

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 505

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

AN ACT

RELATING TO LAW ENFORCEMENT; STRENGTHENING THE PRESUMPTION OF
BAD FAITH FOR PEACE OFFICERS WHO FAIL TO COMPLY WITH THE
POLICIES AND PROCEDURES OF THE USE OF BODY-WORN CAMERAS;
AMENDING THE DEFINITION OF "LAW ENFORCEMENT AGENCY" TO INCLUDE
POLICE DEPARTMENTS OF PUBLIC POST-SECONDARY EDUCATIONAL
INSTITUTIONS.

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

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

"29-1-18. REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO
USE BODY-WORN CAMERAS WHILE ON DUTY--EXCEPTIONS--ADOPTION OF
POLICIES AND PROCEDURES GOVERNING USE.--

A. A law enforcement agency shall require peace

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1 officers the agency employs and who routinely interact with the
2 public to wear a body-worn camera while on duty, except as
3 provided in Subsection B of this section. Each law enforcement
4 agency subject to the provisions of this section shall adopt
5 policies and procedures governing the use of body-worn cameras,
6 including:

7 (1) requiring activation of a body-worn camera
8 whenever a peace officer is responding to a call for service or
9 at the initiation of any other law enforcement or investigative
10 encounter between a peace officer and a member of the public;

11 (2) prohibiting deactivation of a body-worn
12 camera until the conclusion of a law enforcement or
13 investigative encounter;

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

17 (4) establishing disciplinary rules for peace
18 officers who:

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

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

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

25 B. The provisions of Subsection A of this section

1 shall not apply when a peace officer:

2 (1) conducts an undercover operation
3 sanctioned by a law enforcement agency; or

4 (2) conducts an explosive recovery and
5 disposal operation to render safe or disassemble an explosive
6 or incendiary device and materials.

7 C. Peace officers who knowingly or intentionally
8 fail to comply with the policies and procedures required to be
9 adopted pursuant to Subsection A of this section ~~may~~ shall be
10 presumed to have acted in bad faith and ~~may~~ shall be deemed
11 liable for ~~[the independent tort of negligent spoliation of~~
12 ~~evidence or the independent tort of]~~ intentional spoliation of
13 evidence.

14 D. As used in this section:

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

18 (2) "law enforcement agency" means the police
19 department of a municipality, the sheriff's office of a county,
20 the New Mexico state police, the police department of a public
21 post-secondary educational institution or the department of
22 public safety;

23 (3) "peace officer" means any full-time
24 salaried or certified part-time salaried officer who by virtue
25 of office or public employment is vested by law with the duty

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1 to maintain the public peace; and

2 (4) "undercover operation" means an operation
3 that:

4 (a) is conducted by one or more law
5 enforcement agencies that is focused on a suspect or suspects
6 who are the target of an ongoing criminal investigation;

7 (b) involves one or more covert
8 operatives whose identities are concealed and kept
9 confidential; and

10 (c) is designed to either obtain
11 information about criminal activity of individuals or
12 organizations through the development of ongoing relationships
13 with individuals or organizations or to effect an arrest."

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