

HOUSE BILL 5

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2020

INTRODUCED BY

Brian Egolf and Karen C. Bash and Gerald Ortiz y Pino

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO CIVIL RIGHTS; CREATING THE NEW MEXICO CIVIL RIGHTS COMMISSION; PROVIDING RECOMMENDATIONS ON A PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS; PROVIDING RECOMMENDATIONS FOR THE Sf11→~~TERMINATION OR LIMITATION~~←Sf11 Sf11→~~USE~~←Sf1 OF QUALIFIED IMMUNITY; REQUIRING A REPORT BY Hf11→~~HJC→NOVEMBER 15, 2020~~←HJC←Hf11 Hf11→~~NOVEMBER 15, 2020~~←Hf11 Hf11→~~HJC→March 31, 2021~~←HJC←Hf11; DECLARING AN EMERGENCY.

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

.217970.1AIC June 20, 2020 (8:14 pm)

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SECTION 1. TEMPORARY PROVISION--NEW MEXICO CIVIL RIGHTS COMMISSION--APPOINTMENT--PROVIDING RECOMMENDATIONS--REPORTING REQUIRED.--

A. The "New Mexico civil rights commission" is created and shall function from the date of its appointment until HJC→~~November 15, 2020~~←HJC HJC→**March 31, 2021**←HJC.

B. The New Mexico civil rights commission consists of nine members Hf13→, **no more than five of which shall be from the same political party,**←Hf13 appointed as follows:

(1) the governor shall appoint three members; Hf13→~~and~~←Hf13

(2) the New Mexico legislative council shall appoint six members SJC→~~Hf13→.~~←Hf13←SJC SJC→**Hf13→;** and

~~(3) the appointing authorities shall make every effort to ensure economic, geographic, gender, cultural and racial diversity among the appointed members.~~←Hf13←SJC
SJC→; and

(3) the appointing authorities shall make every effort to ensure economic, geographic, gender, cultural and racial diversity among the appointed members as well as at least one member experienced in law enforcement.←SJC

C. The commission shall elect a chair and may elect such officers as it deems necessary to carry out its duties.

D. Two absences from meetings of the commission constitutes grounds for removal of a member of the commission.

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Upon the request of the chair of the commission, the appointing authority shall replace the member who has failed to attend two meetings of the commission.

E. A majority of the members appointed constitutes a quorum for the transaction of business. The support of a majority of the members appointed is required for adoption of any action by the commission.

F. The members of the commission shall review policies and develop policy proposals for laws for the creation of a civil right of action for the deprivation, by a public body or a person acting on behalf of or under the authority of a public body, of any right, privilege or immunity secured by the constitution of New Mexico. The commission shall consider whether such right of action shall provide for monetary damages, including punitive damages, and other equitable relief, including injunctive relief. The commission shall consider whether attorney fees shall be mandated for a prevailing plaintiff, the statute of limitations for the right of action and indemnification of employees of a public body in cases involving the right of action.

G. The commission shall review SJC→policies and develop←SJC SJC→policy proposals for laws for the prohibition or limitation of←SJC the use of qualified immunity as a defense to liability by an employee of a public body for a claim that would be brought either under 42 U.S.C. Section 1983 or

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pursuant to the right of action considered by the commission in Subsection F of this section.

HJC→H. The commission shall review and assess the need for and costs of additional insurance policies for public employees and public bodies, or for persons acting on behalf of or under the authority of public bodies, if the policies or laws proposed pursuant to Subsections F and G of this section are adopted.←HJC

HJC→H←HJC HJC→I←HJC. The commission shall submit a report of its findings, including specific recommendations and proposed legislation, to the governor, the New Mexico legislative council and the appropriate legislative interim committee dealing with courts, corrections and justice by Hf11→~~HJC→November 15, 2020←HJC~~←Hf11 Hf11→November 15, 2020←Hf11 Hf11→~~HJC→March 31, 2021←HJC~~←Hf1.

HJC→I←HJC HJC→J←HJC. The commission Hf12→~~shall~~←Hf12 Hf12→may←Hf12 hire or contract for appropriate staff. Staff shall assist the commission as directed by the chair, including conducting interviews with parties that wish to express their views to the commission and synthesizing this information for the commission. The commission may request assistance from the legislative council service and the risk management division of the general services department.

HJC→J←HJC HJC→K←HJC. Members of the commission

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are entitled to compensation pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

HJC→K←HJC HJC→L←HJC. As used in this section, "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education.

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.