

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILLS 19 & 252

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

AN ACT

RELATING TO LAW ENFORCEMENT; ALLOWING THE LAW ENFORCEMENT  
CERTIFICATION BOARD TO SUMMARILY SUSPEND LAW ENFORCEMENT  
OFFICERS WHO FAIL TO SUBMIT PROOF OF REQUIRED IN-SERVICE LAW  
ENFORCEMENT TRAINING PRIOR TO BEGINNING A REVOCATION PROCESS;  
PROVIDING MECHANISMS TO STRENGTHEN THE LAW ENFORCEMENT AND  
PUBLIC SAFETY TELECOMMUNICATOR PROFESSIONS; CREATING A POLICE  
OFFICER DATABASE; ENACTING THE USE OF FORCE PROCEDURES ACT;  
REGULATING THE USE OF PHYSICAL FORCE BY LAW ENFORCEMENT  
OFFICERS; ESTABLISHING A DUTY FOR OFFICERS TO INTERVENE.

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

SECTION 1. That version of Section 9-19-8 NMSA 1978  
(being Laws 1987, Chapter 254, Section 8, as amended) that is  
to become effective July 1, 2023 is amended to read:

"9-19-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The

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underscored material = new  
[bracketed material] = delete

1 governor's organized crime prevention commission [~~the New~~  
2 ~~Mexico law enforcement standards and training council~~] and the  
3 law enforcement certification board are administratively  
4 attached to the department, and the New Mexico law enforcement  
5 standards and training council is administratively attached to  
6 the New Mexico law enforcement academy in accordance with the  
7 Executive Reorganization Act."

8 SECTION 2. That version of Section 29-7-3 NMSA 1978  
9 (being Laws 1979, Chapter 202, Section 42, as amended) that is  
10 to become effective July 1, 2023 is amended to read:

11 "29-7-3. NEW MEXICO LAW ENFORCEMENT STANDARDS AND  
12 TRAINING COUNCIL.--

13 A. [~~There is created~~] The "New Mexico law  
14 enforcement standards and training council" is created and is  
15 administratively attached to the New Mexico law enforcement  
16 academy of the department of public safety, which shall provide  
17 staff support for the council.

18 B. The council shall develop and [~~adopt basic~~  
19 ~~training and in-service training standards for police officers~~  
20 ~~and telecommunicators in New Mexico~~] promulgate training  
21 requirements, curricula and methods; professional development  
22 programs; and performance standards for law enforcement  
23 officers and public safety telecommunicators at all levels,  
24 including basic, field training officer programs, advanced,  
25 specialized and instructor training to be consistent throughout

1 New Mexico.

2 C. The council [~~shall consist~~] consists of:

3 (1) the director of the [~~New Mexico law~~  
4 ~~enforcement~~] academy and the directors of [~~all~~] the [~~satellite~~]  
5 accredited regional law enforcement [academies, who shall serve  
6 automatically by reason of their position. The remaining  
7 seven] training facilities, who serve ex officio; and

8 (2) eleven members [~~of the council shall be~~]  
9 appointed by the governor and confirmed by the senate, [~~An~~  
10 ~~appointed council member shall serve and have all of the~~  
11 ~~duties, responsibilities and authority of that office during~~  
12 ~~the period prior to the final action by the senate in~~  
13 ~~confirming or rejecting the appointment. The members appointed~~  
14 ~~by the governor shall consist~~] consisting of:

15 (a) one attorney [~~who is currently~~]  
16 employed in a district attorney's office;

17 (b) one attorney [~~who is currently~~]  
18 employed by the public defender department;

19 (c) one certified police chief of a New  
20 Mexico Indian nation, tribe or pueblo;

21 (d) two New Mexico state-certified  
22 public safety telecommunicators, one of whom shall be from an  
23 agency that offers fire and medical telecommunications services  
24 and one of whom shall be from a public safety agency serving a  
25 rural part of the state;

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1                   (e) two members who have experience and  
2 specialize in providing adult education; ~~and]~~

3                   (f) two citizen-at-large members, one of  
4 whom ~~[shall have experience as a]~~ has behavioral health  
5 ~~[provider]~~ expertise and neither of whom ~~[shall be a police~~  
6 ~~officer or retired police officer]~~ is an active or retired law  
7 enforcement officer or public safety telecommunicator or ~~[have]~~  
8 has a familial or financial ~~[connections]~~ connection to ~~[a~~  
9 ~~police]~~ an active or retired law enforcement officer or public  
10 safety telecommunicator or any agency or department for which a  
11 ~~[police]~~ law enforcement officer or public safety  
12 telecommunicator works;

13                   (g) a sheriff who is a New Mexico state-  
14 certified law enforcement officer; and

15                   (h) a municipal law enforcement manager  
16 who is a New Mexico-state certified law enforcement officer in  
17 a command position.

18                   D. An appointed council member shall serve and have  
19 all the duties, responsibilities and authority of that office  
20 during the period prior to the final action by the senate in  
21 confirming or rejecting the appointments. Vacancies on the  
22 council shall be filled by appointment by the governor with the  
23 consent of the senate for the remainder of the unexpired term.

24                   ~~[D.]~~ E. Appointments to the council shall be for  
25 staggered terms of four years or less made in such manner that

1 the terms of not more than [~~two~~] four members expire on July 1  
2 of each year.

3 [~~E.~~] F. Members of the council [~~shall~~] are entitled  
4 to receive, for their service as members of the council, per  
5 diem and mileage as provided in the Per Diem and Mileage Act."

6 **SECTION 3.** Section 29-7-4.3 NMSA 1978 (being Laws 2022,  
7 Chapter 56, Section 13) is amended to read:

8 "29-7-4.3. LAW ENFORCEMENT CERTIFICATION BOARD--  
9 APPOINTMENT--POWERS AND DUTIES--REFUSAL TO ISSUE OR DENIAL,  
10 SUSPENSION OR REVOCATION OF CERTIFICATION--SUSPENSION OF  
11 CERTIFICATION FOR FAILURE TO MEET REQUIRED IN-SERVICE  
12 TRAINING--CONFIDENTIALITY OF INVESTIGATIONS--LAW ENFORCEMENT  
13 CERTIFICATION OFFICE CREATED.--

14 A. The "law enforcement certification board" is  
15 established and administratively attached to the department of  
16 public safety, [~~as an independent board in accordance with the~~  
17 ~~Executive Reorganization Act~~] and the department shall provide  
18 administrative services for the board and the law enforcement  
19 certification office.

20 B. The board consists of [~~nine~~] eleven members  
21 appointed by the governor with the advice and consent of the  
22 senate. No more than [~~five~~] six members [~~of the board~~] shall  
23 be members of the same political party. Members shall be  
24 appointed so as to represent different geographic areas of the  
25 state and the ethnic and cultural diversity of the state's

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1 population. The members [~~of the board~~] shall be appointed for  
2 staggered five-year terms, except that for the initial board,  
3 two [~~of the initial board~~] members shall be appointed for one-  
4 year terms, two [~~of the initial board~~] members shall be  
5 appointed for two-year terms, two [~~of the initial board~~]  
6 members shall be appointed for three-year terms, two [~~of the~~  
7 ~~initial board~~] members shall be appointed for four-year terms  
8 and [~~one of the initial board~~] three members shall be appointed  
9 for [~~a~~] five-year [~~term~~] terms.

10 [~~B.~~] C. The board shall include the following  
11 members:

12 (1) a retired district judge, who [~~shall~~  
13 ~~serve~~] serves as chair of the board;

14 (2) a current or retired New Mexico state-  
15 certified municipal [~~peace officer~~] law enforcement manager in  
16 a command position;

17 (3) a retired sheriff who was certified or a  
18 current sheriff who is certified as a law enforcement officer;

19 (4) a current or retired state or local New  
20 Mexico state-certified law enforcement officer who has law  
21 enforcement management command experience;

22 [~~(4)~~] (5) a current or retired tribal law  
23 [~~peace~~] law enforcement officer;

24 (6) a certified public safety  
25 telecommunicator;

1                    [~~5~~] (7) an attorney in private practice who  
2 practices as a plaintiff's attorney in the area of civil rights  
3 or who represents criminal defendants;

4                    [~~6~~] (8) an attorney in private practice who  
5 represents public entities in civil rights claims; [~~and~~

6                    ~~(7)~~] (9) an attorney who is employed by the  
7 public defender department;

8                    (10) a professor of criminal justice at a  
9 public post-secondary educational institution in New Mexico;  
10 and

11                    (11) a citizen-at-large who has knowledge and  
12 interest in law enforcement training.

13                    D. An appointed member shall serve and have all of  
14 the duties, responsibilities and authority of that office  
15 during the period prior to the final action by the senate in  
16 confirming or rejecting the appointment. Vacancies shall be  
17 filled by appointment by the governor with the consent of the  
18 senate for the unexpired term of the member. Members are  
19 entitled to receive per diem and mileage as provided in the Per  
20 Diem and Mileage Act.

21                    [~~G.~~] E. The board shall:

22                    (1) deny, suspend or revoke:

23                    (a) a peace officer's certification for  
24 just cause as provided in the Law Enforcement Training Act; and

25                    (b) a telecommunicator's certification

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1 for just cause as provided in the Public Safety  
2 Telecommunicator Training Act; and

3 (2) conduct investigations, administer oaths  
4 and subpoena persons as necessary to make determination  
5 regarding fitness of a law enforcement officer to execute a law  
6 enforcement officer's duties.

7 [~~D.~~] F. The board may require by subpoena the  
8 attendance of witnesses or the production of records and other  
9 evidence relevant to an investigation and shall have such other  
10 powers and duties and administer or enforce such other acts as  
11 further provided by law.

12 [~~E.~~] G. The board shall appoint a chief executive  
13 officer to assist the board in carrying out its functions. The  
14 chief executive officer shall employ persons as necessary to  
15 assist the board in carrying out its functions.

16 [~~F.~~] H. The board shall adopt, publish and file, in  
17 accordance with the provisions of the State Rules Act, all  
18 rules concerning the implementation and enforcement of the Law  
19 Enforcement Training Act and Public Safety Telecommunicator  
20 Training Act except those sections enumerated in Subsection E  
21 of Section 29-7-4 NMSA 1978 for which rules shall be adopted,  
22 published and filed by the council.

23 [~~G.~~] I. The board shall issue or renew a  
24 certification to:

25 (1) graduates from an approved basic law



1 enforcement training program who satisfy the qualifications for  
2 certification as set forth in Section 29-7-6 NMSA 1978; or

3 (2) graduates from an approved basic  
4 telecommunicator training program who satisfy the  
5 qualifications for certification as set forth in the Public  
6 Safety Telecommunicator Training Act.

7 [~~H.~~] J. Members of the board shall receive, for  
8 their service as members of the board, per diem and mileage as  
9 provided in the Per Diem and Mileage Act.

10 K. Internal affairs and other investigation  
11 documents provided to or developed by the board for use in a  
12 certification case shall remain confidential. A decision of  
13 the board is a final agency decision and may be appealed as  
14 provided in Section 39-3-1.1 NMSA 1978."

15 SECTION 4. Section 29-7-6.1 NMSA 1978 (being Laws 1993,  
16 Chapter 255, Section 7, as amended) is amended to read:

17 "29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

18 A. Sheriffs are eligible to attend the academy and  
19 are eligible to receive certification as provided in the Law  
20 Enforcement Training Act.

21 [~~A.~~] B. Every county sheriff, except sheriffs who  
22 have previously been awarded a certificate attesting to  
23 completion of a basic law enforcement training program, shall  
24 participate in and complete an administrative law enforcement  
25 training program no later than twelve months after the date the

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1 sheriff assumes office as a county sheriff.

2 [B-] C. The director shall establish the  
3 administrative law enforcement training program for county  
4 sheriffs, subject to review and approval by the executive  
5 committee of the sheriff's affiliate of the New Mexico  
6 association of counties.

7 [E-] D. A county sheriff's per diem, mileage and  
8 tuition expenses attributed to attendance at the administrative  
9 law enforcement training shall be paid for by the governing  
10 body of the county served by that sheriff."

11 SECTION 5. Section 29-7-7.1 NMSA 1978 (being Laws 1981,  
12 Chapter 114, Section 7, as amended) is amended to read:

13 "29-7-7.1. IN-SERVICE LAW ENFORCEMENT TRAINING--  
14 REQUIREMENTS--ELIGIBILITY--PENALTIES FOR FAILURE TO COMPLETE OR  
15 REPORT REQUIREMENTS.--

16 A. To maintain certification as a police officer,  
17 in-service law enforcement training is required. In-service  
18 law enforcement training consists of [at least] a minimum of  
19 forty hours of academic instruction approved by the [board]  
20 council for each certified police officer during each twenty-  
21 four month period of employment or service with a [political  
22 subdivision] state or local law enforcement agency. The first  
23 required in-service law enforcement training [course] period  
24 shall commence no later than twelve months after graduation  
25 from an approved basic law enforcement training program.

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1           B. ~~[All certified police officers who are eligible~~  
2 ~~for in-service training shall, during each twenty-four month~~  
3 ~~period of employment, complete a minimum of forty hours of in-~~  
4 ~~service law enforcement training in courses approved by the~~  
5 ~~board. All]~~ Each certified police ~~[officers]~~ officer shall  
6 provide proof of completing in-service law enforcement training  
7 requirements to the officer's law enforcement agency and the  
8 executive director no later than March 1 of the year in which  
9 the requirements must be met. The executive director shall  
10 provide annual notice to all certified police officers  
11 regarding in-service law enforcement training requirements.  
12 Failure to complete in-service law enforcement training  
13 requirements or failure to report completion to the board may  
14 be grounds for suspension of a ~~[certified]~~ police officer's  
15 certification and may result in the state withholding the law  
16 enforcement agency's law enforcement protection fund  
17 distribution. A police officer's certification may be  
18 reinstated by the board when the police officer presents the  
19 board with evidence of satisfying in-service law enforcement  
20 training requirements.

21           C. The board shall audit in-service law enforcement  
22 training compliance."

23           SECTION 6. A new section of the Law Enforcement Training  
24 Act, Section 29-7-16 NMSA 1978, is enacted to read:

25           "29-7-16. [NEW MATERIAL] POLICE OFFICER DATABASE.--By

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1 July 1, 2024, the board shall employ a web-based technology  
2 solution that will enable any member of the public to search  
3 for outcomes of misconduct investigations that result in  
4 dismissal, denial, suspension or revocation of a police  
5 officer's or public safety telecommunicator's certification.  
6 The database shall show the officer's or telecommunicator's  
7 name, the action taken by the board and the date of the  
8 action."

9 SECTION 7. That version of Section 29-7C-4 NMSA 1978  
10 (being Laws 2003, Chapter 320, Section 6, as amended) that is  
11 to become effective July 1, 2023 is amended to read:

12 "29-7C-4. [~~BASIC~~] TELECOMMUNICATOR TRAINING PROGRAM.--

13 A. The council shall:

14 (1) after consultation with the board, adopt  
15 by rule professional standards that describe the skills,  
16 knowledge and behaviors that characterize exemplary practice  
17 and professional growth of telecommunicators in New Mexico and  
18 training standards that implement the professional standards;  
19 and

20 (2) develop and adopt a [~~basic~~]  
21 telecommunicator training program for telecommunicator  
22 certification. The program shall be [~~constructed to~~] evidence-  
23 and performance-based and shall meet best practices and  
24 evolving national standards and the [~~minimum basic~~] needs of  
25 telecommunicators [~~in New Mexico~~] at each level of

1 certification.

2 B. Until new evidence- and standards-based training  
3 programs are adopted and promulgated, the board shall certify  
4 telecommunicators after successful completion of the training  
5 programs then in effect. During the process of updating the  
6 telecommunicator training system, the council and the New  
7 Mexico law enforcement academy shall provide periodic reports  
8 to the legislature and shall make a final report, including  
9 recommendations for funding and statutory changes, to the  
10 governor and the legislature."

11 **SECTION 8.** Section 29-7C-7 NMSA 1978 (being Laws 2003,  
12 Chapter 320, Section 9, as amended) is amended to read:

13 "29-7C-7. IN-SERVICE TELECOMMUNICATOR TRAINING.--

14 A. In-service telecommunicator training consists of  
15 at least twenty hours of board-approved advanced training,  
16 including one hour of crisis management, including crisis  
17 intervention, confrontation de-escalation practicum and proper  
18 interaction with persons with mental impairments training, for  
19 each certified telecommunicator during each two-year period.  
20 The first training course shall commence no later than twelve  
21 months after graduation from a board-approved basic  
22 telecommunicator training program.

23 B. A certified telecommunicator shall provide proof  
24 of completion of in-service training requirements to the  
25 director no later than March 1 of the year subsequent to the

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1 year in which the requirements are met. The director shall  
2 provide annual notice to all certified telecommunicators  
3 regarding in-service training requirements. Failure to  
4 complete in-service training requirements may be grounds for  
5 suspension of a telecommunicator's certification at the  
6 ~~[director's]~~ board's discretion as provided in Section 29-7-4.3  
7 NMSA 1978. A telecommunicator may be reinstated ~~[at the~~  
8 ~~discretion of the director]~~ by the board when the  
9 telecommunicator presents to the ~~[director]~~ board evidence the  
10 telecommunicator has satisfied the in-service training  
11 requirements.

12 C. As used in this section, "mental impairment"  
13 includes a mental illness, developmental disability,  
14 posttraumatic stress disorder, dual diagnosis, autism, youth in  
15 crisis and traumatic brain injury."

16 SECTION 9. Section 29-13-6 NMSA 1978 (being Laws 1983,  
17 Chapter 289, Section 6, as amended) is amended to read:

18 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION  
19 FUND.--

20 A. Based on a periodic allotment approved by the  
21 division for the current fiscal year, the state treasurer shall  
22 distribute from the fund the amounts certified by the division  
23 to be distributed to governmental entities and the peace  
24 officers', New Mexico mounted patrol members' and reserve  
25 police officers' survivors fund as required in Section 29-13-4

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1 NMSA 1978. Payments shall be made by the treasurer to the  
2 appropriate governmental entity or fund unless otherwise  
3 specified in Subsection C of this section.

4 B. The state treasurer is authorized to redirect a  
5 distribution to the New Mexico finance authority in an amount  
6 certified by the division, pursuant to an ordinance or a  
7 resolution passed by the municipality or county and a written  
8 agreement of the municipality or county and the New Mexico  
9 finance authority.

10 C. Based on a periodic allotment approved by the  
11 division for the current fiscal year, the state treasurer shall  
12 distribute from the money in the fund money certified by the  
13 division to be distributed to tribes. Payment shall be made to  
14 the chief financial officer of the tribe. If necessary, the  
15 fund may be decreased below the level of one hundred thousand  
16 dollars (\$100,000) to enable payment to the tribes. If  
17 insufficient money remains in the fund to fully compensate the  
18 tribes, a report shall be made to the Indian affairs department  
19 and to an appropriate interim committee of the legislature that  
20 reviews issues having impact on tribes by September 1 of the  
21 year of the shortfall.

22 D. The New Mexico law enforcement standards and  
23 training council may notify the division and the state  
24 treasurer to withhold the distribution to any governmental  
25 entity that has failed to submit required reports to the

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1 council as provided in Section 29-7-7.2 NMSA 1978 or that  
2 employs law enforcement officers who have failed to submit  
3 proof of completion of required in-service law enforcement  
4 training as required in Section 29-7-7.1 NMSA 1978."

5 SECTION 10. [NEW MATERIAL] SHORT TITLE.--Sections 10  
6 through 14 of this act may be cited as the "Use of Force  
7 Procedures Act".

8 SECTION 11. [NEW MATERIAL] USE OF FORCE STATEWIDE  
9 POLICY.--Each law enforcement agency shall develop and maintain  
10 policies regarding use of force by law enforcement officers in  
11 its employ. At a minimum, such use-of-force policies shall  
12 incorporate:

13 A. a discussion of considerations that law  
14 enforcement officers must make prior to the application of  
15 physical force, including an explanation of reasonable force  
16 necessary to accomplish a lawful objective; and

17 B. ethical considerations law enforcement officers  
18 shall make during the application of physical force, including  
19 provisions pursuant to Section 14 of this 2023 act.

20 SECTION 12. [NEW MATERIAL] UNLAWFUL USE OF FORCE.--A law  
21 enforcement officer shall not:

22 A. discharge a firearm into a fleeing motor vehicle  
23 unless such discharge is necessary to prevent an imminent  
24 threat of death or serious bodily injury to an officer or  
25 another person and the officer has no reasonable alternative

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1 course of action to prevent death or serious bodily injury;  
 2 provided that when possible, an officer threatened by an  
 3 oncoming motor vehicle shall move out of its path instead of  
 4 discharging a firearm at it or any of its occupants; or

5 B. use a vascular neck restraint, unless a person's  
 6 attack poses a threat of imminent harm to the officer or  
 7 another person; provided that an officer shall cease the use of  
 8 a vascular neck restraint as soon as the person no longer poses  
 9 a threat of imminent harm to the officer or another person.

10 SECTION 13. [NEW MATERIAL] UNLAWFUL USE OF FORCE--  
 11 PRESCRIBING PENALTIES.--If a law enforcement officer is found  
 12 to have used unlawful physical force, the officer shall be  
 13 disciplined and, depending on the seriousness of the unlawful  
 14 physical force, may be decommissioned and terminated from the  
 15 officer's position or have any officer certification revoked or  
 16 suspended.

17 SECTION 14. [NEW MATERIAL] INTERVENTION.--

18 A. A law enforcement officer present and observing  
 19 another officer using physical force, including deadly physical  
 20 force, that the law enforcement officer has probable cause to  
 21 believe is excessive based on the totality of the circumstances  
 22 shall intervene to prevent the use of excessive force, unless  
 23 intervening would result in imminent harm to the officer or  
 24 another identifiable individual.

25 B. A law enforcement officer who observes another

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1 officer using physical force, including deadly physical force,  
2 that the law enforcement officer has probable cause to believe  
3 is excessive based on the totality of the circumstances shall  
4 report the incident to the officer's direct supervisor as soon  
5 as reasonably possible but no later than the end of the  
6 officer's shift.

7 C. A law enforcement officer who had a duty to  
8 intervene and failed to do so shall be disciplined and,  
9 depending on the seriousness of the violation, may be  
10 suspended, decertified, decommissioned or terminated from the  
11 officer's position.

12 SECTION 15. TEMPORARY PROVISION--RULES OF NEW MEXICO LAW  
13 ENFORCEMENT ACADEMY BOARD--RULES OF NEW MEXICO LAW ENFORCEMENT  
14 STANDARDS AND TRAINING COUNCIL OR LAW ENFORCEMENT CERTIFICATION  
15 BOARD.--The rules of the New Mexico law enforcement academy  
16 board shall continue in effect until amended or repealed by the  
17 New Mexico law enforcement standards and training council or  
18 the law enforcement certification board, as applicable.