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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 USE 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 March 31, 2021.

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

(1) the governor shall appoint three members;

(2) the New Mexico legislative council shall appoint six members; 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

1 at least one member experienced in law enforcement.

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

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

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

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

1 employees of a public body in cases involving the right of  
2 action.

3 G. The commission shall review the use of  
4 qualified immunity as a defense to liability by an employee  
5 of a public body for a claim that would be brought either  
6 under 42 U.S.C. Section 1983 or pursuant to the right of  
7 action considered by the commission in Subsection F of this  
8 section.

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

15 I. The commission shall submit a report of its  
16 findings, including specific recommendations and proposed  
17 legislation, to the governor, the New Mexico legislative  
18 council and the appropriate legislative interim committee  
19 dealing with courts, corrections and justice by November 15,  
20 2020.

21 J. The commission may hire or contract for  
22 appropriate staff. Staff shall assist the commission as  
23 directed by the chair, including conducting interviews with  
24 parties that wish to express their views to the commission  
25 and synthesizing this information for the commission. The

1 commission may request assistance from the legislative  
2 council service and the risk management division of the  
3 general services department.

4 K. Members of the commission are entitled to  
5 compensation pursuant to the provisions of the Per Diem and  
6 Mileage Act and shall receive no other perquisite,  
7 compensation or allowance.

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

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

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