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HOUSE BILL 139

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY
Kathleen Gates

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

SECTION 1. A new section of the Inspection of Public Records Act is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Inspection of Public Records Act:

A. "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number or other telecommunications service, equipment or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

1 (1) obtain money, goods, services or another
2 thing of value; or

3 (2) initiate a transfer of funds other than a
4 transfer originated solely by paper instrument;

5 B. "adversarial administrative proceedings" means
6 those administrative proceedings in which the administrative
7 agency or institution of higher education acts as a
8 complainant, respondent or decision maker in an adverse
9 administrative proceeding, but "adversarial administrative
10 proceedings" does not refer to those instances in which the
11 administrative agency or institution acts in its own rulemaking
12 capacity;

13 C. "archival records" means public records that
14 were created or received by a public body more than one year
15 previously and excludes current records;

16 D. "attorney work product" means a document or
17 record that:

18 (1) was prepared by an attorney representing a
19 public body or prepared at such an attorney's express
20 direction;

21 (2) reflects a mental impression, conclusion,
22 litigation strategy or legal theory of that attorney or the
23 entity; and

24 (3) was prepared for civil or criminal
25 litigation, for adversarial administrative proceedings, in

1 anticipation of reasonably predictable civil or criminal
2 litigation or adversarial administrative proceedings or for
3 guidance on the legal risks, strengths and weaknesses of an
4 action of a public body;

5 E. "broad and burdensome" means a request that
6 takes more than one hour of time to locate the public record
7 and to redact information exempt from inspection from the
8 public record;

9 F. "correctional facility" means a corrections
10 facility as defined in Section 33-1-2 NMSA 1978, a county jail
11 as authorized under Section 33-3-1 NMSA 1978, an alternative
12 sentencing facility as authorized under Section 33-3A-1 NMSA
13 1978, a juvenile detention home as authorized under Section
14 33-6-1 NMSA 1978 and all similar institutions operated by any
15 federal, state, tribal, local or other jurisdiction;

16 G. "county canvassing board" means the board
17 created under Section 1-13-1 NMSA 1978;

18 H. "critical infrastructure" means public
19 buildings, systems, including telecommunications centers and
20 computers, power generation plants, dams, bridges and similar
21 key resources, and systems related to utility services, fuel
22 supply, energy, hazardous liquid, natural gas or coal, whether
23 physical or virtual, so vital to the state that the incapacity
24 or destruction of these systems would have a debilitating
25 impact on security, state economic security, state public

1 health or safety or any combination of those matters;

2 I. "current records" means public records that were
3 created or received by a public body within the past year but
4 does not include archival records;

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

9 K. "cybersecurity" means processes or capabilities
10 that protect and defend systems, communications and information
11 from exploitation and unauthorized use or modification;

12 L. "educational institution" means a charter
13 school, public school, state institution or a state educational
14 institution as defined in Subsection X of Section 22-1-2 NMSA
15 1978;

16 M. "employee personal information" means the
17 following information regarding employees of public bodies:

- 18 (1) date of birth;
19 (2) home address;
20 (3) home telephone number or personal cell
21 phone number;
22 (4) photograph;
23 (5) medical information;
24 (6) motor vehicle operator's identification
25 number;

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1 (7) public employee identification number;

2 (8) payroll deduction information;

3 (9) the name, address, telephone number and
4 date of birth of any dependent or emergency contact;

5 (10) any credit, debit or electronic fund
6 transfer card number;

7 (11) any account number at a bank or other
8 financial institution; and

9 (12) access device number;

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

12 O. "good faith" includes:

13 (1) when conducting a search in response to a
14 request for inspection, making reasonable efforts to determine
15 from other officials or employees of a public body whether a
16 requested record exists and, if so, how the record can be
17 inspected; and

18 (2) when denying inspection reasonably relying
19 on statutes, case law, advice of counsel, guidance issued by
20 the attorney general and public policy;

21 P. "human services" means services provided to an
22 individual or an individual's family in need of services to
23 assist the individual or the individual's family in achieving
24 and maintaining basic self-sufficiency, including physical
25 health, mental health, education, welfare, food and nutrition

1 and housing;

2 Q. "information technology systems" means computer
3 hardware, storage media, networking equipment, physical
4 devices, infrastructure, processes and code, firmware, software
5 and ancillary products and services, including:

- 6 (1) systems design and analysis;
- 7 (2) development or modification of hardware or
8 solutions used to create, process, store, secure or exchange
9 electronic data;
- 10 (3) information storage and retrieval systems;
- 11 (4) voice, radio, video and data communication
12 systems;
- 13 (5) network, hosting and cloud-based systems;
- 14 (6) simulation and testing;
- 15 (7) interactions between a user and an
16 information system; and
- 17 (8) user and system credentials;

18 R. "inspect" means to review all public records
19 that are not excluded in Section 23 of this 2025 act;

20 S. "insurer" means an entity from which a public
21 body obtains insurance, as that term is defined in Section
22 59A-1-5 NMSA 1978; the risk management division of the general
23 services department as established by Section 15-7-2 NMSA 1978;
24 the New Mexico workers' compensation assigned risk pool
25 established by the Workers' Compensation Assigned Risk Pool

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1 Law; or a pool created by Section 3-62-2 NMSA 1978;

2 T. "investigatory work product" means records
3 obtained, compiled or prepared by a public entity in an effort
4 to monitor and enforce compliance with the law or an order,
5 provided that investigatory work product must be considered
6 active as long as it is related to monitoring and enforcement
7 activity conducted with a reasonable good-faith belief that it
8 will lead to enforcement of the law or an order the public
9 entity is charged by statute or other law with monitoring and
10 enforcing;

11 U. "law enforcement agency" means a law enforcement
12 agency of the state, a state agency or a political subdivision
13 of the state;

14 V. "law enforcement records" means evidence in any
15 form received or compiled in connection with a criminal
16 investigation or prosecution by a law enforcement or
17 prosecuting agency, including inactive matters or closed
18 investigations to the extent that they contain the information
19 listed in this subsection; provided that the presence of such
20 information on a law enforcement record does not exempt the
21 record from inspection;

22 W. "library" means a library as defined in the
23 Library Privacy Act;

24 X. "medical information" means information about:

25 (1) the past, present or future physical or

1 mental health or condition of an individual;

2 (2) the provision of health care to an
3 individual;

4 (3) the past, present or future payment for
5 the provision of health care to an individual;

6 (4) biometric data, including fingerprints,
7 DNA, retinal scans and blood type; and

8 (5) data on a person's physical activity,
9 heart rate and steps taken;

10 Y. "person" means an individual, corporation,
11 partnership, firm, association, entity or public body domiciled
12 in New Mexico, but does not include individuals incarcerated in
13 a correctional facility;

14 Z. "private place" means the interior of a
15 residence, the interior of a facility that offers health care
16 or social services and other indoor places that are not open to
17 members of the public and that a reasonable person would expect
18 to be private;

19 AA. "protected personal identifier information"
20 means:

21 (1) identification numbers, including:

22 (a) taxpayer identification number;

23 (b) financial account number;

24 (c) insurance policy number;

25 (d) credit or debit card number;

1 (e) driver's license number;
2 (f) all but the year of a person's date
3 of birth; and

4 (g) social security number;

5 (2) with regard to a non-elected employee of a
6 public body in the context of the person's employment, the
7 employee's non-business, home street and mailing address, but
8 not the city, state or zip code; and

9 (3) with regard to all employees, elected or
10 otherwise, of a public body in the context of the person's
11 employment:

12 (a) the employee's personal telephone
13 number;

14 (b) the employee's personal email
15 address; and

16 (c) information identifying the names or
17 other information about family members, emergency contacts and
18 dependents;

19 BB. "public business" means all matters that relate
20 or may foreseeably relate in any way to:

21 (1) the performance of the public body's
22 governmental functions, including any matter over which the
23 public entity has supervision, control, jurisdiction or
24 advisory power; and

25 (2) the public body's use of public funds;

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

8 DD. "public funds" means cash and other assets with
9 more than minimal value received from the state or other public
10 body;

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

18 FF. "public social services agency" means the adult
19 protective services system created by the Adult Protective
20 Services Act, a county when carrying out its duties under the
21 Indigent Hospital and County Health Care Act, the health care
22 authority and the children, youth and families department;

23 GG. "reasonable denial" is a denial that states:

24 (1) a reason supported by the Inspection of
25 Public Records Act, another state, federal or local law or

1 administrative regulation, a rule of court, court order or case
2 law of why a record is exempt from inspection, with or without
3 providing the precise legal citation; and

4 (2) the reasonable justification, based on a
5 public policy ground, for refusing to release the records;

6 HH. "reasonable particularity" means identifying
7 specific records by:

8 (1) in the case of records other than audio or
9 visual records, providing at least two of the following:

10 (a) the record title or subject line;

11 (b) the author; and

12 (c) the date or date range with
13 reasonable specificity; or

14 (2) in the case of audio or visual records,
15 providing at least one of the following:

16 (a) the computer-aided dispatch record
17 number;

18 (b) the police report number; and

19 (c) the date or date range with
20 reasonable specificity and at least one of the following: 1)
21 the name of a law enforcement officer or first responder; 2)
22 the approximate time or the approximate location of the record;
23 and 3) other criteria established and published by a law
24 enforcement agency public body to facilitate access to videos;
25 provided that a request that is made for search terms or

1 parameters that a public body does not use to index, organize,
2 file or record its public records or otherwise cannot be used
3 to search them does not describe a record with reasonable
4 particularity;

5 II. "state canvassing board" means the board
6 created under Article 5, Section 2 of the constitution of New
7 Mexico;

8 JJ. "state commission of public records" means the
9 commission established by Section 14-3-3 NMSA 1978;

10 KK. "state records administrator" means the person
11 hired by the state commission of public records pursuant to
12 Section 14-3-4 NMSA 1978;

13 LL. "reasonable fee" means the actual cost to the
14 public entity of locating, reviewing, redacting and making the
15 copy, including the cost of labor, materials and equipment;

16 MM. "security system plan" includes:

17 (1) records, information, photographs, audio
18 and visual presentations, schematic diagrams, surveys,
19 recommendations, communications or consultations relating
20 directly to the physical or electronic security of a public
21 facility or any critical infrastructure, whether owned by or
22 leased to the state or any of its political subdivisions, or
23 any privately owned or leased critical infrastructure if the
24 plan or a portion of the plan is in the possession of a public
25 body;

1 (2) information relating to cybersecurity
2 defenses, or threats, attacks, attempted attacks and
3 vulnerabilities of cyber system operations relating directly to
4 the physical or electronic security of a public facility, or
5 any critical infrastructure, whether owned by or leased to the
6 state or any of its political subdivisions, or any privately
7 owned or leased critical infrastructure if the information is
8 in the possession of a public body;

9 (3) threat assessments;

10 (4) continuity of operations plans;

11 (5) vulnerability and capability assessments
12 conducted by a public body or any private entity;

13 (6) terrorist or threat response plans; and

14 (7) emergency evacuation plans;

15 NN. "trade secret" means a trade secret as defined
16 in Subsection D of Section 57-3A-2 NMSA 1978;

17 OO. "undercover law enforcement officer" means an
18 employee of a local or state law enforcement agency who acts
19 surreptitiously or poses as someone other than a law
20 enforcement officer while engaging in the investigation of a
21 violation of law; and

22 PP. "utility services" means those services, when
23 performed by a public body, that would constitute a public
24 utility as defined by Section 62-3-3 NMSA 1978, a public
25 telecommunications service as defined by Section 63-9A-3 NMSA

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1 1978 and a cellular service company as defined by Section
2 63-9B-3 NMSA 1978 and includes services provided by
3 associations as defined under the Sanitary Projects Act."

4 SECTION 2. A new section of the Inspection of Public
5 Records Act is enacted to read:

6 "[NEW MATERIAL] RECORDS CUSTODIAN.--Each public body shall
7 designate at least one custodian of public records who shall:

8 A. receive requests, including electronic mail or
9 facsimile, to inspect public records;

10 B. respond to requests in the same medium,
11 electronic or paper, in which the request was made in addition
12 to any other medium that the custodian deems appropriate;

13 C. provide proper and reasonable opportunities to
14 inspect public records;

15 D. provide reasonable facilities to make or furnish
16 copies of the public records during usual business hours; and

17 E. post in a conspicuous location at the
18 administrative office and on the publicly accessible website,
19 if any, of each public body a notice describing:

20 (1) the right of a person to inspect a public
21 body's records;

22 (2) procedures for requesting inspection of
23 public records, including the contact information for the
24 custodian of public records;

25 (3) procedures for requesting copies of public

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1 records;

2 (4) reasonable fees for copying public
3 records; and

4 (5) the responsibility of a public body to
5 make available public records for inspection."

6 SECTION 3. A new section of the Inspection of Public
7 Records Act is enacted to read:

8 "[NEW MATERIAL] PROCEDURE FOR REQUESTING RECORDS.--

9 A. Any person wishing to inspect public records
10 shall submit a written request to the custodian. The failure
11 to respond to an oral request shall not subject the custodian
12 to any penalty.

13 B. If a request is sent to any person other than
14 the proper records custodian, the time for fulfilling the
15 request shall be tolled until the request is delivered to the
16 proper records custodian. All employees or agents of public
17 bodies shall forward the request to the proper records
18 custodian any requests misdirected to them.

19 C. A request shall provide the actual name, mailing
20 address, telephone number and email address of the person
21 seeking access to the records. Anonymous or pseudonymous
22 requests are not permitted. If the request is made by an agent
23 for another, the agent shall disclose the name of the person
24 the agent is acting on behalf of.

25 D. A request shall identify the records sought with

1 reasonable particularity.

2 E. No person requesting records shall be required
3 to state the reason for inspecting the records.

4 F. A custodian receiving a written request shall
5 permit the inspection not later than fifteen days after
6 receiving a written request in the case of current records or
7 sixty days in the case of archival records or audio or visual
8 records.

9 G. For the purposes of this section, "written
10 request" includes an electronic communication, including email,
11 facsimile or use of a web page on the internet provided by the
12 public body; provided that the request complies with the
13 requirements of Subsection C of this section.

14 H. A public body may ask the requester to clarify
15 the request.

16 I. A public body may discuss with the requester of
17 a large volume of records how the scope of a request may be
18 narrowed.

19 J. If a requester does not respond to a request for
20 clarification within fifteen days, the request for inspection
21 may be considered withdrawn."

22 SECTION 4. A new section of the Inspection of Public
23 Records Act is enacted to read:

24 "[NEW MATERIAL] REQUESTING ELECTRONIC RECORDS.--

25 A. Automation of public records must not erode the

1 right of access to those records. As each public body
2 increases its use of and dependence on electronic
3 recordkeeping, each public body shall provide reasonable public
4 access to records electronically maintained and shall ensure
5 that exempt or confidential records are not disclosed except as
6 otherwise permitted by law.

7 B. A public body shall not enter into a contract
8 for the creation or maintenance of a public records database if
9 that contract impairs the ability of the public to inspect or
10 copy the public records of the public body, including public
11 records online or stored in an electronic record keeping system
12 used by the public body.

13 C. An electronic copy of a record shall be provided
14 upon request at no cost, other than costs allowed by this 2025
15 act; provided that if the nature or volume of the public
16 records requested to be accessed or provided is a broad and
17 burdensome use of information technology resources, the public
18 body may charge no more than the actual cost incurred for the
19 broad and burdensome use of information technology resources
20 incurred by the public body.

21 D. Nothing in this section requires a public body
22 to create or compile a record that does not exist.

23 E. Nothing in this section requires a public body
24 to attempt to recover or restore deleted or overwritten
25 records.

1 F. Nothing in this section requires a public body
2 to provide inspection of browser histories, caches, cookies,
3 file metadata, system logs, login histories or IP addresses of
4 visitors to the websites of public bodies.

5 G. Except as reasonably necessary to reveal the
6 organization of data contained in an electronically stored
7 record, a public body is not required to provide an
8 electronically stored record in a different structure or
9 format.

10 H. This section does not require a public entity to
11 provide a requester with access to a computer terminal or
12 mobile device.

13 I. A public body is not required to provide a copy
14 of a record that is available to the requester on the internet
15 on a publicly accessible website. The public body shall notify
16 the requester the record is available online and direct the
17 requester to the website where the record can be accessed.

18 J. Nothing in the Inspection of Public Records Act
19 regarding the provision of public data in electronic format
20 shall limit the ability of the custodian to engage in the sale
21 of data as authorized by Sections 14-3-15.1 and 14-3-18 NMSA
22 1978, including imposing reasonable restrictions on the use of
23 the database and the payment of a royalty or other
24 consideration.

25 K. A custodian shall provide a copy of a public

1 record in electronic format if the public record is available
2 in electronic format and an electronic copy is specifically
3 requested. However, a custodian is only required to provide
4 the electronic record in the file format in which it exists at
5 the time of the request.

6 L. If necessary to preserve the integrity of
7 computer data or the confidentiality of exempt information
8 contained in a database, a partial printout of data containing
9 public records or information may be furnished in lieu of an
10 entire database. Exempt information in an electronic document
11 shall be removed along with the corresponding metadata prior to
12 disclosure by utilizing methods or redaction tools that prevent
13 the recovery of exempt information from a redacted electronic
14 document."

15 SECTION 5. A new section of the Inspection of Public
16 Records Act is enacted to read:

17 "[NEW MATERIAL] WRONG CUSTODIAN.--

18 A. In the event that a written request is not made
19 to the custodian having possession of or responsibility for the
20 public records requested, the person receiving the request
21 shall promptly forward the request to the custodian of the
22 requested public records, if known, and notify the requester.

23 B. The notification to the requester shall state
24 the reason for the absence of the records from that person's
25 custody or control, the records' location and the name and

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1 address of the custodian."

2 SECTION 6. A new section of the Inspection of Public
3 Records Act is enacted to read:

4 "[NEW MATERIAL] PROCEDURE FOR INSPECTION.--Requested
5 public records containing information that is exempt and
6 nonexempt from disclosure shall be separated by the custodian
7 prior to inspection, and the nonexempt information shall be
8 made available for inspection."

9 SECTION 7. A new section of the Inspection of Public
10 Records Act is enacted to read:

11 "[NEW MATERIAL] COST RECOVERY.--A custodian:

12 A. may charge reasonable fees for copying the
13 public records, unless a different fee is otherwise prescribed
14 by law;

15 B. may charge a fee not exceeding thirty dollars
16 (\$30.00) per hour per request, excluding the initial hour, for
17 locating records, including electronic records, if locating the
18 records requires more than one hour;

19 C. may impose a fee not exceeding thirty dollars
20 (\$30.00) per hour per request, excluding the initial hour, for
21 redacting material from records;

22 D. may, if a person makes five or more requests
23 within a forty-five-day period, treat the requests as one
24 request in computing the time it takes to locate and excise the
25 records;

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1 E. shall not charge fees in excess of two dollars
2 (\$2.00) per printed page for documents eleven inches by
3 seventeen inches in size or smaller;

4 F. may charge the actual costs associated with
5 downloading copies of public records to a computer disk or
6 storage device, including the actual cost of the computer disk
7 or storage device;

8 G. may charge the actual costs associated with
9 transmitting copies of public records by mail, electronic mail,
10 facsimile or other electronic method of transmission;

11 H. may impose a fee not exceeding five dollars
12 (\$5.00) to certify or authenticate each document copied;

13 I. may require advance payment of the fees before
14 locating, redacting or making copies of public records;

15 J. may allow a person to utilize the person's own
16 personal devices for duplication of records and, if so, shall
17 establish reasonable procedures to protect the integrity of the
18 records as long as the procedures are not used to prevent
19 access to the records;

20 K. may refuse to permit inspection of the records
21 or provide copies of the records if repeated requests for
22 records disrupt other essential functions of the public body
23 and then give to the requester in writing the reasons
24 supporting the refusal; and

25 L. may decline to again provide inspection of a

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1 record to a person who has already been provided inspection of
2 that same record."

3 SECTION 8. A new section of the Inspection of Public
4 Records Act is enacted to read:

5 "[NEW MATERIAL] CREATING AND MAINTAINING RECORDS.--

6 Nothing in the Inspection of Public Records Act shall be
7 construed to require a public body to:

- 8 A. create a public record;
- 9 B. maintain a public record;
- 10 C. compile, format, manipulate, package, summarize
11 or tailor information;
- 12 D. provide a record in a particular format, medium
13 or program not currently maintained by the public body;
- 14 E. provide a record that is included in a report or
15 document that is printed or published, including being
16 available online;
- 17 F. answer questions, conduct research, provide
18 advice or issue legal opinions; or
- 19 G. provide access to premises or any material
20 objects other than those that are public records."

21 SECTION 9. A new section of the Inspection of Public
22 Records Act is enacted to read:

23 "[NEW MATERIAL] ATTORNEY-CLIENT PRIVILEGE--LITIGATION
24 RECORDS.--

- 25 A. Records containing attorney-client information

1 protected by the New Mexico *Rules of Professional Conduct* for
2 attorneys are exempt from inspection.

3 B. Attorney work product is exempt from inspection.
4 Attorney work product and copies of the work product shall not
5 be open to public inspection, examination or copying unless
6 specifically made public by the public body receiving the work
7 product.

8 C. Records pertaining to claims for damages or
9 other relief against any public body or public officer or
10 employee are exempt from inspection; provided that the records
11 shall be subject to public inspection on and after the earlier
12 of:

13 (1) the date a final judgment is issued
14 resolving the claim and all appeals and rights to appeal have
15 been exhausted; or

16 (2) the date a settlement agreement is signed
17 by all of the parties.

18 D. A settlement agreement between a public body and
19 another party is exempt from disclosure until it has been fully
20 executed and accepted by all concerned parties unless the
21 records are otherwise exempt or confidential. In the case of
22 multiple settlement agreements involving multiple parties
23 involved in the same incident or undertaking, a settlement
24 agreement is exempt until settlement agreements have been fully
25 executed by all concerned parties unless the public records are

1 otherwise exempt or confidential.

2 E. Any request under this section for records in
3 the possession of a public body by a party to a criminal or
4 civil action, administrative law agency adjudicative
5 proceeding, mediation or arbitration in which the public body
6 is a party or by an agent of the party shall comply with
7 applicable discovery rules or orders and be made to the
8 attorney representing that public body in the criminal or civil
9 action, adjudicative proceeding, mediation or arbitration. The
10 public body may deny a request from a party or an agent of a
11 party under this subsection if the request seeks records that
12 are privileged under applicable discovery rules.

13 F. Records filed with a court or administrative law
14 agency under seal shall not be subject to inspection unless the
15 court has ordered their inspection.

16 G. Records provided to a public body under a
17 protective order approved by a court or administrative law
18 agency shall not be subject to inspection unless the court or
19 administrative law agency has ordered their inspection.

20 H. Records filed with a court or administrative law
21 agency in a sequestered or confidential proceeding shall not be
22 subject to inspection unless the court or administrative law
23 agency has ordered their inspection.

24 I. Public filings with a court or administrative
25 law agency shall be requested only from the court or

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1 administrative law agency and shall not be requested from
2 another public body that may have been a party to the
3 proceeding or otherwise has copies of such filings.

4 J. For purposes of this section, a law enforcement
5 agency that investigated a crime, arrested a person or charged
6 a person shall be considered a party to the resulting criminal
7 action.

8 K. Nothing in this section shall limit the
9 attorney-client privilege as provided for by the common law or
10 the rules of court."

11 SECTION 10. A new section of the Inspection of Public
12 Records Act is enacted to read:

13 "[NEW MATERIAL] ECONOMIC DEVELOPMENT RECORDS--
14 COMMUNICATION PROVIDER RECORDS.--

15 A. Records and information pertaining to a
16 prospective location of a business or industry, including the
17 identity, nature and location of the business or industry, when
18 no previous public disclosure has been made by the business or
19 industry of the interest or intent of the business or industry
20 to locate in, relocate within or expand within this state are
21 exempt from inspection.

22 B. The exemption in this section does not include
23 records pertaining to the application for permits or licenses
24 necessary to do business or to expand business operations
25 within this state, except as otherwise provided by law.

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1 C. Information relating to communications services
2 locations or broadband development shall be exempt from
3 inspection if such information is not otherwise publicly
4 available and the release of such information would reveal:

5 (1) the location or capacity of communications
6 network facilities;

7 (2) communications network areas, including
8 geographical maps indicating actual or proposed locations of
9 network infrastructure or facilities;

10 (3) the features, functions and capabilities
11 of communications network infrastructure and facilities;

12 (4) security, including cybersecurity, of the
13 design, construction and operation of the communications
14 network and associated services and products; or

15 (5) specific customer locations."

16 **SECTION 11.** A new section of the Inspection of Public
17 Records Act is enacted to read:

18 "[NEW MATERIAL] EDUCATION RECORDS.--The following records
19 of educational institutions are exempt from inspection:

20 A. letters or memoranda that are matters of opinion
21 in students' cumulative files and the reports, notes and
22 evidence generated by internal investigations of their
23 employees or students;

24 B. examination or test questions, scoring keys and
25 other data used to administer any licensing, employment,

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1 academic or certification examination or test and records
2 establishing examination or test procedures and instructions
3 regarding the administration, grading or evaluation of any
4 examination or test, if disclosure may affect scoring outcomes;

5 C. any record related to a complaint or
6 investigation under Title Nine of the Education Amendments of
7 1972, 20 U.S.C. 1681 et seq., which contains personally
8 identifiable information about a party to the complaint; and

9 D. information protected under the Family
10 Educational Rights and Privacy Act, 20 U.S.C. 1232."

11 SECTION 12. A new section of the Inspection of Public
12 Records Act is enacted to read:

13 "[NEW MATERIAL] ELECTION RECORDS.--The time limits for a
14 public body to allow a person to inspect records relating to
15 elections shall be tolled during the period beginning on the
16 fifty-sixth day prior to an election until the canvass of the
17 election has been certified by the county canvassing board or
18 state canvassing board, whichever is later."

19 SECTION 13. A new section of the Inspection of Public
20 Records Act is enacted to read:

21 "[NEW MATERIAL] LAW ENFORCEMENT RECORDS--CORRECTIONS
22 RECORDS.--

23 A. Law enforcement records are public records,
24 except as provided by law and this section. The time for
25 responding to a request for law enforcement records is tolled

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1 during the forty-five days immediately following the law
2 enforcement agency becoming aware of a crime.

3 B. Before charges are filed, exempt from inspection
4 are the names, addresses, contact information or protected
5 personal identifier information of individuals who are victims
6 of or non-law-enforcement witnesses to an alleged crime of:

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

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

14 (3) stalking pursuant to Section 30-3A-3 NMSA
15 1978;

16 (4) aggravated stalking pursuant to Section
17 30-3A-3.1 NMSA 1978;

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

20 (6) criminal sexual contact pursuant to
21 Section 30-9-12 NMSA 1978;

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

24 (8) abandonment of a child pursuant to Section
25 30-6-1 NMSA 1978;

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- 1 (9) abuse of a child pursuant to Section
2 30-6-1 NMSA 1978;
- 3 (10) abandonment of a dependent pursuant to
4 Section 30-6-2 NMSA 1978;
- 5 (11) incest pursuant to Section 30-10-3 NMSA
6 1978;
- 7 (12) child solicitation by electronic
8 communication device pursuant to Section 30-37-3.2 NMSA 1978;
- 9 (13) criminal sexual communication with a
10 child pursuant to Section 30-37-3.3 NMSA 1978;
- 11 (14) unauthorized distribution of sensitive
12 images pursuant to Section 30-37A-1 NMSA 1978;
- 13 (15) abuse pursuant to the Resident Abuse and
14 Neglect Act;
- 15 (16) human trafficking pursuant to Section
16 30-52-1 NMSA 1978;
- 17 (17) voyeurism pursuant to Section 30-9-20
18 NMSA 1978;
- 19 (18) enticement of a child pursuant to Section
20 30-9-1 NMSA 1978; and
- 21 (19) kidnapping pursuant to Section 30-4-1
22 NMSA 1978.

23 C. Before charges are filed, exempt from inspection
24 are names, addresses, contact information or protected personal
25 identifier information of individuals who are accused but not

1 charged with a crime.

2 D. Exempt from inspection are the names, addresses,
3 contact information and protected personal identifier
4 information of juveniles and that same information relating to
5 their parents or guardians when the juveniles are victims or
6 witnesses to an alleged crime.

7 E. A law enforcement officer or prosecutor, within
8 the scope of the employment of the officer or prosecutor, may
9 provide assurances of confidentiality to a person providing
10 information regarding violations of the law. Any information
11 that would identify or provide a means of identifying a
12 confidential informant, if the identity of the informant is not
13 otherwise publicly known, is exempt from inspection.

14 F. The work schedules of employees of a law
15 enforcement agency or correctional facility are exempt from
16 inspection.

17 G. Records or other information that would reveal
18 the identity, or endanger the life or physical well-being, of
19 an undercover law enforcement officer is exempt from
20 inspection.

21 H. Audios, videos or images taken with a body
22 camera or similar device and that are taken in a private place
23 are exempt records, except for those records that:

- 24 (1) depict the commission of an alleged crime;
25 (2) record any encounter between a law

1 enforcement officer and a person that results in death or
2 bodily injury or includes an instance when an officer fires a
3 weapon; or

4 (3) record any encounter that is the subject
5 of a legal proceeding against a law enforcement officer or law
6 enforcement agency.

7 I. Visual depiction of a dead body, unless a law
8 enforcement officer, acting in that capacity, caused or is
9 reasonably alleged or suspected to have caused the death is
10 exempt from inspection.

11 J. Visual depiction of great bodily harm, as
12 defined in Section 30-1-12 NMSA 1978, or acts of severe
13 violence resulting in great bodily harm, unless a law
14 enforcement officer, acting in that capacity, caused or is
15 reasonably alleged or suspected to have caused the great bodily
16 harm or act of severe violence is exempt from inspection.

17 K. Visual depiction of an individual's intimate
18 body parts, including the genitals, pubic area, anus or
19 postpubescent female nipple, whether nude or visible through
20 less than opaque clothing is exempt from inspection.

21 L. Visual or an audio depiction of the notification
22 to a member of the public of a family member's death is exempt
23 from inspection.

24 M. Records of a correctional facility of an
25 inmate's medical condition, personal property, commissary or

1 other financial accounts and communications to and from persons
2 outside the correctional facility are exempt from inspection.
3 This includes both the content and the metadata of such
4 communications.

5 N. Nothing in this section shall exempt information
6 from discovery requests that are made under the rules of
7 court."

8 SECTION 14. A new section of the Inspection of Public
9 Records Act is enacted to read:

10 "[NEW MATERIAL] INFRASTRUCTURE RECORDS--CYBERSECURITY
11 RECORDS.--

12 A. Records that relate to cybersecurity information
13 or critical infrastructure, the disclosure of which may expose
14 or create vulnerability of critical infrastructure systems; or
15 the safeguarding of telecommunications, electric, water,
16 sanitary sewage, storm water drainage, energy, fuel supply,
17 hazardous liquid, natural gas, coal or other critical
18 infrastructure system, are exempt from inspection.

19 B. A security system plan kept by a public body and
20 records regarding disaster mitigation, preparation, response,
21 vulnerability or recovery or for cybersecurity planning,
22 mitigation or threat are exempt from inspection.

23 C. Security codes, passwords and combinations or
24 plans used to protect electronic information or to prevent
25 access to computers, computer systems or computer or

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1 telecommunications networks of a public entity are exempt from
2 inspection.

3 D. Information concerning information technology
4 systems, the publication of which would reveal specific
5 vulnerabilities that compromise or allow unlawful access to
6 such systems, is exempt from inspection; provided that this
7 subsection shall not be used to restrict requests for:

8 (1) records stored or transmitted using
9 information technology systems;

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

14 (3) information to authenticate or validate
15 records received pursuant to a request fulfilled pursuant to
16 the Inspection of Public Records Act."

17 SECTION 15. A new section of the Inspection of Public
18 Records Act is enacted to read:

19 "[NEW MATERIAL] LIBRARY RECORDS.--All information of
20 patrons of a library, including information on materials
21 borrowed or requested and the use of library services,
22 databases or computers, is exempt from inspection."

23 SECTION 16. A new section of the Inspection of Public
24 Records Act is enacted to read:

25 "[NEW MATERIAL] MEDICAL RECORDS.--

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1 A. A medical record or a record containing medical
2 information in the possession of a public body is exempt from
3 inspection.

4 B. The medical condition of an individual, medical
5 treatment provided to an individual and the name of an
6 individual who received medical treatment from a public entity
7 during an emergency medical response are exempt from
8 inspection.

9 C. Autopsy photographs or other visual image or
10 video or audio recordings of an autopsy are exempt from
11 inspection."

12 SECTION 17. A new section of the Inspection of Public
13 Records Act is enacted to read:

14 "NEW MATERIAL] PROCUREMENT RECORDS.--

15 A. Records submitted to a public body by a bidder
16 on a public contract that relate to the financial stability of
17 the bidder, including tax returns, financial statements and
18 bank statements, are exempt from inspection.

19 B. Before a contract is awarded, materials
20 submitted in responses to sealed bidding or requests for
21 proposals are exempt from inspection.

22 C. When a public body seeks to acquire real
23 property by purchase or through the exercise of the power of
24 eminent domain, all appraisals, other reports relating to
25 value, offers and counteroffers are exempt from inspection

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1 until execution of a valid option contract or a written offer
2 to sell that has been conditionally accepted by the agency, at
3 which time the exemption shall expire."

4 SECTION 18. A new section of the Inspection of Public
5 Records Act is enacted to read:

6 "[NEW MATERIAL] PUBLIC EMPLOYEE RECORDS.--

7 A. Employee personal information regarding a public
8 employee contained in an employee's personnel record or given
9 to a public body by the employee in the course of employment is
10 exempt from inspection.

11 B. Any record of a public employee's medical
12 treatment or use of an employee assistance program is exempt
13 from inspection.

14 C. Letters of reference concerning employment are
15 exempt from inspection.

16 D. Letters or memoranda that are matters of opinion
17 in personnel files and the reports, notes and evidence
18 generated by internal investigations of personnel are exempt
19 from inspection."

20 SECTION 19. A new section of the Inspection of Public
21 Records Act is enacted to read:

22 "[NEW MATERIAL] SECURITY RECORDS.--

23 A. Tactical response plans or procedures, the
24 publication of which could reveal specific vulnerabilities,
25 risk assessments or tactical emergency security procedures that

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1 could be used to facilitate the planning or execution of a
2 terrorist attack are exempt from inspection.

3 B. Records of the security system of a publicly
4 accessible facility of a public body, disclosure of which would
5 reveal information that could be used to plan or execute an
6 attack on a public facility or person, are exempt from
7 inspection."

8 SECTION 20. A new section of the Inspection of Public
9 Records Act is enacted to read:

10 "[NEW MATERIAL] SOCIAL SERVICES RECORDS.--

11 A. Records concerning individual applicants or
12 recipients of unemployment insurance or economic assistance or
13 support are exempt from inspection. These exempt records
14 include applications, income or eligibility verification
15 assessments or other personal, medical or financial data are
16 exempt from inspection.

17 B. The name, address, telephone number, email
18 address or other record that reasonably could be used to
19 identify an individual who provided information to a public
20 social service agency is an exempt record if:

21 (1) the information relates to a matter
22 involving human services over which the agency has regulatory
23 jurisdiction; and

24 (2) the agency determines the individual had a
25 good-faith belief the information related to a possible

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1 violation of law when the individual provided it to the agency.

2 C. All case records and identifying information
3 including foster and adoptive families and applicant files are
4 exempt from inspection.

5 D. Records that may disclose, or lead to the
6 discovery of, the identity of a person who made a report of
7 alleged abuse, neglect or exploitation of a child or protected
8 adult, as defined in Section 27-7-16 NMSA 1978 are exempt from
9 inspection."

10 SECTION 21. A new section of the Inspection of Public
11 Records Act is enacted to read:

12 "[NEW MATERIAL] UTILITY RECORDS.--Customer records for
13 utility services provided by a public body are exempt from
14 inspection. Customer records include billing statements,
15 records of consumption or usage, payment information or methods
16 and the contents of any communications made through such
17 utility services."

18 SECTION 22. A new section of the Inspection of Public
19 Records Act is enacted to read:

20 "[NEW MATERIAL] VICTIMS OF CRIMES REPORTS.--

21 A. When a person who is convicted of any indictable
22 offense under the laws of New Mexico, any other state or the
23 United States is seeking government records containing personal
24 information pertaining to the person's victim or the victim's
25 family, including a victim's home address, home telephone

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1 number, work or school address, work telephone number, social
2 security account number, medical history or any other
3 identifying information, a public body may deny inspection of
4 all such information.

5 B. Confidential records that are authorized by law
6 to be disclosed to another public body continue to be
7 confidential in the possession of the receiving public body,
8 except as otherwise provided by law."

9 SECTION 23. A new section of the Inspection of Public
10 Records Act is enacted to read:

11 "[NEW MATERIAL] GENERAL EXCEPTIONS.--The following records
12 shall be exempt from disclosure under the Inspection of Public
13 Records Act:

14 A. letters of reference concerning licensing or
15 permits as provided by the Confidential Materials Act;

16 B. trade secrets;

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

19 D. submissions in response to a competitive grant,
20 land lease or scholarship and related scoring materials and
21 evaluation reports until finalists are publicly named or the
22 award is announced;

23 E. the personal email address or personal telephone
24 number of an individual that is provided to a public entity for
25 the purpose of or in the course of communicating with that

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1 public body or applying for any permit or license; provided
2 this subsection shall not be used to shield the identity of the
3 individual communicating with the public body;

4 F. real estate and other records recorded with a
5 county clerk that are already open for public inspection; and

6 G. records required to be kept confidential by any
7 law or regulation."

8 SECTION 24. A new section of the Inspection of Public
9 Records Act is enacted to read:

10 "[NEW MATERIAL] VEXATIOUS REQUESTERS.--

11 A. A public body may file a petition asking the
12 state commission of public records to request relief from a
13 person that the public body claims is a vexatious requester.

14 B. A petition under this section shall:

15 (1) be filed with the state records
16 administrator, who may not charge a fee to file a petition;

17 (2) contain the name and contact information
18 of a respondent to the petition;

19 (3) contain a description of the conduct that
20 the governmental entity claims demonstrates that the respondent
21 is a vexatious requester, which may include a description of
22 conduct directed toward public bodies other than the one filing
23 the petition; and

24 (4) be served on the respondent, such service
25 to be done contemporaneously with the filing of the petition.

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1 C. No later than fourteen days after receiving a
2 petition, the state records administrator shall schedule a
3 hearing for the commission to consider the petition, which
4 shall be at least twenty-eight days later but not more than
5 seventy days after filing the petition.

6 D. If the state records administrator schedules a
7 hearing, the state records administrator shall:

8 (1) send a copy of the petition to each member
9 of the state commission of public records; and

10 (2) send a copy of the notice of hearing to
11 the public body that filed the petition and the respondent.

12 E. No later than seven business days before the
13 hearing, the respondent may submit to the state records
14 administrator a written statement in response to the public
15 body's petition and serve that statement on the petitioner.

16 F. No discovery may be allowed on a petition to
17 declare a person a vexatious requester.

18 G. At the hearing on the petition, the state
19 commission of public records shall allow the petitioner and
20 respondent to testify, present evidence and comment on the
21 issues. If a respondent fails to appear at the hearing, the
22 commission may enter a default judgment against the respondent.

23 H. Within twenty-eight days after a hearing is
24 held, the state commission of public records shall issue a
25 signed order deciding as to whether the respondent is a

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1 vexatious requester and what other relief requested by the
2 petitioner should be granted.

3 I. No public body shall be obligated to respond to
4 requests for inspection from a person who is determined to be a
5 vexatious requester for three years after the designation is
6 made.

7 J. The petitioner or the respondent may appeal a
8 decision of the state commission of public records to the
9 district court in the county in which the petitioner maintains
10 its principal office. A notice of appeal shall be filed within
11 sixty days of service of the decision on the petition.

12 K. The state commission of public records shall
13 maintain on the commission's website an alphabetical list of
14 all persons ever declared to be a vexatious requester and
15 copies of all decisions on petitions filed under this section."

16 SECTION 25. A new section of the Inspection of Public
17 Records Act is enacted to read:

18 "[NEW MATERIAL] ENFORCEMENT.--

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

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

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

25 B. Actions to enforce the Inspection of Public

1 Records Act shall be brought exclusively against the public
2 body in the district court in the county where the public body
3 maintains its principal office. No records custodian or other
4 employee or official of the public body shall be named as a
5 defendant.

6 C. Any public body named in an action filed
7 pursuant to the Inspection of Public Records Act shall be held
8 liable for conduct of individuals acting on behalf of, under
9 color of or within the course and scope of the authority of the
10 public body.

11 D. Actions to enforce the Inspection of Public
12 Records Act shall be exclusively brought as a civil action and
13 proceed under the rules of court for civil complaints.

14 E. Public bodies shall be given a chance to cure
15 alleged violations of the Inspection of Public Records Act as
16 follows:

17 (1) before filing suit, a requester who
18 alleges that a public body has failed to fulfill in whole or in
19 part a request made under the Inspection of Public Records Act
20 shall give notice of intent to sue in writing to the records
21 custodian of a public body stating:

22 (a) the requester intends to file suit;

23 (b) a reference to or copy of the
24 unfulfilled request at issue; and

25 (c) the records that the requester

1 believes have not been provided by the public body;

2 (2) the public body shall have sixty days
3 after actual receipt of the notice of intent to sue in which to
4 provide the records requested; and

5 (3) no suit to enforce the Inspection of
6 Public Records Act shall be maintained unless a notice of
7 intent to sue is given under this subsection, and a plaintiff
8 must affirmatively plead that the plaintiff has complied with
9 this subsection and provide proof of compliance when filing
10 suit.

11 F. The district court shall not issue peremptory
12 writs of mandamus or alternate writs of mandamus under Section
13 44-2-7 NMSA 1978.

14 G. A district court may issue a writ of mandamus or
15 order an injunction or other appropriate remedy to enforce the
16 provisions of the Inspection of Public Records Act but only
17 after the public body has been served with a complaint, given
18 due process in accordance with the rules of civil procedure and
19 the court has found that the public body did not produce
20 records in violation of that act.

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

24 I. The court shall award damages, costs and or
25 reasonable attorney fees to any person whose written request

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1 has been denied and is successful in a court action to enforce
2 the provisions of the Inspection of Public Records Act only in
3 cases where the public body did not act in good faith or failed
4 to provide a reasonable denial.

5 J. A public body may file a complaint in the
6 district court under the Declaratory Judgment Act to seek
7 determination whether a request made under the Inspection of
8 Public Records Act seeks material exempt from disclosure or
9 otherwise does not comply with the act."

10 SECTION 26. REPEAL.--Sections 14-2-1 through 14-2-1.2 and
11 14-2-6 through 14-2-12 NMSA 1978 (being Laws 1947, Chapter 130,
12 Section 1, Laws 2019, Chapter 27, Section 2, Laws 2023, Chapter
13 67, Section 3 and Laws 1993, Chapter 258, Sections 3 through 9,
14 as amended) are repealed.

15 SECTION 27. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2025.