

LFC Requester:	Malone, Carlie
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AGENCY BILL ANALYSIS - 2026 REGULAR 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: 1/23/26 *Check all that apply:*
Bill Number: HB 126 Original Correction
 Amendment Substitute

Sponsor: Rep. Reena Szczepanski **Agency Name and Code** AOC
Short Title: Prohibit Nondisclosure & Nondisparagement **Number:** 218
Person Writing Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HB 126 amends Section 50-4-36(A) NMSA 1978 to prohibit a private employer from: (1) requiring a prospective, current or former employee or independent contractor to sign a nondisclosure or non-disparagement provision of a settlement agreement relating to a claim of sexual harassment, discrimination or retaliation in the workplace brought by the employee; or (2) preventing the prospective, current or former employee or independent contractor from disclosing a claim of sexual harassment, discrimination or retaliation.

Subsection B provides that a claim of sexual harassment, discrimination or retaliation may have occurred: (1) in the workplace or at a work-related event coordinated by or through the employer; or (2) between employees or between an employer and an employee, whether occurring on or off the employment premises.

The HB 126 amendment to Subsection C provides that Section 50-4-36 NMSA 1978 does not prohibit a settlement agreement between a prospective, current or former employee or independent contractor and a private employer alleging sexual harassment, discrimination or retaliation from containing a confidentiality provision if the provision pertains to:

- (1) the monetary amount of a settlement; or
- (2) at the prospective, current or former employee's or independent contractor's request, prohibits disclosure of facts that could lead to the identification of the employee or independent contractor.

Subsection D provides that the provisions of Section 50-4-36 NMSA 1978 shall not be construed to prevent disclosure of information that is the subject of the confidentiality provision if disclosure is required to be made in a judicial, administrative or other governmental proceeding pursuant to a valid subpoena or other applicable order as otherwise required by law. Subsection E states that, except as provided in Subsections C and D, a confidentiality provision in a settlement agreement subject to this section is void and unenforceable as a matter of law.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and challenges to disclosure or nondisclosure, as well as challenges to the law. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1) In 2022, President Biden signed the federal Speak Out Act, S. 4524, which prohibits the enforcement of non-disclosure and non-disparagement provisions in *pre-dispute* agreements in cases involving sexual harassment or sexual assault claims, for both employees and independent contractors. The Speak Out Act does not apply to, or otherwise prohibit, non-disclosure and non-disparagement agreements concerning sexual misconduct entered into by an employee *after* a

dispute arises.

In 2020, HB 21 was signed into law, embodied in Section 50-4-36 NMSA 1978. Many states have enacted anti-harassment laws since the “#MeToo” movement took off. See *State Workplace Anti-harassment Laws Enacted Since #MeToo Went Viral*, October 2023, National Women’s Law Center, <https://nwlc.org/wpcontent/uploads/2022/10/MeToo-State-Bills-2023-10.18.23.pdf>.

SB 324 amends Section 50-4-36 NMSA 1978 to include “non-disparagement agreements” within its prohibited agreements.

2) Neither Section 50-4-36 NMSA 1978 or any other related statutory section contain a definition of “nondisparagement” or “nondisparagement provision,” terms which it may be best to define so there is no confusion as to whether statements that are true but still damaging constitute disparagement under the law.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS