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HOUSE BILL 497

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

INTRODUCED BY

Cathrynn N. Brown

AN ACT

RELATING TO PUBLIC RECORDS; REVISING THE INSPECTION OF PUBLIC RECORDS ACT; PROVIDING EXEMPTIONS FROM INSPECTION; REVISING DEADLINES; DESIGNATING ADDITIONAL RECORDS AS LAW ENFORCEMENT RECORDS; PROVIDING ADDITIONAL DEFINITIONS; REVISING THE PROCEDURES FOR REQUESTING AND DENYING REQUESTS FOR PUBLIC RECORDS; REVISING PROVISIONS RELATED TO ENFORCEMENT.

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

SECTION 1. Section 14-2-1 NMSA 1978 (being Laws 1947, Chapter 130, Section 1, as amended) is amended to read:

"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.--
Every person has a right to inspect public records of this state except:

A. ~~[records pertaining to physical or mental examinations and medical treatment of persons confined to an~~

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1 ~~institution]~~ medical records;

2 B. letters of reference concerning employment,
3 licensing, ~~[or]~~ permits or procurement;

4 C. letters or memoranda that are matters of opinion
5 in personnel files or students' cumulative files, including the
6 reports, notes and evidence generated by internal
7 investigations of personnel or students;

8 D. portions of law enforcement records as provided
9 in Section 14-2-1.2 NMSA 1978;

10 E. as provided by the Confidential Materials Act;

11 F. trade secrets;

12 G. attorney-client privileged information;

13 H. long-range or strategic business plans of public
14 hospitals discussed in a properly closed meeting;

15 I. tactical response plans or procedures prepared
16 for or by the state or a political subdivision of the state,
17 the publication of which could reveal specific vulnerabilities,
18 risk assessments or tactical emergency security procedures that
19 could be used to facilitate the planning or execution of a
20 terrorist attack;

21 J. information concerning information technology
22 systems, the publication of which would reveal specific
23 vulnerabilities that compromise or allow unlawful access to
24 such systems; provided that this subsection shall not be used
25 to restrict requests for:

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

3 (2) internal and external audits of
4 information technology systems, except for those portions that
5 would reveal ongoing vulnerabilities that compromise or allow
6 unlawful access to such systems; or

7 (3) information to authenticate or validate
8 records received pursuant to a request fulfilled pursuant to
9 the Inspection of Public Records Act;

10 K. submissions in response to a competitive grant,
11 land lease or scholarship and related scoring materials and
12 evaluation reports until finalists are publicly named or the
13 award is announced; ~~and~~

14 L. a person's personal email address or personal
15 telephone number that is provided to a public body for the
16 purpose of communications with the public body or in connection
17 with the person's application for a permit or license;
18 provided, however, that the person's identity shall not be
19 withheld;

20 M. security system records of a public body's
21 facility, the disclosure of which would reveal information that
22 could be used to plan or execute an attack on a public facility
23 or a person;

24 N. records that relate to cybersecurity information
25 or critical infrastructure, the disclosure of which could

1 expose the related systems to vulnerabilities or could
2 jeopardize the safety of critical infrastructure systems;

3 O. a public body's security system plan and records
4 regarding: disaster mitigation, preparation, response,
5 vulnerability or recovery; and cybersecurity planning or threat
6 mitigation;

7 P. security codes, passwords and lock combinations
8 or plans used to protect a public body's electronic information
9 or to prevent improper access to the public body's computers,
10 computer systems and computer and telecommunications networks;

11 Q. when a public body seeks to acquire real
12 property by purchase or through the exercise of the power of
13 eminent domain, all appraisals and reports relating to value,
14 offers and counteroffers on the real property until a valid
15 option contract has been executed or a written offer to sell
16 has been conditionally accepted by the public body, at which
17 time this exception to inspection shall expire;

18 R. records submitted to a public body by a bidder
19 on a public contract that relate to the financial stability of
20 the bidder, including tax returns, financial statements and
21 bank statements;

22 S. before a contract is awarded, materials
23 submitted in response to a sealed bidding or request for
24 proposals issued by a public body;

25 T. customer records for utility services provided

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1 by a public body, including the customer's billing statements,
2 records of consumption or usage, payment information or methods
3 and the contents of any customer communications made in
4 connection with the customer's utility services;

5 U. 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 of a
8 protected adult as defined in Section 27-7-16 NMSA 1978;

9 V. records concerning an individual applicant for
10 or recipient of unemployment insurance or economic assistance
11 or support, including applications, income or eligibility
12 verification, assessments and other personal medical or
13 financial data related to the insurance, assistance or support;

14 W. with respect to a request for records received
15 from a person who has been convicted of an indictable offense
16 under the laws of this state, another state or the United
17 States and that relates to the victim of the offense for which
18 the person was convicted, personal information pertaining to
19 the crime victim or the victim's family, including the victim's
20 home address, home telephone number, personal telephone number,
21 work or school address and telephone number, social security
22 number, medical history or any other identifying information;
23 and

24 ~~[E.]~~ X. as otherwise provided by law."

25 SECTION 2. Section 14-2-1.2 NMSA 1978 (being Laws 2023,

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1 Chapter 67, Section 3) is amended to read:

2 "14-2-1.2. LAW ENFORCEMENT RECORDS.--

3 A. Law enforcement records are public records,
4 except as provided by law and this ~~[subsection, and provided~~
5 ~~that the presence of nonpublic information may be redacted from~~
6 ~~a written record or digitally obscured in a visual or audio~~
7 ~~record, including: (1) before charges are filed]~~ section.

8 B. If a law enforcement agency becomes aware of a
9 crime to which a request for law enforcement records relates,
10 the time for responding to that request for law enforcement
11 records is tolled for forty-five days immediately following the
12 day on which the law enforcement agency becomes aware of the
13 crime.

14 C. Exempt from inspection are the names, addresses,
15 contact information, [ø] protected personal identifier
16 information, and other identifying information of individuals
17 who are victims of or non-law-enforcement witnesses to an
18 alleged crime of:

19 ~~[(a)]~~ (1) assault with intent to commit a
20 violent felony pursuant to Section 30-3-3 NMSA 1978 when the
21 violent felony is criminal sexual penetration;

22 ~~[(b)]~~ (2) assault against a household member
23 with intent to commit a violent felony pursuant to Section
24 30-3-14 NMSA 1978 when the violent felony is criminal sexual
25 penetration;

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1 [~~e~~] (3) stalking pursuant to Section 30-3A-3
2 NMSA 1978;

3 [~~d~~] (4) aggravated stalking pursuant to
4 Section 30-3A-3.1 NMSA 1978;

5 [~~e~~] (5) criminal sexual penetration pursuant
6 to Section 30-9-11 NMSA 1978;

7 [~~f~~] (6) criminal sexual contact pursuant to
8 Section 30-9-12 NMSA 1978; [~~or~~

9 ~~(g)~~ (7) sexual exploitation of children
10 pursuant to Section 30-6A-3 NMSA 1978;

11 (8) kidnapping pursuant to Section 30-4-1 NMSA
12 1978;

13 (9) abandonment of a child pursuant to Section
14 30-6-1 NMSA 1978;

15 (10) abuse of a child pursuant to Section
16 30-6-1 NMSA 1978;

17 (11) abandonment of a dependent pursuant to
18 Section 30-6-2 NMSA 1978;

19 (12) enticement of child pursuant to Section
20 30-9-1 NMSA 1978;

21 (13) voyeurism pursuant to Section 30-9-20
22 NMSA 1978;

23 (14) incest pursuant to Section 30-10-3 NMSA
24 1978;

25 (15) child solicitation by electronic

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1 communication device pursuant to Section 30-37-3.2 NMSA 1978;

2 (16) criminal sexual communication with a
3 child pursuant to Section 30-37-3.3 NMSA 1978;

4 (17) unauthorized distribution of sensitive
5 images pursuant to Section 30-37A-1 NMSA 1978;

6 (18) abuse pursuant to the Resident Abuse and
7 Neglect Act; and

8 (19) human trafficking pursuant to Section
9 30-52-1 NMSA 1978.

10 [~~2~~] D. Before charges are filed, exempt from
11 inspection are names, addresses, contact information or
12 protected personal identifier information of individuals who
13 are accused but not charged with a crime.

14 [~~3~~] E. Exempt from inspection are the name,
15 address, contact information, protected personal identifier
16 information and other identifying information of a juvenile and
17 of the juvenile's parent or guardian, when the juvenile is a
18 victim of or witness to a crime or an alleged crime.

19 F. Any information that would identify or provide a
20 means of identifying a confidential informant of a law
21 enforcement officer or prosecutor, if the identity of the
22 informant is not otherwise publicly known, is exempt from
23 inspection.

24 G. The work schedule of an employee of a law
25 enforcement agency or correctional facility is exempt from

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1 inspection.

2 H. Records and other information that would reveal
3 the identity or endanger the life or safety of an undercover
4 law enforcement officer are exempt from inspection.

5 I. Audio recordings, video recordings and images
6 taken with a law enforcement officer's body-worn camera or
7 similar device, if the recordings or images are taken in a
8 private place, are exempt from inspection, except for
9 recordings, images or records that:

10 (1) depict the commission of an alleged crime;

11 (2) record an encounter between a law
12 enforcement officer and a person that results in the death or
13 bodily injury of a person, or includes or captures a law
14 enforcement officer firing or discharging a weapon; or

15 (3) record an encounter that is the subject of
16 a current legal proceeding against a law enforcement officer or
17 law enforcement agency.

18 J. Visual depiction of a dead body, unless a law
19 enforcement officer, acting in that capacity, caused or is
20 reasonably alleged or suspected to have caused the death is
21 exempt from inspection.

22 [~~4~~] K. Visual depiction of great bodily harm, as
23 defined in Section 30-1-12 NMSA 1978, or acts of severe
24 violence resulting in great bodily harm, unless a law
25 enforcement officer, acting in that capacity, caused or is

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1 reasonably alleged or suspected to have caused the great bodily
2 harm or act of severe violence is exempt from inspection.

3 [~~(5)~~] L. Visual depiction of an individual's
4 intimate body parts, including the genitals, pubic area, anus
5 or postpubescent female nipple, whether nude or visible through
6 less than opaque clothing is exempt from inspection.

7 [~~(6)~~] M. Visual or audio depiction of the
8 notification to a member of the public of a family member's
9 death is exempt from inspection.

10 [~~(7)~~] N. Confidential sources, methods or
11 information are exempt from inspection. [~~or~~

12 ~~(8)~~] O. Exempt from inspection are records
13 pertaining to physical or mental examination and medical
14 treatment of persons unless the information could be relevant
15 to a criminal investigation or an investigation of misfeasance,
16 malfeasance or other suspected violation of law conducted by a
17 person elected to or employed by a public body.

18 [~~B-~~] P. A request for release of video or audio
19 shall specify at least one of the following:

20 (1) the computer-aided dispatch record number;
21 (2) the police report number;
22 (3) the date or date range with reasonable
23 specificity and at least one of the following:

24 (a) the name of a law enforcement
25 officer or first responder;

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- 1 (b) the approximate time; or
2 (c) the approximate location; or
3 (4) other criteria established and published
4 by a law enforcement agency to facilitate access to videos.

5 ~~[G.]~~ Q. Except for confidential sources, methods or
6 information, a request to view video or hear audio on-site of a
7 public body is not subject to the restrictions in Subsections A
8 and B of this section. Any recording or copying of video or
9 audio from such viewing or listening is subject to the
10 restrictions in this section.

11 ~~[D.]~~ R. As used in this section, "law enforcement
12 records" includes evidence in any form received or compiled in
13 connection with a criminal investigation or prosecution by a
14 law enforcement or prosecuting agency, including inactive
15 matters or closed investigations to the extent that they
16 contain the information listed in this subsection; provided
17 that the presence of such information on a law enforcement
18 record does not exempt the record from inspection.]"

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

21 "14-2-6. DEFINITIONS.--As used in the Inspection of
22 Public Records Act:

23 A. "broad or burdensome" means a request that
24 requires a public body to spend more than three hours to locate
25 the public record and redact information exempt from

1 inspection;

2 B. "critical infrastructure" means public
3 buildings; systems, including telecommunications centers and
4 computers; power generation plants, dams, bridges and similar
5 resources; systems related to utility services, fuel supply,
6 energy, hazardous liquid, natural gas or coal, whether physical
7 or virtual; such that the incapacity or destruction of the
8 infrastructure would have a debilitating impact on security,
9 economic security, public health or safety;

10 C. "current records" means public records that were
11 created or received by a public body within the twelve months
12 preceding receipt of a request to inspect the records, but does
13 not include archival records;

14 ~~[A.]~~ D. "custodian" means any person responsible
15 for the maintenance, care or keeping of a public body's public
16 records, regardless of whether the records are in that person's
17 actual physical custody and control;

18 E. "cybersecurity information" means information
19 related to acts, practices or systems that eliminate or reduce
20 the risk of loss of critical assets, loss of sensitive
21 information or reputational harm as a result of a cyber attack
22 or breach within an organization's network;

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

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1 G. "good faith" means:

2 (1) when conducting a search in response to a
3 request for inspection, making reasonable efforts to determine
4 from a public body's officials or employees whether a requested
5 record exists and, if it does, how the record can be inspected;
6 and

7 (2) when denying inspection, reasonably
8 relying on statutes, decisions of a court, advice of counsel,
9 guidance issued by the attorney general and public policy;

10 [~~G.~~] H. "information technology systems" means
11 computer hardware, storage media, networking equipment,
12 physical devices, infrastructure, processes and code, firmware,
13 software and ancillary products and services, including:

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

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1 ~~[D-]~~ I. "inspect" means to review all public
2 records that are not excluded in Section 14-2-1 NMSA 1978 or as
3 otherwise provided by law;

4 J. "law enforcement records" means evidence, in any
5 form, received or compiled in connection with a criminal
6 investigation or prosecution by a law enforcement or
7 prosecuting agency, including inactive matters or closed
8 investigations to the extent that the records contain the
9 information described in Section 14-2-1.2 NMSA 1978; provided,
10 however, that the presence of such information on a law
11 enforcement record does not exempt the record from inspection;

12 K. "medical records" means any information, whether
13 oral or recorded in any form or medium, related to the past,
14 present or future physical or mental health or condition of an
15 individual; the provision of health care to an individual; or
16 past, present or future payment for the provision of health
17 care to an individual;

18 ~~[E-]~~ L. "person" means any individual, corporation,
19 partnership, firm, association, ~~[or]~~ entity or public body
20 domiciled in New Mexico, but does not include an individual
21 incarcerated in a correctional facility;

22 M. "private place" means the interior of a
23 residence, the interior of a facility that offers health care,
24 or social services or another interior place that is not open
25 to members of the public and inside of which a person has a

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1 reasonable expectation of privacy;

2 [F.] N. "protected personal identifier information"

3 means:

4 [~~(1)~~] ~~all but the last four digits of a:~~

5 ~~(a)~~] (1) a taxpayer identification number;

6 [~~(b)~~] (2) a financial account number;

7 [~~(c)~~] (3) a credit or debit card number; [~~or~~

8 ~~(d)~~] (4) a driver's license number;

9 [~~(2)~~ ~~all but the year of~~] (5) a person's date

10 of birth;

11 [~~(3)~~] (6) a social security number; and

12 [~~(4)~~] (7) with regard to a nonelected employee

13 of a public body in the context of the person's employment:

14 (a) the employee's nonbusiness home
15 street address [~~but not the city, state or zip code~~];

16 (b) the employee's home telephone number
17 or personal cellular phone number;

18 (c) the employee's personal email
19 address;

20 (d) the employee's payroll deduction
21 information; and

22 (e) the name, address, telephone number
23 and contact information of any dependent or emergency contact
24 of the employee;

25 [G.] O. "public body" means the executive,

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

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

14 Q. "reasonable denial", with respect to a denied
15 request to inspect public records, is one that provides:

16 (1) a reason supported by the Inspection of
17 Public Records Act; another state, federal, or local law or
18 rule; or a ruling or decision of a court or a court order to
19 justify why a record is exempt from inspection, regardless of
20 whether a precise legal citation is provided; or

21 (2) a reasonable justification, based on a
22 public policy, for refusing to release the records;

23 R. "reasonable particularity" does not include a
24 request that seeks records by identifying search terms or
25 parameters that a public body does not use to index, organize,

1 file or record its records or that cannot be used to search
2 those records, but does mean to identify specific records by:

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

5 (a) the record title or subject line;

6 (b) the author; or

7 (c) the applicable date or date range,
8 with reasonable specificity; or

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

11 (a) the computer-aided dispatch record
12 number;

13 (b) the police report number; or

14 (c) the applicable date or date range
15 with reasonable specificity and at least one of the following:

16 1) the name of a law enforcement officer or first responder; 2)

17 the approximate time or the approximate location; or 3) other

18 criteria established and published by a public body to

19 facilitate access to videos;

20 [F.] S. "trade secret" means trade secret as
21 defined in Subsection D of Section 57-3A-2 NMSA 1978; and

22 T. "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 or 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 4. Section 14-2-8 NMSA 1978 (being Laws 1993,
5 Chapter 258, Section 5, as amended) is amended to read:

6 "14-2-8. PROCEDURE FOR REQUESTING RECORDS.--

7 A. Any person wishing to inspect public records
8 [may] shall submit [an oral or] a written request to the
9 custodian. [However, the procedures set forth in this section
10 shall be in response to a written request.] The failure to
11 respond to an oral request shall not subject the custodian to
12 any penalty.

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

19 ~~[B.]~~ C. Nothing in the Inspection of Public Records
20 Act shall be construed to require a public body to:

- 21 (1) create or maintain a public record;
22 (2) compile, format, manipulate, package,
23 summarize or tailor information in response to a request;
24 (3) provide a record in a particular format or
25 medium not currently maintained by the public body;

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1 (4) provide a record that is included in a
2 report or document that is printed or published, including a
3 document that is available on the internet; or

4 (5) answer questions, conduct research,
5 provide advice or issue legal opinions.

6 [~~G.~~] D. A [~~written~~] request shall provide the
7 actual name, mailing address, [~~and~~] telephone number and email
8 address of the person seeking access to the records [~~and~~].

9 Anonymous or pseudonymous requests shall not be submitted and a
10 public body shall not be required to respond to such requests.

11 If a request is made by an agent for another person, the agent
12 shall disclose the name of the person on whose behalf the agent
13 is acting.

14 E. A request shall identify the records sought with
15 reasonable particularity.

16 F. No person requesting records shall be required
17 to state the reason for inspecting the records.

18 [~~D.~~] G. A custodian receiving a written request
19 shall permit the inspection immediately or as soon as is
20 practicable under the circumstances, but not later than
21 [~~fifteen~~] twenty-one business days after receiving a written
22 request in the case of current records or sixty business days
23 in the case of records that are not current records or are
24 audio or visual records. If the inspection is not permitted
25 within three business days, the custodian shall explain in

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1 writing when the records will be available for inspection or
2 when the public body will respond to the request. The three-
3 day period shall not begin until the written request is
4 delivered to the office of the custodian. A request submitted
5 outside of the public body's business hours shall be considered
6 submitted during the business day following submission of the
7 request, for purposes of calculating deadlines.

8 [E.] H. In the event that a written request is not
9 made to the custodian having possession of or responsibility
10 for the public records requested, the person receiving the
11 request shall promptly forward the request to the custodian of
12 the requested public records, if known, and notify the
13 requester. The notification to the requester shall state the
14 reason for the absence of the records from that person's
15 custody or control, the records' location and the name and
16 address of the custodian.

17 [F.] I. For the purposes of this section, "written
18 request" includes an electronic communication, including email
19 or facsimile or a communication using an internet process that
20 is provided by the public body; provided that the request
21 complies with the requirements of Subsection [G] D of this
22 section.

23 J. A public body may ask a requester to clarify a
24 request.

25 K. A public body may discuss with a requester of a

1 large volume of records how the scope of a request may be
2 narrowed.

3 L. With regard to electronic records:

4 (1) nothing in this section requires a public
5 body to attempt to recover or restore deleted or overwritten
6 records; and

7 (2) nothing in this section requires a public
8 body to provide inspection of browser histories, caches,
9 cookies, file metadata, system logs, login histories or
10 internet protocol addresses of visitors to the public body's
11 websites.

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

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

20 "14-2-9. PROCEDURE FOR INSPECTION.--

21 A. Requested public records containing information
22 that is exempt and nonexempt from disclosure shall be separated
23 by the custodian prior to inspection, and the nonexempt
24 information shall be made available for inspection. If
25 necessary to preserve the integrity of computer data or the

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1 confidentiality of exempt information contained in a database,
2 a partial printout of data containing public records or
3 information may be furnished in lieu of an entire database.
4 Exempt information in an electronic document shall be removed
5 along with the corresponding metadata prior to disclosure by
6 utilizing methods or redaction tools that prevent the recovery
7 of exempt information from a redacted electronic document.

8 B. A custodian shall provide a copy of a public
9 record in electronic format if the public record is available
10 in electronic format and an electronic copy is specifically
11 requested. However, a custodian is only required to provide
12 the electronic record in the file format in which it exists at
13 the time of the request.

14 C. A custodian:

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

18 (2) shall not charge fees in excess of [~~one~~
19 ~~dollar (\$1.00)] two dollars (\$2.00) per printed page for
20 documents eleven inches by seventeen inches in size or smaller;~~

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

25 (4) may charge the actual costs associated

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1 with transmitting copies of public records by mail, electronic
2 mail or facsimile;

3 (5) may charge a fee not exceeding thirty
4 dollars (\$30.00) per hour per request, excluding the initial
5 three hours, for the time required to locate and redact
6 records;

7 (6) may, if a person makes five or more
8 requests within a forty-five-day period, treat the requests as
9 one request in computing the time for labor charges;

10 ~~[(5)]~~ (7) may require advance payment of the
11 fees before searching for, redacting or making copies of public
12 records;

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

16 (8) may allow a person to use the person's own
17 personal devices for duplication of records and shall establish
18 reasonable procedures to protect the integrity of the records;
19 provided that the procedures are not used to prevent access to
20 the records;

21 (9) may decline to provide an opportunity to
22 inspect a record to a person who has already inspected that
23 same record; and

24 ~~[(7)]~~ (10) shall provide a receipt, upon
25 request.

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

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

9 "14-2-11. PROCEDURE FOR DENIED REQUESTS.--

10 A. Unless a written request has been determined to
11 be excessively burdensome or broad, a written request for
12 inspection of public records that has not been ~~[permitted]~~
13 acted upon within [fifteen] twenty-one business days of receipt
14 by the office of the custodian may be deemed denied. The
15 person requesting the public records may pursue the remedies
16 provided in the Inspection of Public Records Act after
17 providing the public body from which the public record was
18 requested with written notice of the claimed violation. Once
19 the public body has received the written notice, the public
20 body shall have twenty-one calendar days to respond to the
21 written notice and twenty-one calendar days to remedy the
22 violation. After the two twenty-one-calendar-day periods have
23 elapsed, the public body shall be subject to enforcement as
24 provided in Section 14-2-12 NMSA 1978.

25 B. If a written request has been denied, the

underscoring material = new
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1 custodian shall provide the requester with a written
2 explanation of the denial. The written denial shall:

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

9 C. A custodian who does not deliver or mail a
10 written explanation of denial within [~~fifteen~~] twenty-one
11 business days after receipt of a written request for inspection
12 is subject to an action to enforce the provisions of the
13 Inspection of Public Records Act and the requester may be
14 awarded damages. Damages [~~shall~~] may:

- 15 (1) be awarded if the failure to provide a
16 timely explanation of denial is determined to be unreasonable;
17 (2) be awarded in an amount that does not
18 exceed one hundred dollars (\$100) per business day; and
19 (3) accrue from the twenty-first business day
20 following the day the public body [~~is in noncompliance~~]
21 received the written notice of a claimed violation until a
22 written denial is issued [~~and~~]
23 (4) ~~be payable from the funds of the public~~
24 ~~body]."~~

25 SECTION 7. Section 14-2-12 NMSA 1978 (being Laws 1993,

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1 Chapter 258, Section 9) is amended to read:

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

3 A. After a public body has received written notice
4 of a claimed violation of the Inspection of Public Records Act
5 and has failed to respond within twenty-one business days, an
6 action to enforce the Inspection of Public Records Act may be
7 brought by:

8 (1) the attorney general or the district
9 attorney in the county of jurisdiction; or

10 (2) a person whose written request has been
11 denied.

12 B. Actions to enforce the Inspection of Public
13 Records Act shall be brought exclusively against the public
14 body in the district court in the county where the public body
15 maintains its principal office. No records custodian or other
16 employee or official of the public body may be named as a
17 defendant.

18 C. Any public body named in an action filed
19 pursuant to the Inspection of Public Records Act shall be held
20 liable for conduct of individuals acting on behalf of, under
21 color of or within the course and scope of the authority of the
22 public body.

23 D. Actions to enforce the Inspection of Public
24 Records Act shall be exclusively brought as a civil action and
25 proceed under the rules of court for civil complaints. The

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1 district court shall not issue peremptory writs of mandamus or
2 alternate writs of mandamus under Section 44-2-7 NMSA 1978.

3 ~~[B.]~~ E. A district court may issue a writ of
4 mandamus or order an injunction or other appropriate remedy to
5 enforce the provisions of the Inspection of Public Records Act,
6 ~~[C.—The]~~ but only after:

7 (1) the public body has been served with a
8 summons and a complaint;

9 (2) the public body has given due process in
10 accordance with the rules of civil procedure; and

11 (3) the court has found that the public body
12 failed to produce records in violation of that act.

13 F. Except for the written notice of a claimed
14 violation as provided in Section 14-2-11 NMSA 1978, exhaustion
15 of administrative remedies shall not be required prior to
16 bringing any action to enforce the procedures of the Inspection
17 of Public Records Act.

18 ~~[D.]~~ G. The court ~~[shall]~~ may award damages, costs
19 ~~[and]~~ or reasonable ~~[attorneys']~~ attorney fees to any person
20 whose written request has been denied and who is successful in
21 a court action to enforce the provisions of the Inspection of
22 Public Records Act, but only in cases where the public body did
23 not act in good faith or failed to provide a reasonable
24 denial."