

LFC Requester:	Jessica Hitzman
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**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 1/20/2023
Bill No: HB109

Sponsor: Rep. J. Block

Agency Name and Code 305–Office of the Attorney General
Number: _____

Short Title: Repeal NM Civil Rights Act

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	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 Attorney General Opinion nor an Attorney General Advisory Letter. 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 Office of the Attorney General.

BILL SUMMARY

Synopsis: HB109 proposes to repeal the New Mexico Civil Rights Act (§§ 41-4A-1–41-4A-13) in its entirety, while providing that the repeal does not apply to any actions filed under that Act prior to June 16, 2023.

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

Section 2 of HB109 states that pending actions (and those filed prior to June 16, 2023) may proceed under the NM Civil Rights Act even following repeal. By implication, the bill proposes to cut off any actions filed after that date. But this does not address claims or causes of action that *accrued* prior to repeal, have a limitations period that has not yet expired, but are not filed by June 16, 2023. Thus, litigation could result to determine whether claims that accrued prior to the repeal of the NM Civil Rights Act can be divested by legislation. *See, e.g., Century Tel of Ala., LLC v. Dothan/Houston Cnty. Comm'cns Dist.*, 197 So.3d 456, 461-62 (Ala. 2015) (holding repeal of statute will not divest claims accrued prior to repeal); *E.J.R. v. Dist. Ct., Cnty. of Boulder*, 892 P.2d 222, 227-228 (Colo. 1995) (en banc) (same); *Berry ex rel. Berry v. Beech Aircraft Corp.*, 717 P.2d 670, 676 (Utah 1985) (“However, once a cause of action under a particular rule of law accrues to a person by virtue of an injury to his rights, that person’s interest in the cause of action and the law which is the basis for legal action becomes vested, and a legislative repeal of the law cannot constitutionally divest the injury person of the right to litigate the cause of action to a judgment.”); *but see Miss. Dep’t of Corrs. v. Roderick & Solance MacArthur Justice Ctr.*, 220 So.3d 929 (Miss. 2017) (imposing more demanding definition of “vested” rights).

PERFORMANCE IMPLICATIONS

None to this office.

ADMINISTRATIVE IMPLICATIONS

None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with House Bill 98, which proposes to amend the Civil Rights Act and reinstate the defense of qualified immunity.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

N/A.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A.