

LFC Requester:

Henry Jacobs

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: 1/27/26

Check all that apply:

Bill Number: SB 146

Original X Correction
Amendment Substitute

Sponsor: Sen. George K. Muñoz

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

Person Writing

Short Title: Civil Rights Act Claim Changes

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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

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: SB146 would amend the New Mexico Civil Rights Act (NMCRA) to modify procedures, liability limits, and remedies for civil rights claims against public bodies. Key changes include reducing damage caps, prohibiting punitive damages, shortening the statute of limitations, and providing for notice requirements. Additionally, the amendments would clarify that an individual cannot recover damages pursuant to both the New Mexico Civil Rights Act and the Tort Claims Act for claims that arise from the same occurrence.

Section 1: NMSA 1978, § 41-4A-2 is amended to modify the definition for “public body.” The added language clarifies that a public body subject to the Civil Rights Act does not mean an acequia or community ditch, a soil and water conservation district, a land grant-merced, a mutual domestic water consumer association, or other association organized pursuant to the Sanitary Projects Act or water users’ association. The term public body includes a person acting on behalf of, under color of, or within the course and scope of authority of a public body. In the current version of the Act, the “person acting on behalf of” the public body is not included in the definition, but it is included in each section, so the addition to the definition does not substantively affect the New Mexico Civil Rights Act.

Section 2: NMSA 1978, § 41-4A-3(A) is amended to read that “[a] public body shall not subject or cause to be subjected a person within the state to deprivation of any rights, privileges or immunities secured pursuant to the bill of rights of the constitution of New Mexico.” This amendment removes from such protection under the statute a “person acting on behalf of, under color of or within the course and scope of the authority of a public body,” and expands upon the current statute, which limits the coverage to any resident of New Mexico. Subsection B is amended to read that a person who claims to have suffered a deprivation of rights due to “an act or the deliberate indifference of a public body,” rather than the current language of “acts or omissions of a public body,” may maintain an action for damages. Subsections C and D replace “individuals” with “persons,” and “shall be” with “is.” Subsection E amends the language such that the remedies provided for in the New Mexico Civil Rights Act *may*, rather than shall, be in addition to other remedies at common law, but includes limiting language so that a person “shall not” recover damages under both the New Mexico Civil Rights and Tort Claims Act for claims arising from the same occurrence.

Section 3: NMSA 1978, § 41-4A-4 is amended to provide an exception to qualified immunity. A public body shall not enjoy the defense of qualified immunity “unless the public body had an objectively good-faith belief that the conduct at issue did not violate the law.” Section 3 also removes from the statute a “person acting on behalf of, under color of or within the course and scope of the authority of a public body.”

Section 4: NMSA 1978, § 41-4A-6 discusses the limitation an individual may recover under the New Mexico Civil Rights Act; the bill fully replaces what is presently there with newly

added language. Under the proposed language, the liability of an individual public body is reduced from \$2,000,000 per claim to a new categorization per type of damage. Liability becomes capped at \$200,000 for each real property damage in a single occurrence, \$300,000 for medical expenses arising from a single occurrence, and \$400,000 to any person for any number of claims arising from a single occurrence for all damages other than real property damage and medical and medically related expenses. The public body's total liability for a single occurrence would not be permitted to exceed \$750,000. Further, this section sets forth a new calculation of interest based on 2% above the prime rate as published in *The Wall Street Journal*, instead of the previous marker – the bank prime loan rate published by the board of governors of the federal reserve system on the last business day of the month preceding the entry of judgment, on the date of entry of judgment. This section removes consideration of the cost of living and how that should be factored into the amount of recovery. Subsection D would add that a judgment against a public body under the New Mexico Civil Rights Act shall not include an award for exemplary or punitive damages or for interest prior to judgment.

Section 5: NMSA 1978, § 41-4A-7 is amended to reduce the statute of limitations from three to two years.

Section 6: NMSA 1978, § 41-4A-9 is amended to remove from the discussion of waiver of sovereign immunity, “person acting on behalf of, under color of or within the course and scope of the authority of a public body.”

Section 7: NMSA 1978, § 41-4A-13 is amended to change the notice requirements under the New Mexico Civil Rights Act. Under the proposed language, notice would be required to be provided to the public body in writing within ninety days of the occurrence, as opposed to the one-year notice period in the current version. Subsection B clarifies that the notice period does not include a period of time up to ninety days by which the individual is incapacitated or unable to provide notice due to their injury. Further amendments include specifying who must receive the notice and what details about the occurrence it must include. Subsection C changes the notice requirement for a wrongful death claim from 18 months to six months after the date of the occurrence of the injury that resulted in death.

FISCAL IMPLICATIONS

The amended liability section of the New Mexico Civil Rights Act reduces the amount of liability a public body may be subject to for a recoverable occurrence.

SIGNIFICANT ISSUES

Section 3 provides an exception to the prohibition to the defense of qualified immunity when “the public body had an objectively good faith belief that the conduct at issue did not violate the law.” The “objectively good faith belief” standard may be require judicial interpretation as it is not found verbatim in caselaw, and as it signals both an objective standard with the word “objectively” and a hybrid standard with the term “good faith.” It may facilitate the smooth implementation of this amendment to more directly state whether test is objective or indeed a hybrid of both. If the intent is to evaluate what a reasonable person in the place of the public official or public body should have believed (an objective test), then consider language such as

“an objectively reasonable belief.” This type of test would compare the conduct against an external reasonable person standard. If the intent is indeed a hybrid test, then consider language such as “a good faith, objectively reasonable belief” or “objectively reasonable good faith belief.” These forms do appear in caselaw, supporting easier interpretation. See, e.g., *Goodman v. OS Restaurant Services, LLC*, 461 P.3d 906 (2019). These formulations would make it clear that the test would examine the state of mind of the public official in holding the belief and then examine the reasonableness of holding the belief.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A