

1 SENATE BILL 368

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Harold Pope

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10 AN ACT

11 RELATING TO LAW ENFORCEMENT; PROVIDING EXCEPTIONS IN CERTAIN
12 SITUATIONS TO THE REQUIREMENT THAT LAW ENFORCEMENT USE BODY-
13 WORN CAMERAS.

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

16 SECTION 1. Section 29-1-18 NMSA 1978 (being Laws 2020
17 (1st S.S.), Chapter 7, Section 1) is amended to read:

18 "29-1-18. REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO
19 USE BODY-WORN CAMERAS WHILE ON DUTY--EXCEPTIONS--ADOPTION OF
20 POLICIES AND PROCEDURES GOVERNING USE.--

21 A. A law enforcement agency shall require peace
22 officers the agency employs and who routinely interact with the
23 public to wear a body-worn camera while on duty, except as
24 provided in Subsection B of this section. Each law enforcement
25 agency subject to the provisions of this section shall adopt

.223756.1

1 policies and procedures governing the use of body-worn cameras,
2 including:

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

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

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

13 (4) establishing disciplinary rules for peace
14 officers who:

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

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

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

21 B. The provisions of Subsection A of this section
22 shall not apply when a peace officer:

23 (1) notifies a member of the public of a
24 death;

25 (2) conducts an undercover operation

underscored material = new
[bracketed material] = delete

1 sanctioned by a law enforcement agency; or

2 (3) conducts an explosive recovery and
3 disposal operation to render safe or disassemble an explosive
4 or incendiary device and materials.

5 ~~[B.]~~ C. Peace officers who fail to comply with the
6 policies and procedures required to be adopted pursuant to
7 Subsection A of this section shall be presumed to have acted in
8 bad faith and shall be deemed liable for the independent tort
9 of negligent spoliation of evidence or the independent tort of
10 intentional spoliation of evidence.

11 ~~[C.]~~ D. As used in this section:

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

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

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