



VALENCIA COUNTY  
BOARD OF COUNTY COMMISSIONERS  
RESOLUTION № 2021- 12

**OPPOSING HOUSE BILL 4 CREATING A NEW CAUSE OF ACTION AGAINST PUBLIC BODIES AND  
DEMANDING THAT ANY LEGISLATOR WHO WILL PROFIT FROM THE LEGISLATION RECUSE  
THEMSELVES FROM THE VOTE**

**WHEREAS**, the Board of County Commissioners of Valencia County, met upon notice of a duly published Business meeting on February 3, 2021, at 5:00 P.M. in the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87031; and,

**WHEREAS**, NMSA 1978, Section 4-37-1 (1995) provides that Counties have the power to, “provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants”; and,

**WHEREAS**, NMSA, 1978, Section 4-38-18 (1976) provides that a Board of County Commissioner has the duty and authority “[t]o represent the county;” and,

**WHEREAS**, House Bill 4 (HB 4) proposes the establishment of a new state law cause of action which would be filed in state court and would not be subject to removal to federal court; and

**WHEREAS**, HB 4 eliminates of the defense of qualified immunity to governmental employees and entities against whom claims are made; and,

**WHEREAS**, a new cause of action is not necessary to address New Mexico constitutional deprivations by law enforcement, since the New Mexico Tort Claims Act already waives immunity for such claims and qualified immunity is not a defense to such claims (NMSA 1978, § 41-4-12); and

**WHEREAS**, research by New Mexico Counties demonstrated that New Mexico – one of the poorest states in the Union – already allows for some of the highest damage awards in the Country for State law claims against law enforcement officers; and,

**WHEREAS**, New Mexico Counties and other governmental entities also demonstrated that a new cause of action would cause reinsurance and other insurance coverage to no longer be available to the New Mexico County Insurance Authority and/or local governments; and

**WHEREAS**, the unavailability of commercially reasonable insurance will cause local governments to self-insure unsustainable amounts of risk, which will divert scarce resources from the very services that proponents of the new cause of action are trying to improve to individual claimants and their attorneys; and,

**WHEREAS**, uninsured judgments that cannot be satisfied through existing resources are paid by our citizens, through property taxes levied to meet the judgment (N.M. Const., art. 8, Section 7); and,

**WHEREAS**, the jurisprudence developed by the federal courts for violation of federal civil rights is well established while the proposals could result in a total reset of state civil rights jurisprudence; and,

**WHEREAS**, many of the challenges faced by local law enforcement and county jails stem from co-occurring substance abuse and mental health disorders in the population with which they interact; and,

**WHEREAS**, instead of diverting resources to individual claims, the Legislature should be providing more resources to serve this population, which would minimize their interactions with police officers and keep them out of county jails; and,

**WHEREAS**, information presented to the Civil Rights Commission demonstrated that the New Mexico Law Enforcement Academy needs additional resources to timely discharge its goal of investigating law enforcement officers accused of misconduct; and,

**WHEREAS**, the proposed legislation will be a windfall for insurance brokers and plaintiff's attorneys, including 19 legislators, that may benefit from insurance sales or attorneys that may benefit from the legislative proposal to have their fees paid by the taxpayers; and,

**WHEREAS**, the Government Conduct Act disqualifies public officers from engaging in official acts that affect their financial interests, *see* NMSA 1978, Section 10-16-4 (2011); and,

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Valencia County, New Mexico, that:

1. Valencia County opposes any effort to expand state court jurisdiction for civil rights violations. Such expansion serves no purpose other than to create the potential for inconsistent results thereby making it more difficult for law enforcement officers to know if actions are permissible or impermissible and will result in increased costs.
2. Valencia County opposes the suggestion that the defense of qualified immunity should not apply to any civil rights action brought in state court.


(IV)

THAT County staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.


PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF FEBRUARY 2021.

BOARD OF COUNTY COMMISSIONERS

  
Gerard Saiz, Chair, District I

  
Jhonathan Aragon, Vice-Chair, District V

  
Troy Richardson, District II

  
David A. Hyder, District III

  
Joseph Bizzell, District IV

 2-5-2021  
Mike Milam, County Clerk

