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HOUSE BILL 289

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

INTRODUCED BY

Kathleen Cates and Dayan Hochman-Vigil

ENDORSED BY THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO SENTENCING COMMISSION; REVISING THE  
RULES OF DATA COLLECTION.

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

SECTION 1. Section 9-3-10.1 NMSA 1978 (being Laws 1994,  
Chapter 19, Section 2, as amended) is amended to read:

"9-3-10.1. AUTHORITY TO REVIEW RECORDS OR INFORMATION--  
EXCEPTIONS--RULES.--

A. The New Mexico sentencing commission is  
authorized to inspect, copy, receive and review all records,  
data and information in the possession of state, county and  
local government agencies, [~~except records, data or information~~  
~~that:~~

~~(1) is privileged under the rules of evidence;~~

~~(2) compromises or tends to disclose any~~

underscoring material = new  
[bracketed material] = delete

underscoring material = new  
[bracketed material] = delete

1 ~~privileged record or information; or~~

2 ~~(3) consists of reports, memoranda or other~~  
3 ~~internal documents given to or communications made to a~~  
4 ~~prosecutor or defense attorney in connection with the~~  
5 ~~investigation, prosecution or defense of a criminal case]~~  
6 including juvenile records, behavioral health information and  
7 information that is contained on the statewide criminal justice  
8 data-sharing network.

9 B. All records, data and information received or  
10 obtained by the New Mexico sentencing commission shall have the  
11 same status with regard to access or release as when the  
12 records, data or information was in the possession of the  
13 entity from which the commission received it.

14 C. Records, data and information received or  
15 obtained by the New Mexico sentencing commission under this  
16 section may be used for reports on and analysis of the criminal  
17 and juvenile justice system. Public reports that rely on  
18 confidential information shall only use de-identified data so  
19 that the information in the report cannot be used to match a  
20 person with confidential information regarding that person.

21 D. The New Mexico sentencing commission is not  
22 authorized to inspect, copy, receive and review records, data  
23 or information that:

24 (1) is privileged under the rules of evidence;

25 (2) compromises or tends to disclose any

underscoring material = new  
[bracketed material] = delete

1 privileged record or information; or

2 (3) consists of reports, memoranda or other  
3 internal documents given to or communications made to a  
4 prosecutor or defense attorney in connection with the  
5 investigation, prosecution or defense of a criminal case.

6 ~~[B.]~~ E. The New Mexico sentencing commission shall  
7 promulgate rules setting forth procedures for inspecting,  
8 copying, receiving, reviewing and reporting records, data and  
9 information necessary to fulfill its duties. State, county and  
10 local government agencies shall assist the commission in  
11 obtaining the records, data and information necessary to  
12 fulfill the commission's duties. ~~[All records, data and~~  
13 ~~information received or obtained by the commission shall have~~  
14 ~~the same status with regard to access or release as when the~~  
15 ~~records, data or information was in the possession of the~~  
16 ~~entity from which the commission received it.]"~~