

HOUSE BILL 287

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO RISK MANAGEMENT; REQUIRING THE PUBLICATION OF TERMS
OF LEGAL SETTLEMENT AGREEMENTS; PROVIDING FOR LOSS PREVENTION
REVIEW TEAMS; REQUIRING REPORTS.

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

SECTION 1. A new section of the Sunshine Portal
Transparency Act is enacted to read:

"[NEW MATERIAL] PUBLICATION OF LEGAL SETTLEMENT
AGREEMENTS.--State agencies that enter into an agreement to
settle a potential legal or other claim against a state agency
without the assistance of the risk management division of the
general services department shall, within thirty days of
entering into a settlement agreement, provide the terms of the
settlement agreements for publication on the sunshine portal,
in a downloadable format, for free public access, unless the

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1 settlement agreement provides that the settlement is
2 confidential."

3 SECTION 2. Section 15-7-1 NMSA 1978 (being Laws 1977,
4 Chapter 385, Section 4, as amended) is amended to read:

5 "15-7-1. DEFINITIONS.--As used in Chapter 15, Article 7
6 NMSA 1978:

7 A. "board" means the risk management advisory
8 board;

9 B. "director" means the director of the [~~risk~~
10 ~~management~~] division [~~of the general services department~~];

11 C. "division" means the risk management division of
12 the general services department;

13 [~~E.~~] D. "local public body" means all political
14 subdivisions of the state and their agencies, instrumentalities
15 and institutions;

16 [~~D.~~] E. "public employee" means any officer,
17 employee or servant of a governmental entity, including elected
18 or appointed officials, law enforcement officers and persons
19 acting on behalf or in service of a governmental entity in any
20 official capacity, whether with or without compensation, but
21 the term does not include an independent contractor; and

22 [~~E.~~] F. "state" or "state agency" means the state
23 of New Mexico or any of its branches, agencies, departments,
24 boards, instrumentalities or institutions, including regional
25 housing authorities."

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1 SECTION 3. A new section of Chapter 15, Article 7 NMSA
2 1978 is enacted to read:

3 "[NEW MATERIAL] LOSS PREVENTION REVIEW TEAMS--MEMBERSHIP--
4 DUTIES--REPORTING.--

5 A. State agencies shall notify the division
6 immediately upon becoming aware of an individual's death or
7 serious injury or other substantial loss that is alleged or
8 suspected to be caused at least in part by the actions of a
9 state agency.

10 B. In consultation with the division, a state
11 agency shall appoint a loss prevention review team when the
12 occurrence of an individual's death or serious injury or other
13 substantial loss is alleged or suspected to be caused at least
14 in part by the actions of that state agency. The review team
15 shall be appointed within thirty days of a state agency
16 becoming aware of such an occurrence. The division may direct
17 a state agency to conduct a loss prevention review after
18 consultation with that agency as to the purpose, scope,
19 necessary resources and intended outcomes of the review. The
20 division may provide guidance to a state agency conducting a
21 review as requested by that state agency.

22 C. A loss prevention review team shall consist of
23 at least three persons and may include independent consultants,
24 contractors or state employees, but it shall not include a
25 person directly involved in the loss or risk of loss giving

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1 rise to a loss prevention review or a person with testimonial
2 knowledge of the incident to be reviewed. At least one member
3 of the review team shall have expertise relevant to the matter
4 under review, but no more than one-half of the review team
5 members may be employees of the affected state agency.

6 D. The loss prevention review team shall review the
7 death, serious injury or substantial loss and the circumstances
8 surrounding it, evaluate its causes and recommend steps to
9 reduce the risk of such incidents occurring in the future. The
10 review team shall accomplish those tasks by reviewing relevant
11 documents and interviewing persons with relevant knowledge.

12 The review team shall submit a report in writing to the
13 director and the head of the state agency involved in the loss
14 or risk of loss. The report shall include the team's findings,
15 an analysis of the causes, contributing factors and future risk
16 and an exploration of methods that the state agency may use to
17 address and mitigate the risks identified, including changes to
18 policies or procedures, any legislative recommendation
19 necessary to address and carry out the risk treatment
20 strategies identified in the subject report and the manner in
21 which the agency will measure the effectiveness of its changes.
22 The final report shall not disclose the contents of any
23 documents required by law or regulation to be kept private or
24 confidential or that are subject to legal privilege or
25 exemption. The final report shall be completed within six

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1 months of the of the occurrence of the incident resulting in
2 the subject death or serious injury or other substantial loss
3 and shall be transmitted to the director and to head of the
4 involved state agencies.

5 E. A state agency shall provide loss prevention
6 review teams ready access to relevant documents in the agency's
7 possession and ready access to the agency's employees.

8 F. The director may promulgate rules to implement
9 the provisions of this section.

10 G. On or before October 1 of each year, the
11 director shall submit a report to the legislature identifying
12 the loss prevention reviews conducted in the past fiscal year,
13 providing appropriate metrics on effectiveness and efficiency
14 of loss prevention review team programs and summarizing any
15 determinations of trends in incidents, including reductions or
16 increases in the frequency or magnitude of losses and
17 innovative approaches to mitigating the risks identified.

18 H. As used in this section:

19 (1) "serious injury" means an injury that
20 involves a substantial risk of death, protracted and obvious
21 disfigurement or protracted loss or impairment of the function
22 of a bodily member, organ or mental faculty; and

23 (2) "substantial loss" means a loss in a
24 possible amount greater than one hundred thousand dollars
25 (\$100,000)."

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SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.