

HOUSE BILL 232

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC RECORDS; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT TO EXCEPT FROM DISCLOSURE INFORMATION THAT COULD BE USED TO COMPROMISE CRITICAL INFRASTRUCTURE OR INFORMATION TECHNOLOGY SYSTEMS; PROVIDING DEFINITIONS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 14-2-1 NMSA 1978 (being Laws 1947,

.224202.2AIC February 13, 2023 (10:32am)

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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 institution;
- B. letters of reference concerning employment, licensing or permits;
- C. letters or memoranda that are matters of opinion in personnel files or students' cumulative files;

D. portions of law enforcement records that reveal:

- (1) confidential sources, methods or information; or
- (2) before charges are filed, names, address, contact information or protected personal identifier information [~~as defined in this act~~] of individuals who are:

- (a) accused but not charged with a crime; or
- (b) victims of or non-law-enforcement witnesses to an alleged crime of: 1) assault with intent to commit a violent felony pursuant to Section 30-3-3 NMSA 1978 when the violent felony is criminal sexual penetration; 2) assault against a household member with intent to commit a violent felony pursuant to Section 30-3-14 NMSA 1978 when the

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violent felony is criminal sexual penetration; 3) stalking pursuant to Section 30-3A-3 NMSA 1978; 4) aggravated stalking pursuant to Section 30-3A-3.1 NMSA 1978; 5) criminal sexual penetration pursuant to Section 30-9-11 NMSA 1978; or 6) criminal sexual contact pursuant to Section 30-9-12 NMSA 1978.

Law enforcement records include evidence in any form received or compiled in connection with a criminal investigation or prosecution by a law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed in this subsection; provided that the presence of such information on a law enforcement record does not exempt the record from inspection;

E. as provided by the Confidential Materials Act;

F. trade secrets, attorney-client privileged information and long-range or strategic business plans of public hospitals discussed in a properly closed meeting;

G. tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack; [~~and~~]

H. information concerning critical infrastructure or information technology systems, the publication of which

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could reveal specific risk assessments, security procedures or vulnerabilities that could be used to unlawfully access or compromise such systems; and

[H.] I. as otherwise provided by law."

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

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

A. "critical infrastructure" means infrastructure or durable equipment that is required for the public health, safety or welfare of individuals or communities and includes dams, transportation infrastructure and infrastructure essential to the delivery of utility services;

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

[B.] C. "file format" means the internal structure of an electronic file that defines the way it is stored and used;

HCPAC→D. "information technology" means computers, storage, networking, services and processes used to create, exchange, process, secure and store electronic data;←HCPAC

[G.] HCPAC→D.←HCPAC HCPAC→E.←HCPAC "inspect" means to review all public records that are not excluded in

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Section 14-2-1 NMSA 1978;

[D-] HCPAC→E.←HCPAC HCPAC→F.←HCPAC "person" means any individual, corporation, partnership, firm, association or entity;

[E-] HCPAC→F.←HCPAC HCPAC→G.←HCPAC "protected personal identifier information" means:

- (1) all but the last four digits of a:
 - (a) taxpayer identification number;
 - (b) financial account number; or
 - (c) driver's license number;
- (2) all but the year of a person's date of birth; and
- (3) a social security number;

[F-] HCPAC→G.←HCPAC HCPAC→H.←HCPAC "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education;

[G-] HCPAC→H.←HCPAC HCPAC→I.←HCPAC "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body

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and relate to public business, whether or not the records are required by law to be created or maintained; and

[H.] HCPAC→I.←HCPAC HCPAC→J.←HCPAC "trade secret" means trade secret as defined in Subsection D of Section 57-3A-2 NMSA 1978."

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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