

underscored material = new  
[bracketed material] = delete

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**SENATE BILL 290**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Timothy Z. Jennings**

**AN ACT**

**RELATING TO PRIVACY; PROHIBITING VIOLATIONS OF A PERSON'S  
PRIVACY RIGHTS; PROVIDING PENALTIES.**

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

**Section 1. PRIVACY-- FINGERPRINT IDENTIFICATION--  
INVESTIGATION OF LEGAL ACTIVITIES-- PROHIBITIONS-- PENALTY--  
CIVIL ACTION.--**

**A. Except as provided in Subsection B of this  
section, it is unlawful for a person to ask for or require a  
fingerprint to be used for identification purposes. Whoever  
asks for or requires fingerprints for identification purposes  
in violation of this subsection is guilty of a fourth degree  
felony and shall be sentenced in accordance with the  
provisions of Section 31-18-15 NMSA 1978.**

**B. Subsection A of this section does not apply to:**

underscored material = new  
[bracketed material] = delete

1 (1) law enforcement personnel asking for or  
2 requiring fingerprints to be used for identification purposes  
3 in criminal investigations or prosecutions;

4 (2) background checks for applicants and  
5 employees when background checks are required by state or  
6 federal law; or

7 (3) financial institutions requiring  
8 fingerprints to be used for identification purposes in cashing  
9 checks, withdrawing money or other bank services; provided  
10 that if fingerprints are required, the bank shall not charge a  
11 fee or otherwise be compensated for providing the service.

12 C. It is unlawful for a person to investigate,  
13 identify or maintain a log or listing of a person by reason of  
14 that person's engagement in activities that are protected by  
15 the first amendment to the United States constitution or  
16 Article 2, Section 17 of the constitution of New Mexico. A  
17 person who violates the provisions of this subsection is  
18 guilty of a fourth degree felony and shall be sentenced in  
19 accordance with the provisions of Section 31-18-15 NMSA 1978.

20 D. A person who has been fingerprinted or  
21 investigated and identified in violation of Subsection A or C  
22 of this section may bring a civil action against the violator  
23 and seek compensatory damages, punitive damages up to ten  
24 thousand dollars (\$10,000) and injunctive relief. In  
25 addition, he may be awarded costs and reasonable attorney fees

underscored material = new  
[bracketed material] = delete

1 if he prevails in the action.

2 E. For the purposes of this section, "person"  
3 includes a public officer or employee.

4 - 3 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25