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HOUSE BILL 510

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

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO LAW ENFORCEMENT; CREATING THE PEACE OFFICER SERIOUS
USE OF FORCE INVESTIGATION AND PROSECUTION ACT; CREATING THE
PEACE OFFICER SERIOUS USE OF FORCE INVESTIGATION AND
PROSECUTION FUND; 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 "Peace Officer Serious Use of Force Investigation
and Prosecution Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Peace Officer Serious Use of Force Investigation and
Prosecution Act:

A. "commissioned" means authorized by a sheriff or
chief of police to prevent and detect crime and enforce the
criminal and traffic laws of the state;

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1 B. "peace officer" means a commissioned employee or
2 a certified law enforcement officer of a law enforcement agency
3 that is part of or administered by the state or a political
4 subdivision of the state who is responsible for the prevention
5 and detection of crime and the enforcement of the criminal and
6 traffic laws of the state; and

7 C. "serious use of force" means any use of force by
8 a peace officer that results in or causes the death of another
9 person.

10 SECTION 3. [NEW MATERIAL] PEACE OFFICER SERIOUS USE OF
11 FORCE INVESTIGATION AND PROSECUTION FUND.--The "peace officer
12 serious use of force investigation and prosecution fund" is
13 created in the state treasury. The fund consists of
14 appropriations to the fund, income from investment of the fund
15 and money otherwise accruing to the fund. Money in the fund
16 shall not revert to any other fund at the end of a fiscal year.
17 The administrative office of the district attorneys shall
18 administer the fund, and money in the fund is appropriated to
19 the administrative office of the district attorneys to provide
20 for investigations and prosecutions provided for in the Peace
21 Officer Serious Use of Force Investigation and Prosecution Act.
22 Money in the fund shall be disbursed on warrants signed by the
23 secretary of finance and administration pursuant to vouchers
24 signed by the director of the administrative office of the
25 district attorneys or the director's authorized representative.

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1 SECTION 4. [NEW MATERIAL] SERIOUS USE OF FORCE

2 INVESTIGATIONS--APPOINTMENT OF SPECIAL PROSECUTOR.--

3 A. If a peace officer is involved in a serious use
4 of force incident, the officer's law enforcement agency shall
5 notify the district attorney in whose jurisdiction the incident
6 took place about the incident.

7 B. A district attorney who receives notice of a
8 serious use of force incident shall, as soon as practicable,
9 determine whether a conflict of interest would prevent the
10 district attorney from conducting an investigation of the
11 incident. If there is no conflict of interest, the district
12 attorney shall investigate the incident, and if the district
13 attorney determines that the serious use of force was not
14 justified, prosecute the peace officer.

15 C. If a district attorney notified of a serious use
16 of force incident determines that a conflict of interest
17 prevents the district attorney's investigation of the incident,
18 the district attorney shall notify the attorney general of the
19 conflict of interest and the attorney general shall appoint
20 three district attorneys to appoint a special prosecutor who
21 does not have a conflict of interest with respect to the
22 incident to conduct the investigation and, if appropriate,
23 prosecute the involved peace officer.

24 D. If a district attorney conducting an
25 investigation of a serious use of force incident determines

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