

1 HOUSE BILL 4

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO CIVIL RIGHTS; ENACTING THE NEW MEXICO CIVIL RIGHTS
12 ACT; PERMITTING AN INDIVIDUAL TO BRING A CLAIM AGAINST A PUBLIC
13 BODY OR PERSON ACTING ON BEHALF OF OR UNDER THE AUTHORITY OF A
14 PUBLIC BODY FOR A VIOLATION OF THE INDIVIDUAL'S RIGHTS,
15 PRIVILEGES OR IMMUNITIES ARISING PURSUANT TO THE CONSTITUTION
16 OF NEW MEXICO; PROHIBITING THE USE OF THE DEFENSE OF QUALIFIED
17 IMMUNITY; MANDATING ATTORNEY FEES; PROVIDING A THREE-YEAR
18 STATUTE OF LIMITATIONS.

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

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
22 cited as the "New Mexico Civil Rights Act".

23 SECTION 2. [NEW MATERIAL] DEFINITION.--As used in the New
24 Mexico Civil Rights Act, "public body" means a state or local
25 government, an advisory board, a commission, an agency or an

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1 entity created by the constitution of New Mexico or any branch
2 of government that receives public funding, including political
3 subdivisions, special tax districts, school districts and
4 institutions of higher education.

5 SECTION 3. [NEW MATERIAL] CLAIM FOR VIOLATION OF STATE
6 CONSTITUTIONAL RIGHTS.--

7 A. A public body or person acting on behalf of,
8 under color of or within the course and scope of the authority
9 of a public body shall not subject or cause to be subjected any
10 resident of New Mexico or person within the state to
11 deprivation of any rights, privileges or immunities secured
12 pursuant to the constitution of New Mexico.

13 B. A person who claims to have suffered a
14 deprivation of any rights, privileges or immunities pursuant to
15 the constitution of New Mexico due to acts or omissions of a
16 public body or person acting on behalf of, under color of or
17 within the course and scope of the authority of a public body
18 may maintain an action to establish liability and recover
19 actual damages and equitable or injunctive relief in any New
20 Mexico district court.

21 C. The remedies provided for in the New Mexico
22 Civil Rights Act are not exclusive and shall be in addition to
23 any other remedies prescribed by law or available pursuant to
24 common law.

25 SECTION 4. [NEW MATERIAL] PROHIBITING THE USE OF THE

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1 DEFENSE OF QUALIFIED IMMUNITY.--In any claim for damages or
2 relief under the New Mexico Civil Rights Act, no public body or
3 person acting on behalf of, under color of or within the course
4 and scope of the authority of a public body shall enjoy the
5 defense of qualified immunity for causing the deprivation of
6 any rights, privileges or immunities secured by the
7 constitution of New Mexico.

8 SECTION 5. [NEW MATERIAL] MANDATORY ATTORNEY FEES.--The
9 court shall award reasonable litigation expenses and attorney
10 fees for all work reasonably necessary to obtain a successful
11 result to any person who prevails in a court action to enforce
12 the provisions of the New Mexico Civil Rights Act. When
13 determining litigation expenses and reasonable attorney fees,
14 the court shall not exclude work on other claims that were
15 inextricably intertwined with work performed to obtain a
16 successful result pursuant to the New Mexico Civil Rights Act.

17 SECTION 6. [NEW MATERIAL] STATUTE OF LIMITATIONS AND
18 ABATEMENT.--

19 A. A claim made pursuant to the New Mexico Civil
20 Rights Act shall be commenced no later than three years from
21 the date of the conduct alleged to result in a deprivation of a
22 right, privilege or immunity pursuant to the constitution of
23 New Mexico, and any claim made after three years from the date
24 of the conduct alleged to result in a deprivation of a right,
25 privilege or immunity pursuant to the constitution of New

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1 Mexico shall be barred.

2 B. An action made pursuant to the New Mexico Civil
3 Rights Act that is pending in any court shall not abate upon
4 the death of either or both parties to the action.

5 SECTION 7. [NEW MATERIAL] INDEMNIFICATION BY PUBLIC
6 BODY.--A judgment awarded pursuant to the New Mexico Civil
7 Rights Act against a person acting on behalf of, under color of
8 or within the course and scope of the authority of the public
9 body shall be paid by the public body.

10 SECTION 8. [NEW MATERIAL] WAIVER OF SOVEREIGN IMMUNITY.--
11 The state shall not have sovereign immunity for itself or any
12 public body within the state for claims brought pursuant to the
13 New Mexico Civil Rights Act, and the public body or person
14 acting on behalf of, under color of or within the course and
15 scope of the authority of the public body provided pursuant to
16 that act shall not assert sovereign immunity as a defense or
17 bar to an action.

18 SECTION 9. [NEW MATERIAL] RECORDS OF CLAIMS.--Each public
19 body shall maintain a record of all final judgments and
20 settlements paid by the public body for claims made pursuant to
21 the New Mexico Civil Rights Act and attach a copy of the
22 complaint to each record. All judgments, settlements and
23 complaints are subject to disclosure pursuant to the Inspection
24 of Public Records Act.

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