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SENATE BILL 550

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO CRIMINAL PROCEDURE; ESTABLISHING PROCEDURES FOR A
PRELIMINARY HEARING OR INQUIRY.

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

SECTION 1. A new section of Chapter 31 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] PRELIMINARY INQUIRY.--

A. In any case in which the prosecuting attorney
wishes to have a public hearing of evidence, the prosecuting
attorney shall request a preliminary inquiry of the chief judge
of the judicial district in which the incident occurred.

B. The chief judge of the judicial district in
which the incident occurred shall assign a district court
judge, a special master or a specially appointed pro tem judge
to hear the case.

underscoring material = new
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1 C. The preliminary hearing shall be conducted in
2 the following manner:

3 (1) the hearing is commenced by filing a
4 complaint with the court consisting of a sworn statement
5 containing the facts, common name of the offense charged and,
6 where applicable, a specific section number of the NMSA 1978
7 that contains the offense. A separate complaint shall be filed
8 for each defendant. In every complaint or citation, the name
9 of the defendant, if known, shall be stated. A defendant whose
10 name is not known may be described by any name or description
11 by which such defendant can be identified with reasonable
12 certainty; and

13 (2) evidence shall be admitted in accordance
14 with the Rules of Evidence;

15 D. The court shall review evidence, reports or
16 other materials pertinent to the case presented. The court may
17 issue subpoenas and request its own evidence. The Rules of
18 Evidence need not apply to the court's review.

19 E. At the conclusion of the hearing, the judge
20 shall prepare a report containing findings of fact and
21 conclusions of law, which shall be made public. The report
22 shall not charge any public officer or other person with
23 willful misconduct, excessive force, corruption or malfeasance.
24 The right of every person to be properly charged, face the
25 person's accusers and be heard in the person's defense in open

underscoring material = new
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1 court shall not be circumvented by the report."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2013.

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