

LFC Requester:

Helen Gaussoin

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 02/16/2025

Check all that apply:

Bill Number: HB339

Original x Correction
Amendment Substitute

Sponsor: Rep. Angelica Rubio
Rep. Andrea Romero

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: HOUSING
DISCRIMINATION &
HUMAN RIGHTS ACT

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

HB339 prohibits the use of discriminatory income screening procedures in housing applications. The bill achieves this by amending the New Mexico Human Rights Act to include an “invalid screening process,” which includes failing to include federal, state, local, or tribal housing assistance as part of an applicant’s income, as a discriminatory practice.

Section 1 amends Section 28-1-2 NMSA 1978 to include new definitions for “source of income,” “invalid screening process,” and “housing applicant.” “Source of income” is defined as “(1) income from a lawful profession, occupation or job; (2) social security benefits; (3) pension, annuity, alimony or child support income; or (4) any form of federal, state or local government or nonprofit organization assistance or housing assistance[.]” Section 1(FF). Invalid screening process is defined as one that fails “to include all of the individual’s or housing applicant’s sources of income” or to fail to properly account for assistance in the income calculation. Section 1(GG). “Housing applicant” is defined as “an individual applying to rent or own a housing accommodation.” Section 1(HH).

Section 2 amends Section 28-1-4 NMSA 1978 to clarify that the Human Rights Bureau of the Labor Relations Division of the Workforce Solutions Department has the power to receive and investigate complaints. Section 2 also makes minor grammatical corrections, and Section 2(A)(2) removes a gendered pronoun. Section 2 adds “[e]xcept as provided in Section 28.1.7.3 NMSA 1978” language to both subsections.

Section 3 amends Section 28-1-7 NMSA 1978 to remove language about discriminatory practices related to housing accommodations. Section 3 also strikes language related to government entities or public contractors refusing or limiting services because of enumerated protected statuses and moves it to Section 28-1-7.1 NMSA 1978.

Section 4 amends Section 28-1-7.1 NMSA 1978 to include government entities or public contractors refusing or limiting services to people due to the enumerated conditions. Section 4(B) makes unlawful the consideration of protected statuses in applications for financial assistance. This language was largely imported from Section 28-1-7 NMSA 1978.

Section 5 creates a new section of the Human Rights Act, Section 28-1-7.3 NMSA 1978, related to unlawful discriminatory practices in public accommodations and enforcement. This Section

provides that complaints of discrimination must be filed with the attorney general to review and potentially pursue in a criminal or civil capacity, as well as providing for civil penalties mirroring the UPA.

Specifically, this Section *requires* the attorney general to conduct an investigation and determine how to proceed if the alleged discriminatory practice falls within the scope of Section 5. The Section also *permits* the attorney general to institute a civil action on behalf of the state alleging unlawful discriminatory practice if the attorney general has reasonable belief that a person has violated the section and that instituting a proceeding against such person would be in the public interest. The Section also *permits* the attorney general to complete a thorough investigation as appropriate, initiate civil proceedings, and/or pursue or refer the matter for criminal prosecution in the event of willful or egregious violations. The attorney general is authorized by this Section to recover civil penalties up to \$5,000 per violation, in addition to any equitable relief imposed by the court.

Section 5 also provides that it is unlawful for a person in any public accommodation to discriminate against individuals based on race, religion, sex, gender, disability, or other protected categories. It is unlawful for anyone to refuse or discriminate in the sale, rental, lease, or sublease of housing based on the same categories. Discrimination based on income source, evidenced by invalid screening practices, is also prohibited.

Section 6 amends Section 28-1-10 NMSA 1978, the grievance procedure, to read that complaints of discrimination may be filed with the human rights bureau of the labor relations division of the workforce solutions department. Section 6(A) indicates, through reference to new Section 28-1-7.3, that complaints “alleging a public accommodation or a public housing accommodation violation” shall be directed to the NMDOJ.

Section 7 provides the provisions of the act will take effect on July 1, 2025.

FISCAL IMPLICATIONS

Section 5(F) of HB339 creates a cause of action and a new process for complaints and investigations for unlawful or discriminatory practices in violation of the act. Section 5 requires complaints to be filed with the NMDOJ and requires the NMDOJ to review such complaints and investigate them if they fall within the purview of Section 5. It also authorizes the NMDOJ to proceed with civil or criminal litigation and/or prosecution as appropriate. This will require additional resources, including attorney and non-attorney personnel. The bill does not, however, appropriate additional funds to NMDOJ or otherwise provide for the additional personnel or resources that will be necessary to effectuate this bill.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

As indicated above, the bill requires investigation by the NMDOJ and authorizes litigation and prosecution by the NMDOJ without providing for appropriations to the NMDOJ for the resulting increased need for resources.

PERFORMANCE IMPLICATIONS

See above - Fiscal Implications. These needs will implicate various divisions within the NMDOJ to effectuate this portion of the bill, including potentially consumer intake, consumer protections, civil rights, civil appeals, special prosecutions, and criminal appeals, as well as possibly others.

ADMINISTRATIVE IMPLICATIONS

See above – Fiscal Implications. These needs will implicate the consumer complaint intake process at the NMDOJ.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill amends the definitions of Section 28-1-7 NMSA 1978, which are also amended by HB114 sponsored by Rep. Eleanor Chávez.

TECHNICAL ISSUES

The language of Section 5(F)(2) reads that “[a complaint] may be instituted by the attorney general[.]” The contextual language of this section may be read as using two distinct definitions of “complaint”—one complaint being a form submitted to the NMDOJ by a consumer and the other Complaint being a legal filing initiating a lawsuit. Consider altering the language of Section 5(F)(2) to read, for example, “(2) if the attorney general has reasonable belief that a person violated this section, the attorney general may bring a civil action on behalf of the state...”

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

Language concerning enforcement in Section 5 could be amended to make a violation of this Act a violation of the New Mexico Unfair Practices Act. The UPA allows for attorney general enforcement and the pursuit of civil penalties.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS