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HOUSE BILL

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING RESTRICTIONS ON THE
DISCLOSURE OF CERTAIN LAW ENFORCEMENT RECORDS RELATED TO A
PERSON WITH A MENTAL ILLNESS; REQUIRING A PUBLIC BODY TO REDACT
CERTAIN INFORMATION IN PUBLIC RECORDS.

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.--

A. Every person has a right to inspect public
records of this state except:

(1) records pertaining to physical or mental
examinations and medical treatment of persons confined to an
institution;

(2) letters of reference concerning

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1 employment, licensing or permits;

2 (3) letters or memoranda that are matters of
3 opinion in personnel files or students' cumulative files;

4 (4) law enforcement records that reveal:

5 (a) confidential law enforcement sources
6 or law enforcement methods;

7 (b) information ~~[or]~~ about individuals
8 accused but not charged with a crime [~~Law enforcement records~~
9 ~~include evidence in any form received or compiled in connection~~
10 ~~with a criminal investigation or prosecution by a law~~
11 ~~enforcement or prosecuting agency, including inactive matters~~
12 ~~or closed investigations to the extent that they contain the~~
13 ~~information listed in this paragraph]; or~~

14 (c) conduct or information about a
15 person with a mental illness;

16 (5) as provided by the Confidential Materials
17 Act;

18 (6) trade secrets, attorney-client privileged
19 information and long-range or strategic business plans of
20 public hospitals discussed in a properly closed meeting;

21 (7) tactical response plans or procedures
22 prepared for or by the state or a political subdivision of the
23 state, the publication of which could reveal specific
24 vulnerabilities, risk assessments or tactical emergency
25 security procedures that could be used to facilitate the

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1 planning or execution of a terrorist attack; [~~and~~]

2 (8) as protected by the Mental Health and
3 Developmental Disabilities Code; and

4 [~~(8)~~] (9) as otherwise provided by law.

5 B. For the purpose of Subsection A of this section,
6 "law enforcement records" includes evidence in any form
7 recorded, received or compiled in connection with a criminal
8 investigation or prosecution by a law enforcement or
9 prosecuting agency, including inactive matters or closed
10 investigations to the extent that they contain the information
11 listed in Paragraph (4) of Subsection A of this section.

12 C. Law enforcement records that include information
13 about or an audio, video or photographic recording of a person
14 with a mental illness shall be disclosed only to the following
15 persons:

16 (1) the person with a mental illness who is
17 the subject of or is included in the information or recording
18 in the records, upon that person's submission of a release of
19 information and records request;

20 (2) an attorney or court-appointed guardian
21 who represents the person with a mental illness who is the
22 subject of or is included in the information or recording in
23 the records, upon the attorney or guardian's submission of a
24 release of information and records request;

25 (3) an attorney who represents a person with

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1 respect to an allegation of a violation of civil rights that
2 relates directly to the records;

3 (4) an attorney who represents a person in a
4 criminal proceeding that relates directly to the records; or

5 (5) any person, pursuant to a court order.

6 D. Law enforcement records released pursuant to
7 Subsection C of this section shall not be publicly disclosed by
8 the recipient of the records except pursuant to a court order.

9 ~~[B-]~~ E. Protected personal identifier information
10 contained in public records ~~[may]~~ shall be redacted by a public
11 body before inspection or copying of a record. The presence of
12 protected personal identifier information on a record does not
13 exempt the record from inspection. Unredacted records that
14 contain protected personal identifier information shall not be
15 made available on publicly accessible ~~[web-sites]~~ websites
16 operated by or managed on behalf of a public body."