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SENATE BILL 163

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Cliff R. Pirtle

AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING SECTIONS OF THE NMSA 1978
TO ADD MEMBERS OF THE NEW MEXICO MOUNTED PATROL TO DEFINITIONS
OR CATEGORIES OF LAW ENFORCEMENT OFFICERS; PROVIDING FOR
INSURANCE COSTS FOR MEMBERS OF THE NEW MEXICO MOUNTED PATROL;
MAKING AN APPROPRIATION.

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

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1 in court when required and will comply with all conditions of
2 the bond;

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

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

8 E. "person", unless a contrary intention appears,
9 means any individual, estate, trust, receiver, cooperative
10 association, club, corporation, company, firm, partnership,
11 joint venture, syndicate or other entity;

12 F. "police officer", "law enforcement officer",
13 "peace officer" or "officer" means:

14 (1) any full-time salaried or certified part-
15 time salaried officer who by virtue of office or public
16 employment is vested by law with the duty to maintain the
17 public peace; or

18 (2) a member of the New Mexico mounted patrol
19 who has satisfactorily completed a basic law enforcement
20 training program pursuant to Section 29-6-4.1 NMSA 1978 and who
21 has been requested to provide law enforcement assistance by the
22 New Mexico state police or another law enforcement or state
23 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
24 1978;

25 G. "recognizance" means any obligation of record

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1 entered into before a court requiring the accused to appear at
2 all appropriate times or forfeit any bail and be subject to
3 criminal penalty for failure to appear;

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

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

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

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

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

21 **SECTION 2.** Section 35-6-3 NMSA 1978 (being Laws 1968,
22 Chapter 62, Section 94, as amended) is amended to read:

23 "35-6-3. MAGISTRATE COSTS--ADVANCE PAYMENT.--

24 A. Except for parties granted free process because
25 of indigency, any party filing any civil action or requesting

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1 services from the magistrate court shall pay in advance the
2 costs required by law to be collected by magistrates.

3 B. Any person filing a complaint in a criminal
4 action in the magistrate court shall pay in advance the costs
5 required by law to be collected by magistrates, except that no
6 costs shall be collected for filing a complaint from:

7 (1) a person [~~filing a complaint~~] in a
8 criminal action alleging domestic violence;

9 (2) a campus security officer;

10 (3) a municipal police officer;

11 (4) an Indian tribal or pueblo law enforcement
12 officer; [~~or from~~]

13 (5) a full-time, salaried county or state law
14 enforcement officer [~~filing the complaint~~]; or

15 (6) a member of the New Mexico mounted patrol
16 who has satisfactorily completed a basic law enforcement
17 training program pursuant to Section 29-6-4.1 NMSA 1978 and who
18 has been requested to provide law enforcement assistance by the
19 New Mexico state police or another law enforcement or state
20 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
21 1978."

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

24 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

25 A. "board" means the risk management advisory

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1 board;

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

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

9 D. "law enforcement officer" means:

10 (1) a full-time salaried public employee of a
11 governmental entity, or a certified part-time salaried police
12 officer employed by a governmental entity, whose principal
13 duties under law are to hold in custody any person accused of a
14 criminal offense, to maintain public order or to make arrests
15 for crimes; [or]

16 (2) members of the national guard when called
17 to active duty by the governor; or

18 (3) a member of the New Mexico mounted patrol
19 who has satisfactorily completed a basic law enforcement
20 training program pursuant to Section 29-6-4.1 NMSA 1978 and who
21 has been requested to provide law enforcement assistance by the
22 New Mexico state police or another law enforcement or state
23 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
24 1978;

25 E. "maintenance" does not include:

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

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

6 F. "public employee" means an officer, employee or
7 servant of a governmental entity, excluding independent
8 contractors except for individuals defined in Paragraphs (7),
9 (8), (10), (14) and (17) of this subsection, or of a
10 corporation organized pursuant to the Educational Assistance
11 Act, the Small Business Investment Act or the Mortgage Finance
12 Authority Act or a licensed health care provider, who has no
13 medical liability insurance, providing voluntary services as
14 defined in Paragraph (16) of this subsection and including:

15 (1) elected or appointed officials;

16 (2) law enforcement officers;

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

20 (4) licensed foster parents providing care for
21 children in the custody of the human services department,
22 corrections department or department of health, but not
23 including foster parents certified by a licensed child
24 placement agency;

25 (5) members of state or local selection panels

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1 established pursuant to the Adult Community Corrections Act;

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

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

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

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

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

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

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

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

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

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

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

8 (17) an individual while participating in the
9 state's adaptive driving program and only while using a
10 special-use state vehicle for evaluation and training purposes
11 in that program;

12 (18) the staff and members of the board of
13 directors of the New Mexico health insurance exchange
14 established pursuant to the New Mexico Health Insurance
15 Exchange Act; and

16 (19) members of the insurance nominating
17 committee;

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

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

25 SECTION 4. Section 66-8-124 NMSA 1978 (being Laws 1961,
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1 Chapter 213, Section 3, as amended) is amended to read:

2 "66-8-124. ARRESTING OFFICER TO BE IN UNIFORM.--

3 A. No person shall be arrested for violating the
4 Motor Vehicle Code or other law relating to motor vehicles
5 punishable as a misdemeanor except by:

6 (1) a commissioned, salaried peace officer
7 who, at the time of arrest, is wearing a uniform clearly
8 indicating the peace officer's official status; or

9 (2) a member of the New Mexico mounted patrol
10 who has satisfactorily completed a basic law enforcement
11 training program pursuant to Section 29-6-4.1 NMSA 1978, who
12 has been requested to provide law enforcement assistance by the
13 New Mexico state police or another law enforcement or state
14 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
15 1978 and who, at the time of arrest, is wearing a uniform
16 clearly indicating the member's official status.

17 B. Notwithstanding the provisions of Subsection A
18 of this section, a municipality may provide by ordinance that
19 uniformed private security guards may be commissioned by the
20 local police agency to issue parking citations for violations
21 of clearly and properly marked fire zones and access zones for
22 persons with significant mobility limitation. Prior to the
23 commissioning of any security guard, the employer of the
24 security guard shall agree in writing with the local police
25 agency to the commissioning of the employer's security guard.

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1 The employer of any security guard commissioned under the
2 provisions of this section shall be liable for the actions of
3 that security guard in carrying out the security guard's duties
4 pursuant to that commission. Notwithstanding the provisions of
5 the Tort Claims Act, private security guards commissioned under
6 this section shall not be deemed public employees under that
7 act."

8 SECTION 5. Section 66-8-125 NMSA 1978 (being Laws 1978,
9 Chapter 35, Section 533) is amended to read:

10 "66-8-125. ARREST WITHOUT WARRANT.--

11 A. Members of the New Mexico state police, sheriffs
12 and their salaried deputies, [~~and~~] members of any municipal
13 police force and members of the New Mexico mounted patrol who
14 have satisfactorily completed a basic law enforcement training
15 program pursuant to Section 29-6-4.1 NMSA 1978 and who have
16 been requested to provide law enforcement assistance by the New
17 Mexico state police or another law enforcement or state
18 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
19 1978 may arrest without warrant any person:

20 (1) present at the scene of a motor vehicle
21 accident;

22 (2) on a highway when charged with theft of a
23 motor vehicle; or

24 (3) charged with crime in another
25 jurisdiction, upon receipt of a message giving the name or a

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1 reasonably accurate description of the person wanted, the crime
2 alleged and a statement [~~he~~] that the person is likely to flee
3 the jurisdiction of [~~the~~] this state.

4 B. To arrest without warrant, the arresting officer
5 must have reasonable grounds, based on personal investigation,
6 which may include information from eyewitnesses, to believe the
7 person arrested has committed a crime.

8 C. Members of the New Mexico state police, sheriffs
9 and their salaried deputies, [~~and~~] members of any municipal
10 police force and members of the New Mexico mounted patrol who
11 have satisfactorily completed a basic law enforcement training
12 program pursuant to Section 29-6-4.1 NMSA 1978 and who have
13 been requested to provide law enforcement assistance by the New
14 Mexico state police or another law enforcement or state
15 regulatory agency pursuant to Sections 29-6-4 and 29-6-5 NMSA
16 1978 may not make [~~arrest~~] arrests for traffic violations if
17 not in uniform; however, nothing in this section shall be
18 construed to prohibit the arrest, without warrant, by a peace
19 officer of any person when probable cause exists to believe
20 that a felony crime has been committed or in non-traffic
21 cases."

22 SECTION 6. APPROPRIATION.--Ninety-four thousand five
23 hundred sixty dollars (\$94,560) is appropriated from the
24 general fund to the risk management division of the general
25 services department for expenditure in fiscal year 2021 for the

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1 costs of general liability, civil rights, tort claims and
2 workers' compensation insurance coverage for members of the New
3 Mexico mounted patrol. Any unexpended or unencumbered balance
4 remaining at the end of fiscal year 2021 shall revert to the
5 general fund.

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