

SENATE BILL 308

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Shannon D. Pinto

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO NATIVE AMERICANS; ENACTING THE NATIVE AMERICAN OMBUD ACT; ESTABLISHING THE OFFICE OF THE NATIVE AMERICAN OMBUD; PROVIDING DUTIES; REQUIRING INVESTIGATION AND RESOLUTION OF CONCERNS; PROVIDING FOR THE CONFIDENTIALITY OF RECORDS; PROVIDING POTENTIAL ACTIONS FOR NONCOMPLIANCE; REQUIRING AN ANNUAL REPORT; MAKING AN APPROPRIATION SIRC→; **DECLARING AN EMERGENCY**←SIRC .

.230164.1AIC February 21, 2025 (8:19am)

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Native American Ombud Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Native American Ombud Act:

A. "department" means the SIRC→~~Indian affairs~~ department←SIRC SIRC→state department of justice←SIRC ;

B. "Native American" means:

(1) an individual who is a member of any federally recognized Indian nation, tribe or pueblo or who is an Alaska native; or

(2) an individual who has been deemed eligible for services and programs provided to Native Americans by the United States public health service or the United States department of the interior bureau of Indian affairs;

C. "Native American ombud" means the individual appointed by the SIRC→~~secretary~~←SIRC SIRC→attorney general←SIRC pursuant to the Native American Ombud Act; SIRC→and←SIRC

D. "office" means the office of the Native American ombud SIRC→; and←SIRC SIRC→.←SIRC

SIRC→E. ~~"secretary" means the secretary of Indian affairs.~~←SIRC

SECTION 3. [NEW MATERIAL] CREATION OF THE OFFICE OF THE NATIVE AMERICAN OMBUD--GENERAL DUTIES OF THE OFFICE.--

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A. The "office of the Native American ombud" is created within the department.

B. The SIRC→~~secretary~~←SIRC SIRC→attorney general←SIRC shall appoint the "Native American ombud", who shall head the office and supervise the ombuds and other staff of the office. The Native American ombud may contract for services to assist the office in conducting its duties and may use the services of volunteers.

C. The Native American ombud shall:

(1) identify, investigate and resolve concerns pertaining to Native Americans that are filed with the office;

(2) ensure that Native Americans have regular and timely access to the services provided through the office and receive timely responses from representatives of the office;

(3) identify any patterns of concerns that emerge regarding governmental services provided to Native Americans, including civil and criminal legal advice and representation, and recommend strategies for improvement in providing such services to Native Americans;

(4) ensure that office staff, contractors and volunteers are trained in:

(a) federal, state and local laws, rules and policies with respect to Native Americans;

(b) investigative techniques;

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(c) dispute resolution; and
(d) such other matters as the office
deems appropriate;

(5) develop procedures for the certification
of ombuds; provided that an employee or contractor shall not
investigate a concern filed with the office unless that person
is certified by the office;

(6) analyze, comment on and monitor the
development and implementation of federal and state laws, rules
and other governmental policies and actions that pertain to
Native Americans;

(7) recommend changes to laws, rules, policies
and actions pertaining to the rights of Native Americans as the
office determines to be appropriate;

(8) facilitate public comment on proposed
laws, rules, policies and actions; and

(9) provide information to public and private
agencies, legislators and other persons regarding the problems
and concerns of services available to Native Americans and make
recommendations related to those problems and concerns.

SECTION 4. [NEW MATERIAL] ANNUAL REPORT--CONTENTS.--No
later than December 1 of each year, the office shall prepare a
report that includes:

A. actions taken by the office in the year for
which the report is prepared;

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B. concerns identified by or on behalf of Native Americans, resolution of the concerns and the effectiveness of the resolution processes;

C. recommendations for improving the quality of services provided to Native Americans and protecting the rights of Native Americans; and

D. policy, regulatory and legislative recommendations to solve identified concerns related to Native Americans, to improve processes of resolutions of concerns, to improve the quality of services provided to Native Americans, to protect the rights of Native Americans and to remove barriers to services intended for Native Americans.

SECTION 5. [NEW MATERIAL] INVESTIGATION AND RESOLUTION OF NATIVE AMERICAN CONCERNS.--The office shall identify, investigate and seek to resolve concerns communicated by or on behalf of Native Americans. If the office does not address a concern, the office shall notify the concerned person of the decision not to address the concern and the reasons for the decision.

SECTION 6. [NEW MATERIAL] CONFIDENTIALITY OF INFORMATION.--

A. All files and records maintained by the office that pertain to Native Americans are confidential and not subject to the provisions of the Inspection of Public Records Act. The Native American ombud shall not disclose the identity

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of a concerned person about whom the office maintains files or records unless:

(1) the concerned person consents in writing to the disclosure;

(2) the concerned person gives oral consent that is documented immediately in writing by a representative of the office; or

(3) disclosure is ordered by a court.

B. The annual report required pursuant to Section 4 of the Native American Ombud Act may be based on confidential information and may be published or furnished to the public, but the report shall not identify individual Native Americans directly or indirectly nor violate the privileged or confidential nature of the relationship and communications between the Native American and the office.

SECTION 7. [NEW MATERIAL] POSTING AND DISTRIBUTION OF OMBUD INFORMATION.--Every person providing services to Native Americans shall post in a conspicuous location a notice regarding the office that contains a brief description of the services provided by the office and the name, address and phone number of the office and shall post it online on the person's website, if applicable. The form of the notice shall be approved by the office.

SECTION 8. [NEW MATERIAL] AVAILABILITY OF LEGAL COUNSEL TO THE OFFICE.--The department shall ensure that adequate legal

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counsel is available and is able, without conflict of interest, to:

A. provide advice and consultation to the office needed to protect the rights of Native Americans; and

B. assist the office and contractors in the performance of the official duties of the Native American ombud and representatives.

SECTION 9. [NEW MATERIAL] INTERFERENCE WITH THE OFFICE AND RETALIATION PROHIBITED--POTENTIAL ACTIONS FOR NONCOMPLIANCE.--

A. A person shall not willfully interfere with the lawful actions of the office.

B. A person shall not institute discriminatory, disciplinary or retaliatory action against any Native American for filing a concern with, providing information to or otherwise cooperating with the office.

C. If a person fails to comply with the provisions of the Native American Ombud Act:

(1) the office shall report the noncompliance to the department;

(2) the office shall collaborate with the department to access processes and resources to address Native American services concerns; and

(3) the office shall collaborate with the department to identify further appropriate actions to be taken

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in response to the report, which may include a corrective action plan or any other administrative action that the department is authorized to take to ensure that Native Americans receive the appropriate services required by state law. The office shall provide a letter to the concerned person explaining the actions the department will take.

SECTION 10. APPROPRIATION.--Two million dollars (\$2,000,000) is appropriated from the general fund to the SIRC→~~Indian affairs department~~←SIRC SIRC→state department of justice←SIRC for expenditure in fiscal year 2026 for expenses to be incurred in establishing the office of the Native American ombud. Any unexpended or unencumbered balance remaining at the end of fiscal year 2026 shall revert to the general fund.

SIRC→~~SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.~~←SIRC

SIRC→SECTION 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.←SIRC