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AN ACT

RELATING TO GOVERNMENTAL CONDUCT; PROHIBITING DISCLOSURE OF SENSITIVE PERSONAL INFORMATION BY STATE AGENCY EMPLOYEES; PROVIDING EXCEPTIONS; PRESCRIBING PENALTIES.

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

SECTION 1. A new section of Chapter 10 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Nondisclosure of Sensitive Personal Information Act"."

SECTION 2. A new section of Chapter 10 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Nondisclosure of Sensitive Personal Information Act:

A. "sensitive personal information" means an individual's:

(1) status as a recipient of public assistance or as a crime victim;

(2) sexual orientation, gender identity, physical or mental disability, medical condition, immigration status, national origin or religion; and

(3) social security number; and

B. "social security number" includes an individual tax identification number."

1 SECTION 3. A new section of Chapter 10 NMSA 1978 is
2 enacted to read:

3 "SENSITIVE PERSONAL INFORMATION--EXCEPTIONS.--A state
4 agency employee shall not intentionally disclose sensitive
5 personal information acquired by virtue of the employee's
6 position with a state agency to anyone outside the state
7 agency except when such disclosure is:

8 A. necessary to carry out a function of the state
9 agency;

10 B. necessary to comply with an order or subpoena
11 issued by a court of this state or a United States district
12 court;

13 C. required by the Inspection of Public Records
14 Act;

15 D. required by federal statute;

16 E. made to or by a court in the course of a
17 judicial proceeding or made in a court record;

18 F. made to a state contractor that needs the
19 sensitive personal information to perform its obligations
20 under the contract and has agreed in writing to be bound by
21 the same restrictions on disclosure that are imposed on state
22 employees by this section;

23 G. made pursuant to the Whistleblower Protection
24 Act;

25 H. expressly permitted by the federal Health

1 Insurance Portability and Accountability Act of 1996 and
2 associated regulations; or

3 I. made with the written consent of the person
4 whose information would be disclosed."

5 SECTION 4. A new section of Chapter 10 NMSA 1978 is
6 enacted to read:

7 "ENFORCEMENT--PENALTIES.--The attorney general, a
8 district attorney and the state ethics commission may
9 institute a civil action in district court if a violation has
10 occurred or to prevent a violation of the Nondisclosure of
11 Sensitive Personal Information Act. Penalties for a
12 violation of that act shall be a civil penalty of two hundred
13 fifty dollars (\$250) for each violation, but not to exceed
14 five thousand dollars (\$5,000)."

15 SECTION 5. Section 10-16G-9 NMSA 1978 (being Laws 2019,
16 Chapter 86, Section 9) is amended to read:

17 "10-16G-9. COMMISSION JURISDICTION--COMPLIANCE
18 PROVISIONS.--

19 A. The commission has jurisdiction to enforce the
20 applicable civil compliance provisions for public officials,
21 public employees, candidates, persons subject to the Campaign
22 Reporting Act, government contractors, lobbyists and
23 lobbyists' employers of:

24 (1) the Campaign Reporting Act;

25 (2) the Financial Disclosure Act;

- 1 (3) the Gift Act;
- 2 (4) the Lobbyist Regulation Act;
- 3 (5) the Voter Action Act;
- 4 (6) the Governmental Conduct Act;
- 5 (7) the Procurement Code;
- 6 (8) the Nondisclosure of Sensitive Personal
7 Information Act;
- 8 (9) the State Ethics Commission Act; and
- 9 (10) Article 9, Section 14 of the
10 constitution of New Mexico.

11 B. All complaints filed with a public agency
12 regarding the statutes listed in Subsection A of this section
13 shall be forwarded to the commission.

14 C. The commission may choose to act on some or all
15 aspects of a complaint and forward other aspects of a
16 complaint to another state or federal agency with
17 jurisdiction over the matter in accordance with Subsection E
18 of this section.

19 D. If the commission decides not to act on a
20 complaint, whether the complaint was filed with the
21 commission or forwarded from another public agency, or
22 decides only to act on part of a complaint, the commission
23 shall promptly forward the complaint, or any part of a
24 complaint on which it does not wish to act, to the public
25 agency that has appropriate jurisdiction within ten days of

1 the decision. The complainant and respondent shall be
2 notified in writing when the complainant's request has been
3 forwarded to another agency unless otherwise provided
4 pursuant to Subsection H of Section 10-16G-10 NMSA 1978.

5 E. The commission may share jurisdiction with
6 other public agencies having authority to act on a complaint
7 or any aspect of a complaint. Such shared jurisdiction shall
8 be formalized through an agreement entered into by all
9 participating agencies involved with the complaint and the
10 director. The commission may also investigate a complaint
11 referred to the commission by the legislature, or a
12 legislative committee, in accordance with an agreement
13 entered into pursuant to policies of the New Mexico
14 legislative council or rules of the house of representatives
15 or senate.

16 F. The commission may file a court action to
17 enforce the civil compliance provisions of an act listed in
18 Subsection A of this section. The court action shall be
19 filed in the district court in the county where the
20 respondent resides."

21 SECTION 6. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is July 1, 2021. _____