

HOUSE BILL 208

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Nathan P. Small

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE HAZARDOUS DUTY OFFICERS' EMPLOYER-EMPLOYEE RELATIONS ACT TO CLARIFY THAT THE COMPELLED STATEMENT OF AN OFFICER SHALL NOT BE RELEASED EXCEPT UPON COURT ORDER.

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

SECTION 1. Section 10-7F-1 NMSA 1978 (being Laws 2010, Chapter 62, Section 1) is amended to read:

"10-7F-1. SHORT TITLE.--~~[This act]~~ Chapter 10, Article 7F NMSA 1978 may be cited as the "Hazardous Duty Officers' Employer-Employee Relations Act"."

SECTION 2. Section 10-7F-2 NMSA 1978 (being Laws 2010, Chapter 62, Section 2) is amended to read:

"10-7F-2. DEFINITIONS.--As used in the Hazardous Duty Officers' Employer-Employee Relations Act:

.212333.1

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 A. "compelled statement" means a statement provided
2 by an officer to the officer's employer if the statement is
3 compelled under threat of dismissal from employment or any
4 other employment sanction;

5 ~~[A-]~~ B. "emergency medical technician" means an
6 individual who has been licensed by the department of health as
7 an emergency medical technician;

8 ~~[B-]~~ C. "firefighter" means an individual who is
9 employed as a non-volunteer firefighter and who has taken the
10 oath prescribed for firefighters;

11 ~~[G-]~~ D. "hazardous duty officer" or "officer" means
12 an individual who is employed full time by the state or a
13 political subdivision of the state as a firefighter, emergency
14 medical technician or paramedic, provided that "hazardous duty
15 officer" does not include an individual who has not completed
16 the probationary period established by the individual's
17 employer as a condition of employment; and

18 ~~[D-]~~ E. "paramedic" means an individual who has
19 been licensed by the department of health as a paramedic."

20 **SECTION 3.** Section 10-7F-3 NMSA 1978 (being Laws 2010,
21 Chapter 62, Section 3) is amended to read:

22 "10-7F-3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS--
23 REQUIREMENTS--LIMITATION.--

24 A. When a hazardous duty officer is under
25 investigation by the officer's employer for alleged actions

.212333.1

underscored material = new
[bracketed material] = delete

1 that could result in administrative sanctions being levied
2 against the officer, any [~~interrogation~~] investigative
3 interview of the officer shall be conducted only:

4 (1) upon the order of the officer's department
5 director or the department director's designee;

6 [~~(1)~~] (2) when the officer is on duty or
7 during the officer's normal waking hours, unless the urgency of
8 the investigation requires otherwise; and

9 [~~(2)~~] (3) at the employer's facility, unless
10 the urgency of the investigation requires otherwise.

11 B. Prior to commencement of an [~~interrogation~~
12 ~~session~~] investigative interview:

13 (1) the officer shall be informed of the name
14 and rank of the person in charge of the [~~interrogation~~]
15 investigative interview and all other persons who will be
16 present during the [~~interrogation~~] investigative interview;

17 (2) the officer shall be informed of the
18 nature of the investigation, and the names of all known
19 complainants shall be disclosed to the officer unless the chief
20 administrator of the officer's employer determines that the
21 identification of the complainant shall not be disclosed
22 because it is necessary for the protection of an informant or
23 because disclosure would jeopardize or compromise the integrity
24 or security of the investigation; and

25 (3) a reasonable attempt shall be made to

.212333.1

underscored material = new
[bracketed material] = delete

1 notify the officer's immediate superior of the pending
2 [~~interrogation~~] investigative interview.

3 C. During an [~~interrogation session~~] investigative
4 interview, the following requirements shall be adhered to:

5 (1) at the commencement of the investigative
6 interview, the officer shall be advised of all legal rights
7 that the officer has with respect to the investigative
8 interview;

9 [~~(1)~~] (2) each [~~interrogation~~] investigative
10 interview session shall not exceed two hours unless the parties
11 mutually consent to continuation of the session;

12 [~~(2)~~] (3) there shall not be more than one
13 [~~interrogation~~] investigative interview session within a
14 twenty-four-hour period, unless the parties mutually consent to
15 additional sessions, provided that there shall be at least a
16 one-hour rest period between the sessions;

17 [~~(3)~~] (4) there shall not be more than two
18 [~~interrogators~~] investigators at any given time;

19 [~~(4)~~] (5) the officer shall be allowed to
20 attend to physical necessities as they occur in the course of
21 an [~~interrogation session~~] investigative interview; and

22 [~~(5)~~] (6) the officer shall not be subjected
23 to offensive language or illegal coercion by [~~the officer's~~
24 ~~interrogator~~] an investigator in the course of an
25 [~~interrogation session~~] investigative interview.

.212333.1

underscoring material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

D. An [~~interrogation~~] investigative interview of an officer shall be recorded, and the complete [~~interrogation~~] investigative interview shall be published as a transcript; provided that any recesses called during the [~~interrogation~~] investigative interview shall be noted in the transcript. An accurate copy of the transcript or tape shall be provided to the officer, upon written request, no later than fifteen working days after the investigation has been completed.

E. The compelled statement of an officer shall not be released by the employer except upon court order."