

1 AN ACT

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

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

17 "9-19-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The
18 governor's organized crime prevention commission and the
19 law enforcement certification board are administratively
20 attached to the department, and the New Mexico
21 law enforcement standards and training council is
22 administratively attached to the New Mexico law enforcement
23 academy in accordance with the Executive Reorganization Act."

24 SECTION 2. That version of Section 29-7-3 NMSA 1978
25 (being Laws 1979, Chapter 202, Section 42, as amended) that

1 is to become effective July 1, 2023 is amended to read:

2 "29-7-3. NEW MEXICO LAW ENFORCEMENT STANDARDS AND
3 TRAINING COUNCIL.--

4 A. The "New Mexico law enforcement standards and
5 training council" is created and is administratively attached
6 to the New Mexico law enforcement academy of the
7 department of public safety, which shall provide staff
8 support for the council.

9 B. The council shall develop and promulgate
10 training requirements, curricula and methods; professional
11 development programs; and performance standards for
12 law enforcement officers and public safety telecommunicators
13 at all levels, including basic, field training officer
14 programs, advanced, specialized and instructor training to be
15 consistent throughout New Mexico.

16 C. The council consists of:

17 (1) the director of the academy and the
18 directors of the accredited regional law enforcement training
19 facilities, who serve ex officio; and

20 (2) eleven members appointed by the governor
21 and confirmed by the senate, consisting of:

22 (a) one attorney employed in a
23 district attorney's office;

24 (b) one attorney employed by the
25 public defender department;

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

3 (d) two New Mexico state-certified
4 public safety telecommunicators, one of whom shall be from an
5 agency that offers fire and medical telecommunications
6 services and one of whom shall be from a public safety agency
7 serving a rural part of the state;

8 (e) two members who have experience and
9 specialize in providing adult education;

10 (f) two citizen-at-large members, one
11 of whom has behavioral health expertise and neither of whom
12 is an active or retired law enforcement officer or public
13 safety telecommunicator or has a familial or financial
14 connection to an active or retired law enforcement officer or
15 public safety telecommunicator or any agency or department
16 for which a law enforcement officer or public safety
17 telecommunicator works;

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

20 (h) a municipal law enforcement manager
21 who is a New Mexico-state certified law enforcement officer
22 in a command position.

23 D. An appointed council member shall serve and
24 have all the duties, responsibilities and authority of that
25 office during the period prior to the final action by the

1 senate in confirming or rejecting the appointments.

2 Vacancies on the council shall be filled by appointment by
3 the governor with the consent of the senate for the remainder
4 of the unexpired term.

5 E. Appointments to the council shall be for
6 staggered terms of four years or less made in such manner
7 that the terms of not more than four members expire on July 1
8 of each year.

9 F. Members of the council are entitled to receive,
10 for their service as members of the council, per diem and
11 mileage as provided in the Per Diem and Mileage Act."

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

14 "29-7-4.3. LAW ENFORCEMENT CERTIFICATION BOARD--
15 APPOINTMENT--POWERS AND DUTIES--REFUSAL TO ISSUE OR DENIAL,
16 SUSPENSION OR REVOCATION OF CERTIFICATION--SUSPENSION OF
17 CERTIFICATION FOR FAILURE TO MEET REQUIRED IN-SERVICE
18 TRAINING--CONFIDENTIALITY OF INVESTIGATIONS--LAW ENFORCEMENT
19 CERTIFICATION OFFICE CREATED.--

20 A. The "law enforcement certification board" is
21 established and administratively attached to the department
22 of public safety, and the department shall provide
23 administrative services for the board and the law enforcement
24 certification office.

25 B. The board consists of eleven members appointed

1 by the governor with the advice and consent of the senate.
2 No more than six members shall be members of the same
3 political party. Members shall be appointed so as to
4 represent different geographic areas of the state and the
5 ethnic and cultural diversity of the state's population. The
6 members shall be appointed for staggered five-year terms,
7 except that for the initial board, two members shall be
8 appointed for one-year terms, two members shall be appointed
9 for two-year terms, two members shall be appointed for
10 three-year terms, two members shall be appointed for
11 four-year terms and three members shall be appointed for
12 five-year terms.

13 C. The board shall include the following members:

14 (1) a retired district judge, who serves as
15 chair of the board;

16 (2) a current or retired New Mexico
17 state-certified municipal law enforcement manager in a
18 command position;

19 (3) a retired sheriff who was certified or a
20 current sheriff who is certified as a law enforcement
21 officer;

22 (4) a current or retired state or local
23 New Mexico state-certified law enforcement officer who has
24 law enforcement management command experience;

25 (5) a current or retired tribal law

1 law enforcement officer;

2 (6) a certified public safety
3 telecommunicator;

4 (7) an attorney in private practice who
5 practices as a plaintiff's attorney in the area of civil
6 rights or who represents criminal defendants;

7 (8) an attorney in private practice who
8 represents public entities in civil rights claims;

9 (9) an attorney who is employed by the
10 public defender department;

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

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

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

24 E. The board shall:

25 (1) deny, suspend or revoke:

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

4 (b) a telecommunicator's certification
5 for just cause as provided in the Public Safety
6 Telecommunicator Training Act; and

7 (2) conduct investigations, administer oaths
8 and subpoena persons as necessary to make determination
9 regarding fitness of a law enforcement officer to execute a
10 law enforcement officer's duties.

11 F. The board may require by subpoena the
12 attendance of witnesses or the production of records and
13 other evidence relevant to an investigation and shall have
14 such other powers and duties and administer or enforce such
15 other acts as further provided by law.

16 G. The board shall appoint a chief executive
17 officer to assist the board in carrying out its functions.
18 The chief executive officer shall employ persons as necessary
19 to assist the board in carrying out its functions.

20 H. The board shall adopt, publish and file, in
21 accordance with the provisions of the State Rules Act, all
22 rules concerning the implementation and enforcement of the
23 Law Enforcement Training Act and Public Safety
24 Telecommunicator Training Act except those sections
25 enumerated in Subsection E of Section 29-7-4 NMSA 1978 for

1 which rules shall be adopted, published and filed by the
2 council.

3 I. The board shall issue or renew a certification
4 to:

5 (1) graduates from an approved basic law
6 enforcement training program who satisfy the qualifications
7 for certification as set forth in Section 29-7-6 NMSA 1978;
8 or

9 (2) graduates from an approved basic
10 telecommunicator training program who satisfy the
11 qualifications for certification as set forth in the
12 Public Safety Telecommunicator Training Act.

13 J. Members of the board shall receive, for their
14 service as members of the board, per diem and mileage as
15 provided in the Per Diem and Mileage Act.

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

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

23 "29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

24 A. Sheriffs are eligible to attend the academy and
25 are eligible to receive certification as provided in the

1 Law Enforcement Training Act.

2 B. Every county sheriff, except sheriffs who have
3 previously been awarded a certificate attesting to completion
4 of a basic law enforcement training program, shall
5 participate in and complete an administrative law enforcement
6 training program no later than twelve months after the date
7 the sheriff assumes office as a county sheriff.

8 C. The director shall establish the administrative
9 law enforcement training program for county sheriffs,
10 subject to review and approval by the executive committee of
11 the sheriff's affiliate of the New Mexico association
12 of counties.

13 D. A county sheriff's per diem, mileage and
14 tuition expenses attributed to attendance at the
15 administrative law enforcement training shall be paid for by
16 the governing body of the county served by that sheriff."

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

19 "29-7-7.1. IN-SERVICE LAW ENFORCEMENT TRAINING--
20 REQUIREMENTS--ELIGIBILITY--PENALTIES FOR FAILURE TO COMPLETE
21 OR REPORT REQUIREMENTS.--

22 A. To maintain certification as a police officer,
23 in-service law enforcement training is required. In-service
24 law enforcement training consists of a minimum of forty hours
25 of academic instruction approved by the council for each

1 certified police officer during each twenty-four month
2 period of employment or service with a state or local
3 law enforcement agency. The first required in-service
4 law enforcement training period shall commence no later
5 than twelve months after graduation from an approved basic
6 law enforcement training program.

7 B. Each certified police officer shall provide
8 proof of completing in-service law enforcement training
9 requirements to the officer's law enforcement agency and the
10 executive director no later than March 1 of the year in which
11 the requirements must be met. The executive director shall
12 provide annual notice to all certified police officers
13 regarding in-service law enforcement training requirements.
14 Failure to complete in-service law enforcement training
15 requirements or failure to report completion to the board may
16 be grounds for suspension of a police officer's certification
17 and may result in the state withholding the law enforcement
18 agency's law enforcement protection fund distribution. A
19 police officer's certification may be reinstated by the board
20 when the police officer presents the board with evidence of
21 satisfying in-service law enforcement training requirements.

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

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

1 "29-7-16. POLICE OFFICER DATABASE.--By July 1, 2024,
2 the board shall employ a web-based technology solution that
3 will enable any member of the public to search for outcomes
4 of misconduct investigations that result in dismissal,
5 denial, suspension or revocation of a police officer's or
6 public safety telecommunicator's certification. The database
7 shall show the officer's or telecommunicator's name, the
8 action taken by the board and the date of the 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. 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
18 and training standards that implement the professional
19 standards; and

20 (2) develop and adopt a telecommunicator
21 training program for telecommunicator certification. The
22 program shall be evidence- and performance-based and shall
23 meet best practices and evolving national standards and the
24 needs of telecommunicators at each level of certification.

25 B. Until new evidence- and standards-based

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

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

11 "29-7C-7. IN-SERVICE TELECOMMUNICATOR TRAINING.--

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

21 B. A certified telecommunicator shall provide
22 proof of completion of in-service training requirements to
23 the director no later than March 1 of the year subsequent to
24 the year in which the requirements are met. The director
25 shall provide annual notice to all certified

1 telecommunicators regarding in-service training requirements.
2 Failure to complete in-service training requirements may be
3 grounds for suspension of a telecommunicator's certification
4 at the board's discretion as provided in Section 29-7-4.3
5 NMSA 1978. A telecommunicator may be reinstated by the board
6 when the telecommunicator presents to the board evidence the
7 telecommunicator has satisfied the in-service training
8 requirements.

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

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

15 "29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION
16 FUND.--

17 A. Based on a periodic allotment approved by the
18 division for the current fiscal year, the state treasurer
19 shall distribute from the fund the amounts certified by the
20 division to be distributed to governmental entities and the
21 peace officers', New Mexico mounted patrol members' and
22 reserve police officers' survivors fund as required in
23 Section 29-13-4 NMSA 1978. Payments shall be made by the
24 treasurer to the appropriate governmental entity or fund
25 unless otherwise specified in Subsection C of this section.

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

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

19 D. The New Mexico law enforcement standards
20 and training council may notify the division and the
21 state treasurer to withhold the distribution to any
22 governmental entity that has failed to submit required
23 reports to the council as provided in Section 29-7-7.2
24 NMSA 1978 or that employs law enforcement officers who have
25 failed to submit proof of completion of required in-service

1 law enforcement training as required in Section 29-7-7.1
2 NMSA 1978."

3 SECTION 10. SHORT TITLE.--Sections 10 through 14 of
4 this act may be cited as the "Use of Force Procedures Act".

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

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

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

17 SECTION 12. UNLAWFUL USE OF FORCE.--A law enforcement
18 officer shall not:

19 A. discharge a firearm into a fleeing motor
20 vehicle unless such discharge is necessary to prevent an
21 imminent threat of death or serious bodily injury to an
22 officer or another person and the officer has no reasonable
23 alternative course of action to prevent death or serious
24 bodily injury; provided that when possible, an officer
25 threatened by an oncoming motor vehicle shall move out of its

1 path instead of discharging a firearm at it or any of its
2 occupants; or

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

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

16 SECTION 14. INTERVENTION.--

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

24 B. A law enforcement officer who observes another
25 officer using physical force, including deadly physical

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

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

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

19 SECTION 16. EFFECTIVE DATE.--The effective date of the
20 provisions of Sections 1 through 3 and 7 of this act is
21 July 1, 2023.

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