LFC Requester:	Scott Sanchez

AGENCY BILL ANALYSIS – 2026 SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION
{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *21 JAN 2026*   *Check all that apply:*
Bill Number: *HB 9*   Original __   *X* Correction __
                                    Amendment __   Substitute __

Sponsor: Chavez, Rubio, Romero, Anaya, Cervantes

Agency Name and Code Number: 790 – Department of Public Safety

Short Title: IMMIGRANT SAFETY ACT

Person Writing: Randy Larcher

Phone: 575-386-7712   **Email:** Randyt.larcher@dps.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		
NFI	**NFI**	**NFI**	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	**FY27**	**FY28**	**3 Year Total Cost**	**Recurring or Nonrecurring**	**Fund Affected**
Total	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

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

<u>**SECTION III: NARRATIVE**</u>

BILL SUMMARY
House Bill 9 (HB-9), known as the "Immigrant Safety Act," prohibits New Mexico public bodies from participating in the federal civil immigration detention system. The law bans the use of public resources or property to hold individuals for federal immigration violations and mandates the cancellation of all current detention contracts.

FISCAL IMPLICATIONS
No fiscal impact to DPS.

SIGNIFICANT ISSUES
A. Federal Preemption Analysis
HB 9 presents low preemption risk under controlling federal precedent. The Act directs the allocation of state resources by prohibiting intergovernmental service agreements (IGSA) for civil immigration detention. The Ninth Circuit in *United States v. California*, 921 F.3d 865 (9th Cir. 2019), upheld California's similar SB 54 against a preemption challenge, holding that "refusing to help is not the same as impeding" federal enforcement. The U.S. Supreme Court denied certiorari. Section 3(E)'s explicit carve-out preserving law enforcement's ability to detain individuals and conduct Terry stops under state law further insulates the Act.

B. Tenth Amendment / Anti-Commandeering
HB 9 is constitutionally defensible as an exercise of state sovereignty. The Tenth Amendment prohibits Congress from commandeering state legislatures or officers to enforce federal regulatory programs. *Printz v. United States*, 521 U.S. 898 (1997). While 8 U.S.C. § 1373 prohibits restricting the sharing of immigration status information, multiple federal courts have found this statute potentially unconstitutional under anti-commandeering principles, and HB 9 restricts detention agreements, not information sharing.

PERFORMANCE IMPLICATIONS
No Change to Criminal Law Enforcement Authority
The Act explicitly states that it does not limit officers' ability to:
> Arrest individuals for state or local crimes;
> Detain individuals under state law;
> Conduct brief investigative stops (e.g., Terry stops); or
> Law enforcement may still cooperate with federal authorities on criminal matters.

ADMINISTRATIVE IMPLICATIONS
No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

Termination Timeline: Section 3(B) requires termination "upon the earliest date permissible under the terms of the agreement." This creates dependency on individual contract terms, potentially resulting in extended operation of some agreements.

Enforcement Mechanism: Section 4 enforcement is limited to AG/DA civil actions. No private right of action exists, and no administrative enforcement mechanism is established. Remedies limited to declaratory/injunctive relief—no monetary damages.

OTHER SUBSTANTIVE ISSUES

Practically, the law would draw a clearer boundary between local law enforcement and federal civil immigration enforcement, reducing local agencies' involvement in immigration-only detention while maintaining traditional policing powers.

Criminal Law Enforcement Authority Preserved: Section 3(E) explicitly preserves law enforcement's authority to detain individuals and conduct brief investigative stops (Terry stops) as permitted by state law. DPS's criminal enforcement authority remains unaffected; officers may still arrest for state/local crimes regardless of immigration status, share criminal history information with federal authorities, cooperate on criminal matters, and honor judicial warrants.

Statewide Uniformity: The Act creates uniform policy across all public bodies, reducing potential liability exposure from IGSA participation and providing clarity for law enforcement agencies.

Similar State Laws: at least four other states—California, Illinois, Washington, and New Jersey have enacted similar legislation restricting state/local involvement in federal civil immigration detention. These laws have largely survived legal challenges.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo will remain. Local governments retain discretion to enter IGSAs for civil immigration detention. New Mexico's three immigration detention facilities continue operations under existing agreements. State lacks uniform policy—varying local approaches may continue, with ongoing federal pressure on designated "sanctuary jurisdictions" affecting localities differently based on local policy choices.

AMENDMENTS

None at this time.