

1 SENATE BILL 146

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CIVIL CLAIMS; AMENDING THE NEW MEXICO CIVIL RIGHTS  
12 ACT; PROVIDING THAT A CLAIM MAY ARISE FROM AN ACT OR THE  
13 DELIBERATE INDIFFERENCE OF A PUBLIC BODY OR PERSON ACTING ON  
14 BEHALF OF, UNDER COLOR OF OR WITHIN THE COURSE AND SCOPE OF THE  
15 AUTHORITY OF A PUBLIC BODY; PROVIDING THAT A PERSON SHALL NOT  
16 RECOVER DAMAGES PURSUANT TO BOTH THE NEW MEXICO CIVIL RIGHTS  
17 ACT AND THE TORT CLAIMS ACT FOR CLAIMS ARISING FROM THE SAME  
18 OCCURRENCE; REDUCING THE MAXIMUM RECOVERY LIMIT FOR CLAIMS;  
19 PROVIDING FOR AND LIMITING INTEREST ON JUDGMENT; PROHIBITING  
20 EXEMPLARY OR PUNITIVE DAMAGES; REDUCING THE TIME FOR INITIATING  
21 AN ACTION FROM THREE TO TWO YEARS; REQUIRING NOTICE FOR ALL  
22 CLAIMS AND DIRECTING HOW NOTICE SHALL BE GIVEN FOR ALL CLAIMS;  
23 PROVIDING THAT A CLAIM SHALL NOT BE MAINTAINED IF NOTICE IS NOT  
24 GIVEN AS DIRECTED AND PROVIDING EXCEPTIONS FOR INJURY AND  
25 DEATH; MAKING CONFORMING AMENDMENTS.

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

SECTION 1. Section 41-4A-2 NMSA 1978 (being Laws 2021, Chapter 119, Section 2) is amended to read:

"41-4A-2. DEFINITION.--As used in the New Mexico Civil Rights Act, "public body":

A. means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education, but ~~[not including]~~ does not mean an acequia or community ditch, a soil and water conservation district, a land grant-merced, a mutual domestic water consumers association or other association organized pursuant to the Sanitary Projects Act or a water users' association; and

B. includes a person acting on behalf of, under color of or within the course and scope of the authority of a public body."

SECTION 2. Section 41-4A-3 NMSA 1978 (being Laws 2021, Chapter 119, Section 3) is amended to read:

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

A. A public body ~~[or person acting on behalf of,~~

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1 ~~under color of or within the course and scope of the authority~~  
2 ~~of a public body]~~ shall not subject or cause to be subjected  
3 ~~[any resident of New Mexico or]~~ a person within the state to  
4 deprivation of any rights, privileges or immunities secured  
5 pursuant to the bill of rights of the constitution of New  
6 Mexico.

7 B. A person who claims to have suffered a  
8 deprivation of any rights, privileges or immunities pursuant to  
9 the bill of rights of the constitution of New Mexico due to  
10 ~~[acts or omissions]~~ an act or the deliberate indifference of a  
11 public body ~~[or person acting on behalf of, under color of or~~  
12 ~~within the course and scope of the authority of a public body]~~  
13 may maintain an action to establish liability and recover  
14 actual damages and equitable or injunctive relief in any New  
15 Mexico district court.

16 C. Claims brought pursuant to the New Mexico Civil  
17 Rights Act shall be brought exclusively against a public body.  
18 Any public body named in an action filed pursuant to the New  
19 Mexico Civil Rights Act shall be held liable for conduct of  
20 ~~[individuals]~~ persons acting on behalf of, under color of or  
21 within the course and scope of the authority of the public  
22 body.

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

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1 employment by the public body.

2 E. The remedies provided for in the New Mexico  
3 Civil Rights Act are not exclusive and ~~[shall]~~ may be in  
4 addition to ~~[any]~~ other remedies prescribed by law or available  
5 ~~[pursuant to]~~ at common law; provided that a person shall not  
6 recover damages pursuant to both the New Mexico Civil Rights  
7 Act and the Tort Claims Act for claims that arise from the same  
8 occurrence."

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

11 "41-4A-4. PROHIBITING THE USE OF THE DEFENSE OF QUALIFIED  
12 IMMUNITY--PROVIDING AN EXCEPTION--In any claim for damages or  
13 relief under the New Mexico Civil Rights Act, ~~[nø]~~ a public  
14 body ~~[or person acting on behalf of, under color of or within~~  
15 ~~the course and scope of the authority of a public body]~~ shall  
16 not enjoy the defense of qualified immunity for causing the  
17 deprivation of any rights, privileges or immunities secured by  
18 the bill of rights of the constitution of New Mexico unless the  
19 public body had an objectively good faith belief that the  
20 conduct at issue did not violate the law."

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

23 "41-4A-6. LIMITATION ON RECOVERY.--

24 ~~[A. In any action for damages against a public body~~  
25 ~~pursuant to the New Mexico Civil Rights Act, the liability per~~

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

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

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

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1 ~~dollars (\$10,000); however, the maximum recovery limit shall~~  
2 ~~not be adjusted downward as a result of a decrease in the cost~~  
3 ~~of living. The risk management division of the general~~  
4 ~~services department shall publish by May 1 of each year the~~  
5 ~~adjusted maximum recovery limit that shall take effect the~~  
6 ~~following July 1.]~~

7 A. Subject to the limitation in Subsection B of  
8 this section, in an action filed pursuant to the New Mexico  
9 Civil Rights Act, a public body's liability shall not exceed:

10 (1) the sum of two hundred thousand dollars  
11 (\$200,000) for each legally described real property for damage  
12 to or destruction of that legally described real property  
13 arising from a single occurrence;

14 (2) the sum of three hundred thousand dollars  
15 (\$300,000) for all past and future medical and medically  
16 related expenses arising from a single occurrence; and

17 (3) the sum of four hundred thousand dollars  
18 (\$400,000) to any person for any number of claims arising from  
19 a single occurrence for all damages other than real property  
20 damage and medical and medically related expenses.

21 B. The total liability for all claims for damages  
22 pursuant to Paragraphs (1) and (3) of Subsection A of this  
23 section that arise from a single occurrence shall not exceed  
24 the sum of seven hundred fifty thousand dollars (\$750,000).

25 C. Interest shall be allowed on a judgment against

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

7 D. A judgment against a public body for a claim for  
8 which immunity is waived pursuant to the New Mexico Civil  
9 Rights Act shall not include an award for exemplary or punitive  
10 damages or for interest prior to judgment."

11 SECTION 5. Section 41-4A-7 NMSA 1978 (being Laws 2021,  
12 Chapter 119, Section 7) is amended to read:

13 "41-4A-7. STATUTE OF LIMITATIONS AND ABATEMENT.--A claim  
14 made pursuant to the New Mexico Civil Rights Act shall be  
15 commenced no later than [~~three~~] two years from the date a claim  
16 can be brought for the deprivation of a right, privilege or  
17 immunity pursuant to the bill of rights of the constitution of  
18 New Mexico unless a longer statute of limitations is otherwise  
19 provided by state law."

20 SECTION 6. Section 41-4A-9 NMSA 1978 (being Laws 2021,  
21 Chapter 119, Section 9) is amended to read:

22 "41-4A-9. WAIVER OF SOVEREIGN IMMUNITY.--The state shall  
23 not have sovereign immunity for itself or any public body  
24 within the state for claims brought pursuant to the New Mexico  
25 Civil Rights Act, and the public body [~~or person acting on~~

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1 ~~behalf of, under color of or within the course and scope of the~~  
2 ~~authority of the public body]~~ provided pursuant to the New  
3 Mexico Civil Rights Act shall not assert sovereign immunity as  
4 a defense or bar to an action."

5 SECTION 7. 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;

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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. An action for a claim for which immunity has  
9 been waived pursuant to the New Mexico Civil Rights Act shall  
10 not be maintained, and a court shall not have jurisdiction to  
11 consider such claim against a public body, unless notice is  
12 given as provided by this section or unless the public body had  
13 actual notice of the occurrence giving rise to the claim. The  
14 time for giving notice does not include up to ninety days  
15 during which an injured person is incapacitated or otherwise  
16 unable to give notice because of the injury.

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

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

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