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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 91

SHORT TITLE: Change in Cause of Death Disclosure Exception

SPONSOR: Matthews

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/15/26 **ANALYST:** Gygi

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Attorney General

Department of Public Safety

New Mexico Sentencing Commission

Agency or Agencies That Declined to Respond

Administrative Office of the Courts

SUMMARY

Synopsis of House Bill 91

House Bill 91 (HB91) would amend statute regarding law enforcement records as public records (Section 14-2-1.2 NMSA 1978) to provide that visual or audio depiction of the notification to a member of the public that the cause of death of their family member has been changed may be redacted from public records. The bill allows that the visual or audio depiction of that notification may remain unredacted if permission is given by the person who received the notification.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

There is no appropriation in HB91 and it likely would have no fiscal impact on the agencies submitting analyses, with the possible exception of the Department of Public Safety (DPS),

which may incur administrative costs if the language discussed in “Technical Issues” below is not eliminated:

However, if adopted as presented (with permissions to release) [which is inconsistent with other exceptions in the section], DPS will need to update internal policies, Inspection of Public Records Act (IPRA) procedures, and training materials to reflect the new exemption for recordings documenting changes in cause-of-death notifications. The DPS Office of Legal Affairs (OLA) will be required to review requests and provide recommendations.

SIGNIFICANT ISSUES

HB91 relates to the privacy of records related to criminal investigations that are in the custody of law enforcement agencies, The bill would add to the list of “nonpublic” information that may be redacted from law enforcement records, which otherwise are public records. As the DPS explains:

Exceptions in Section 14-2-1.2 NMSA 1978, protects the dignity and privacy interests of victims and witnesses whose interactions with law enforcement are generally captured by body-worn camera. This includes graphic visual depictions of death, grave bodily injury, and the intimate body parts of victims, witnesses, or bystanders, and notifications to the public of a family member’s death.

The New Mexico Sentencing Commission notes:

The exception proposed by HB91 is very similar to the existing exception for visual or audio depictions of a member of the public being informed of a family member’s death. The exception proposed by HB91 would likely serve the same policy purpose of avoiding the (arguably) unnecessary public disclosure of a likely difficult or painful personal moment for the person receiving the notification.

DPS states HB91 has no administrative implications if the additions are consistent with the existing exceptions in Section 14-2-1.2.

PERFORMANCE IMPLICATIONS

The Attorney General (NMAG) notes confusion regarding implementation:

HB91 would require that the records custodian obtain permission prior to releasing the footage of a change in notification of death. In practice, it is possible custodians may simply decide to withhold those records rather than attempt to seek permission, making that language moot, especially due to the permissive language of Section 14-2-1.2(A), which notes that records *may* be redacted, as opposed to *shall* be redacted.

TECHNICAL ISSUES

NMAG points out:

“Section 14-2-1.1(A) permits, but does not require, the redaction of certain law enforcement records. Requiring permission from members of the public for the proposed exemption when the rest of the language of Section 14-2-1.1(A) is permissive introduces confusion.”

DPS requests striking: “without permission of the person who receives the notification” on page 3, lines 17 and 18. The department explains:

Extending an exception to include notifications involving changes in the cause of death is consistent with Section 14-2-1.2; however, the notable inconsistency is that none of the exceptions under Section 14-2-1.2 permit release solely based on permission from the person in the video. Generally, these types of depictions are void of informational value and that information is available through other formats. Additionally, other mechanisms already exist to access records that are not produced including in-person inspections and valid subpoenas or court orders.

KG/hg/sgs