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FISCAL IMPACT REPORT

ORIGINAL DATE 02/26/13
 LAST UPDATED 03/05/13 HB _____

SPONSOR Morales

SHORT TITLE Domestic Violence Substitute Address SB 577/aSPAC

ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 429

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Office of the Attorney General (AGO)
- Department of Health (DOH)
- Department of Public Safety (DPS)
- Secretary of State (SOS)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee Amendment clarifies that the exception to inspect records under IPRA related to substitute addresses maintained by the SOS includes “all records.” It no longer mentions victims of domestic abuse, or their representatives, who apply for such addresses. The amendment also allow such applicants for a substitute address to apply free of charge, by eliminating the current fee. Lastly, it stipulates that the SOS shall establish qualifications with regard to criminal background checks for employees with access_substitute address records, but no longer requires that such employees “pass” a background check.

Synopsis of Original Bill

Senate Bill 577 proposes to amend the Inspection of Public Records Act (IPRA) by adding an exception to the right to inspect public records. This exception would pertain to any application for a substitute address that has been submitted by or on behalf of a domestic abuse victim, or the

victim's personal representative, to the SOS.

SB 577 also establishes safeguards for protecting such records of applications and provides for establishment of a restricted access qualification system for employees of the SOS by amending Section 40-13-11 (NMSA 1978).

Employees proposed for qualification to restricted access would be subject to a criminal background check by DPS and required to complete forty hours of domestic violence training. SB 577 also provides that the SOS promulgate rules and work with the DPS to implement the procedures necessary to complete the background checks that are provided for.

Under SB 577 the SOS would continue forward mail received on behalf of a victim of domestic abuse to the new mailing address provided on the application.

SB 577 also decreases the application fee for a substitute address from \$75 to \$25 while maintaining language that allows the fee to be waived in the case of an indigent applicant.

FISCAL IMPLICATIONS

AOC indicates that there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. Otherwise, SB 577 carries no fiscal impact.

SIGNIFICANT ISSUES

SOS states that SB 577 clarifies the security procedures to be followed at the SOS's office to maintain the confidentiality of the substitute address files for victims of domestic violence. The agency supports the bill as a statutory clarification of the confidentiality of these types of records maintained under the CAP program.

The current bill protects the request for confidential address but doesn't protect the same information in the voter file. Consequently, the SOS analysis recommends that further amendments are needed protect the security of the participants' confidential information as well as to ensure that CAP participants are not disenfranchised.

The bill could provide that a participant in the CAP, or who has filed for an order of protection pursuant to the provisions of the Family Violence Protection Act, and who has presented a copy of that order from a state or tribal court to a registration officer, shall be flagged in the statewide voter file such that neither the registrant's assigned precinct, polling location nor any portion of the participant's residential or mailing address shall be a matter of public record. Such restricted information should not appear on any publicly obtainable or viewable list, roster or checklist of voters. Such a person should still be able to vote absentee, early or on Election Day (see Amendments, below).

DOH analysis points out that domestic violence affects people from all walks of life. Law enforcement reported 18,740 domestic violence incidents in NM in 2011 with 21,368 victims. Of these victims, 70% were female and 30% were male. According to the Women's Justice Center, when domestic violence victims attempt to leave the relationship, the stalking and violence almost always escalate sharply as the perpetrator attempts to regain control.

Approximately 75% of women who are killed by their batterers are murdered when they attempt to leave or after they have left an abusive relationship. Victims who leave their batterers are at a 75% greater risk of being killed by the batterer than those who stay.

Additionally, DOH analysis states that the Confidential Address Program administered by the SOS helps victims of domestic violence, sexual assault, stalking, and certain other crimes avoid continued abuse after separation by providing the victims anonymity from their abusers. The mailing address of the Secretary of State becomes a legal substitute for the victim's true address on public records.

DOH analysis states that safety plan for victims is important and one aspect of such a plan is to relocate so the former partner/abuser can't find them. The victim then has to change their address, telephone (unpublished) numbers, social security number, get a new bank account, etc. Without the Confidential Address Program, it is difficult for the victim to obtain the listed information above without the abuser's knowledge. This is due to the fact that when victims file a change of address form with financial institutions, the institution will automatically send a confirmation of the new address to the old address.

ADMINISTRATIVE IMPLICATIONS

The Bill requires the Department of Public Safety to work with the Secretary of State's office to implement procedures to complete the background checks.

AMENDMENTS

Suggestions from the SOS would be to amendment to Sections 1-4-5 and 1-4-12 of the Election Code so as to provide that a CAP participant's precinct, residence or mailing address may not be copied or conveyed, in the same way SSN information is protected.

AOC suggests that it might be useful to add a timeframe to Subsection F of 40-13-11 in which the Secretary of State is required to forward the mail within a predetermined number of days so that victims may receive important documents in a timely manner.

CAC/blm