Subsection A of this section in a location  
14 that is accessible to the public and in a conspicuous place on  
15 the agency's website, if any.

16 D. A law enforcement agency that fails to comply  
17 with the provisions of this section shall be ineligible to  
18 apply for grants administered by any state agency. The  
19 department shall afford the law enforcement agency an  
20 opportunity to contest a finding that the agency did not comply  
21 with the provisions of this section.

22 SECTION 10. [NEW MATERIAL] USE OF FORCE INVESTIGATIONS--  
23 FAILURE TO COMPLY.--

24 A. All law enforcement agencies shall develop and  
25 publicly disclose a policy for investigating alleged use of

1 force violations.

2 B. A use of force investigation shall be completed  
3 and an adjudication shall be made within one hundred eighty  
4 days of the alleged use of force; provided that this may be  
5 extended ninety days if the reason for the extension is  
6 documented and approved by the secretary.

7 C. A law enforcement agency that fails to comply  
8 with the provisions of this section shall be ineligible to  
9 apply for grants administered by any state agency. The  
10 department shall afford the law enforcement agency an  
11 opportunity to contest a finding that the agency did not comply  
12 with the provisions of this section.

13 SECTION 11. [NEW MATERIAL] REPORTING OFFICER-INVOLVED  
14 INJURIES OR DEATHS--FAILURE TO COMPLY.--

15 A. The department shall create a uniform protocol  
16 for a law enforcement agency to report officer-involved  
17 injuries or deaths. The uniform protocol shall require, for  
18 each incident involving an officer-involved injury or death,  
19 that the officer involved or another member of the same law  
20 enforcement agency prepare a report containing the following  
21 information regarding each incident:

- 22 (1) the reporting law enforcement agency;
- 23 (2) the date of the incident;
- 24 (3) the location of the incident;
- 25 (4) the name, age, sex, race and ethnicity of

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1 each law enforcement officer involved;

2 (5) whether each law enforcement officer  
3 involved was on duty or in uniform during the incident;

4 (6) the name of each witness;

5 (7) the name, age, sex, race and ethnicity of  
6 each injured or deceased person involved, if known; and, if  
7 unknown, a description of the inquiry undertaken to ascertain  
8 that information;

9 (8) whether each injured person received  
10 emergency medical care, was hospitalized or died as a result of  
11 the incident;

12 (9) a description of the injuries sustained by  
13 each injured person;

14 (10) a description of any efforts to render  
15 medical aid to each injured person;

16 (11) whether the person against whom force was  
17 used was armed and, if so, the type of weapon and in what  
18 manner the weapon was used or exhibited;

19 (12) whether each injured or deceased person  
20 exhibited signs or symptoms of mental illness or impairment at  
21 the time of the incident;

22 (13) whether a law enforcement officer  
23 involved attempted to call medical or mental health  
24 professionals to the scene during the incident;

25 (14) the reason for the use of force by law

1 enforcement officers;

2 (15) whether the reporting law enforcement  
3 agency determined the use of force was justified;

4 (16) a description of the physical force used  
5 by each law enforcement officer during the incident;

6 (17) a description of the de-escalation  
7 tactics and techniques used by each law enforcement officer  
8 involved during the incident;

9 (18) for each law enforcement officer present,  
10 a description of all attempts to intervene to prevent the use  
11 of unreasonable physical force during the incident; and

12 (19) whether the incident occurred during or  
13 as a result of:

14 (a) an emergency call or request for  
15 assistance and a description of the facts and circumstances;

16 (b) the execution of a warrant or other  
17 enforcement action; or

18 (c) a hostage-taking, a barricade or  
19 other emergency situation.

20 B. Not later than forty-five days after an officer-  
21 involved injury or death, the law enforcement agency that  
22 employs the law enforcement officer involved in the incident  
23 shall complete and submit to the secretary a report using the  
24 uniform protocol. If the law enforcement agency maintains a  
25 website, the agency shall post the report online upon

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1 submission to the secretary. Not later than five days after  
2 receiving a report, the secretary shall post the report on the  
3 department's website. If no officer-involved injuries or  
4 deaths have occurred during a quarterly period, the law  
5 enforcement agency shall submit a no incident report to the  
6 secretary in a manner prescribed by the secretary. The  
7 quarterly periods for no incident reports pursuant to this  
8 subsection shall be:

- 9 (1) January 1 to March 31;
- 10 (2) April 1 to June 30;
- 11 (3) July 1 to September 30; and
- 12 (4) October 1 to December 31.

13 C. A law enforcement agency that fails to comply  
14 with Subsection B of this section shall be ineligible to apply  
15 for grants administered by any state agency. The department  
16 shall afford the law enforcement agency an opportunity to  
17 contest a finding that the agency did not comply with  
18 Subsection B of this section.

19 D. The department shall prepare an annual report  
20 regarding all officer-involved injuries or deaths that occurred  
21 during the preceding fiscal year. The report shall include:

- 22 (1) the total number of officer-involved  
23 injuries or deaths;
- 24 (2) the number of officer-involved injuries or  
25 deaths reported by each law enforcement agency;

1 (3) the entirety of data reported using the  
2 uniform protocol; and

3 (4) any operational, policy, regulatory or  
4 legislative recommendations to reduce the number and  
5 seriousness of officer-involved injuries or deaths.

6 E. On or before September 30 of each year, the  
7 secretary shall submit the report to the governor, the speaker  
8 of the house of representatives, the president pro tempore of  
9 the senate and the appropriate legislative interim committee  
10 dealing with courts, corrections and justice. On or before  
11 September 30 of each year, the secretary shall post the report  
12 on the department's website.

13 SECTION 12. [NEW MATERIAL] USE OF FORCE DATABASE.--

14 A. By no later than June 30, 2024, the department  
15 shall create a database to coordinate the sharing of  
16 information among state, local and federal law enforcement  
17 agencies concerning uses of force related to law enforcement  
18 matters. Ownership and responsibility to maintain the database  
19 shall transfer to the law enforcement certification board on  
20 July 1, 2024.

21 B. The database provided for in Subsection A of  
22 this section shall include a mechanism to track terminations,  
23 resignations, decertifications, criminal convictions of and  
24 civil judgments against law enforcement officers for improper  
25 use of force; provided that the database shall distinguish

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1 between instances in which a judicial, administrative or other  
2 factual or legal determination was made and those in which no  
3 judicial, administrative or other factual or legal  
4 determination was made.

5 C. Each law enforcement agency shall notify the  
6 department regarding any notice of terminations, resignations,  
7 decertifications, criminal convictions of and civil judgments  
8 against law enforcement officers for improper use of force.  
9 Each law enforcement agency shall notify the department  
10 regarding each written agreement made between the agency and  
11 any of the agency's employees or former employees that includes  
12 terms of separation or otherwise relates to the law enforcement  
13 officer's employment with the agency. After July 1, 2024,  
14 notice shall be made to the law enforcement certification  
15 board.

16 D. Upon a particularized showing of the need for  
17 the requested data, the law enforcement certification board  
18 shall make available to a law enforcement agency data regarding  
19 specific law enforcement officers whose identities have been  
20 entered into the database described in Subsection A of this  
21 section.

22 E. The law enforcement certification board shall  
23 annually provide a report to the governor and the legislature  
24 regarding the status of law enforcement officers and former law  
25 enforcement officers in the state, including aggregated and



1 anonymized data from the database described in Subsection A of  
2 this section.

3 F. A law enforcement agency that fails to comply  
4 with Subsection C of this section shall be ineligible to apply  
5 for grants administered by any state agency. The department  
6 shall afford the law enforcement agency an opportunity to  
7 contest a finding that the agency did not comply with  
8 Subsection C of this section.

9 SECTION 13. [NEW MATERIAL] SEARCH WARRANTS--REQUIRING  
10 KNOCK AND ANNOUNCE--SHOWING SEARCH WARRANT--PROVIDING A  
11 PENALTY.--

12 A. A law enforcement officer executing a search  
13 warrant shall knock and announce the officer's presence and  
14 purpose before forcibly entering a residence, unless there  
15 exists a verifiable exigent circumstance occurring in real time  
16 that poses a threat of great bodily harm to an officer or  
17 identifiable person. The presence or suspected presence of  
18 drugs is not such an exigent circumstance. A law enforcement  
19 officer shall not seek, execute or participate in the execution  
20 of a search warrant in which the executing law enforcement  
21 officers do not knock and announce their presence and purpose.

22 B. When executing a search warrant, a law  
23 enforcement officer shall be recognizable and identifiable as a  
24 uniformed law enforcement officer, with the officer's name and  
25 identification number visible. The law enforcement officer

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1 shall provide audible notice of the officer's authority and  
2 purpose in a manner reasonably expected to be heard by  
3 occupants of the place to be searched prior to the execution of  
4 the search warrant.

5 C. After entering and securing the place to be  
6 searched, and prior to undertaking a search or seizure pursuant  
7 to the search warrant, the executing law enforcement officer  
8 shall read and give a copy of the search warrant to the person  
9 to be searched or the owner of the place to be searched or, if  
10 the owner is not present, to an occupant of the place to be  
11 searched. If the place to be searched is unoccupied, the  
12 executing law enforcement officer shall leave a copy of the  
13 search warrant suitably affixed to the place to be searched.

14 D. A law enforcement officer charged with the  
15 execution of a search warrant shall be accompanied only by the  
16 persons reasonably necessary for the successful execution of  
17 the search warrant with all practicable safety.

18 E. Before entering the premises of a property to be  
19 searched, a law enforcement officer shall:

20 (1) physically knock on an entry door to the  
21 premises in a manner and duration that can be heard by the  
22 occupants and, when available, sound a bell or other device  
23 affixed to the outside of a building that can be rung by  
24 visitors to signal a visitor's arrival, unless the officer  
25 reasonably believes that doing so would pose a threat of great

1 bodily harm to the officer or an identifiable person;

2 (2) clearly and verbally announce the  
3 officer's self as a law enforcement officer having a search  
4 warrant in a manner that can be heard by the occupants;

5 (3) clearly and verbally announce that the  
6 occupants must open the door pursuant to the search warrant and  
7 that force may be used if the occupants fail to respond; and

8 (4) wait a minimum of thirty seconds for  
9 occupants to respond before entering the premises by force.

10 F. Evidence seized or obtained pursuant to a search  
11 warrant shall be inadmissible if judicial review determines  
12 that a law enforcement officer did not comply with Subsections  
13 A through E of this section.

14 SECTION 14. Section 10-16C-3 NMSA 1978 (being Laws 2010,  
15 Chapter 12, Section 3) is amended to read:

16 "10-16C-3. PUBLIC EMPLOYER RETALIATORY ACTION  
17 PROHIBITED.--A public employer shall not take any retaliatory  
18 action against a public employee because the public employee:

19 A. communicates to the public employer or a third  
20 party information about an action or a failure to act that the  
21 public employee believes in good faith constitutes an unlawful  
22 or improper act;

23 B. provides information to, or testifies before, a  
24 public body as part of an investigation, hearing or inquiry  
25 into an unlawful or improper act; [~~or~~]

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1 C. objects to or refuses to participate in an  
2 activity, policy or practice that constitutes an unlawful or  
3 improper act; or

4 D. intervenes or reports pursuant to Section 7 of  
5 the Law Enforcement Officer Procedures Act."

6 SECTION 15. Section 14-2-1 NMSA 1978 (being Laws 1947,  
7 Chapter 130, Section 1, as amended) is amended to read:

8 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--  
9 Every person has a right to inspect public records of this  
10 state except:

11 A. records pertaining to physical or mental  
12 examinations and medical treatment of persons confined to an  
13 institution;

14 B. letters of reference concerning employment,  
15 licensing or permits;

16 C. letters or memoranda that are matters of opinion  
17 in personnel files or students' cumulative files; provided that  
18 records describing the disposition of misconduct investigations  
19 shall not be exempt from inspection;

20 D. portions of law enforcement records that reveal:

21 (1) confidential sources, methods or  
22 information; or

23 (2) before charges are filed, names, address,  
24 contact information or protected personal identifier  
25 information [~~as defined in this act~~] of individuals who are:

1 (a) accused but not charged with a  
2 crime; or

3 (b) victims of or non-law-enforcement  
4 witnesses to an alleged crime of: 1) assault with intent to  
5 commit a violent felony pursuant to Section 30-3-3 NMSA 1978  
6 when the violent felony is criminal sexual penetration; 2)  
7 assault against a household member with intent to commit a  
8 violent felony pursuant to Section 30-3-14 NMSA 1978 when the  
9 violent felony is criminal sexual penetration; 3) stalking  
10 pursuant to Section 30-3A-3 NMSA 1978; 4) aggravated stalking  
11 pursuant to Section 30-3A-3.1 NMSA 1978; 5) criminal sexual  
12 penetration pursuant to Section 30-9-11 NMSA 1978; or 6)  
13 criminal sexual contact pursuant to Section 30-9-12 NMSA 1978.

14 Law enforcement records include evidence in any form  
15 received or compiled in connection with a criminal  
16 investigation or prosecution by a law enforcement or  
17 prosecuting agency, including inactive matters or closed  
18 investigations to the extent that they contain the information  
19 listed in this subsection; provided that the presence of such  
20 information on a law enforcement record does not exempt the  
21 record from inspection;

22 E. as provided by the Confidential Materials Act;

23 F. trade secrets, attorney-client privileged  
24 information and long-range or strategic business plans of  
25 public hospitals discussed in a properly closed meeting;

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1           G. tactical response plans or procedures prepared  
2 for or by the state or a political subdivision of the state,  
3 the publication of which could reveal specific vulnerabilities,  
4 risk assessments or tactical emergency security procedures that  
5 could be used to facilitate the planning or execution of a  
6 terrorist attack; and

7           H. as otherwise provided by law."

8           **SECTION 16.** Section 29-7-4.4 NMSA 1978 (being Laws 2022,  
9 Chapter 56, Section 6) is amended to read:

10           "29-7-4.4. LAW ENFORCEMENT OFFICER TRAINING.--The  
11 curriculum of each basic law enforcement training class and in-  
12 service training each year for certified police officers shall  
13 include:

14           A. crisis management and intervention;

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

17           C. methods of de-escalation;

18           D. peer-to-peer intervention;

19           E. stress management;

20           F. racial sensitivity;

21           G. reality-based situational training; and

22           H. use of force training consistent with the Law  
23 Enforcement Officer Procedures Act that includes the  
24 elimination of vascular neck restraints."

25           **SECTION 17.** Section 30-2-6 NMSA 1978 (being Laws 1963,

1 Chapter 303, Section 2-7, as amended) is amended to read:

2 "30-2-6. JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER OR PUBLIC  
3 EMPLOYEE.--

4 A. Homicide is justifiable when committed by a  
5 public officer or public employee or those acting by their  
6 command and in their aid and assistance:

7 (1) in obedience to any judgment of a  
8 competent court;

9 (2) when necessarily committed in overcoming  
10 actual resistance to the execution of some legal process or to  
11 the discharge of any other legal duty;

12 (3) when necessarily committed in retaking  
13 felons who have been rescued or who have escaped or when  
14 necessarily committed in arresting felons fleeing from justice;  
15 or

16 (4) when necessarily committed in order to  
17 prevent the escape of a felon from any place of lawful custody  
18 or confinement.

19 B. [~~For the purposes of this section, homicide is~~  
20 ~~"necessarily committed" when a public officer or public~~  
21 ~~employee has probable cause to believe he or another is~~  
22 ~~threatened with serious harm or deadly force while performing~~  
23 ~~those lawful duties described in this section. Whenever~~  
24 ~~feasible, a public officer or employee should give warning~~  
25 ~~prior to using deadly force] Homicide is "necessarily~~

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1 committed" only if a public officer or public employee's use of  
2 force was lawful according to Section 3 of the Law Enforcement  
3 Officer Procedures Act."

4 SECTION 18. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2023.

underscoring material = new  
[bracketed material] = delete