

HOUSE BILL

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LAW ENFORCEMENT; ENACTING THE EXCESSIVE FORCE ACT;  
ESTABLISHING THE SPECIAL EXCESSIVE FORCE UNIT AS A DIVISION IN  
THE OFFICE OF THE ATTORNEY GENERAL; REQUIRING EXCESSIVE FORCE  
CASES TO BE BROUGHT TO A HEARING IN DISTRICT COURT; MAKING AN  
APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Excessive Force Act".

SECTION 2. [NEW MATERIAL] DEFINITION.--As used in the  
Excessive Force Act, "excessive force case" means a case that  
arises out of an action taken by a law enforcement officer  
while the officer was acting in the officer's official  
capacity, including:

A. a shooting by a law enforcement officer;

.205039.1

underscored material = new  
[bracketed material] = delete

1 B. an allegation of assault, battery or homicide by  
2 a law enforcement officer; or

3 C. any other allegation of the use of excessive  
4 force brought against a law enforcement officer.

5 SECTION 3. [NEW MATERIAL] ESTABLISHMENT OF SPECIAL  
6 EXCESSIVE FORCE UNIT.--

7 A. The "special excessive force unit" is  
8 established as a division of the office of the attorney  
9 general.

10 B. Notwithstanding any other provision of law, the  
11 special excessive force unit has exclusive powers of  
12 investigation and prosecution of alleged excessive force cases  
13 by law enforcement officers in the state.

14 C. The attorney general shall ensure the allocation  
15 of sufficient staff and resources to the special excessive  
16 force unit as may be required to ensure the swift and competent  
17 investigation and prosecution of excessive force cases.

18 SECTION 4. [NEW MATERIAL] EXCESSIVE FORCE CASES IN  
19 DISTRICT COURT.--An excessive force case shall be presented in  
20 a preliminary hearing or inquiry before the district court in  
21 the judicial district in whose jurisdiction the incident  
22 occurred for a determination of probable cause and shall not be  
23 presented to a grand jury.

24 SECTION 5. APPROPRIATION.--One million five hundred  
25 thousand dollars (\$1,500,000) is appropriated from the general

1 fund to the office of the attorney general for expenditure in  
2 fiscal year 2018 to establish the special excessive force unit.  
3 Any unexpended or unencumbered balance remaining at the end of  
4 fiscal year 2018 shall revert to the general fund.

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