FISCAL IMPACT REPORT

BILL NUMBER: CS/Senate Bill 40/SJCS

SHORT TITLE: Driver Privacy and Safety Act

SPONSOR: Senate Judiciary Committee

LAST UPDATE: 2/10/2026   **ORIGINAL DATE:** 01/28/2026   **ANALYST:** Sanchez

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	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis of the Original Bill
Law Offices of the Public Defender
Administrative Office of the Courts
Office of the Attorney General

Agency or Agencies That Were Asked for Analysis but did not Respond
Department of Public Safety
Municipal League

Because of the short timeframe between the adoption of this committee substitute and its Senate floor hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated once it is received.

SUMMARY

Synopsis of SJC Substitute for Senate Bill 40

The Senate Judiciary Committee substitute for Senate Bill 40 (SB40) enacts new material titled the Driver Privacy and Safety Act and establishes statutory requirements governing the use of automated license plate readers (ALPRs) in New Mexico. The bill does not amend an existing section of NMSA 1978 but creates standalone provisions that define key terms, including "automated license plate reader," "automated license plate reader information," and "automated license plate reader user," and applies these provisions to law enforcement agencies as well as non-law-enforcement entities that own, operate, or access ALPR systems.

Section 3 of the bill establishes limitations on the sharing and transfer of ALPR information. The bill prohibits an ALPR user from selling, sharing, allowing access to, or transferring ALPR

information if the user has a reasonable belief the information may be used for immigration enforcement, to investigate or prosecute protected healthcare activity, or to identify or impose liability based solely on activities protected by the U.S. Constitution or the Constitution of New Mexico. The section also requires that ALPR information be shared only pursuant to written policies that govern access, permitted uses, and safeguards.

Section 4 requires reporting and transparency related to ALPR use. The bill requires ALPR users to collect and report information on system use, including the number of scans conducted, categories of users with access, identified instances of unauthorized access, subpoenas, and third-party requests for data, and requests from out-of-state entities. The bill directs the Department of Public Safety (DPS) to aggregate this information and make it publicly available annually.

Section 5 provides enforcement mechanisms and penalties. The bill authorizes the attorney general and district attorneys to enforce the act through civil actions and authorizes courts to grant injunctive relief and assess civil penalties for intentional violations. DPS is authorized to enforce compliance by restricting or revoking access to state-managed ALPR systems, and vendors that fail to comply may be subject to corrective action or loss of authorization.

The effective date of this bill is July 1, 2026.

FISCAL IMPLICATIONS

SB40 may result in minimal but non-negligible administrative costs associated with implementation across several agencies. Law enforcement entities that use ALPR systems may incur costs for policy development, employee training, compliance documentation, and reporting infrastructure necessary to meet the bill's annual reporting requirements to DPS. These reporting obligations include disclosing all third-party requests for ALPR data, the accompanying declarations of use, and requests lacking such declarations. Agencies may also need to invest in internal data governance protocols to ensure compliance with the bill's restrictions on access, retention, and data sharing.

The judiciary may experience an increase in caseloads stemming from civil enforcement actions initiated by the attorney general, district attorneys, or private parties seeking injunctive relief or damages for the misuse or unauthorized dissemination of ALPR data. Any growth in civil filings could lead to additional workload for courts, particularly in matters involving constitutional challenges or the adjudication of statutory penalties, which under the bill may amount to the greater of $10 thousand or actual damages per violation. These potential increases in case volume could require additional court resources, although the scale of impact is currently indeterminate.

SB40 may result in operational and compliance costs that agencies would need to absorb within existing resources or request in future fiscal years. Because enforcement authority is assigned to prosecutorial offices and the attorney general, those entities may also face workload increases if the volume of complaints or investigations rises following implementation. Additionally, local law enforcement agencies may face indirect fiscal pressure depending on the number and scope of out-of-state data requests, the cost of technical system upgrades to comply, and legal consultations on the permissible use of ALPR data under the new statutory framework.

SIGNIFICANT ISSUES

SB40 raises several legal and operational considerations for agencies that use ALPR systems. By limiting how ALPR data can be accessed, shared, and used, especially by out-of-state or federal entities, the bill introduces new compliance requirements that may complicate interjurisdictional cooperation. Agencies responding to requests from outside New Mexico would need to obtain written declarations from requestors, confirming that any use of ALPR data complies with state law. This process could delay or reduce data sharing, particularly when legal standards differ across states.

The bill also designates ALPR data as confidential and explicitly excludes it from the definition of a public record under the Inspection of Public Records Act. This change may reduce public transparency around the use of surveillance technologies. While intended to protect individual privacy, the exclusion could raise questions about oversight, particularly among members of the public or civil liberties organizations interested in how law enforcement is using the technology.

SB40's enforcement provisions give both the attorney general and district attorneys authority to bring actions for violations and allow individuals to pursue civil claims. This broad enforcement mechanism could lead to increased litigation, especially in the early stages of implementation, because agencies interpret and adjust to the new requirements. Statutory penalties, the greater of actual damages or $10 thousand per violation, create a strong incentive for compliance but also raise the stakes for missteps.

Agencies using older or vendor-managed ALPR systems may need to update contracts, automate deletion processes, and establish clearer guidelines for when and how data can be retained or purged. These operational shifts may not carry immediate costs but will require time and coordination to execute effectively.

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