

SENATE HEALTH AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 146

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO CIVIL CLAIMS; AMENDING THE NEW MEXICO CIVIL RIGHTS
ACT; PROVIDING THAT A CLAIM MAY ARISE FROM THE DELIBERATE
INDIFFERENCE OF A PUBLIC BODY OR PERSON ACTING ON BEHALF OF,
UNDER COLOR OF OR WITHIN THE COURSE AND SCOPE OF THE AUTHORITY
OF A PUBLIC BODY; PROVIDING THAT A PERSON SHALL NOT RECOVER
DAMAGES PURSUANT TO BOTH THE NEW MEXICO CIVIL RIGHTS ACT AND
THE TORT CLAIMS ACT FOR CLAIMS ARISING FROM THE SAME OCCURRENCE
IN AN AMOUNT GREATER THAN THE DAMAGES SET BY THE NEW MEXICO
CIVIL RIGHTS ACT; REDUCING THE MAXIMUM RECOVERY LIMIT FOR
CLAIMS; PROVIDING FOR AND LIMITING INTEREST ON JUDGMENT;
PROHIBITING EXEMPLARY OR PUNITIVE DAMAGES; PROHIBITING ALL
DAMAGES IN A CLAIM AGAINST A PUBLIC BODY IF THE PERSON ACTING
ON BEHALF OF, UNDER COLOR OF OR WITHIN THE COURSE AND SCOPE OF
THE AUTHORITY OF THE PUBLIC BODY HAD AN OBJECTIVELY GOOD-FAITH
BELIEF THAT THE PERSON'S CONDUCT DID NOT VIOLATE THE LAW;

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1 REDUCING THE TIME FOR INITIATING AN ACTION FROM THREE TO TWO
2 YEARS; REQUIRING NOTICE FOR ALL CLAIMS AND DIRECTING HOW NOTICE
3 SHALL BE GIVEN FOR ALL CLAIMS; PROVIDING THAT A CLAIM SHALL NOT
4 BE MAINTAINED IF NOTICE IS NOT GIVEN AS DIRECTED AND PROVIDING
5 EXCEPTIONS FOR INJURY AND DEATH; MAKING CONFORMING AMENDMENTS.

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

8 SECTION 1. Section 41-4A-3 NMSA 1978 (being Laws 2021,
9 Chapter 119, Section 3) is amended to read:

10 "41-4A-3. CLAIM FOR VIOLATION OF RIGHTS ESTABLISHED
11 PURSUANT TO THE BILL OF RIGHTS OF THE CONSTITUTION OF NEW
12 MEXICO.--

13 A. A public body or person acting on behalf of,
14 under color of or within the course and scope of the authority
15 of a public body shall not subject or cause to be subjected
16 [~~any resident of New Mexico or~~] a person within the state to
17 deprivation of any rights, privileges or immunities secured
18 pursuant to the bill of rights of the constitution of New
19 Mexico.

20 B. A person who claims to have suffered a
21 deprivation of any rights, privileges or immunities pursuant to
22 the bill of rights of the constitution of New Mexico due to
23 [~~acts or omissions~~] the deliberate indifference of a public
24 body or person acting on behalf of, under color of or within
25 the course and scope of the authority of a public body may

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1 maintain an action to establish liability and recover actual
 2 damages and equitable or injunctive relief in any New Mexico
 3 district court.

4 C. Claims brought pursuant to the New Mexico Civil
 5 Rights Act shall be brought exclusively against a public body.
 6 Any public body named in an action filed pursuant to the New
 7 Mexico Civil Rights Act shall be held liable for conduct of
 8 ~~[individuals]~~ persons acting on behalf of, under color of or
 9 within the course and scope of the authority of the public
 10 body.

11 D. ~~[Individuals]~~ A person employed by a public body
 12 ~~[shall be]~~ is prohibited from using the New Mexico Civil Rights
 13 Act to pursue a claim arising from the ~~[individual's]~~ person's
 14 employment by the public body.

15 E. The remedies provided for in the New Mexico
 16 Civil Rights Act are not exclusive and ~~[shall]~~ may be in
 17 addition to ~~[any]~~ other remedies prescribed by law or available
 18 ~~[pursuant to]~~ at common law; provided that a person shall not
 19 recover damages pursuant to both the New Mexico Civil Rights
 20 Act and the Tort Claims Act for claims that arise from the same
 21 occurrence in an amount greater than damages set by the New
 22 Mexico Civil Rights Act."

23 SECTION 2. Section 41-4A-6 NMSA 1978 (being Laws 2021,
 24 Chapter 119, Section 6) is amended to read:

25 "41-4A-6. LIMITATION ON RECOVERY.--

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1 ~~[A. In any action for damages against a public body~~
2 ~~pursuant to the New Mexico Civil Rights Act, the liability per~~
3 ~~occurrence shall not exceed the sum of two million dollars~~
4 ~~(\$2,000,000) per claimant, inclusive of the claimant's costs of~~
5 ~~action and reasonable attorney fees. In jury cases, the jury~~
6 ~~shall not be given any instructions dealing with this~~
7 ~~limitation. Interest shall be allowed on judgments against a~~
8 ~~public body at a rate equal to two percentage points above the~~
9 ~~bank prime loan rate published by the board of governors of the~~
10 ~~federal reserve system on the last business day of the month~~
11 ~~preceding entry of the judgment. Interest shall be computed~~
12 ~~daily from the date of the entry of the judgment until the date~~
13 ~~of payment.~~

14 ~~B. As of July 1, 2022 and on July 1 of each~~
15 ~~successive year, the maximum recovery limit shall be increased~~
16 ~~for the cost of living as provided in Subsection C of this~~
17 ~~section.~~

18 ~~C. On July 1, 2022 and on July 1 of each successive~~
19 ~~year, the maximum recovery limit shall be increased by the~~
20 ~~increase in the cost of living. The increase in the cost of~~
21 ~~living shall be measured by the percentage increase as of~~
22 ~~August of the immediately preceding year over the level as of~~
23 ~~August of the previous year of the consumer price index for all~~
24 ~~urban consumers, United States city average for all items, or~~
25 ~~its successor index, as published by the United States~~

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~~department of labor or its successor agency, with the amount of the increase rounded to the nearest multiple of ten thousand dollars (\$10,000); however, the maximum recovery limit shall not be adjusted downward as a result of a decrease in the cost of living. The risk management division of the general services department shall publish by May 1 of each year the adjusted maximum recovery limit that shall take effect the following July 1.]~~

A. Unless limited by Subsection B of this section, in an action filed pursuant to the New Mexico Civil Rights Act, a public body's liability shall not exceed:

(1) the sum of two hundred thousand dollars (\$200,000) for each legally described real property for damage to or destruction of that legally described real property arising from a single occurrence;

(2) the sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically related expenses arising from a single occurrence; and

(3) the sum of four hundred thousand dollars (\$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.

B. The total liability for all claims for damages pursuant to Paragraphs (1) and (3) of Subsection A of this section that arise from a single occurrence shall not exceed

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1 the sum of seven hundred fifty thousand dollars (\$750,000).

2 C. Interest shall be allowed on a judgment against
3 a public body for a claim for which immunity is waived pursuant
4 to the New Mexico Civil Rights Act at a rate equal to two
5 percentage points above the prime rate as published in the *Wall*
6 *Street Journal* on the date of the entry of the judgment.

7 Interest shall be computed daily from the date of the entry of
8 the judgment until the date of payment.

9 D. A judgment against a public body for a claim for
10 which immunity is waived pursuant to the New Mexico Civil
11 Rights Act shall not include an award for damages if, at the
12 time of the occurrence, the person acting on behalf of, under
13 color of or within the course and scope of the authority of a
14 public body had an objectively good-faith belief that the
15 person's conduct did not violate the law.

16 E. A judgment against a public body for a claim for
17 which immunity is waived pursuant to the New Mexico Civil
18 Rights Act that awards damages shall not include an award for
19 exemplary or punitive damages or for interest prior to
20 judgment."

21 **SECTION 3.** Section 41-4A-7 NMSA 1978 (being Laws 2021,
22 Chapter 119, Section 7) is amended to read:

23 "41-4A-7. STATUTE OF LIMITATIONS AND ABATEMENT.--A claim
24 made pursuant to the New Mexico Civil Rights Act shall be
25 commenced no later than [~~three~~] two years from the date a claim

1 can be brought for the deprivation of a right, privilege or
 2 immunity pursuant to the bill of rights of the constitution of
 3 New Mexico unless a longer statute of limitations is otherwise
 4 provided by state law."

5 SECTION 4. Section 41-4A-13 NMSA 1978 (being Laws 2021,
 6 Chapter 119, Section 13) is amended to read:

7 "41-4A-13. NOTICE OF CLAIMS.--

8 ~~[A. Every person who claims damages from an act or~~
 9 ~~omission of a certified law enforcement officer under the New~~
 10 ~~Mexico Civil Rights Act shall cause to be presented to the~~
 11 ~~certified law enforcement officer's agency or department,~~
 12 ~~within one year after an occurrence giving rise to a claim~~
 13 ~~under the New Mexico Civil Rights Act, a written notice stating~~
 14 ~~the time, place and circumstances of the loss or injury.~~

15 ~~B. No suit or action for which immunity has been~~
 16 ~~waived under the New Mexico Civil Rights Act shall be~~
 17 ~~maintained, and no court shall have jurisdiction to consider~~
 18 ~~any suit or action against the state or any local public body,~~
 19 ~~unless notice has been given as required by this section or~~
 20 ~~unless the governmental entity had actual notice of the~~
 21 ~~occurrence. The time for giving notice does not include the~~
 22 ~~time, not exceeding one year, during which the injured person~~
 23 ~~is incapacitated from giving the notice by reason of injury.~~

24 ~~C. When a claim for which immunity has been waived~~
 25 ~~under the New Mexico Civil Rights Act is one for wrongful~~

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1 ~~death, the required notice may be presented by, or on behalf~~
2 ~~of, the personal representative of the deceased person or any~~
3 ~~person claiming benefits of the proceeds of a wrongful death~~
4 ~~action, or the consular officer of a foreign country of which~~
5 ~~the deceased was a citizen, within one year and six months~~
6 ~~after the date of the occurrence of the injury that resulted in~~
7 ~~the death, but if the person for whose death the claim is made~~
8 ~~has presented a notice that would have been sufficient had the~~
9 ~~person lived, an action for wrongful death may be brought~~
10 ~~without any additional notice.]~~

11 A. A person who alleges to have suffered a claim
12 for which immunity is waived pursuant to the New Mexico Civil
13 Rights Act shall give written notice of the claim to the public
14 body within ninety days after the occurrence giving rise to the
15 claim. The written notice shall state the time, place and
16 circumstances of the occurrence giving rise to the claim and
17 shall be given to:

18 (1) the risk management division of the
19 general services department if the public body is the state, an
20 agency of the state or an entity created by the constitution of
21 New Mexico;

22 (2) the mayor of a municipality if the public
23 body is a municipality;

24 (3) the superintendent of a school district if
25 the public body is a school district;

1 (4) the county clerk of a county if the public
 2 body is a county; or

3 (5) the administrative head or chair of any
 4 other political subdivision, advisory board, commission,
 5 special tax district or institution of higher education if the
 6 public body is such a subdivision, board, commission, district
 7 or institution.

8 B. No suit or action for which immunity has been
 9 waived pursuant to the New Mexico Civil Rights Act shall be
 10 maintained, and no court shall have jurisdiction to consider
 11 the suit or action against a public body, unless notice is
 12 given as required pursuant to Subsection A of this section or
 13 unless the public body had actual notice of the occurrence
 14 giving rise to the suit or action. The time for giving notice
 15 does not include the time, not exceeding ninety days, during
 16 which an injured person is incapacitated from giving notice
 17 because of the injury.

18 C. When a claim for which immunity has been waived
 19 pursuant to the New Mexico Civil Rights Act is for wrongful
 20 death, the required notice may be given by or on behalf of the
 21 personal representative of the deceased person or any person
 22 claiming an interest in the proceeds of a wrongful death action
 23 or the consular officer of a foreign country of which the
 24 deceased person was a citizen within six months after the date
 25 of the occurrence of the injury that resulted in the death;

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1 provided that if the deceased person gave notice of a claim
2 that would have been sufficient if the person lived, the claim
3 for wrongful death may be brought without additional notice."

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