

FIFTY-FIFTH LEGISLATURE
FIRST SESSION

March 16, 2021

SENATE FLOOR AMENDMENT number 1 to HOUSE JUDICIARY COMMITTEE
SUBSTITUTE FOR HOUSE BILL
4, as amended

Amendment sponsored by Senator Joseph Cervantes

1. Strike Senate Judiciary Committee Amendment 6.
2. On page 1, line 17, strike "MANDATING" and insert in lieu thereof "PERMITTING".
3. On page 3, lines 21 through 25, strike Section 5 in its entirety and insert in lieu thereof the following new section:

"SECTION 5. [NEW MATERIAL] ATTORNEY FEES.--In any action brought under the New Mexico Civil Rights Act, the court may, in its discretion, allow a prevailing plaintiff or plaintiffs reasonable attorney fees and costs to be paid by the defendant."
4. On page 6, between lines 19 and 20, insert the following new sections:

"SECTION 12. [NEW MATERIAL] PROSPECTIVE APPLICATION.--Claims arising solely from acts or omissions that occurred prior to July 1, 2021 may not be brought pursuant to the New Mexico Civil Rights Act.

SECTION 13. [NEW MATERIAL] NOTICE OF CLAIMS.--

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

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

C. When a claim for which immunity has been waived under the New Mexico Civil Rights Act is one for wrongful death, the required notice may be presented by, or on behalf of, the personal representative of the deceased person or any person claiming benefits of the proceeds of a wrongful death action, or the consular officer of a foreign country of which the deceased was a citizen, within one year and six months after the date of the occurrence of the injury that resulted in the death; but if the person for whose death the claim is made has presented a notice that would have been sufficient had the person lived, an action for wrongful death may be brought without any additional notice.

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021."

Joseph Cervantes

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____