

Analysis of Qualified Immunity Legislation

	Vermont	Colorado	New Mexico	Connecticut
What can you sue for?	Harm caused by violation of rights guaranteed by Vermont Constitution, prescribed by Vermont statute or created by Vermont common law	Deprivations of rights secured by bill of rights, Article II of the State constitution	Deprivation of any rights, privileges or immunities pursuant to the bill of rights of the constitution of New Mexico	Deprivation of the equal protection of the laws of the state of CT, or of the equal privileges and immunities under the laws of this states, including the protections, privileges and immunities guaranteed under article first of the Constitution of the state of CT
Statute of Limitations	Three years	Two years	Three years, unless a longer statute of limitations is otherwise provided by state law	One year
Is a notice of claim required?	No	No	Yes, within one year of the occurrence giving rise to a claim	No
Who can be sued?	Law enforcement officer, as defined	Peace officer, as defined	Public body, as defined	Police officer, as defined
Who pays the defendant's attorney fees and costs to defend the lawsuit	Law enforcement officer, as defined	Peace officer, as defined	The public body, as defined	Municipality or law enforcement unit, as defined
Are there statutory immunities available to a law enforcement officer?	No. Statutory immunities do not apply	No. Statutory immunities do not apply	Yes; statutory immunities are available	Yes; statutory immunities are available
Are there common law immunities available to a law enforcement officer?	No, an action is not subject to any common law immunities.	The statute does not specifically exclude common law immunities	Yes; common law immunities are available	Yes, common law immunities are available
Is the defense of qualified immunity available?	No; qualified immunity is not a defense to liability	No; qualified immunity is not a defense to liability	No; qualified immunity is not a defense to liability	Yes, if the police officer had an objectively good faith belief that such officer's conduct did not violate the law governmental immunity may be raised as a defense Governmental immunity is not a defense to an action for equitable relief only

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Are there statutory limitations on liability?	No. Statutory limitations on liability, damages or attorney fees do not apply	No. Statutory limitations on liability, damages or attorney fees do not apply;	Yes; the liability per occurrence shall not exceed the sum of two million dollars per claimant, inclusive of claimant's costs of action and reasonable attorney fees Maximum recovery increased annually by cost of living	No
Are attorney's fees recoverable?	A court may award reasonable attorney fees and costs to a prevailing plaintiff When judgment is entered in favor of a defendant, the court may award reasonable costs and attorney fees for defending claims the court finds frivolous	A court shall award reasonable attorney fees and costs to a prevailing plaintiff When judgment is entered in favor of a defendant, the court may award reasonable costs and attorney fees for defending claims the court finds frivolous	The court may , in its discretion, allow a prevailing plaintiff or plaintiffs reasonable attorney fees and costs to be paid by the defendant	Attorney's fees and costs are recoverable only if the court finds the violation was deliberate, wilful or committed with reckless indifference
Does the law provide for indemnification?	Yes; a law enforcement officer's employer shall indemnify for any liability incurred by the law enforcement officer and for any judgment or settlement entered against the law enforcement officer	Yes; a peace officer's employer shall indemnify for any liability incurred by the peace officer and for any judgment or settlement entered against the peace officer	Yes. A judgment against a person acting on behalf of, under color of or within the course and scope of the authority of the public body shall be paid by the public body.	Yes, the municipality or law enforcement unit shall protect and save harmless any such police officer from financial loss and expense, including legal fees and costs
Does the officer have to pay any part of the judgment or settlement?	Yes, if the law enforcement officer's employer determines that the officer did not act upon a good faith and reasonable believe that the action was lawful, then the law enforcement officer is liable and shall not be indemnified for five percent of the judgment or settlement or \$25K, whichever is less	Yes, if the peace officer's employer determines that the officer did not act upon a good faith and reasonable believe that the action was lawful, then the peace officer is liable and shall not be indemnified for five percent of the judgment or settlement or \$25K, whichever is less	No. A plaintiff may sue only the public body	Yes, if the officer has a judgment entered against him or her for a malicious, wanton or willful act , such municipality shall be reimbursed by such officer for expenses it incurred in providing such defense and shall not be held liable to such officer for any financial loss or expenses resulting from such act
What happens if the officer doesn't have money to pay their share of the judgment or settlement?	The peace officer's employer or insurance shall pay the full amount	The peace officer's employer or insurance shall pay the full amount	Not applicable (can only sue the public body)	The plaintiff will not recover

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Does the employer have to pay the judgment or settlement if the officer was convicted of a criminal violation for the conduct from which the claim arises?	Yes.	No.	Not applicable (can only sue the public body)	No.
Are the remedies exclusive?	No	No	No; they shall be in addition to any other remedies prescribed by law or available pursuant to common law	No
Can employees sue for conduct arising from the individual's employment?	Not expressly prohibited	Not expressly prohibited	No; individuals employed by a public body shall be prohibited from using the New Mexico Civil Rights Act to pursue a claim arising from the individual's employment by the public body	Not expressly prohibited
Are records of claims public records?	No	No	Yes; each public body shall maintain a record of all final judgment and settlements paid which are subject to disclosure under the Inspection of Public Records Act	Unknown
Does the law apply to violations that occurred before the law became effective?	Unknown	Unknown	No; the law applies only to claims that occurred after July 1, 2021	No; the law applies to any cause of action arising from an incident committed on or after July 1, 2021
Short title	S.254	Civil action for deprivation of rights	New Mexico Civil Rights Act	An Act Concerning Police Accountability (pp. 65-67)
Codification	Not applicable	CO Revised Statutes 13-21-131	N.M. Stat. § 41-4A-1 et seq.	To be determined