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SENATE BILL

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

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1 provisions of the Inspection of Public Records Act.

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

5 D. The court shall award damages, costs and
6 reasonable ~~[attorneys']~~ attorney fees to any person whose
7 written request has been denied and that is successful in a
8 court action to enforce the provisions of the Inspection of
9 Public Records Act.

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

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

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

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

22 G. For the purposes of this section, "retaliatory
23 action" includes any action or conduct that would discourage a
24 reasonable person from submitting a request or pursuing the
25 enforcement of a request pursuant to the Inspection of Public

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1 Records Act, but does not include a lawful objection to or
2 denial of a request or a request for additional time to produce
3 records as provided by the Inspection of Public Records Act."

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