

AN ACT

RELATING TO LAW ENFORCEMENT; ADDING CERTIFIED PART-TIME SALARIED POLICE OFFICERS TO THE DEFINITION OF LAW ENFORCEMENT OFFICER IN THE CRIMINAL PROCEDURE ACT AND TORT CLAIMS ACT.

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

Section 1. Section 31-1-2 NMSA 1978 (being Laws 1972, Chapter 71, Section 5, as amended) is amended to read:

"31-1-2. DEFINITIONS.--Unless a specific meaning is given, as used in the Criminal Procedure Act:

A. "accused" means any person charged with the violation of any law of this state imposing a criminal penalty;

B. "bail bond" is a contract between surety and the state to the effect that the accused and the surety will appear in court when required and will comply with all conditions of the bond;

C. "defendant" means any person accused of a violation of any law of this state imposing a criminal penalty;

D. "felony" means any crime so designated by law or if upon conviction thereof a sentence of death or of imprisonment for a term of one year or more is authorized;

E. "person", unless a contrary intention appears, means any individual, estate, trust, receiver, cooperative

association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity;

F. "police officer", "law enforcement officer", "peace officer" or "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;

G. "recognizance" means any obligation of record entered into before a court requiring the accused to appear at all appropriate times or forfeit any bail and be subject to criminal penalty for failure to appear;

H. "release on personal recognizance" or "release on own recognizance" means the release of a defendant without bail, bail bond or sureties upon the defendant's promise to appear at all appropriate times;

I. "rules of civil procedure" means rules of civil procedure for the district courts of the state of New Mexico, as may be amended from time to time;

J. "rules of criminal procedure" means rules of criminal procedure for the district courts, magistrate courts and municipal courts adopted by the New Mexico supreme court, as may be amended from time to time;

K. "misdemeanor" means any offense for which the authorized penalty upon conviction is imprisonment in excess of six months but less than one year; and

L. "petty misdemeanor" means any offense so designated by law or if upon conviction a sentence of imprisonment for six months or less is authorized."

Section 2. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory board;

B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this section;

C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;

D. "law enforcement officer" means a full-time salaried public employee of a governmental entity, or a certified part-time salaried police officer employed by a governmental entity, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;

E. "maintenance" does not include:

(1) conduct involved in the issuance of a permit, driver's license or other official authorization to use the roads or highways of the state in a particular manner; or

(2) an activity or event relating to a public building or public housing project that was not foreseeable;

F. "public employee" means an officer, employee or servant of a governmental entity, excluding independent contractors except for individuals defined in Paragraphs (7), (8), (10) and (14) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act, the Small Business Investment Act or the Mortgage Finance Authority Act or a licensed health care provider, who has no medical liability insurance, providing voluntary services as defined in Paragraph (16) of this subsection and including:

(1) elected or appointed officials;

(2) law enforcement officers;

(3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child

placement agency;

(5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;

(6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;

(7) licensed medical, psychological or dental arts practitioners providing services to the corrections department pursuant to contract;

(8) members of the board of directors of the New Mexico medical insurance pool;

(9) individuals who are members of medical review boards, committees or panels established by the educational retirement board or the retirement board of the public employees retirement association;

(10) licensed medical, psychological or dental arts practitioners providing services to the children, youth and families department pursuant to contract;

(11) members of the board of directors of the New Mexico educational assistance foundation;

(12) members of the board of directors of the New Mexico student loan guarantee corporation;

(13) members of the New Mexico mortgage finance authority;

(14) volunteers, employees and board members of court-appointed special advocate programs;

(15) members of the board of directors of the small business investment corporation; and

(16) health care providers licensed in New Mexico who render voluntary health care services without compensation in accordance with rules promulgated by the secretary of health. The rules shall include requirements for the types of locations at which the services are rendered, the allowed scope of practice and measures to ensure quality of care;

G. "scope of duty" means performing any duties that a public employee is requested, required or authorized to perform by the governmental entity, regardless of the time and place of performance; and

H. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions."