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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

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 TERMINATION OR LIMITATION OF QUALIFIED IMMUNITY; REQUIRING A REPORT BY NOVEMBER 15, 2020; DECLARING AN EMERGENCY.

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

**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 November 15, 2020.

B. The New Mexico civil rights commission consists

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1 of nine members, appointed as follows:

2 (1) the governor shall appoint three members;

3 and

4 (2) the New Mexico legislative council shall  
5 appoint six members.

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

8 D. Two absences from meetings of the commission  
9 constitutes grounds for removal of a member of the commission.  
10 Upon the request of the chair of the commission, the appointing  
11 authority shall replace the member who has failed to attend two  
12 meetings of the commission.

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

17 F. The members of the commission shall review  
18 policies and develop policy proposals for laws for the creation  
19 of a civil right of action for the deprivation, by a public  
20 body or a person acting on behalf of or under the authority of  
21 a public body, of any right, privilege or immunity secured by  
22 the constitution of New Mexico. The commission shall consider  
23 whether such right of action shall provide for monetary  
24 damages, including punitive damages, and other equitable  
25 relief, including injunctive relief. The commission shall

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1 consider whether attorney fees shall be mandated for a  
2 prevailing plaintiff, the statute of limitations for the right  
3 of action and indemnification of employees of a public body in  
4 cases involving the right of action.

5 G. The commission shall review policies and develop  
6 policy proposals for laws for the prohibition or limitation of  
7 the use of qualified immunity as a defense to liability by an  
8 employee of a public body for a claim that would be brought  
9 either under 42 U.S.C. Section 1983 or pursuant to the right of  
10 action considered by the commission in Subsection F of this  
11 section.

12 H. The commission shall submit a report of its  
13 findings, including specific recommendations and proposed  
14 legislation, to the governor, the New Mexico legislative  
15 council and the appropriate legislative interim committee  
16 dealing with courts, corrections and justice by November 15,  
17 2020.

18 I. The commission shall hire or contract for  
19 appropriate staff. Staff shall assist the commission as  
20 directed by the chair, including conducting interviews with  
21 parties that wish to express their views to the commission and  
22 synthesizing this information for the commission. The  
23 commission may request assistance from the legislative council  
24 service and the risk management division of the general  
25 services department.

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