

<b>LFC Requester:</b>	<b>Sanchez</b>
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**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**Analysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**        **Amendment**      
**Correction**        **Substitute**   

**Date** 2/13/2025  
**Bill No:** SB 352

**Sponsor:** Duhigg  
**Short Title:** CERTAIN PHOTOS AS CONFIDENTIAL

**Agency Name and Code Number:** Commission of Public Records 36900  
**Person Writing:** Matthew Ortiz  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	n/a	
0	0		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	n/a	

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	n/a	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Public Records Act, Section 14-3-1 et seq., NMSA 1978.

Inspection of Public Records Act, Section 14-2-1 et seq., NMSA 1978. (“IPRA”)

HB 139, Cates, IPRA Changes

SB 036, A. Sedillo-Lopez, Sensitive Personal Information Non-Disclosure

HB 283, Chandler, Law Enforcement Records Changes

Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

SB 352 (“bill”) amends Section 24-11-7 NMSA 1978 by eliminating gender-specific reference and substantively creates a public record exception:

Photographic images taken by a state, district or deputy medical investigator are confidential, are not public records and shall not be accessible to the public other than for use or potential use in a civil or criminal proceeding.

#### **FISCAL IMPLICATIONS**

NFI for agency

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

#### **SIGNIFICANT ISSUES**

A public record is defined as all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein. Library or museum material of the state library, state institutions and state museums, extra copies of documents preserved only for convenience of reference and stocks of publications and

processed documents are not included. Subsection G of Section 14-3-2 NMSA 1978.

Autopsy reports, and presumably the photographs within, are public records as they are "...made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government". Under 1.21.2.845 NMAC - FORENSIC ANALYSIS - MEDICAL INVESTIGATOR, the retention period for medical investigator autopsy photographs would be: permanent, transfer to archives five years from date file closed. A distinction should be made between "public record" and confidentiality. Both public records and non-public records can be confidential or non-confidential.

If autopsy photographs are classified as non-public records, then under the Public Records Act, they would not have a retention schedule that would correlate with the civil and criminal proceedings allowance in the amendment. Those photos could be destroyed at any point. Keeping autopsy photos as public records ensures that happenstance could not occur.

## **PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

See, Significant Issues above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

See, Significant Issues above.

## **TECHNICAL ISSUES**

See, Significant Issues above.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

See, Significant Issues above. To meet the desired outcome of this bill, perhaps creating an IPRA exception for autopsy photographs meets the desired outcome of this bill.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**