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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 126

SHORT TITLE: Prohibit Nondisclosure & Nondisparagement

SPONSOR: Szczepanski/Hochman-Vigil

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/7/2026 **ANALYST:** Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Court Budgets	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	In total, modest	Recurring	Other state funds

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the Courts
Department of Workforce Solutions
New Mexico Attorney General

SUMMARY

Synopsis of House Bill 126

House Bill 126 (HB126) amends Section 50-4-36 NMSA 1978 to prohibit employer actions that require nondisclosure or non-disparagement provisions in agreements relating to claims of sexual misconduct in the workplace. Under HB126, claims could also be brought by a former or prospective employee, or independent contractor, whether or not it occurred on work premises.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

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

The bill applies only to private sector agreements since it does not include language that expands coverage to public employers. Therefore, the cost to state and local public bodies is likely zero.

The bill extends protections to prospective and former employees, in addition to current employees, as well as independent contractors, and clarifies subject matter of confidentiality provisions related to sexual harassment, discrimination or retaliation in the workplace claims.

The bill clarifies that these claims may not only occur in the workplace or at work-related events, but may also involve conduct between employees, or between employer and employees, whether on or off the work premises. While it makes confidentiality provisions in these settlements void and unenforceable; as judicial agencies noted, it does allow limited confidentiality regarding settlement amounts and, if an employee/contractor requests, certain identifying information.

As noted by Administrative Office of the Courts (AOC):

In 2022, President Biden signed the 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 Act does not apply to nondisclosure and non-disparagement agreements concerning sexual misconduct *after* a dispute arises.

PERFORMANCE IMPLICATIONS

The bill is not expected to interfere with disclosures required by subpoena, court order, etc.

TECHNICAL ISSUES

AOC suggested adding a definition for *nondisparagement*; "...so there is no confusion as to whether statements that are true but still damaging constitute disparagement under the law."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The law relating to workplace sexual misconduct and who may file a claim remains unclear.

AHO/cf/sgs