SENATE BILL 87

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Jacob R. Candelaria

AN ACT

RELATING TO PUBLIC RECORDS; PROHIBITING RETALIATION UNDER THE INSPECTION OF PUBLIC RECORDS ACT; PROVIDING CIVIL LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 14-2-12 NMSA 1978 (being Laws 1993, Chapter 258, Section 9) is amended to read:

"14-2-12. ENFORCEMENT--RETALIATION.--

A. An action to enforce the Inspection of Public Records Act may be brought by:

(1) the attorney general or the district attorney in the county of jurisdiction; or

(2) a person whose written request has been denied.

B. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the

C. The exhaustion of administrative remedies shall not be required prior to bringing any action to enforce the procedures of the Inspection of Public Records Act.

D. The court shall award damages, costs and reasonable attorney fees to any person whose written request has been denied and that is successful in a court action to enforce the provisions of the Inspection of Public Records Act.

E. A custodian, public body or employee of a public body shall not take any retaliatory action against a person that has:

(1) submitted an oral or written request for records pursuant to the Inspection of Public Records Act; or

(2) requested information on the process of submitting a public records request.

F. The court shall award compensatory damages, punitive damages, costs and reasonable attorney fees to any person that brings a successful court action against a custodian, public body or employee of a public body for a violation of Subsection E of this section.

G. For the purposes of this section, "retaliatory action" includes any action or conduct that would discourage a reasonable person from submitting a request or pursuing the enforcement of a request pursuant to the Inspection of Public Records Act.
Records Act, but does not include a lawful objection to or
denial of a request or a request for additional time to produce
records as provided by the Inspection of Public Records Act."