

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/13/25

Check all that apply:

Bill Number: HB9

Original Correction
Amendment Substitute

Sponsor: Reps. Eleanor Chávez,
Christine Chandler

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: Immigrant Safety Act

Person Writing Analysis: Van Snow

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

The Immigrant Safety Act would prohibit state public entities from cooperating with the federal government to detain individuals for civil immigration violations.

Section 2 of the Act defines “public body” to include any public entity in the state, as well as individuals acting on their behalf.

Section 3 contains the substantive restrictions on public bodies. No public body may “enter into, renew, or otherwise agree to be party” to an agreement to detain individuals accused of civil immigration offenses. Any public body who is party to such an agreement must terminate it at the soonest possible date. No public body may dispose of any real property for the purpose of establishing or operating a facility used to detain individuals for civil immigration violations. No public body may promulgate a law, ordinance, or policy that contradicts the Act. Section 3 clarifies that law enforcement is still free to detain individuals as permitted by state law. Finally, all the restrictions above apply to any individuals or entities acting on behalf of or within the scope of authority of a public body.

Section 4 creates an enforcement mechanism for the Act. Either the Attorney General or a district attorney may bring a civil action against a public body that has violated or will violate the act. A court hearing such an action may award “appropriate relief, other than monetary damages,” such as injunctive relief.

Section 5 contains a severability clause that would preserve as much of the Act as possible if a section of it were found to be invalid.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The federal government cannot force state or local governments to enforce federal law. *See New York v. United States*, 505 U.S. 144, 188 (1992) and *Printz v. United States*, 521 U.S. 898, 935 (1997). State and local governments can agree to assist the federal government to the extent permitted by law. The Legislature has the authority to restrict the powers of municipal governments and counties by enacting general laws. *See State ex rel. Torrez v. Bd. Of Cnty. Comm'rs for Lea Cnty.*, __-NMSC-__, ¶¶ 27-34, 2025 WL 52496 (N.M. Jan. 9, 2025) (discussing preemption).

Section 3, by forbidding public bodies from disposing of property for the purposes of operating detention facilities, raises possible intergovernmental immunity concerns. The intergovernmental immunity doctrine prohibits state laws which “regulat[e] the United States directly or discriminat[e] against the Federal Government or those with whom it deals” (e.g., contractors)” *United States v. Washington*, 596 U.S. 832, 838 (2022). Because public bodies could freely dispose of their property for other purposes, Section 3 would only operate against the federal government or its contractors. The Ninth Circuit ruled that a California law with a somewhat similar effect was unconstitutional in *Geo Group, Inc. v. Newsom*, 50 4th 745 (9th Cir. 2022). But the Seventh Circuit upheld a similar scheme in *McHenry Cnty. v. Kwame Raoul*, 44 F.4th 581 (7th Cir. 2022).

PERFORMANCE IMPLICATIONS

The Act would allow, but not require, the Attorney General to file suit against non-compliant public bodies. If the NMDNJ attempted to do so without receiving additional funding, this could impact agency performance.

ADMINISTRATIVE IMPLICATIONS

As in performance implications above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Direct conflict with HB 316, potential conflict with SB 257; those bills would take opposed policy stances on state cooperation with federal immigration authorities..

Related to and to some extent duplicative of SB 87, SB 250, which would also limit state cooperation with federal immigration enforcement.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.