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SENATE BILL 219

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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:

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

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

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

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

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