

LFC Requester:

Henry Jacobs

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/3/26 **Bill Number:** HB214 **Original** **Amendment** **Substitute**

Short Title: CONSUMER INFORMATION AND DATA PROTECTION ACT

Sponsor: Rep. Linda Serrato

Name and Code Number: HCA 630

Person Writing: Tim Thackaberry

Phone: 505-309-2127 **Email:** timp.thackaberry@hca.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
\$0.0	\$0.0	NA	NA

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
\$0.0	\$0.0	\$0.0	NA	NA

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$0.0	\$0.0	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 214, the proposed Consumer Information and Data Protection Act, establishes a comprehensive framework for consumer data privacy and protection in New Mexico. It creates rights for consumers, duties for businesses, and enforcement mechanisms to safeguard personal and sensitive data. The bill applies to any business operating in New Mexico that processes 35,000 or more consumers' personal data (excluding payment-only data), or that processes 10,000 or more consumers' personal data and gets 20% or more of its revenue from the sale of consumer personal data.

The bill states that a person shall not:

- provide an employee or contractor with access to consumer health data, unless the recipient is under a contractual or statutory duty of confidentiality;
- provide a processor access to consumer health data unless the person and processor comply with Section 9 of the bill which governs the contractual obligations between a controller of data and the processor;
- use a geofence to establish a boundary within 1,750 feet of a mental health facility or reproductive or sexual health facility for the purpose of identifying, tracking, collecting personal data from or sending any notification to a consumer regarding the consumer's health data; or
- sell, or try to sell, consumer health data without consent.

“Consumer health data” is defined as personal data used to identify a consumer’s physical or mental health condition or diagnosis and includes gender-affirming health data and reproductive or sexual health data.

The geofence prohibition, which protects residents from having their data captured when visiting a covered facility, applies to a health care facility at which at least seventy percent of the services provided are mental health services or one at which at least seventy percent of the services or products provided are reproductive or sexual health care.

HB 214 does not apply to state and local government bodies, nonprofits, higher education institutions, HIPAA-covered entities, financial institutions under GLBA, and certain research and employment-related data.

Key provisions of the bill address consumer rights when it comes to the ability to access, correct,

and delete personal data, along with data portability, and the ability to opt-out of targeted advertising, the sale of personal data, and being profiled. Those who control and process consumer data are required to limit data collection to what is necessary, maintain reasonable security measures, provide clear privacy notices, and obtain consent for sensitive data and minors' data. Consumers cannot be discriminated against for exercising any of their rights in the bill.

The bill provides special protection for minors by banning targeted ads, data sale, and certain types of profiling. Parental consent is required to use any consumer data for anyone under 13. The bill also prohibits the use of "dark patterns" in consent mechanisms.

Section 13 aims to protect NM residents' sensitive data in the possession of a federal agency by prohibiting further dissemination without the resident's consent or an act of Congress. It specifically requires a third party in possession of such data to delete it upon request of the resident or the Attorney General. It further provides that a person who receives a request or demand for such sensitive data in possession of a federal agency shall not further disseminate it without the resident's consent or a court order that such disclosure is pursuant to an act of Congress. The Attorney General is empowered to bring a court action for injunctive relief upon reasonable belief that the section has been violated.

The AG may issue civil investigative demands, seek injunctions, and impose penalties up to \$10,000 per violation. The AG can also consider an appeal from a resident if a controller of their data denies a request to enforce the resident's request.

FISCAL IMPLICATIONS

None for HCA

SIGNIFICANT ISSUES

No significant issues

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

No administrative implications for HCA since state governmental entities are specifically excluded from the strictures of the bill.

It should be noted, however, the HCA is already required to comply with the HIPAA security and privacy rules related to Protected Health Information (PHI) and Personally Identifiable Information (PII). This includes, but is not limited to encryption, access controls, automatic log-off, auditing and monitoring, data integrity controls, risk analysis, and physical security. The public-facing HCA Unified Portal (UP) is compliant with accessibility standards and does not process or retain geolocation information. The UP also already has privacy statements, obtains consent, and offers access for customers to their data. HCA already has data processing agreements in the form of Memoranda of Understanding (MOUs) with other agencies and entities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 53 is a bill on a similar subject which, among other differences, applies an “opt-in” approach to protecting consumers’ data as opposed to the approach in HB 214 which requires consumers to be able to “opt-out” of use of their protected data.

TECHNICAL ISSUES

None for HCA

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Private companies who would be subject to the proposed act will not be subject to privacy protections in NM beyond HIPAA.

AMENDMENTS