

LFC Requester:

Scott Sanchez

## AGENCY BILL ANALYSIS - 2026 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:** 1/21/26

*Check all that apply:*

**Bill Number:** HB9

Original

Correction

Amendment

Substitute

**Sponsor:** Reps. Eleanor Cháves,  
Angelica Rubio, Andrea  
Romero, Marianna Anaya,  
Joseph Cervantes

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

**Short  
Title:** Immigrant Safety Act

**Person Writing  
Analysis:** Van Snow

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### **SECTION II: FISCAL IMPACT**

#### **APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>		

(Parenthesis ( ) indicate expenditure decreases)

#### **REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>	<b>FY28</b>		

(Parenthesis ( ) indicate revenue decreases)

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(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:

The Immigrant Safety Act would prohibit governmental entities in New Mexico from cooperating in certain ways with federal immigration authorities.

Section 2 of the Act defines “public body” broadly to include any public entity in the state, as well as individuals acting on their behalf.

Section 3 contains the substantive restrictions on public bodies. No public body may “enter into, renew, or otherwise agree to be party” to an agreement to detain individuals accused of civil immigration offenses. Any public body who is party to such an agreement must terminate it at the soonest possible date. No public body may dispose of any real property to be used for the detention of individuals accused of civil immigration violations. No public body may promulgate a law, ordinance, or policy that contradicts the Act. Finally, the Act clarifies that law enforcement is still free to detain or stop individuals as permitted by state law.

Section 4 creates a civil enforcement mechanism for the Act. Either the Attorney General or a district attorney may bring a civil action against a public body that has violated or will violate the act. A court hearing such an action may award injunctive, declaratory, or other “appropriate” and nonmonetary relief.

Section 5 contains a severability clause that would preserve as much of the Act as possible if a section of it were found to be invalid.

### **FISCAL IMPLICATIONS**

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.

The Act would allow, but not require, the Attorney General to file suit against non-compliant public bodies. If the NMDOJ attempted to do so without receiving additional funding, this could impact agency performance and finances.

## **SIGNIFICANT ISSUES**

The federal government cannot force state or local governments to enforce federal law. *See New York v. United States*, 505 U.S. 144, 188 (1992) and *Printz v. United States*, 521 U.S. 898, 935 (1997). State and local governments can agree to assist the federal government to the extent permitted by law. The Legislature has the authority to restrict the powers of municipal governments and counties by enacting general laws. *See State ex rel. Torrez v. Bd. Of Cnty. Comm'rs for Lea Cnty.*, 2025-NMSC-011, ¶¶ 27-34 (discussing preemption).

Section 3, by forbidding public bodies from disposing of property for the purposes of operating detention facilities, raises possible intergovernmental immunity concerns. The intergovernmental immunity doctrine prohibits state laws which “regulat[e] the United States directly or discriminat[e] against the Federal Government or those with whom it deals” (e.g., contractors)” *United States v. Washington*, 596 U.S. 832, 838 (2022). Because public bodies could freely dispose of their property for other purposes, Section 3 would only operate against the federal government or its contractors.

It is unclear whether Section 3 would pose an intergovernmental immunity problem. Some courts have held that similar laws are unconstitutional. *See CoreCivic, Inc. v. Governor of New Jersey*, 145 F.4th 315 (3d Cir. 2025) (striking down a New Jersey law prohibiting “the state, its local governments, and private parties from making, renewing, or extending any contract to detain people for civil immigration violations”); *U.S. v. King Cnty.*, Washington, 122 F.4th 740 (9th Cir. 2025) (striking down an executive order requiring future leases at an airport to contain a prohibition on cooperating with deportation flights); *Geo Group, Inc. v. Newsom*, 50 F.4th 745 (9th Cir. 2022) (invalidating a California law that banned the operation of private immigration detention facilities). However, the Seventh Circuit in *McHenry Cnty. v. Kwame Raoul*, 44 F.4th 581 (7th Cir. 2022) upheld a similar law.

## **PERFORMANCE IMPLICATIONS**

As with Fiscal Implications above.

## **ADMINISTRATIVE IMPLICATIONS**

As with Fiscal Implications above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

To attempt to address intergovernmental immunity concerns, Section 3 could be amended to, for example, more broadly regulate private detention facilities in general so that the federal government and its contractors are not the only parties affected.