

LFC Requester:	Jacobs
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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: Feb. 5, 2026 *Check all that apply:*
Bill Number: HB 318 Original Correction
 Amendment Substitute

Sponsor:	<u>Rubio, Szczepanski, Romero, Martinez, Chavez</u>	Agency Name and Code Number:	<u>AOC - 218</u>
Short Title:	<u>Cause of Action for Rights Infringement</u>	Person Writing	<u>Aaron Holloman</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(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						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 318 provides for a private right of action for damages against any person who infringes on another person's rights, as provided by the individual rights, privileges and immunities secured in the U.S. Constitution, regardless of whether the actions are committed by a person acting as a federal agent or employee. The bill provides for a statute of limitations of three years and holds that New Mexico's intentional torts laws and case law would apply to those actions.

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 commenced prosecutions, appeals from convictions, and an increase in court and parole hearings. 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

The bill purports to allow federal agents or employees to be held liable for money damages in state court. The proposal could encounter two primary legal obstacles. First, the federal government would likely argue that states are preempted from passing any laws as federal laws cover these kinds of claims. Two statutes provide recovery similarly to the recovery contemplated under the bill: the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671, *et seq.*, and 28 U.S.C. § 1983 ("Section 1983"). Under the FTCA, any torts committed by a federal agent or employee must be pursued in federal courts and pursuant to the procedures set out in the act. The FTCA specifically holds this to be the exclusive remedy for torts committed by federal agents or employees. 28 U.S.C. § 2679. Under Section 1983, a person may bring a suit for any violation of rights secured by the laws of the U.S., specifically federal constitutional rights.

Under principles of preemption, a state cannot pass laws where the federal government has already passed laws. Because there are these two primary methods of asserting claims against federal government it is possible that the federal government has sufficiently preempted any action by the states with regard to these claims.

The second legal obstacle is the Supremacy Clause of the U.S. Constitution. This clause, contained within Article VI, prohibits states from regulating actions by the federal government, or rather, that the federal government makes the "supreme law of the land." With this clause, it is possible that any potential federal defendant could argue that claims under this bill are attempts to regulate federal action and therefore prohibited.

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

- This bill may have an impact on the Judiciary's performance measures without the additional resources to comply with the bill.

ADMINISTRATIVE IMPLICATIONS

There may be an administrative impact on the courts as the result of an increase in caseload and/or in the amount of time necessary to dispose of cases. Additionally, because this is a novel law, it could result in cases lingering in courts' dockets while the legal issues are resolved through appeals.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

There are several other states that have passed or are pursuing similar laws, Illinois being the primary one, along with California, New York, Virginia, Maryland, and Connecticut. *See* Jan Wolfe, *US state lawmakers push to allow lawsuits against ICE agents*, Reuters, (Jan. 28, 2026 4:29AM), www.reuters.com/legal/government/us-state-lawmakers-push-allow-lawsuits-against-ice-agents-2026-01-28/. These states are enacting these bills as a reaction to federal actors who have been deployed, are violating people's civil rights, but are not being held accountable. *See id.* The federal government has filed suit against Illinois claiming the law violates the Supremacy Clause. *See U.S. v. Illinois*, 3:25-cv-2220 (Dec. 12, 2025 S.D. IL).

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS