

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 184

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO LAW ENFORCEMENT; CHANGING THE CURRENT AMOUNTS DISTRIBUTED FROM THE LAW ENFORCEMENT PROTECTION FUND; PROVIDING DISTRIBUTIONS FROM THE LAW ENFORCEMENT PROTECTION FUND TO THE DEPARTMENT OF PUBLIC SAFETY TO OFFSET COSTS INCURRED DUE TO CERTAIN SPECIAL DEPLOYMENTS; REQUIRING CERTIFIED LAW ENFORCEMENT OFFICERS WHO WORK AS SCHOOL RESOURCE OFFICERS TO BE SPECIFICALLY TRAINED FOR THOSE POSITIONS; ALLOWING SCHOOL DISTRICT POLICE DEPARTMENTS THAT HAVE FULL-TIME SCHOOL RESOURCE OFFICERS TO RECEIVE FUNDING FROM THE LAW ENFORCEMENT PROTECTION FUND.

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

SECTION 1. [NEW MATERIAL] LAW ENFORCEMENT OFFICERS AS SCHOOL RESOURCE OFFICERS--TRAINING REQUIRED.--

A. As used in this section, "school resource officer" means a commissioned and certified law enforcement officer who is designated to be responsible for school safety and crime prevention and the appropriate response to crimes in public schools and has completed the training specified in Subsection B of this section.

B. A law enforcement officer who is or will be assigned as a school resource officer shall receive specific training for the duty, including instruction on the following:

(1) the differences in successful law enforcement when conducted inside a school environment, including understanding the adolescent brain, crisis management and de-escalation techniques;

(2) tools to be a positive role model for youth, including mentoring and informal counseling techniques;

(3) the school resource officer's role and responsibilities to school personnel and students and their families and strategies for connecting students and families to appropriate resources that will assist students to succeed in school, including strategies for mitigating truancy;

(4) a variety of instructional techniques as

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well as classroom management tools to provide law-related education to students;

(5) an understanding of adolescent development and adolescent mental health disorders and treatment; and

(6) identification and response to students who are suspected of having a mental health need, including critical skills and capacity for appropriately responding to behavior issues that are typically observed among adolescents with mental health needs.

C. Beginning with the HAFc→2021-2022←HAFc HAFc→2022-2023←HAFc school year, a law enforcement officer who:

(1) is assigned as a school resource officer shall complete the training required in Subsection B of this section within twelve months of being assigned as a school resource officer; or

(2) was serving as a school resource officer prior to the HAFc→2021-2022←HAFc HAFc→2022-2023←HAFc school year and who has not received specific training for the position of school resource officer shall complete the training required in Subsection B of this section no later than July 1, HAFc→2022←HAFc HAFc→2023←HAFc.

D. The school resource officer training shall be provided by or approved by the New Mexico law enforcement academy in consultation with the public education department.

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SECTION 2. Section 29-13-2 NMSA 1978 (being Laws 1983, Chapter 289, Section 2, as amended) is amended to read:

"29-13-2. PURPOSE OF ACT.--The purpose of the Law Enforcement Protection Fund Act is to provide for the equitable distribution of money to state police, municipal police, university police, tribal police, [~~and~~] county sheriff's and school district police departments for use in the maintenance and improvement of those departments in order to enhance the efficiency and effectiveness of law enforcement services and to sustain at a reasonable level the payments available to the surviving eligible family members of a peace officer killed in the line of duty."

SECTION 3. Section 29-13-2.1 NMSA 1978 (being Laws 1993, Chapter 179, Section 4, as amended) is amended to read:

"29-13-2.1. DEFINITIONS.--As used in the Law Enforcement Protection Fund Act:

- A. "academy" means the New Mexico law enforcement academy;
- B. "division" means the local government division of the department of finance and administration;
- C. "fund" means the law enforcement protection fund;
- D. "governmental entity" means the academy, the department of public safety, a municipality, a county, a

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university, a tribe or a [~~county~~] school district;

E. "school district police department" means a department of commissioned law enforcement officers who are charged with preventing, investigating and solving crimes on school district property;

~~[E.]~~ F. "tribal police department" means 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;

~~[F.]~~ G. "tribe" means an Indian nation, tribe or pueblo located wholly or partly in New Mexico; and

~~[G.]~~ H. "university" means a four-year post-secondary educational institution listed in Article 12, Section 11 of the constitution of New Mexico."

SECTION 4. Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6, as amended by Laws 2017, Chapter 1, Section 2 and by Laws 2017, Chapter 35, Section 3) 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

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succeeding fiscal year pursuant to the provisions of
[Subsection] 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).

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 ~~[rated by class pursuant to this paragraph in accordance with populations established by the most recently completed decennial census; provided that the population of any county shall not include the population of any municipality within that county that has a municipal police department. The rate of distribution to which a municipal police or county sheriff's department is entitled is the following:~~

| CLASS | POPULATION | AMOUNT |
|-------|---------------------------------|--------------------|
| 1 | 0 to 20,000 | \$20,000 |
| 2 | 20,001 to 160,000 | 30,000 |
| 3 | 160,001 to 1,280,000 | 40,000; |

entitled to a rate of distribution of forty-five thousand

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dollars (\$45,000);

(2) university police departments shall be entitled to a rate of distribution of [~~seventeen thousand dollars (\$17,000)~~] forty-five thousand dollars (\$45,000);

(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 [~~1 of this 2017 act~~] 29-7-7.7 NMSA 1978;

(4) tribal police departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to [~~six hundred dollars (\$600)~~] one thousand dollars (\$1,000) 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; [~~and~~]

(5) municipal, school district and university police and county sheriff's departments shall be entitled,

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unless allocations are adjusted pursuant to the provisions of Subsection D of this section, to [~~six hundred dollars (\$600)~~] one thousand dollars (\$1,000) 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, 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) for each assigned school resource officer's training pursuant to Section 1 of this 2020 act.

D. After distributions are determined in accordance with Subsection A, Subsection B and Paragraphs (1), (2), [~~and~~] (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

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than two million dollars (\$2,000,000)."

SECTION 5. Section 29-13-5 NMSA 1978 (being Laws 1983, Chapter 289, Section 5, as amended) is amended to read:

"29-13-5. DETERMINATION OF NEEDS--REVIEW.--No later than May 1 of each year, the division shall notify in writing each affected municipal police, school district police, university police, tribal police and county sheriff's department, the department of public safety and the academy of its determination of money to be distributed pursuant to the provisions of Section 29-13-4 NMSA 1978. Any affected governmental entity may appeal that determination by filing a notice of appeal with the secretary of finance and administration no later than May 15. If an appeal is filed, the secretary of finance and administration shall review the determination of the division in an informal and summary proceeding and shall certify the result of the appeal to the division no later than June 30, and the division shall adjust its determination accordingly. If no appeal is filed, the original determination of the division shall be final and binding and not subject to further review."

SECTION 6. Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended) is amended to read:

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

A. Except as provided for the academy and the department of public safety in [~~Subsection~~] Subsections B and C

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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);

(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 [~~rated as class 1 in Paragraph (1) of Subsection C of Section 29-13-4 NMSA 1978~~] participating in basic law enforcement training; and

(7) contingent upon the availability of funding and until June 30, 2021, a law enforcement officer retention payment 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 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.

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.

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

(1) shall:

(a) be used only to offset overtime-pay-

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related expenses incurred directly by the department of public safety from the special deployment of state HAFC→patrol←HAFC HAFC→police←HAFC 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.

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

HAFC→SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2022.←HAFC

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