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AN ACT

RELATING TO LAW ENFORCEMENT; REQUIRING CERTAIN LAW
ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS; REQUIRING LAW
ENFORCEMENT AGENCIES TO ADOPT CERTAIN POLICIES AND
PROCEDURES; REVOKING A POLICE OFFICER'S CERTIFICATION AFTER
CONVICTION OR MAKING CERTAIN PLEAS; ADDING A CAUSE OF ACTION
FOR SPOILIATION BY A LAW ENFORCEMENT OFFICER IN THE TORT
CLAIMS ACT.

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

SECTION 1. 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:

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

(2) prohibiting deactivation of a body-worn

1 camera until the conclusion of a law enforcement or
2 investigative encounter;

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

6 (4) establishing disciplinary rules for
7 peace officers who:

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

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

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

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

21 C. As used in this section:

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

25 (2) "law enforcement agency" means the

1 police department of a municipality, the sheriff's office of
2 a county, the New Mexico state police or the department of
3 public safety; and

4 (3) "peace officer" means any full-time
5 salaried or certified part-time salaried officer who by
6 virtue of office or public employment is vested by law with
7 the duty to maintain the public peace.

8 SECTION 2. A new section of the Law Enforcement
9 Training Act is enacted to read:

10 "REVOKE POLICE OFFICER CERTIFICATION AFTER CONVICTION OR
11 MAKING CERTAIN PLEAS.--Notwithstanding any other provision of
12 law, if any police officer is convicted of or pleads guilty
13 or nolo contendere to a crime involving the unlawful use or
14 threatened use of physical force or a crime involving the
15 failure to intervene in the use of unlawful force, the board
16 shall permanently revoke the police officer's certification.
17 The board shall not, under any circumstance, reinstate the
18 police officer's certification or grant new certification to
19 the police officer unless the police officer is exonerated by
20 a court or pardoned by the governor."

21 SECTION 3. Section 41-4-12 NMSA 1978 (being Laws 1976,
22 Chapter 58, Section 12, as amended) is amended to read:

23 "41-4-12. LIABILITY--LAW ENFORCEMENT OFFICERS.--
24 The immunity granted pursuant to Subsection A of Section
25 41-4-4 NMSA 1978 does not apply to liability for personal

1 injury, bodily injury, wrongful death or property damage
2 resulting from assault, battery, false imprisonment, false
3 arrest, malicious prosecution, abuse of process, libel,
4 slander, defamation of character, violation of property
5 rights, the independent tort of negligent spoliation of
6 evidence or the independent tort of intentional spoliation of
7 evidence, failure to comply with duties established pursuant
8 to statute or law or any other deprivation of any rights,
9 privileges or immunities secured by the constitution and laws
10 of the United States or New Mexico when caused by law
11 enforcement officers while acting within the scope of their
12 duties. For purposes of this section, "law enforcement
13 officer" means a public officer or employee vested by law with
14 the power to maintain order, to make arrests for crime or to
15 detain persons suspected of or convicted of committing a
16 crime, whether that duty extends to all crimes or is limited
17 to specific crimes." _____