

SENATE BILL 220

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Joseph Cervantes

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO LAW ENFORCEMENT; Sfl1→~~SJC→PROVIDING FOR POLICIES AND PROCEDURES TO REQUIRE THE USE OF BODY-WORN CAMERAS THAT AUTOMATICALLY BEGIN RECORDING UNDER CERTAIN CIRCUMSTANCES;~~←SJC←Sfl1 PROVIDING EXCEPTIONS TO THE REQUIREMENT THAT LAW ENFORCEMENT USE BODY-WORN CAMERAS IN CERTAIN SITUATIONS.

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

.219136.1AIC March 16, 2021 (12:57pm)

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SECTION 1. Section 29-1-18 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 7, Section 1) is amended to read:

"29-1-18. 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 shall adopt policies and procedures governing the use of body-worn cameras, including:

Sf11→SJC→(1) ~~requiring the use of a body-worn camera that automatically begins recording, without manual activation, when a peace officer:~~

~~(a) responds to a call for service or assistance;~~

~~(b) unholsters a firearm or energy weapon; or~~

~~(c) engages a law enforcement vehicle's lights;~~←SJC←Sf11

Sf11→SJC→(1)←SJC SJC→(2)←SJC←Sf11

Sf11→(1)←Sf11 requiring Sf11→SJC→manual←SJC←Sf11 activation of a body-worn camera Sf11→SJC→~~whenever a peace officer is responding to a call for service or~~←SJC←Sf11 Sf11→whenever a peace officer is responding to a call for service or←Sf11 at the initiation of any other law enforcement or investigative

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encounter between a peace officer and a member of the public  
Sf11→~~SJC→and that is not described in Paragraph (1) of this  
subsection←SJC←~~Sf11 ;

Sf11→~~SJC→(2)←SJC SJC→(3)←SJC←~~Sf11

Sf11→(2)←Sf11 prohibiting deactivation of a body-worn camera  
until the conclusion of a law enforcement or investigative  
encounter;

Sf11→~~SJC→(3)←SJC SJC→(4)←SJC←~~Sf11

Sf11→(3)←Sf11 requiring that any video recorded by a body-  
worn camera shall be retained by the law enforcement agency for  
not less than one hundred twenty days; and

Sf11→~~SJC→(4)←SJC SJC→(5)←SJC←~~Sf11

Sf11→(4)←Sf11 establishing disciplinary rules for peace  
officers who:

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

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

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

B. Peace officers who fail to comply with the  
policies and procedures required to be adopted pursuant to  
Subsection A of this section shall be presumed to have acted in  
bad faith and shall be deemed liable for the independent tort  
of negligent spoliation of evidence or the independent tort of  
intentional spoliation of evidence.

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Sf11→~~C. A law enforcement agency shall not require a peace officer to record notifications to members of the public of a death or undercover operations sanctioned in advance by a law enforcement agency.~~←Sf11

Sf11→C. A law enforcement agency shall not require a peace officer to record:

(1) a notification to a member of the public of a death;

(2) an undercover operation sanctioned in advance by the law enforcement agency; or

(3) an explosive recovery and disposal operation to render safe or disassemble an explosive or incendiary device and materials.←Sf11

Sf12→D. A request for video from a body-worn camera shall name the video recording by any of the following:

(1) the computer-aided dispatch record number;

(2) the police report number;

(3) the name of a police officer or other individual;

(4) approximate date and time;

(5) approximate date and location; or

(6) such other criteria determined by a law enforcement agency.

E. No request for video from a body-worn camera shall be enforceable pursuant to the Inspection of Public Records Act that does not comply with Subsection D of this

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section. ←Sf12

[G.] Sf12 → ~~D.~~ ←Sf12 Sf12 → ~~F.~~ ←Sf12 As used in this section:

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

Sf11 → ~~SJC → (2) "energy weapon" means any mechanism used as a weapon that is designed to emit or project an electronic, magnetic or other type of charge or shock for the purpose of temporarily incapacitating a person;~~ ←Sf11

Sf11 → ~~SJC → (2) ←SJC SJC → (3) ←SJC~~ ←Sf11

Sf11 → (2) ←Sf11 "law enforcement agency" means the police department of a municipality, the sheriff's office of a county, the New Mexico state police or the department of public safety; and

Sf11 → ~~SJC → (3) ←SJC SJC → (4) ←SJC~~ ←Sf11

Sf11 → (3) ←Sf11 "peace 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."