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AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING EXCEPTIONS IN CERTAIN SITUATIONS TO THE REQUIREMENT THAT LAW ENFORCEMENT USE BODY-WORN CAMERAS.

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) 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 officers the agency employs and who routinely interact with the public to wear a body-worn camera while on duty, except as provided in Subsection B of this section. 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 camera until the conclusion of a law enforcement or

1 investigative encounter;

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

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

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

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

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

14 B. The provisions of Subsection A of this section  
15 shall not apply when a peace officer:

16 (1) conducts an undercover operation  
17 sanctioned by a law enforcement agency; or

18 (2) conducts an explosive recovery and  
19 disposal operation to render safe or disassemble an explosive  
20 or incendiary device and materials.

21 C. Peace officers who fail to comply with the  
22 policies and procedures required to be adopted pursuant to  
23 Subsection A of this section may be presumed to have acted in  
24 bad faith and may be deemed liable for the independent tort  
25 of negligent spoliation of evidence or the independent tort

1 of intentional spoliation of evidence.

2 D. As used in this section:

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

6 (2) "law enforcement agency" means the  
7 police department of a municipality, the sheriff's office of  
8 a county, the New Mexico state police or the department of  
9 public safety;

10 (3) "peace officer" means any full-time  
11 salaried or certified part-time salaried officer who by  
12 virtue of office or public employment is vested by law with  
13 the duty to maintain the public peace; and

14 (4) "undercover operation" means an  
15 operation that:

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

19 (b) involves one or more covert  
20 operatives whose identities are concealed and kept  
21 confidential; and

22 (c) is designed to either obtain  
23 information about criminal activity of individuals or  
24 organizations through the development of ongoing relationships  
25 with individuals or organizations or to effect an arrest."