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AN ACT

RELATING TO ELECTIONS; ENACTING THE INTIMATE PARTNER VIOLENCE
SURVIVOR SUFFRAGE ACT; PROVIDING A PROCEDURE FOR PARTICIPANTS
IN THE CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM TO VOTE IN
STATEWIDE AND SPECIAL ELECTIONS.

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

SECTION 1. A new section of the Election Code is
enacted to read:

"SHORT TITLE.--Sections 1 through 9 of this act may be
cited as the "Intimate Partner Violence Survivor Suffrage
Act"."

SECTION 2. A new section of the Election Code is
enacted to read:

"DEFINITIONS.--As used in the Intimate Partner Violence
Survivor Suffrage Act:

A. "administrator" means the person appointed by
the secretary of state to administer the election component
of the confidential substitute address program;

B. "appropriate county clerk" means the county
clerk of the county in which the residential address on a
voter registration certificate is located and includes the
elected official, the county clerk's chief deputy, an
appointed election board and employees or agents of the
county clerk with duties related to the Intimate Partner

1 Violence Survivor Suffrage Act;

2 C. "certification" means the procedure provided by
3 the Confidential Substitute Address Act for a person to be
4 certified as a participant in the confidential substitute
5 address program;

6 D. "confidential substitute address program" means
7 the program administered by the secretary of state pursuant
8 to the Confidential Substitute Address Act;

9 E. "decertification" means the procedure provided
10 by the Confidential Substitute Address Act for a person to be
11 decertified as a participant in the confidential substitute
12 address program;

13 F. "delivery address" means the address where a
14 voter-participant receives mail;

15 G. "election" means a statewide or special
16 election called, conducted and canvassed pursuant to the
17 provisions of the Election Code;

18 H. "participant" means a person certified to
19 participate in the confidential substitute address program
20 pursuant to the procedures of the Confidential Substitute
21 Address Act; and

22 I. "voter-participant" means a participant who is
23 also a voter."

24 SECTION 3. A new section of the Election Code is
25 enacted to read:

1 "ELECTIONS COVERED--AUTOMATIC DELIVERY OF BALLOTS--FORM
2 OF BALLOT AND BALLOT MATERIALS--CONFIDENTIALITY.--

3 A. The procedures in the Intimate Partner Violence
4 Survivor Suffrage Act apply to all elections and operate
5 notwithstanding other provisions of the Election Code or
6 state or local laws related to elections to the contrary.

7 B. Upon a person's certification as a participant,
8 the administrator shall determine whether the participant is
9 a voter. If the participant is not a voter but appears to be
10 a qualified elector, the administrator shall offer the
11 participant the opportunity to register to vote.

12 C. A voter-participant shall vote exclusively by
13 mailed absentee ballot or mailed ballot. In each election in
14 which a voter-participant is eligible to vote, the
15 administrator shall send a mailed absentee ballot or a mailed
16 ballot to the voter-participant without requiring a request
17 or application to receive a ballot.

18 D. The form of the ballot for a voter-participant
19 shall be the same as the ballot provided to all other voters.
20 A voter-participant may vote for all candidates and on all
21 questions as if the voter were casting a ballot in person.

22 E. The form of the ballot materials for
23 voter-participants shall be the same as the ballot materials
24 provided to all other voters, except as required to implement
25 the Intimate Partner Violence Survivor Suffrage Act.

1 F. With regard to communications related to
2 participants and participant records related to voting:

3 (1) any communication between the secretary
4 of state and any county clerk related to the Intimate Partner
5 Violence Survivor Suffrage Act shall be maintained as
6 confidential in accordance with the confidentiality
7 provisions of Subsection A of Section 40-13B-8 NMSA 1978 and
8 shall not be disclosed except as provided by that section;
9 and

10 (2) once a person is decertified, records
11 related to that voter are no longer confidential pursuant to
12 Paragraph (1) of this subsection and may be disclosed in the
13 same manner provided for disclosure of voter information
14 pursuant to the provisions of the Election Code."

15 SECTION 4. A new section of the Election Code is
16 enacted to read:

17 "VOTER RECORDS--CERTIFICATION--DECERTIFICATION--
18 CANCELLATION.--Notwithstanding the provisions of the Voter
19 Records System Act, the secretary of state shall:

20 A. maintain within the state voter registration
21 electronic management system a secured module.
22 Voter-participant registration records shall be maintained in
23 the secured module and shall be accessible only as required
24 by staff designated by the secretary of state.

25 Voter-participant registration records shall not appear in

1 the voter file or the county voter list, be accessible by any
2 county user or be viewable by the public;

3 B. maintain a register of voter-participants,
4 which shall serve as a supplement to the county register for
5 the county in which each voter-participant's voter
6 registration residential address is located. The register
7 maintained by the secretary of state shall be filed in a
8 fire-resistant container;

9 C. upon the determination that a participant is an
10 existing voter, proceed to transfer all voter registration
11 records related to the voter-participant from the voter file
12 to the secured module and shall notify the appropriate county
13 clerk, who shall immediately transfer the voter-participant's
14 voter registration documents from the county register to the
15 secretary of state. Voter registration records related to a
16 voter-participant shall not be maintained in the county
17 register or by the county clerk;

18 D. when a participant executes a new or updated
19 certificate of registration, fulfill the duties of the
20 appropriate county clerk in placing the voter-participant's
21 certificate of registration in the register maintained by the
22 secretary of state and entering the information into the
23 secured module;

24 E. upon decertification of a person who is a
25 voter:

1 (1) transfer the person's voter registration
2 information from the secured module into the voter file; and

3 (2) deliver the certificate of voter
4 registration to the appropriate county clerk for placement in
5 the county register;

6 F. upon the cancellation of a person's voter
7 registration when the person is also decertified as a
8 participant:

9 (1) transfer the canceled voter registration
10 information from the secured module into the voter file; and

11 (2) deliver the certificate of registration
12 and other documents pertaining to the canceled voter
13 registration to the appropriate county clerk for placement in
14 the county register for the retention period; and

15 G. upon the cancellation of a participant's voter
16 registration when the person remains a participant, perform
17 the duties of the county clerk in the cancellation of
18 registration and retention of records; provided that when the
19 person is decertified, the secretary of state shall:

20 (1) transfer the canceled voter registration
21 information from the secured module into the voter file; and

22 (2) if the retention period for voter
23 registration records provided in Section 1-4-32 NMSA 1978 has
24 not expired, deliver the certificate of registration and
25 other documents pertaining to the canceled voter to the

1 appropriate county clerk for placement in the county register
2 for the remainder of the retention period."

3 SECTION 5. A new section of the Election Code is
4 enacted to read:

5 "RANDOM IDENTIFIER AND VERIFICATION CODE.--

6 A. Prior to each election, the administrator shall
7 assign to each voter-participant eligible to vote in that
8 election a random identifier and a verification code for use
9 in that election only.

10 B. In the mailed absentee ballot or mailed ballot
11 process, the random identifier shall be used in place of the
12 voter-participant's required voter identification and the
13 verification code shall be used in place of the
14 voter-participant's signature.

15 C. At the same time a ballot is mailed to a
16 voter-participant, the administrator shall separately send
17 the voter-participant the verification code assigned to the
18 voter-participant for that election, along with instructions
19 to place the verification code where a voter normally
20 provides a signature under the privacy flap of a mailed
21 absentee ballot or mailed ballot."

22 SECTION 6. A new section of the Election Code is
23 enacted to read:

24 "TRANSMISSION OF BALLOTS TO VOTER-PARTICIPANTS.--

25 A. On the thirty-fifth day before an election, on SB 190
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1 behalf of each voter-participant eligible to vote in that
2 election, the administrator shall request from each
3 appropriate county clerk the ballot to be used by each
4 voter-participant registered to vote in that county.

5 B. The request shall not reveal the name or
6 address of the voter-participant. In place of a
7 voter-participant's name and address, the administrator shall
8 provide the appropriate county clerk the random identifier
9 and verification code associated with the voter-participant
10 for that election. The request made pursuant to this section
11 is a record related to voting subject to the disclosure and
12 retention procedures of Section 1-12-69 NMSA 1978.

13 C. No later than thirty-two days before the
14 election, the appropriate county clerk shall transmit to the
15 administrator the ballot for each voter-participant
16 registered to vote in that county.

17 D. Twenty-eight days before the election, the
18 administrator shall mail a ballot and balloting materials to
19 a voter-participant's delivery address, along with a return
20 envelope necessary to return the voted ballot to the
21 appropriate county clerk. The return envelope shall be the
22 same as for all other voters, except that in place of the
23 required voter identification to be written under the privacy
24 flap, the administrator shall provide the random identifier
25 assigned to that voter-participant for that election. The

1 return envelope for the voted ballot shall be postage-paid
2 and the return address shall be the address for the
3 appropriate county clerk.

4 E. When a participant registers to vote or updates
5 a voter registration after the thirty-fifth day before an
6 election but before the deadline to register to vote or to
7 update an existing registration pursuant to Section 1-4-8
8 NMSA 1978, the administrator shall:

9 (1) request from the appropriate county
10 clerk, and the appropriate county clerk shall transmit to the
11 administrator as soon as practicable, a ballot and balloting
12 materials; and

13 (2) send a voter-participant the ballot and
14 balloting materials within twenty-four hours of receipt from
15 the appropriate county clerk.

16 F. When an unvoted ballot is transmitted to the
17 administrator on behalf of a voter-participant, the
18 appropriate county clerk shall note in the ballot register
19 the random identifier in place of the voter-participant's
20 name and the address of the confidential substitute address
21 program in place of the voter-participant's address and shall
22 not note the voter-participant's gender or year of birth."

23 SECTION 7. A new section of the Election Code is
24 enacted to read:

25 "RECEIPT OF VOTED BALLOTS FROM VOTER-PARTICIPANTS.--

1 A. A voted ballot shall be returned by the
2 voter-participant to the appropriate county clerk. A voted
3 ballot from a voter-participant shall be considered timely if
4 it is received no later than the deadline for receiving
5 mailed absentee ballots or mailed ballots pursuant to Section
6 1-6-10 NMSA 1978.

7 B. When a voted ballot is received from a
8 voter-participant, the appropriate county clerk or election
9 board shall compare the random identifier provided by the
10 voter-participant under the privacy flap to the list of
11 random identifiers provided by the administrator for that
12 election. If the random identifier appears in both places,
13 the appropriate county clerk shall verify that the
14 verification code assigned to that random identifier for that
15 election matches the verification code provided by the
16 voter-participant under the privacy flap in lieu of the
17 voter's signature. If the verification code is on the list
18 provided by the administrator for use in that election and
19 matches the random identifier assigned by the administrator
20 to identify the voter-participant, the ballot shall be
21 qualified and processed in the same manner as mailed absentee
22 ballots or mailed ballots received and qualified in that
23 election.

24 C. If either the random identifier or the
25 verification code is missing, or if the random identifier and

1 verification code under the privacy flap do not match, the
2 ballot shall not be qualified and shall be disposed of in the
3 same manner as mailed absentee ballots or mailed ballots
4 received in that election and not qualified.

5 D. Following an election and within the time
6 frames provided in the Election Code, the appropriate county
7 clerk shall provide to the administrator using the random
8 identifier for that election the voter credit information for
9 each voter-participant who voted and the appropriate
10 notations for any voter-participant whose election mail was
11 returned as undeliverable."

12 SECTION 8. A new section of the Election Code is
13 enacted to read:

14 "STATEWIDE ELECTION--STATE CANVASS REPORT.--The
15 secretary of state shall prepare a public report to be
16 included with the state canvass results of each statewide
17 election. The report shall include the total number of
18 statewide:

19 A. participants;
20 B. voter-participants who were sent a ballot;
21 C. voter-participants who returned a ballot; and
22 D. ballots from voter-participants that were
23 qualified and counted."

24 SECTION 9. A new section of the Election Code is
25 enacted to read:

1 "JUDICIAL PROCEEDINGS.--

2 A. In a judicial proceeding related to an
3 election, upon good cause shown and only as is required to
4 complete the judicial proceeding, a judge may permit in-
5 camera inspection of a voter-participant's voter registration
6 information and information related to participation in the
7 confidential substitute address program.

8 B. The administrator shall be notified and joined
9 as an indispensable party on behalf of the confidential
10 substitute address program in a judicial proceeding related
11 to an election whenever a judge considers permitting
12 in-camera inspection of any information related to a
13 voter-participant and before such determination is made.

14 C. In a judicial proceeding related to an election
15 in which the secretary of state is a party in the secretary's
16 capacity as the chief election officer of the state and the
17 administrator is joined as an indispensable party on behalf
18 of the confidential substitute address program, the attorney
19 general shall provide separate representation for the
20 secretary of state and for the administrator.

21 D. Information reviewed in-camera pursuant to this
22 section shall not be admitted into evidence unless the
23 information is the basis for the final judgment by the
24 court."

25 SECTION 10. Section 40-13B-4 NMSA 1978 (being Laws

1 2018, Chapter 40, Section 4) is amended to read:

2 "40-13B-4. SECRETARY OF STATE--DUTIES--SERVICE ON
3 PARTICIPANT.--

4 A. The secretary of state shall:

5 (1) certify applicants whose applications
6 comply with the requirements of the Confidential Substitute
7 Address Act to participate in the confidential substitute
8 address program;

9 (2) upon certification with respect to each
10 participant:

11 (a) issue a confidential substitute
12 address identification card;

13 (b) designate a confidential substitute
14 address that shall be used in place of the participant's
15 residential or delivery address by state and local government
16 agencies;

17 (c) receive mail and deliveries sent to
18 a participant's confidential substitute address and forward
19 the mail and deliveries to the participant's delivery address
20 at no charge to the participant;

21 (d) accept service of process, notice
22 or demand that is required or permitted by law to be served
23 on the participant and immediately forward the process,
24 notice or demand to the participant's delivery address at no
25 charge to the participant; and

1 (e) maintain records of the following
2 that are received and forwarded by the secretary of state:

3 1) a participant's certified and registered mail; and 2) any
4 process, notice or demand that is served on a participant;
5 and

6 (3) administer the provisions of the
7 Intimate Partner Violence Survivor Suffrage Act to ensure
8 that a participant who is eligible to vote in this state is
9 able to be securely registered to vote and to automatically
10 receive a ballot for each election.

11 B. Service made pursuant to the provisions of this
12 section is perfected three days after it is accepted by the
13 secretary of state."

14 SECTION 11. Section 40-13B-5 NMSA 1978 (being Laws
15 2018, Chapter 40, Section 5) is amended to read:

16 "40-13B-5. AGENCIES--USE OF CONFIDENTIAL SUBSTITUTE
17 ADDRESS--PUBLIC RECORDS.--

18 A. A participant shall:

19 (1) contact each agency that requests or
20 uses an address; and

21 (2) provide the agency with a copy of the
22 participant's confidential substitute address identification
23 card.

24 B. Agencies that receive copies of confidential
25 substitute address identification cards submitted pursuant to

1 this section shall use the participant's confidential
2 substitute address for all purposes.

3 C. A school district shall use a participant's
4 confidential substitute address as the participant's address
5 of record and, if necessary, shall verify a student's
6 enrollment eligibility with the secretary of state.

7 D. A county clerk shall transfer all records
8 related to a participant's voter registration to the
9 secretary of state pursuant to the provisions of the Intimate
10 Partner Violence Survivor Suffrage Act.

11 E. A participant's residential or delivery
12 address, telephone number and email address that are
13 maintained by an agency are not public records and shall not
14 be disclosed pursuant to the Inspection of Public Records Act
15 while a person is a participant."

16 SECTION 12. Section 40-13B-8 NMSA 1978 (being Laws
17 2018, Chapter 40, Section 8) is amended to read:

18 "40-13B-8. PARTICIPANT RECORDS--CONFIDENTIALITY--
19 DISCLOSURE PROHIBITED.--

20 A. The secretary of state and an agency shall not
21 disclose the residential address, delivery address, telephone
22 number or email address of a participant unless the
23 information is required to be disclosed pursuant to a court
24 order. A person or agency that receives a participant's
25 residential address, delivery address, telephone number or

1 email address pursuant to a court order shall not in turn
2 disclose that information unless pursuant to a court order or
3 unless the person has been decertified.

4 B. The secretary of state shall maintain the
5 confidentiality of all records relating to an applicant for
6 or participant in the confidential substitute address program
7 while the person is a participant and shall:

8 (1) store all tangible copies of program
9 records in locked equipment;

10 (2) store all electronic copies of program
11 records in a password-protected system;

12 (3) restrict access to all program records
13 to secretary of state staff members who are approved to
14 access the records as provided in this section; and

15 (4) release program records only on a
16 court's order.

17 C. The secretary of state shall establish a system
18 for restricting access to program records to approved staff
19 members. Before being approved and granted access to program
20 records, the staff member shall:

21 (1) submit to a criminal background check
22 performed by the department of public safety;

23 (2) not have a record of a sex offense,
24 felony or a misdemeanor violation related to domestic
25 violence or sexual assault on the results of the person's

1 criminal background check; and

2 (3) complete forty hours of training,
3 including a domestic violence training course provided by the
4 children, youth and families department and sexual assault
5 training provided by the department of health or the crime
6 victims reparation commission or its successor.

7 D. The secretary of state shall appoint a person
8 to be the administrator of the election component of the
9 confidential substitute address program in accordance with
10 the Intimate Partner Violence Survivor Suffrage Act. The
11 administrator shall meet the requirements of Subsection C of
12 this section, and administration of the Intimate Partner
13 Violence Survivor Suffrage Act shall conform to the
14 requirements of Subsections A and B of this section and
15 Subsection E of Section 40-13B-5 NMSA 1978."

16 SECTION 13. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2019. _____

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