

LFC Requester:	Jacobs
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 2/6/2025
Bill No: HB 331

Sponsor: Gurrola, Anyanonu, Chavez **Agency Name and Code** Commission of Public Records
Short Title: CRIMINAL RECORD **Number:** 36900
EXPUNGEMENT CHANGES **Person Writing** Matthew Ortiz
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	n/a	
0	0		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	n/a	

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Inspection of Public Records Act, Section 14-2-1 et seq., NMSA 1978 (“IPRA”).

Public Records Act, Section 14-3-1 et seq., NMSA 1978.

Criminal Records Expungement Act, Section 29-3A-1 et seq. NMSA 1978 (“CRE Act”)

10.2.2 NMAC – Expungement of Arrest Records and Related Public Records

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 331 (“bill”) allows for expungement of court records upon acquittal or dismissal of a domestic violence crime with prejudice.

Section 1 amends Section 29-3A-2 NMSA 1978 by defining the criminal offenses that would be considered a ‘domestic violence crime: (1) assault against a household member, (2) aggravated assault against a household member, (3) assault against a household member with intent to commit a violent felony, (4) battery against a household member, (5) aggravated battery against a household member, (6) criminal damage to the property of a household member or deprivation of the property of a household member, and (7) violating an order of protection granted by a court under the Family Violence Protection Act. (statutory citations omitted)

Section 2 amends Section 29-3A-4 NMSA 1978 to provide an exception for expungement of records after one year to be “as provided for in Section 29-3A-10 NMSA 1978”, which is a new section created in Section 4 (see summary below).

Section 3 amends Section 29-3A-7 NMSA 1978 excludes arrest or conviction records for a domestic violence crime from disclosure to any financial institution for or employment.

Section 4 creates a new section, Section 29-3A-10 NMSA 1978, that expunges domestic violence crime records upon acquittal or dismissal with prejudice. The expungement request must be made in writing to the court, at no charge, that entered the acquittal or dismissal with prejudice. After receiving such a request, the court shall order expungement of all public records and arrest records related to underlying domestic violence crime within 30 days from order. Copies of the expungement order shall be delivered to all relevant law enforcement agencies. Those law enforcement agencies are then prohibited from releasing copies of expunged records to any person. Law enforcement agencies are required to notify the court when expungement is complete.

FISCAL IMPLICATIONS

NFI for the agency.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

From a bird's eye view, the prohibition of expunged records for a domestic violence crime raises a question whether this exception conflicts with the original declaration of IPRA public policy in Section 14-2-5 NMSA 1978:

Recognizing that a representative government is dependent upon an informed electorate, the intent of the legislature in enacting the Inspection of Public Records Act is to ensure, and it is declared to be the public policy of this state, that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees. It is the further intent of the legislature, and it is declared to be the public policy of this state, that to provide persons with such information is an essential function of a representative government and an integral part of the routine duties of public officers and employees.

The philosophical, political, and practical arguments in favor of and against these exceptions are beyond the scope and concern for this agency.

Furthermore, the definitions of what constitutes a domestic violence crime is also beyond the expertise of this agency to determine if the categorization is over-broad or too narrow.

Changes to how expungement of domestic violence crime records will necessitate administrative rule changes by the Department of Public Safety, which is required to develop rules and procedures to implement the CRE Act.

PERFORMANCE IMPLICATIONS

See, Significant Issues above. None expected for this agency.

ADMINISTRATIVE IMPLICATIONS

See, Significant Issues above. None expected for this agency.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

See, Significant Issues above.

TECHNICAL ISSUES

See, Significant Issues above.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS