

HOUSE BILL 283

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

INTRODUCED BY

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AN ACT

RELATING TO PUBLIC RECORDS; REQUIRING A LAW ENFORCEMENT RECORD
REQUESTER TO CERTIFY THAT THE LAW ENFORCEMENT RECORD WILL NOT
BE USED TO SOLICIT VICTIMS; PROVIDING A DEFINITION OF
"COMMERCIAL PURPOSE" AND MAKING EXCEPTIONS; REQUIRING A RECORD
REQUESTER WHO INTENDS TO USE THE RECORD FOR A COMMERCIAL
PURPOSE TO CERTIFY THAT THE RECORD WILL BE USED FOR A
COMMERCIAL PURPOSE; ALLOWING A PUBLIC BODY TO CHARGE AN HOURLY
FEE TO REQUESTERS WHO INTEND TO USE A RECORD FOR A COMMERCIAL
PURPOSE; REQUIRING A PUBLIC BODY TO PROVIDE AN ESTIMATED FEE TO
A REQUESTER WHO INTENDS TO USE A RECORD FOR A COMMERCIAL
PURPOSE; ALLOWING A PUBLIC BODY TO WAIVE THE COMMERCIAL PURPOSE
FEE; REQUIRING A RECORD REQUESTER WHO HAS BEEN DENIED A REQUEST
TO PROVIDE A PUBLIC BODY WITH NOTICE OF A CLAIMED VIOLATION AND
ALLOWING THE PUBLIC BODY FIFTEEN CALENDAR DAYS TO REMEDY THE
VIOLATION BEFORE AN ENFORCEMENT ACTION CAN BE BROUGHT; LIMITING

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1 ACTIONS TO ENFORCE THE INSPECTION OF PUBLIC RECORDS ACT TO
2 WITHIN TWO YEARS OF THE DATE THAT THE PUBLIC BODY RECEIVED
3 NOTICE OF A CLAIMED VIOLATION; CREATING AN INSPECTION OF PUBLIC
4 RECORDS TASK FORCE; MAKING TECHNICAL CHANGES.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 14-2A-1 NMSA 1978 (being Laws 1993,
8 Chapter 123, Section 1) is recompiled as Section 14-2-1.3 NMSA
9 1978 and is amended to read:

10 "14-2-1.3. PROTECTION OF VICTIMS OF CRIMES OR ACCIDENTS--
11 [~~POLICE REPORTS~~] LAW ENFORCEMENT RECORDS--COMMERCIAL
12 SOLICITATION PROHIBITED--PENALTIES.--

13 A. No [~~attorney, health care provider or their~~
14 ~~agents~~] person shall inspect, copy or use [~~police reports~~] law
15 enforcement records or information obtained from [~~police~~
16 ~~reports~~] law enforcement records for [~~the purpose of~~] the
17 solicitation of victims or the solicitation of the relatives of
18 victims of reported crimes or accidents.

19 B. A person that requests law enforcement records
20 shall certify in the written request that the requested law
21 enforcement records shall not be used for soliciting victims or
22 the relatives of victims of reported crimes or accidents."

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

25 "14-2-6. DEFINITIONS.--As used in the Inspection of

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1 Public Records Act:

2 A. "commercial purpose" means the direct or
3 indirect use of any part of a public record in any form for
4 sale, resale, solicitation, rent or lease of a service or any
5 use by which the user expects a profit through commission,
6 salary or fee; and does not include the use of a public record:

7 (1) by a newspaper or periodical or by a
8 website or social media account associated with the newspaper
9 or periodical;

10 (2) by a radio or television station in its
11 news or other informational programs or by a website or social
12 media account associated with the radio or television station;

13 (3) by a social media account that
14 disseminates news and information to the general public; or

15 (4) in the preparation for prosecution or
16 defense of litigation or claims settlement by the parties to
17 such action or the attorneys representing the parties;

18 ~~[A.]~~ B. "custodian" means any person responsible
19 for the maintenance, care or keeping of a public body's public
20 records, regardless of whether the records are in that person's
21 actual physical custody and control;

22 ~~[B.]~~ C. "file format" means the internal structure
23 of an electronic file that defines the way it is stored and
24 used;

25 ~~[C.]~~ D. "information technology systems" means

1 computer hardware, storage media, networking equipment,
2 physical devices, infrastructure, processes and code, firmware,
3 software and ancillary products and services, including:

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

16 ~~[D.]~~ E. "inspect" means to review all public
17 records that are not excluded in Section 14-2-1 NMSA 1978;

18 ~~[E.]~~ F. "person" means any individual, corporation,
19 partnership, firm, association or entity;

20 ~~[F.]~~ G. "protected personal identifier information"
21 means:

- 22 (1) all but the last four digits of a:
 - 23 (a) taxpayer identification number;
 - 24 (b) financial account number;
 - 25 (c) credit or debit card number; or

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(d) driver's license number;
(2) all but the year of a person's date of birth;
(3) a social security number; and
(4) with regard to a nonelected employee of a public body in the context of the person's employment, the employee's nonbusiness home street address, but not the city, state or zip code;

[G.] H. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education;

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

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

SECTION 3. Section 14-2-8 NMSA 1978 (being Laws 1993, .228979.3

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1 Chapter 258, Section 5, as amended) is amended to read:

2 "14-2-8. PROCEDURE FOR REQUESTING RECORDS.--

3 A. Any person wishing to inspect public records may
4 submit an oral or written request to the custodian. However,
5 the procedures set forth in this section shall be in response
6 to a written request. The failure to respond to an oral
7 request shall not subject the custodian to any penalty.

8 B. Nothing in the Inspection of Public Records Act
9 shall be construed to require a public body to create a public
10 record.

11 C. A written request shall provide the name,
12 address and telephone number of the person seeking access to
13 the records and shall identify the records sought with
14 reasonable particularity. The written request shall also
15 include certification from the person:

16 (1) that the record shall not be used for
17 soliciting victims or the relatives of victims of reported
18 crimes or accidents;

19 (2) confirming or denying that the requested
20 record is intended to be used for a commercial purpose; and

21 (3) acknowledging that a fee may be charged by
22 the public body for a record that is intended to be used for a
23 commercial purpose, if the person intends to use the record for
24 a commercial purpose.

25 D. A written request that does not include the

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1 information required in Subsection C of this section shall be
2 an incomplete request and shall not be acted upon by the public
3 body until the required information is submitted to the public
4 body.

5 E. No person requesting records shall be required
6 to state the reason for inspecting the records, except as
7 otherwise provided in the Inspection of Public Records Act.

8 ~~[D.]~~ F. A custodian receiving a written request
9 shall permit the inspection immediately or as soon as is
10 practicable under the circumstances, but not later than fifteen
11 calendar days after receiving a written request. If the
12 inspection is not permitted within three business days, the
13 custodian shall explain in writing when the records will be
14 available for inspection or when the public body will respond
15 to the request. The three-day period shall not begin until the
16 written request is delivered to the office of the custodian.

17 ~~[E.]~~ G. In the event that a written request is not
18 made to the custodian having possession of or responsibility
19 for the public records requested, the person receiving the
20 request shall promptly forward the request to the custodian of
21 the requested public records, if known, and notify the
22 requester. The notification to the requester shall state the
23 reason for the absence of the records from that person's
24 custody or control, the records' location and the name and
25 address of the custodian.

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1 [F-] H. For the purposes of this section, "written
2 request" includes an electronic communication, including email
3 or facsimile; provided that the request complies with the
4 requirements of Subsection C of this section."

5 **SECTION 4.** Section 14-2-9 NMSA 1978 (being Laws 1993,
6 Chapter 258, Section 6, as amended) is amended to read:

7 "14-2-9. PROCEDURE FOR INSPECTION.--

8 A. Requested public records containing information
9 that is exempt and nonexempt from disclosure shall be separated
10 by the custodian prior to inspection, and the nonexempt
11 information shall be made available for inspection. If
12 necessary to preserve the integrity of computer data or the
13 confidentiality of exempt information contained in a database,
14 a partial printout of data containing public records or
15 information may be furnished in lieu of an entire database.
16 Exempt information in an electronic document shall be removed
17 along with the corresponding metadata prior to disclosure by
18 utilizing methods or redaction tools that prevent the recovery
19 of exempt information from a redacted electronic document.

20 B. A custodian shall provide a copy of a public
21 record in electronic format if the public record is available
22 in electronic format and an electronic copy is specifically
23 requested. However, a custodian is only required to provide
24 the electronic record in the file format in which it exists at
25 the time of the request.

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C. A custodian:

(1) may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law;

(2) may charge a fee for records that are intended to be used for a commercial purpose as provided in Section 5 of this 2025 act;

~~(2)~~ (3) shall not charge fees in excess of one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches in size or smaller;

~~(3)~~ (4) may charge the actual costs associated with downloading copies of public records to a computer disk or storage device, including the actual cost of the computer disk or storage device;

~~(4)~~ (5) may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile;

~~(5)~~ (6) may require advance payment of the fees before making copies of public records;

~~(6)~~ (7) shall not charge a fee for the cost of determining whether any public record is subject to disclosure; and

~~(7)~~ (8) shall provide a receipt, upon request.

D. A public body may waive any fee.

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1 [~~D-~~] E. Nothing in this section regarding the
2 provision of public data in electronic format shall limit the
3 ability of the custodian to engage in the sale of data as
4 authorized by Sections 14-3-15.1 and 14-3-18 NMSA 1978,
5 including imposing reasonable restrictions on the use of the
6 database and the payment of a royalty or other consideration."

7 **SECTION 5.** A new section of the Inspection of Public
8 Records Act is enacted to read:

9 "[NEW MATERIAL] COMMERCIAL USE OF PUBLIC RECORDS OBTAINED
10 THROUGH REQUEST FOR INSPECTION.--

11 A. A requester of a public record who intends to
12 use the public record for a commercial purpose:

13 (1) shall certify in the written request that:

14 (a) the requested public record is to be
15 used for a commercial purpose; and

16 (b) the requester acknowledges that a
17 fee may be charged by a public body for the cost of personnel
18 time expended to review and prepare the public record; and

19 (2) may be charged a fee by a public body not
20 to exceed thirty dollars (\$30.00) per hour for any amount of
21 time beyond the initial hour that was spent reviewing and
22 preparing a public record.

23 B. After receiving certification in a written
24 request that a requester will use a public record for a
25 commercial purpose, a public body that intends to charge the

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1 requester for the time spent preparing and reviewing the public
2 record shall provide the requester with an explanation of the
3 estimated fee to be charged, and the requester shall verify in
4 writing to the public body that the requester would like to
5 proceed before the public body starts to review and prepare the
6 public record. The public body may require advance payment of
7 the estimated fee before the public body starts to review and
8 prepare the public record and shall provide a receipt to the
9 requester upon request."

10 SECTION 6. Section 14-2-11 NMSA 1978 (being Laws 1993,
11 Chapter 258, Section 8) is amended to read:

12 "14-2-11. PROCEDURE FOR DENIED REQUESTS.--

13 A. Unless a written request has been determined to
14 be excessively burdensome or broad, a written request for
15 inspection of public records that has not been ~~[permitted]~~
16 acted upon within fifteen calendar days of receipt by the
17 office of the custodian may be deemed denied. The person
18 requesting the public records may pursue the remedies provided
19 in the Inspection of Public Records Act after providing the
20 public body from which the public record was requested with
21 written notice of the claimed violation. Once the public body
22 has received the written notice, the public body shall have
23 fifteen calendar days to respond to the written notice and
24 fifteen calendar days to remedy the violation. After the two
25 fifteen-calendar-day periods have elapsed, the public body

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1 shall be subject to enforcement as provided in Section 14-2-12
2 NMSA 1978.

3 B. If a written request has been denied, the
4 custodian shall provide the requester with a written
5 explanation of the denial. The written denial shall:

- 6 (1) describe the records sought;
- 7 (2) set forth the names and titles or
8 positions of each person responsible for the denial; and
- 9 (3) be delivered or mailed to the person
10 requesting the records within fifteen calendar days after the
11 request for inspection was received.

12 C. A custodian who does not deliver or mail a
13 written explanation of denial within fifteen calendar days
14 after receipt of a written request for inspection is subject to
15 an action to enforce the provisions of the Inspection of Public
16 Records Act and the requester may be awarded damages. Damages
17 shall:

- 18 (1) be awarded if the failure to provide a
19 timely explanation of denial is determined to be unreasonable;
- 20 (2) not exceed one hundred dollars (\$100) per
21 day;
- 22 (3) accrue from the fifteenth calendar day
23 following the day the public body [is in noncompliance]
24 received the written notice of a claimed violation until a
25 written denial is issued; and

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1 (4) be payable from the funds of the public
2 body."

3 SECTION 7. Section 14-2-12 NMSA 1978 (being Laws 1993,
4 Chapter 258, Section 9) is amended to read:

5 "14-2-12. ENFORCEMENT.--

6 A. After a public body has received written notice
7 of a claimed violation of the Inspection of Public Records Act
8 and has failed to respond within fifteen calendar days, an
9 action to enforce the Inspection of Public Records Act may be
10 brought by:

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

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

15 B. An action to enforce the Inspection of Public
16 Records Act shall be commenced within two years of the date
17 that the written notice of the claimed violation was provided
18 to the public body.

19 ~~[B.]~~ C. A district court may issue a writ of
20 mandamus or order an injunction or other appropriate remedy to
21 enforce the provisions of the Inspection of Public Records Act.

22 ~~[C.]~~ D. Except for the written notice of a claimed
23 violation as provided in Section 14-2-11 NMSA 1978, the
24 exhaustion of administrative remedies shall not be required
25 prior to bringing any action to enforce the procedures of the

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1 Inspection of Public Records Act.

2 [D-] E. The court shall award damages, costs and
3 reasonable [attorneys'] attorney fees to any person whose
4 written request has been denied and who is successful in a
5 court action to enforce the provisions of the Inspection of
6 Public Records Act; provided that damages shall not be assessed
7 for any period of time prior to the person providing the
8 written notice of the claimed violation."

9 SECTION 8. TEMPORARY PROVISION--INSPECTION OF PUBLIC
10 RECORDS TASK FORCE--MEMBERSHIP--DUTIES.--

11 A. The "inspection of public records task force" is
12 created and consists of the following eleven members:

- 13 (1) the attorney general or the attorney
14 general's designee;
- 15 (2) the director of the legislative council
16 service or the director's designee;
- 17 (3) a representative of the New Mexico
18 association of counties;
- 19 (4) a representative of the New Mexico
20 municipal league;
- 21 (5) a representative of a public school;
- 22 (6) a representative of a state institution of
23 higher education or public post-secondary educational
24 institution;
- 25 (7) a representative of a news media

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1 organization;

2 (8) a representative of an organization formed
3 to promote an open government;

4 (9) a record custodian employed by the state;

5 (10) a record custodian employed by a county;

6 and

7 (11) a record custodian employed by a
8 municipality.

9 B. The chair of the task force shall be the
10 attorney general or the attorney general's designee. The task
11 force shall meet at the call of the chair. The task force
12 shall exist from July 1, 2025 until January 1, 2026.

13 C. The attorney general shall convene the task
14 force and provide for staff.

15 D. The task force shall:

16 (1) consider and make recommendations on
17 alternative enforcement options of claimed violations of the
18 Inspection of Public Records Act before court action is
19 commenced;

20 (2) consider and make recommendations on the
21 use of ombuds to assist public record requesters and public
22 bodies;

23 (3) consider and make recommendations on
24 procedures to standardize the inspection of public records
25 process;

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(4) study and make recommendations on the misuse of the Inspection of Public Records Act by requesters, including possible penalties and the enforcement of penalties;

(5) solicit comments from affected public record requesters and public bodies; and

(6) report its recommendations for legislation to the governor and the legislature by December 15, 2025."