

HOUSE FLOOR SUBSTITUTE FOR
SENATE BILL 8

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING CERTAIN LAW ENFORCEMENT
AGENCIES TO USE BODY-WORN CAMERAS; REQUIRING LAW ENFORCEMENT
AGENCIES TO ADOPT CERTAIN POLICIES AND PROCEDURES; REQUIRING A
LAW ENFORCEMENT AGENCY TO REPORT TO THE NEW MEXICO LAW
ENFORCEMENT ACADEMY BOARD A POLICE OFFICER WHO USES UNLAWFUL
USE OF FORCE.

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

SECTION 1. [NEW MATERIAL] 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 to wear a body-worn camera while on duty. Each law
enforcement agency subject to the provisions of this section

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1 shall adopt policies and procedures governing the use of body-
2 worn cameras, including:

3 (1) requiring activation of a body-worn camera
4 whenever a peace officer is responding to a call for service or
5 at the initiation of any investigative encounter between a
6 peace officer and a member of the public, except when the peace
7 officer is engaged in an undercover assignment or
8 investigation, is working with a confidential informant, if the
9 immediate activation of the body-worn camera is not feasible
10 due to immediate risk to the safety of the peace officer or
11 others or as the situation may require to maintain a member of
12 the public's reasonable expectation of privacy as provided by
13 policy;

14 (2) prohibiting intentional deactivation of a
15 body-worn camera until there is a conclusion of the law
16 enforcement investigative encounter;

17 (3) prohibiting the recording of general
18 activity;

19 (4) requiring that any video recorded by a
20 body-worn camera shall be retained by the law enforcement
21 agency for not less than one hundred twenty days; and

22 (5) establishing disciplinary rules for peace
23 officers who:

24 (a) knowingly fail to operate a body-
25 worn camera in accordance with law enforcement agency policies;

1 (b) intentionally manipulate a body-worn
 2 camera recording; or

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

5 B. Peace officers who intentionally fail to comply
 6 with the policies and procedures required to be adopted
 7 pursuant to Subsection A of this section shall make their
 8 agency liable for the independent tort of intentional
 9 spoliation of evidence.

10 C. As used in this section:

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

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

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

22 SECTION 2. [NEW MATERIAL] STATE TO PAY COSTS FOR DATA
 23 STORAGE.--Beginning July 1, 2021, the state shall reimburse the
 24 law enforcement agencies required to comply with the provisions
 25 of this act for the costs associated with storing body-worn

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1 camera data, including audio and video recordings.

2 SECTION 3. A new section of the Law Enforcement Training
3 Act is enacted to read:

4 "[NEW MATERIAL] LAW ENFORCEMENT AGENCY REPORTING TO BOARD
5 POLICE OFFICERS WHO USE UNLAWFUL FORCE.--If any law enforcement
6 agency finds that an officer it employs uses unlawful force
7 while on duty, the law enforcement agency shall report that
8 police officer to the board for discipline, including
9 revocation of the police officer's certification."

10 SECTION 4. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2021.