

**N.M. Stat. Ann. § 20-2-3**

Current through all chaptered acts of the 2024 Regular Session.

*Michie's™ Annotated Statutes of New Mexico > Chapter 20 Military Affairs (Arts. 1 — 14) > Article 2 Militia (§§ 20-2-1 — 20-2-18)*

**20-2-3. Governor; power to call out militia.**

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**A.** The governor may, in case of insurrection, invasion, riot or breach of the peace or of imminent danger thereof or in case of other emergency, order into active service of the state the militia or any components or parts thereof that have not been called into federal service. As used in this section, “emergency” includes any man-made or natural disaster causing or threatening widespread physical or economic harm that is beyond local control and requiring the resources of the state.

**B.** The governor may also order any member of the national guard to active state service for a period not to exceed a cumulative total of four months within a calendar year for any individual member for the following reasons:

- (1) to protect critical infrastructure in the state from a cybersecurity threat or security vulnerability;
- (2) to protect an information system owned or operated by the state from a cybersecurity threat or security vulnerability;
- (3) to protect information that is stored on, processed by or transiting on an information system owned or operated by the state from a cybersecurity threat or security vulnerability; or
- (4) to identify the source of a cybersecurity threat.

**C.** A member of the national guard called to active service pursuant to the provisions of Subsection B of this section shall not have any police powers or arrest authority. “Subsection B of Section 20-2-3 NMSA 1978” shall be cited on all orders, vouchers and payroll documents submitted for reimbursement pursuant to Section 20-1-6 NMSA 1978 in support of all actions authorized by Subsection B of this section. In no case shall an activation ordered pursuant to Subsection B of this section be used to incur a debt under Article 9, Section 7 of the constitution of New Mexico.

**D.** In case of any breach of the peace, tumult, riot or resistance to process of this state or imminent danger thereof, the sheriff of a county may call for aid from the governor as commander-in-chief of the national guard. If it appears to the governor that the power of the county is insufficient to enable the sheriff to preserve the peace and protect the lives and property of the peaceful residents of the county or to overcome the resistance to process of this state, the governor shall, on application of the sheriff, order out such military force as is necessary.

**E.** When any portion of the militia is called out for the purpose of suppressing an unlawful or riotous assembly, the commander of the troops shall cooperate with the civil officers to the fullest extent consistent with the accomplishment of the object for which the troops were called. The civil officials may express to the commander of the troops the general or specific objective that the civil officials desire to accomplish, but the tactical direction of the troops, the kind and extent of force to be used and the particular means to be employed to accomplish the object specified by the civil officers shall be left solely to the commander of the troops present on duty.

**F.** When any portion of the militia is ordered into active service pursuant to this section in case of an emergency, the militia may provide those resources and services necessary to avoid or minimize economic or physical harm until a situation becomes stabilized and again under local self-support and control, including the provision, on a temporary, emergency basis, for lodging, sheltering, health care, food and any transportation or shipping necessary to protect lives or public property; or for any other action necessary to protect the public health, safety and welfare.

**G.** In the event of the exercise by the governor of the powers under this section, the governor shall first utilize the personnel and assets of the national guard and only in their absence or insufficiency utilize the personnel and assets of the state defense force.

## History

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1978 Comp., § 20-2-3, enacted by Laws 1987, ch. 318, § 10; 1999, ch. 140, § 3; 2017, ch. 93, § 1, effective April 6, 2017.