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HOUSE BILL 98

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

INTRODUCED BY

James G. Townsend and Randall T. Pettigrew and Luis M. Terrazas
and Jimmy G. Mason

AN ACT

RELATING TO CIVIL RIGHTS; AMENDING THE NEW MEXICO CIVIL RIGHTS
ACT; REINSTATING THE DEFENSE OF QUALIFIED IMMUNITY; REPEALING
SECTION 41-4A-4 NMSA 1978 (BEING LAWS 2021, CHAPTER 119,
SECTION 4).

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

SECTION 1. Section 41-4A-10 NMSA 1978 (being Laws 2021,
Chapter 119, Section 10) is amended to read:

"41-4A-10. COMMON LAW JUDICIAL, LEGISLATIVE OR OTHER
ESTABLISHED IMMUNITY.--The [~~prohibition on the use of the
defense of qualified immunity pursuant to Section 4 of the New
Mexico Civil Rights Act and the~~] waiver of sovereign immunity
pursuant to Section [~~9 of that act~~] 41-4A-9 NMSA 1978 shall not
abrogate judicial immunity, legislative immunity or any other
constitutional, statutory or common law immunity."

underscored material = new
[bracketed material] = delete

1 SECTION 2. Section 41-4A-13 NMSA 1978 (being Laws 2021,
2 Chapter 119, Section 13) is amended to read:

3 "41-4A-13. NOTICE OF CLAIMS.--

4 A. Every person who claims damages from an act or
5 omission of a certified law enforcement officer under the New
6 Mexico Civil Rights Act shall cause to be presented to the
7 certified law enforcement officer's agency or department,
8 within one year after an occurrence giving rise to a claim
9 under the New Mexico Civil Rights Act, a written notice stating
10 the time, place and circumstances of the loss or injury.

11 B. No suit or action for which sovereign immunity
12 has been waived under the New Mexico Civil Rights Act shall be
13 maintained, and no court shall have jurisdiction to consider
14 any suit or action against the state or any local public body,
15 unless notice has been given as required by this section or
16 unless the governmental entity had actual notice of the
17 occurrence. The time for giving notice does not include the
18 time, not exceeding one year, during which the injured person
19 is incapacitated from giving the notice by reason of injury.

20 C. When a claim for which sovereign immunity has
21 been waived under the New Mexico Civil Rights Act is one for
22 wrongful death, the required notice may be presented by, or on
23 behalf of, the personal representative of the deceased person
24 or any person claiming benefits of the proceeds of a wrongful
25 death action, or the consular officer of a foreign country of

.223298.2

underscoring material = new
~~[bracketed material] = delete~~

1 which the deceased was a citizen, within one year and six
2 months after the date of the occurrence of the injury that
3 resulted in the death, but if the person for whose death the
4 claim is made has presented a notice that would have been
5 sufficient had the person lived, an action for wrongful death
6 may be brought without any additional notice."

7 SECTION 3. REPEAL.--Section 41-4A-4 NMSA 1978 (being Laws
8 2021, Chapter 119, Section 4) is repealed.

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