

1 SENATE BILL 252

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Harold Pope and Angelica Rubio

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10 AN ACT

11 RELATING TO LAW ENFORCEMENT; ENACTING THE LAW ENFORCEMENT  
12 OFFICER PROCEDURES ACT; REGULATING THE USE OF PHYSICAL FORCE BY  
13 LAW ENFORCEMENT OFFICERS; ESTABLISHING A DUTY FOR OFFICERS TO  
14 INTERVENE; PROHIBITING RETALIATORY ACTION BY A LAW ENFORCEMENT  
15 AGENCY AGAINST AN OFFICER WHO INTERVENES; REQUIRING A LAW  
16 ENFORCEMENT AGENCY TO PREVENT, STOP AND INVESTIGATE RETALIATORY  
17 ACTION; REQUIRING USE OF FORCE POLICIES AND TRAINING BY ALL LAW  
18 ENFORCEMENT AGENCIES; PRESCRIBING STANDARDS FOR SERVING SEARCH  
19 WARRANTS; REQUIRING THE DEVELOPMENT AND PUBLICATION OF USE OF  
20 FORCE INVESTIGATIONS; PROVIDING FOR THE INSPECTION OF LAW  
21 ENFORCEMENT MISCONDUCT INVESTIGATIONS; REQUIRING REPORTING OF  
22 OFFICER-INVOLVED INJURIES OR DEATHS; AMENDING THE CRIME OF  
23 JUSTIFIABLE HOMICIDE BY A PUBLIC OFFICER OR PUBLIC EMPLOYEE;  
24 PRESCRIBING PENALTIES.

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

2 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
3 through 13 of this act may be cited as the "Law Enforcement  
4 Officer Procedures Act".

5 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
6 Law Enforcement Officer Procedures Act:

7 A. "chokehold" means the use of the lateral  
8 vascular neck restraint, carotid restraint, chokehold, neck  
9 hold or any other action that involves placing any part of an  
10 officer's body on or around a person's neck;

11 B. "commissioned" means an employee of a law  
12 enforcement agency who is authorized by a sheriff or chief of  
13 police to apprehend, arrest and bring before the court all  
14 violators within the law enforcement agency's jurisdiction;

15 C. "deadly physical force" means physical force  
16 that can be reasonably expected to cause death or great bodily  
17 harm;

18 D. "deadly weapon" means a firearm, whether loaded  
19 or unloaded; any object manifestly designed, made or adapted  
20 for the purpose of inflicting death or great bodily harm; or  
21 any object that, in the manner of its use, is capable of  
22 causing death or great bodily harm. "Deadly weapon" includes  
23 any type of dagger, brass knuckles, knife, swordcane,  
24 slingshot, slung shot and bludgeon and any weapon with which  
25 dangerous wounds can be inflicted;

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1           E. "de-escalation tactics and techniques" means  
2 proactive actions and approaches used by a law enforcement  
3 officer to stabilize a law enforcement situation so that more  
4 time, options and resources are available to gain a person's  
5 voluntary compliance and to reduce or eliminate the need to use  
6 force, including verbal persuasion, warnings, slowing down the  
7 pace of an incident, waiting out a person, creating distance  
8 between the law enforcement officer and a threat and requesting  
9 additional resources to resolve the incident, including calling  
10 in medical or mental health professionals to address a  
11 potential medical or mental health crisis;

12           F. "department" means the department of public  
13 safety;

14           G. "firearm" means a weapon that will or is  
15 designed to or may readily be converted to expel a projectile  
16 by the action of an explosion or the frame or receiver of any  
17 such weapon;

18           H. "great bodily harm" means injury to a person  
19 that:

20                   (1) results in serious disfigurement;

21                   (2) results in permanent loss or protracted  
22 impairment of a bodily function, member, limb or organ; or

23                   (3) creates a high probability of death;

24           I. "imminent harm" means when a person creating a  
25 risk has the present ability, opportunity and apparent intent

1 to immediately cause great bodily harm or death and that a  
2 reasonable person would believe must be instantly confronted  
3 and addressed;

4 J. "law enforcement agency" means an agency of the  
5 state or political subdivision of the state that employs  
6 certified law enforcement officers and is authorized by law or  
7 a government agency to engage in or supervise the prevention,  
8 detection, investigation or enforcement of any violation of law  
9 or ordinance or the police department of a tribe that has  
10 entered into an agreement with the department pursuant to  
11 Section 29-1-11 NMSA 1978;

12 K. "law enforcement officer" means a public  
13 official or public officer vested by law with a duty to  
14 maintain public order, to enforce the law, to make arrests for  
15 crimes, whether that duty extends to all crimes or is limited  
16 to specific crimes, or to hold in custody a person accused of a  
17 criminal offense or members of the national guard of New Mexico  
18 when called to active duty by the governor;

19 L. "necessary" means that all available  
20 alternatives have been exhausted and no available, effective  
21 alternative is known or should be known to a reasonable person  
22 in the circumstances, without regard to the subjective beliefs  
23 of a law enforcement officer;

24 M. "officer-involved injury or death" means an  
25 event during which a law enforcement officer:

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1 (1) discharges a firearm, actually or  
2 proximately causing injury or death to another;

3 (2) discharges a stun gun, actually or  
4 proximately causing injury or death to another;

5 (3) uses a chokehold, discharges tear gas or  
6 other chemical weapon, discharges rubber pellets or bullets  
7 from a propulsion device or attacks a person using a dog,  
8 actually or proximately causing injury or death to a person; or

9 (4) engages in a physical altercation with a  
10 member of the public who sustains great bodily harm or requests  
11 or receives medical care as a result;

12 N. "prone position" means a body position in which  
13 the person lies face down;

14 O. "proportional" means not excessive in relation  
15 to a direct and legitimate law enforcement objective, based on  
16 the totality of circumstances;

17 P. "secretary" means the secretary of public  
18 safety;

19 Q. "stun gun" means a portable device or weapon,  
20 regardless of whether it passes an electrical shock by means of  
21 a dart or projectile via a wire lead, from which an electrical  
22 current, impulse, wave or beam that is designed to incapacitate  
23 temporarily, injure or kill may be directed; and

24 R. "totality of the circumstances" means the entire  
25 duration of an interaction between a law enforcement officer

1 and a victim of force, from the first contact through the  
2 conclusion of the incident, including consideration of  
3 contextual factors, pursuant to Section 5 of the Law  
4 Enforcement Officer Procedures Act, that the law enforcement  
5 officer knew or should have known."

6 SECTION 3. [NEW MATERIAL] RIGHT AGAINST USE OF FORCE--  
7 REVIEW--UNLAWFUL USE OF FORCE--PROPORTIONALITY.--

8 A. A person has a right against an unlawful use of  
9 force.

10 B. Each use of force shall be reviewed  
11 independently to determine if it was unlawful.

12 C. A law enforcement officer's use of force is  
13 unlawful if:

14 (1) there is no legitimate law enforcement  
15 objective;

16 (2) the officer fails to reasonably exhaust  
17 de-escalation tactics and techniques or other feasible actions  
18 based on the totality of the circumstances;

19 (3) the physical force is not proportional or  
20 necessary to:

21 (a) prevent an imminent threat to an  
22 identifiable person, where the amount of force used is  
23 proportional to the threat of imminent harm to the identifiable  
24 person;

25 (b) effect an arrest of a person whom

1 the law enforcement officer has probable cause to believe has  
2 committed a criminal offense;

3 (c) effect a lawful detention;

4 (d) prevent the escape from custody of a  
5 person whom the law enforcement officer has probable cause to  
6 believe has committed an offense, unless the law enforcement  
7 officer knows that the custody is unauthorized; or

8 (e) carry out a search that the law  
9 enforcement officer reasonably believes is lawful when an  
10 individual actively resists arrest;

11 (4) the law enforcement officer fails to  
12 modulate the use of physical force as the threat diminishes or  
13 cease the use of physical force as soon as possible after:

14 (a) the person upon whom the physical  
15 force is being used is under the officer's control or no longer  
16 poses a threat of physical injury to the officer or another  
17 person; or

18 (b) the use of physical force will no  
19 longer accomplish or is no longer reasonable and proportional  
20 to accomplish a legitimate law enforcement objective; or

21 (5) the officer violates a provision of  
22 Section 4 of the Law Enforcement Officer Procedures Act; and

23 (6) there is no justification for an otherwise  
24 unlawful use of force.

25 D. To be proportional, force used by a law

1 enforcement officer need not be of the same type or amount as  
2 the force used by the other person.

3 E. To the extent an employment contract conflicts  
4 with the provisions of this section, the contract shall be  
5 amended at the earliest available opportunity to conform with  
6 this section.

7 SECTION 4. [NEW MATERIAL] UNLAWFUL USE OF FORCE.--

8 A. A law enforcement officer shall not:

9 (1) use force without first identifying the  
10 officer's self as a law enforcement officer and providing a  
11 clear verbal warning of the officer's intent to use force with  
12 clear instructions on how to comply, unless doing so would  
13 place the officer at significant risk of injury;

14 (2) threaten to use force in a circumstance in  
15 which the officer is not lawfully authorized to use force;

16 (3) transport a person in a prone position or  
17 restrain a person in a prone position any longer than is  
18 necessary to properly secure the person. If a law enforcement  
19 officer restrains a person in a prone position, the officer  
20 shall immediately release the person from the prone position as  
21 soon as the person:

22 (a) is properly secured or under the  
23 officer's control; or

24 (b) no longer poses a threat of physical  
25 injury to the officer or another person;



1 (4) discharge a firearm into or at a fleeing  
2 motor vehicle unless, after reasonably exhausting de-escalation  
3 tactics and techniques based on the totality of the  
4 circumstances, such discharge is necessary to prevent an  
5 imminent death or serious physical injury to an identifiable  
6 person and the discharge is proportional to the threat of  
7 imminent harm to an identifiable person. For purposes of this  
8 paragraph, use of the vehicle itself shall not be imminent  
9 harm;

10 (5) intentionally position the officer's body  
11 or vehicle in front of a fleeing motor vehicle, unless the  
12 positioning is a tactic approved by the law enforcement agency  
13 that employs the officer;

14 (6) use a stun gun or deploy a police dog to:

15 (a) assist in effecting an arrest of a  
16 person suspected only of a non-violent crime; or

17 (b) apprehend a person who does not pose  
18 a threat of imminent harm to the officer or a third person;

19 (7) deploy a police dog at a protest,  
20 demonstration or other similar public gathering;

21 (8) use a chokehold, unless a person's attack  
22 poses a threat of imminent harm to the officer or a third  
23 person; provided that an officer shall cease the use of a  
24 chokehold as soon as the person no longer poses a threat of  
25 imminent harm to the officer or third person;

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1 (9) discharge tear gas or other chemical  
2 weapons;

3 (10) discharge rubber pellets from a  
4 propulsion device; or

5 (11) direct a police dog to bite a person.

6 B. A law enforcement officer shall not use deadly  
7 force:

8 (1) upon another person unless deadly force is  
9 used as a last resort after the officer has reasonably  
10 exhausted de-escalation tactics and techniques and, based on  
11 the totality of the circumstances, the officer has probable  
12 cause to believe that the force is necessary to prevent  
13 imminent death or serious physical injury to an identifiable  
14 person and the amount of force used is proportional to the  
15 threat of imminent harm to an identifiable person;

16 (2) if the use of deadly force presents a  
17 threat of serious physical injury to a third person;

18 (3) against a person who poses a danger only  
19 to the person's self;

20 (4) solely to protect property; or

21 (5) if the officer is in the path of a fleeing  
22 motor vehicle and instead shall move to a position of safety  
23 rather than discharge a firearm at the vehicle or its  
24 occupants.

25 SECTION 5. [NEW MATERIAL] TOTALITY OF CIRCUMSTANCES

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1 REVIEW.--A totality of the circumstances review shall include  
2 consideration of whether:

3 A. the law enforcement officer's conduct during an  
4 interaction contributed to the risk of imminent harm to an  
5 identifiable person by the victim of force;

6 B. there existed an opportunity for de-escalation  
7 tactics and techniques or other feasible alternative actions  
8 during an interaction;

9 C. the law enforcement officer identified the  
10 officer's self as a law enforcement officer to the victim of  
11 force;

12 D. an arrest could have been effected at a later  
13 time with a lower risk to the safety of the public or the  
14 victim of force;

15 E. the law enforcement officer made reasonable  
16 accommodations in light of the victim of force's physical  
17 disability, mental illness, developmental or neurological  
18 condition or disability, drug interactions, linguistic  
19 limitations, then-existing mental, emotional or physical  
20 condition or other characteristics that may have interfered  
21 with the victim of force's ability to cooperate or comply with  
22 the law enforcement officer's instructions;

23 F. the law enforcement officer called in a medical  
24 or mental health professional in response to a potential  
25 medical or mental health crisis;

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1 G. the law enforcement officer gave any warnings to  
2 the victim of force before using force or otherwise escalating;

3 H. the law enforcement officer exacerbated the  
4 injury sustained by the victim of force by taking subsequent  
5 actions;

6 I. there existed any disparities between the  
7 officer and victim of force in other relevant circumstantial  
8 factors of the interaction, including physical size, age,  
9 weapons, the number of officers compared to the number of  
10 victims or non-officers involved, injuries or special knowledge  
11 or skills that may have placed the officer at an advantage or  
12 disadvantage; and

13 J. there was a threat of harm to the officer or  
14 another person and the nature and immediacy of the threat.

15 SECTION 6. [NEW MATERIAL] UNLAWFUL USE OF FORCE--  
16 PRESCRIBING PENALTIES.--

17 A. If a law enforcement officer is found to have  
18 used physical force in violation of the Law Enforcement Officer  
19 Procedures Act, the officer shall be immediately disciplined  
20 and, depending on the seriousness of the violation, may be  
21 decommissioned and terminated from the officer's position or  
22 have any officer certification revoked. Upon a finding by a  
23 court, the secretary or the head of the law enforcement agency  
24 employing the officer that a law enforcement officer used  
25 physical force, including deadly physical force, in violation

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1 of this section, which resulted in great bodily harm or death,  
2 or that the law enforcement officer violated Paragraphs (8)  
3 through (11) of Subsection A of Section 4 of the Law  
4 Enforcement Officer Procedures Act, the law enforcement officer  
5 shall be immediately decommissioned, have any officer  
6 certification revoked, be terminated from the officer's  
7 position and disqualified from future employment as a law  
8 enforcement officer in New Mexico.

9 B. A law enforcement officer who uses force against  
10 a person in a manner inconsistent with the provisions of  
11 Section 3 or 4 of the Law Enforcement Officer Procedures Act  
12 that does not result in death may be charged with battery or  
13 aggravated battery pursuant to the provisions of Sections  
14 30-3-4 and 30-3-5 NMSA 1978.

15 C. A law enforcement officer who uses force against  
16 a person in a manner inconsistent with the provisions of  
17 Section 3 or 4 of the Law Enforcement Officer Procedures Act  
18 that results in death may be charged with manslaughter or  
19 murder pursuant to the provisions of Chapter 30, Article 2 NMSA  
20 1978.

21 SECTION 7. [NEW MATERIAL] DUTY TO INTERVENE.--

22 A. A law enforcement officer present and observing  
23 another officer using physical force, including deadly physical  
24 force, that the law enforcement officer has probable cause to  
25 believe is unlawful based on the totality of the circumstances

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1 shall intercede to prevent the use of unlawful force, unless  
2 interceding would result in imminent harm to the officer or  
3 another identifiable individual.

4 B. A law enforcement officer who observes another  
5 officer using physical force, including deadly physical force,  
6 that the law enforcement officer has probable cause to believe  
7 is unlawful based on the totality of the circumstances shall  
8 report the incident to the officer's direct supervisor as soon  
9 as reasonably possible but no later than the end of the  
10 officer's shift. The law enforcement officer shall prepare a  
11 detailed written statement describing the incident consistent  
12 with the uniform protocols set forth in Subsection A of Section  
13 11 of the Law Enforcement Officer Procedures Act. The law  
14 enforcement officer's written statement shall be included in  
15 the supervisor's report.

16 C. A person has a right to the intervention of law  
17 enforcement officers in the circumstances set forth in this  
18 section. A law enforcement officer who had a duty to intervene  
19 and failed to do so shall be disciplined and, depending on the  
20 seriousness of the violation, may be decertified,  
21 decommissioned or terminated from the officer's position. A  
22 law enforcement officer who had a duty to intervene and failed  
23 to do so may be held liable jointly and severally with any law  
24 enforcement officer who used unreasonable force for any  
25 injuries or death caused by such officer's unreasonable use of

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1 force.

2 SECTION 8. [NEW MATERIAL] RETALIATORY ACTION PROHIBITED--  
3 PUBLIC EMPLOYER RESPONSIBLE FOR PREVENTING AND STOPPING.--

4 A. A law enforcement agency and its agents shall  
5 not take, encourage or provoke direct or indirect retaliatory  
6 action against a law enforcement officer because the officer  
7 pursuant to the Law Enforcement Officer Procedures Act:

8 (1) intervenes or reports pursuant to Section  
9 7 of the Law Enforcement Officer Procedures Act;

10 (2) communicates to the law enforcement agency  
11 or a third party information about an action or a failure to  
12 act that the law enforcement officer believes in good faith  
13 constitutes an unlawful or improper act;

14 (3) provides information to, or testifies  
15 before, a public body as part of an investigation, hearing or  
16 inquiry into an unlawful or improper act; or

17 (4) objects to or refuses to participate in an  
18 activity, policy or practice that constitutes an unlawful or  
19 improper act.

20 B. A law enforcement agency is responsible for  
21 preventing, stopping and investigating retaliatory action. If  
22 a law enforcement agency knows or reasonably should know of a  
23 retaliatory action taken against a law enforcement officer, the  
24 agency shall immediately intervene.

25 C. The department shall promulgate rules to

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1 implement the provisions of this section and establish  
2 procedures for reporting and investigating alleged retaliation.

3 SECTION 9. [NEW MATERIAL] REQUIRING USE OF FORCE  
4 POLICIES--PUBLISHING POLICIES--FAILURE TO COMPLY.--

5 A. Every law enforcement agency shall adopt a  
6 policy regarding the use of force by its law enforcement  
7 officers and the agency shall incorporate the policy into the  
8 training of every law enforcement officer. The law enforcement  
9 certification board shall develop a model use of force policy,  
10 publish the model policy to its website and transmit a copy to  
11 all law enforcement agencies in the state.

12 B. The use of force policy required pursuant to  
13 Subsection A of this section shall address the following:

14 (1) required procedures for de-escalation  
15 tactics and techniques before using or increasing the use of  
16 force;

17 (2) procedures to determine the appropriate  
18 level of force to be used in particular situations, with  
19 examples;

20 (3) a ban on the discharge of tear gas or  
21 other chemical weapons, the discharge of rubber pellets from a  
22 propulsion device and attacking a person using a police dog and  
23 the ban on the use of a chokehold, except when a person's  
24 attack poses a threat of imminent harm to the officer or a  
25 third person; provided that an officer shall cease the use of a



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1 chokehold as soon as the person no longer poses a threat of  
2 imminent harm to the officer or third person;

3 (4) required procedures for issuing warnings  
4 prior to discharging a firearm, discharging a stun gun or using  
5 physical force;

6 (5) clear limits on the use of force pursuant  
7 to Section 3 of the Law Enforcement Officer Procedures Act,  
8 ensuring that less than deadly physical force is used only to  
9 the extent that it is proportional and the least amount of  
10 force necessary to achieve its lawful objective and that deadly  
11 physical force is only used as a last resort when necessary to  
12 defend against imminent threats to human life;

13 (6) the duty of officers to intervene pursuant  
14 to Section 7 of the Law Enforcement Officer Procedures Act; and

15 (7) comprehensive reporting protocols pursuant  
16 to Subsection A of Section 11 of the Law Enforcement Officer  
17 Procedures Act.

18 C. Not later than ninety days after the effective  
19 date of the Law Enforcement Officer Procedures Act, the head of  
20 each law enforcement agency shall publish the use of force  
21 policy required by Subsection A of this section in a location  
22 that is accessible to the public and in a conspicuous place on  
23 the agency's website, if any.

24 D. A law enforcement agency that fails to comply  
25 with the provisions of this section shall be ineligible to

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1 apply for grants administered by any state agency. The  
2 department shall afford the law enforcement agency an  
3 opportunity to contest a finding that the agency did not comply  
4 with the provisions of this section.

5 SECTION 10. [NEW MATERIAL] USE OF FORCE INVESTIGATIONS--  
6 FAILURE TO COMPLY.--

7 A. All law enforcement agencies shall develop and  
8 publicly disclose a policy for investigating alleged use of  
9 force violations.

10 B. A law enforcement agency that fails to comply  
11 with the provisions of this section shall be ineligible to  
12 apply for grants administered by any state agency. The  
13 department shall afford the law enforcement agency an  
14 opportunity to contest a finding that the agency did not comply  
15 with the provisions of this section.

16 SECTION 11. [NEW MATERIAL] REPORTING OFFICER-INVOLVED  
17 INJURIES OR DEATHS--FAILURE TO COMPLY.--

18 A. The department shall create a uniform protocol  
19 for a law enforcement agency to report officer-involved  
20 injuries or deaths. The uniform protocol shall require a  
21 report of the following information regarding each incident:

- 22 (1) the reporting law enforcement agency;  
23 (2) the date of the incident;  
24 (3) the location of the incident;  
25 (4) the name, age, sex, race and ethnicity of

1 each law enforcement officer involved;

2 (5) whether each law enforcement officer  
3 involved was on duty or in uniform during the incident;

4 (6) the name of each witness;

5 (7) the name, age, sex, race and ethnicity of  
6 each injured or deceased person involved, if known; and, if  
7 unknown, a description of the inquiry undertaken to ascertain  
8 that information;

9 (8) whether each injured person received  
10 emergency medical care, was hospitalized or died as a result of  
11 the incident;

12 (9) a description of the injuries sustained by  
13 each injured person;

14 (10) a description of any efforts to render  
15 medical aid to each injured person;

16 (11) whether and in what manner each injured  
17 or deceased person used, exhibited or possessed a deadly weapon  
18 during the incident;

19 (12) whether each injured or deceased person  
20 exhibited signs or symptoms of mental illness or impairment at  
21 the time of the incident;

22 (13) whether a law enforcement officer  
23 involved attempted to call medical or mental health  
24 professionals to the scene during the incident;

25 (14) the reason for the use of force by law

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1 enforcement officers;

2 (15) whether the reporting law enforcement  
3 agency determined the use of force was justified;

4 (16) a description of the physical force used  
5 by each law enforcement officer during the incident;

6 (17) a description of the de-escalation  
7 tactics and techniques used by each law enforcement officer  
8 involved during the incident;

9 (18) for each law enforcement officer present,  
10 a description of all attempts to intervene to prevent the use  
11 of unreasonable physical force during the incident; and

12 (19) whether the incident occurred during or  
13 as a result of:

14 (a) an emergency call or request for  
15 assistance and a description of the facts and circumstances;

16 (b) the execution of a warrant or other  
17 enforcement action; or

18 (c) a hostage-taking, a barricade or  
19 other emergency situation.

20 B. Not later than forty-five days after an officer-  
21 involved injury or death, the law enforcement agency that  
22 employs the law enforcement officer involved in the incident  
23 shall complete and submit to the secretary a report using the  
24 uniform protocol. If the law enforcement agency maintains a  
25 website, the agency shall post the report online upon

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1 submission to the secretary. Not later than five days after  
2 receiving a report, the secretary shall post the report on the  
3 department's website. If no officer-involved injuries or  
4 deaths have occurred during a quarterly period, the law  
5 enforcement agency shall submit a no incident report to the  
6 secretary in a manner prescribed by the secretary. The  
7 quarterly periods for no incident reports pursuant to this  
8 subsection shall be:

- 9 (1) January 1 to March 31;
- 10 (2) April 1 to June 30;
- 11 (3) July 1 to September 30; and
- 12 (4) October 1 to December 31.

13 C. A law enforcement agency that fails to comply  
14 with Subsection B of this section shall be ineligible to apply  
15 for grants administered by any state agency. The department  
16 shall afford the law enforcement agency an opportunity to  
17 contest a finding that the agency did not comply with  
18 Subsection B of this section.

19 D. The department shall prepare an annual report  
20 regarding all officer-involved injuries or deaths that occurred  
21 during the preceding fiscal year. The report shall include:

- 22 (1) the total number of officer-involved  
23 injuries or deaths;
- 24 (2) the number of officer-involved injuries or  
25 deaths reported by each law enforcement agency;

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1 (3) the entirety of data reported using the  
2 uniform protocol; and

3 (4) any operational, policy, regulatory or  
4 legislative recommendations to reduce the number and  
5 seriousness of officer-involved injuries or deaths.

6 E. On or before September 30 of each year, the  
7 secretary shall submit the report to the governor, the speaker  
8 of the house of representatives, the president pro tempore of  
9 the senate and the appropriate legislative interim committee  
10 dealing with courts, corrections and justice. On or before  
11 September 30 of each year, the secretary shall post the report  
12 on the department's website.

13 SECTION 12. [NEW MATERIAL] USE OF FORCE DATABASE.--

14 A. By no later than June 30, 2024, the department  
15 shall create a database to coordinate the sharing of  
16 information among state, local and federal law enforcement  
17 agencies concerning uses of force related to law enforcement  
18 matters. Ownership and responsibility to maintain the database  
19 shall transfer to the law enforcement certification board on  
20 July 1, 2024.

21 B. The database provided for in Subsection A of  
22 this section shall include a mechanism to track terminations,  
23 resignations, decertifications, criminal convictions of and  
24 civil judgments against law enforcement officers for improper  
25 use of force; provided that the database shall distinguish

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1 between instances in which a judicial, administrative or other  
2 factual or legal determination was made and those in which no  
3 judicial, administrative or other factual or legal  
4 determination was made.

5 C. Each law enforcement agency shall notify the  
6 department regarding any notice of terminations, resignations,  
7 decertifications, criminal convictions of and civil judgments  
8 against law enforcement officers for improper use of force.  
9 Each law enforcement agency shall notify the department  
10 regarding each written agreement made between the agency and  
11 any of the agency's employees or former employees that includes  
12 terms of separation or otherwise relates to the law enforcement  
13 officer's employment with the agency. After July 1, 2024,  
14 notice shall be made to the law enforcement certification  
15 board.

16 D. Upon a particularized showing of the need for  
17 the requested data, the law enforcement certification board  
18 shall make available to a law enforcement agency data regarding  
19 specific law enforcement officers whose identities have been  
20 entered into the database described in Subsection A of this  
21 section.

22 E. The law enforcement certification board shall  
23 annually provide a report to the governor and the legislature  
24 regarding the status of law enforcement officers and former law  
25 enforcement officers in the state, including aggregated and

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1 anonymized data from the database described in Subsection A of  
2 this section.

3 F. A law enforcement agency that fails to comply  
4 with Subsection C of this section shall be ineligible to apply  
5 for grants administered by any state agency. The department  
6 shall afford the law enforcement agency an opportunity to  
7 contest a finding that the agency did not comply with  
8 Subsection C of this section.

9 SECTION 13. [NEW MATERIAL] SEARCH WARRANTS--REQUIRING  
10 KNOCK AND ANNOUNCE--SHOWING SEARCH WARRANT--PROVIDING A  
11 PENALTY.--

12 A. A law enforcement officer executing a search  
13 warrant shall knock and announce the officer's presence and  
14 purpose before forcibly entering a residence. A law  
15 enforcement officer shall not dispense with the requirement of  
16 this subsection in any circumstances. A law enforcement  
17 officer shall not seek, execute or participate in the execution  
18 of a search warrant in which the executing law enforcement  
19 officers do not knock and announce their presence and purpose.

20 B. When executing a search warrant, a law  
21 enforcement officer shall be recognizable and identifiable as a  
22 uniformed law enforcement officer, with the officer's name and  
23 identification number visible. The law enforcement officer  
24 shall provide audible notice of the officer's authority and  
25 purpose in a manner reasonably expected to be heard by

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1 occupants of the place to be searched prior to the execution of  
2 the search warrant.

3 C. After entering and securing the place to be  
4 searched, and prior to undertaking a search or seizure pursuant  
5 to the search warrant, the executing law enforcement officer  
6 shall read and give a copy of the search warrant to the person  
7 to be searched or the owner of the place to be searched or, if  
8 the owner is not present, to an occupant of the place to be  
9 searched. If the place to be searched is unoccupied, the  
10 executing law enforcement officer shall leave a copy of the  
11 search warrant suitably affixed to the place to be searched.

12 D. A law enforcement officer charged with the  
13 execution of a search warrant shall be accompanied only by the  
14 persons reasonably necessary for the successful execution of  
15 the search warrant with all practicable safety.

16 E. A law enforcement officer entering a premises  
17 pursuant to a search warrant shall not be armed with  
18 specialized, military-style equipment, including assault  
19 rifles, submachine guns, shotguns, flash bang stun grenades or  
20 other stun agents, except when expressly authorized by the  
21 search warrant upon a showing of particularized suspicion that  
22 an occupant of the target premises is in actual possession of a  
23 deadly weapon and the use of specialized weaponry by law  
24 enforcement officers is likely to be necessary.

25 F. Before entering the premises of a property to be

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1 searched, a law enforcement officer shall:

2 (1) physically knock on an entry door to the  
3 premises in a manner and duration that can be heard by the  
4 occupants and, when available, sound a bell or other device  
5 affixed to the outside of a building that can be rung by  
6 visitors to signal a visitor's arrival;

7 (2) clearly and verbally announce the  
8 officer's self as a law enforcement officer having a search  
9 warrant in a manner that can be heard by the occupants;

10 (3) clearly and verbally announce that the  
11 occupants must open the door pursuant to the search warrant and  
12 that force may be used if the occupants fail to respond; and

13 (4) wait a minimum of sixty seconds for  
14 occupants to respond before entering the premises by force.

15 G. Evidence seized or obtained shall be  
16 inadmissible if subsequent judicial review determines that a  
17 law enforcement officer did not comply with Subsections A  
18 through F of this section.

19 SECTION 14. Section 14-2-1 NMSA 1978 (being Laws 1947,  
20 Chapter 130, Section 1, as amended) is amended to read:

21 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--  
22 Every person has a right to inspect public records of this  
23 state except:

24 A. records pertaining to physical or mental  
25 examinations and medical treatment of persons confined to an

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1 institution;

2 B. letters of reference concerning employment,  
3 licensing or permits;

4 C. letters or memoranda that are matters of opinion  
5 in personnel files or students' cumulative files; provided that  
6 records describing the disposition of law enforcement  
7 misconduct investigations shall not be exempt from inspection;

8 D. portions of law enforcement records that reveal:

9 (1) confidential sources, methods or  
10 information; or

11 (2) before charges are filed, names, address,  
12 contact information or protected personal identifier  
13 information [~~as defined in this act~~] of individuals who are:

14 (a) accused but not charged with a  
15 crime; or

16 (b) victims of or non-law-enforcement  
17 witnesses to an alleged crime of: 1) assault with intent to  
18 commit a violent felony pursuant to Section 30-3-3 NMSA 1978  
19 when the violent felony is criminal sexual penetration; 2)  
20 assault against a household member with intent to commit a  
21 violent felony pursuant to Section 30-3-14 NMSA 1978 when the  
22 violent felony is criminal sexual penetration; 3) stalking  
23 pursuant to Section 30-3A-3 NMSA 1978; 4) aggravated stalking  
24 pursuant to Section 30-3A-3.1 NMSA 1978; 5) criminal sexual  
25 penetration pursuant to Section 30-9-11 NMSA 1978; or 6)

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1 criminal sexual contact pursuant to Section 30-9-12 NMSA 1978.

2 Law enforcement records include evidence in any form  
3 received or compiled in connection with a criminal  
4 investigation or prosecution by a law enforcement or  
5 prosecuting agency, including inactive matters or closed  
6 investigations to the extent that they contain the information  
7 listed in this subsection; provided that the presence of such  
8 information on a law enforcement record does not exempt the  
9 record from inspection;

10 E. as provided by the Confidential Materials Act;

11 F. trade secrets, attorney-client privileged  
12 information and long-range or strategic business plans of  
13 public hospitals discussed in a properly closed meeting;

14 G. tactical response plans or procedures prepared  
15 for or by the state or a political subdivision of the state,  
16 the publication of which could reveal specific vulnerabilities,  
17 risk assessments or tactical emergency security procedures that  
18 could be used to facilitate the planning or execution of a  
19 terrorist attack; and

20 H. as otherwise provided by law."

21 SECTION 15. Section 29-7-4.4 NMSA 1978 (being Laws 2022,  
22 Chapter 56, Section 6) is amended to read:

23 "29-7-4.4. LAW ENFORCEMENT OFFICER TRAINING.--The  
24 curriculum of each basic law enforcement training class and in-  
25 service training each year for certified police officers shall

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1 include:

- 2 A. crisis management and intervention;
- 3 B. dealing with individuals who are experiencing
- 4 mental health issues;
- 5 C. methods of de-escalation;
- 6 D. peer-to-peer intervention;
- 7 E. stress management;
- 8 F. racial sensitivity;
- 9 G. reality-based situational training; and
- 10 H. use of force training consistent with the Law
- 11 Enforcement Officer Procedures Act that includes the
- 12 elimination of vascular neck restraints."

13 SECTION 16. Section 30-2-6 NMSA 1978 (being Laws 1963,  
14 Chapter 303, Section 2-7, as amended) is amended to read:

15 "30-2-6. JUSTIFIABLE HOMICIDE BY PUBLIC OFFICER OR PUBLIC  
16 EMPLOYEE.--

17 A. Homicide is justifiable when committed by a  
18 public officer or public employee or those acting by their  
19 command and in their aid and assistance:

20 (1) in obedience to any judgment of a  
21 competent court;

22 (2) when necessarily committed in overcoming  
23 actual resistance to the execution of some legal process or to  
24 the discharge of any other legal duty;

25 (3) when necessarily committed in retaking

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1 felons who have been rescued or who have escaped or when  
2 necessarily committed in arresting felons fleeing from justice;  
3 or

4 (4) when necessarily committed in order to  
5 prevent the escape of a felon from any place of lawful custody  
6 or confinement.

7 B. ~~[For the purposes of this section, homicide is~~  
8 ~~"necessarily committed" when a public officer or public~~  
9 ~~employee has probable cause to believe he or another is~~  
10 ~~threatened with serious harm or deadly force while performing~~  
11 ~~those lawful duties described in this section. Whenever~~  
12 ~~feasible, a public officer or employee should give warning~~  
13 ~~prior to using deadly force] Homicide is "necessarily~~  
14 ~~committed" only if a public officer or public employee's use of~~  
15 ~~force was lawful according to Section 3 of the Law Enforcement~~  
16 ~~Officer Procedures Act."~~

17 SECTION 17. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2023.