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SENATE BILL 411

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Gregory A. Baca

AN ACT

RELATING TO LAW ENFORCEMENT; CREATING AN EXCEPTION TO THE
BODY-WORN CAMERA REQUIREMENT FOR CERTAIN PEACE OFFICERS.

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

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

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

A. A law enforcement agency shall require peace
officers the agency employs and who routinely interact with the
public, except for when the officers are operating under the
direct supervision of a federal agency, to wear a body-worn
camera while on duty. Each law enforcement agency subject to
the provisions of this section shall adopt policies and

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

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

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

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

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

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

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

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

20 B. Peace officers who fail to comply with the
21 policies and procedures required to be adopted pursuant to
22 Subsection A of this section shall be presumed to have acted in
23 bad faith and shall be deemed liable for the independent tort
24 of negligent spoliation of evidence or the independent tort of
25 intentional spoliation of evidence.

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C. As used in this section:

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

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

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