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AN ACT

RELATING TO PUBLIC RECORDS; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT; ENACTING A NEW SECTION OF THE INSPECTION OF PUBLIC RECORDS ACT REGARDING DISCLOSURE OF LAW ENFORCEMENT RECORDS; EXCEPTING FROM DISCLOSURE CERTAIN INFORMATION CONCERNING INFORMATION TECHNOLOGY SYSTEMS, SUBMISSIONS TO GRANT PROGRAMS, LAND LEASES AND SCHOLARSHIP PROGRAMS AND PROPRIETARY TECHNICAL OR BUSINESS INFORMATION; DECLARING AN EMERGENCY.

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

SECTION 1. A new section of the Tourism Department Act, Section 9-15A-7.2 NMSA 1978, is enacted to read:

"9-15A-7.2. INFORMATION NOT SUBJECT TO INSPECTION.--The following information created, obtained or maintained by the department is not subject to inspection pursuant to the Inspection of Public Records Act:

A. proprietary technical or business information related to the development of specific marketing or advertising campaigns for the state; and

B. a consumer's individually identifiable information provided during an online, tourism-related transaction related to a product or service provided by the department or its contractors."

SECTION 2. Section 14-2-1 NMSA 1978 (being Laws 1947,

1 Chapter 130, Section 1, as amended) is amended to read:

2 "14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--

3 Every person has a right to inspect public records of this
4 state except:

5 A. records pertaining to physical or mental
6 examinations and medical treatment of persons confined to an
7 institution;

8 B. letters of reference concerning employment,
9 licensing or permits;

10 C. letters or memoranda that are matters of
11 opinion in personnel files or students' cumulative files;

12 D. portions of law enforcement records as provided
13 in Section 14-2-1.2 NMSA 1978;

14 E. as provided by the Confidential Materials Act;

15 F. trade secrets;

16 G. attorney-client privileged information;

17 H. long-range or strategic business plans of
18 public hospitals discussed in a properly closed meeting;

19 I. tactical response plans or procedures prepared
20 for or by the state or a political subdivision of the state,
21 the publication of which could reveal specific
22 vulnerabilities, risk assessments or tactical emergency
23 security procedures that could be used to facilitate the
24 planning or execution of a terrorist attack;

25 J. information concerning information technology

1 systems, the publication of which would reveal specific
2 vulnerabilities that compromise or allow unlawful access to
3 such systems; provided that this subsection shall not be used
4 to restrict requests for:

5 (1) records stored or transmitted using
6 information technology systems;

7 (2) internal and external audits of
8 information technology systems, except for those portions
9 that would reveal ongoing vulnerabilities that compromise or
10 allow unlawful access to such systems; or

11 (3) information to authenticate or validate
12 records received pursuant to a request fulfilled pursuant to
13 the Inspection of Public Records Act;

14 K. submissions in response to a competitive grant,
15 land lease or scholarship and related scoring materials and
16 evaluation reports until finalists are publicly named or the
17 award is announced; and

18 L. as otherwise provided by law."

19 SECTION 3. A new Section 14-2-1.2 NMSA 1978 is enacted
20 to read:

21 "14-2-1.2. LAW ENFORCEMENT RECORDS.--

22 A. Law enforcement records are public records,
23 except as provided by law and this subsection, and provided
24 that the presence of nonpublic information may be redacted
25 from a written record or digitally obscured in a visual or

1 audio record, including:

2 (1) before charges are filed, names,
3 addresses, contact information or protected personal
4 identifier information of individuals who are victims of or
5 non-law-enforcement witnesses to an alleged crime of:

6 (a) assault with intent to commit a
7 violent felony pursuant to Section 30-3-3 NMSA 1978 when the
8 violent felony is criminal sexual penetration;

9 (b) assault against a household member
10 with intent to commit a violent felony pursuant to Section
11 30-3-14 NMSA 1978 when the violent felony is criminal sexual
12 penetration;

13 (c) stalking pursuant to Section
14 30-3A-3 NMSA 1978;

15 (d) aggravated stalking pursuant to
16 Section 30-3A-3.1 NMSA 1978;

17 (e) criminal sexual penetration
18 pursuant to Section 30-9-11 NMSA 1978;

19 (f) criminal sexual contact pursuant to
20 Section 30-9-12 NMSA 1978; or

21 (g) sexual exploitation of children
22 pursuant to Section 30-6A-3 NMSA 1978;

23 (2) before charges are filed, names,
24 addresses, contact information or protected personal
25 identifier information of individuals who are accused but not

1 charged with a crime;

2 (3) visual depiction of a dead body, unless
3 a law enforcement officer, acting in that capacity, caused or
4 is reasonably alleged or suspected to have caused the death;

5 (4) visual depiction of great bodily harm,
6 as defined in Section 30-1-12 NMSA 1978, or acts of severe
7 violence resulting in great bodily harm, unless a law
8 enforcement officer, acting in that capacity, caused or is
9 reasonably alleged or suspected to have caused the great
10 bodily harm or act of severe violence;

11 (5) visual depiction of an individual's
12 intimate body parts, including the genitals, pubic area, anus
13 or postpubescent female nipple, whether nude or visible
14 through less than opaque clothing;

15 (6) visual or audio depiction of the
16 notification to a member of the public of a family member's
17 death;

18 (7) confidential sources, methods or
19 information; or

20 (8) records pertaining to physical or mental
21 examination and medical treatment of persons unless the
22 information could be relevant to a criminal investigation or
23 an investigation of misfeasance, malfeasance or other
24 suspected violation of law conducted by a person elected to
25 or employed by a public body.

1 B. A request for release of video or audio shall
2 specify at least one of the following:

3 (1) the computer-aided dispatch record
4 number;

5 (2) the police report number;

6 (3) the date or date range with reasonable
7 specificity and at least one of the following:

8 (a) the name of a law enforcement
9 officer or first responder;

10 (b) the approximate time; or

11 (c) the approximate location; or

12 (4) other criteria established and published
13 by a law enforcement agency to facilitate access to videos.

14 C. Except for confidential sources, methods or
15 information, a request to view video or hear audio on-site of
16 a public body is not subject to the restrictions in
17 Subsections A and B of this section. Any recording or
18 copying of video or audio from such viewing or listening is
19 subject to the restrictions in this section.

20 D. As used in this section, "law enforcement
21 records" includes evidence in any form received or compiled
22 in connection with a criminal investigation or prosecution by
23 a law enforcement or prosecuting agency, including inactive
24 matters or closed investigations to the extent that they
25 contain the information listed in this subsection; provided

1 that the presence of such information on a law enforcement
2 record does not exempt the record from inspection."

3 SECTION 4. Section 14-2-6 NMSA 1978 (being Laws 1993,
4 Chapter 258, Section 3, as amended) is amended to read:

5 "14-2-6. DEFINITIONS.--As used in the Inspection of
6 Public Records Act:

7 A. "custodian" means any person responsible for
8 the maintenance, care or keeping of a public body's public
9 records, regardless of whether the records are in that
10 person's actual physical custody and control;

11 B. "file format" means the internal structure of
12 an electronic file that defines the way it is stored and
13 used;

14 C. "information technology systems" means computer
15 hardware, storage media, networking equipment, physical
16 devices, infrastructure, processes and code, firmware,
17 software and ancillary products and services, including:

18 (1) systems design and analysis;

19 (2) development or modification of hardware
20 or solutions used to create, process, store, secure or
21 exchange electronic data;

22 (3) information storage and retrieval
23 systems;

24 (4) voice, radio, video and data
25 communication systems;

1 (5) network, hosting and cloud-based
2 systems;

3 (6) simulation and testing;

4 (7) interactions between a user and an
5 information system; and

6 (8) user and system credentials;

7 D. "inspect" means to review all public records
8 that are not excluded in Section 14-2-1 NMSA 1978;

9 E. "person" means any individual, corporation,
10 partnership, firm, association or entity;

11 F. "protected personal identifier information"
12 means:

13 (1) all but the last four digits of a:

14 (a) taxpayer identification number;

15 (b) financial account number;

16 (c) credit or debit card number; or

17 (d) driver's license number;

18 (2) all but the year of a person's date of
19 birth;

20 (3) a social security number; and

21 (4) with regard to a nonelected employee of
22 a public body in the context of the person's employment, the
23 employee's nonbusiness home street address, but not the city,
24 state or zip code;

25 G. "public body" means the executive, legislative

1 and judicial branches of state and local governments and all
2 advisory boards, commissions, committees, agencies or
3 entities created by the constitution or any branch of
4 government that receives any public funding, including
5 political subdivisions, special taxing districts, school
6 districts and institutions of higher education;

7 H. "public records" means all documents, papers,
8 letters, books, maps, tapes, photographs, recordings and
9 other materials, regardless of physical form or
10 characteristics, that are used, created, received, maintained
11 or held by or on behalf of any public body and relate to
12 public business, whether or not the records are required by
13 law to be created or maintained; and

14 I. "trade secret" means trade secret as defined in
15 Subsection D of Section 57-3A-2 NMSA 1978."

16 **SECTION 5. EMERGENCY.--**It is necessary for the public
17 peace, health and safety that this act take effect
18 immediately. _____

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