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HOUSE BILL 401

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Joseph Cervantes

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT OFFICERS; ELIMINATING THE  
REQUIREMENT THAT LAW ENFORCEMENT OFFICERS BE CITIZENS OF THE  
STATE OF NEW MEXICO; DECLARING AN EMERGENCY.

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

Section 1. Section 4-41-10 NMSA 1978 (being Laws 1891,  
Chapter 63, Section 4, as amended) is amended to read:

"4-41-10. RIGHT TO CARRY ARMS--DEPUTIES--APPOINTMENT  
[QUALIFICATIONS].--All sheriffs shall at all times be  
considered as in the discharge of their duties and be allowed  
to carry arms on their persons. On the appointment of any  
regular or permanent deputy sheriff, it shall be the duty of  
the sheriff to file one notice of the appointment in the office  
of the county clerk of ~~his~~ the sheriff's county and one  
notice of the appointment in the office of the clerk of the

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underscoring material = new  
~~[bracketed material] = delete~~

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1 district court of [~~his~~] that county, and each of [~~his~~] the  
2 sheriff's deputies shall file [~~his~~] an oath of office in the  
3 office of the county clerk. Any sheriff is hereby authorized  
4 at any time to appoint respectable and orderly persons as  
5 special deputies to serve any particular order, writ or process  
6 or when in the opinion of any sheriff the appointment of  
7 special deputies is necessary and required for the purpose of  
8 preserving the peace, and it shall not be necessary to give or  
9 file any notice of such special appointment; however, the  
10 provision authorizing the carrying of concealed arms shall not  
11 apply to such persons. [~~Provided, no person shall be eligible~~  
12 ~~to appointment as a deputy sheriff unless he is a legally~~  
13 ~~qualified voter of the state of New Mexico, and further~~  
14 ~~provided that~~] There shall be no additional fees or per diem  
15 paid by the counties for any additional deputies other than as  
16 provided by law."

17 Section 2. Section 29-1-9 NMSA 1978 (being Laws 1891,  
18 Chapter 60, Section 1, as amended) is amended to read:

19 "29-1-9. APPOINTMENT OF PEACE OFFICERS--~~[CITIZENSHIP]~~  
20 CERTIFICATE OF APPOINTMENT--EXCEPTIONS.--~~[No sheriff of a~~  
21 ~~county, mayor of a city or other person authorized by law to~~  
22 ~~appoint special deputy sheriffs, special constables, marshals,~~  
23 ~~policemen or other peace officers in the state of New Mexico to~~  
24 ~~preserve the public peace and to prevent and quell public~~  
25 ~~disturbances shall appoint as such special deputy sheriff~~

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underscored material = new  
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1 ~~special constable, marshal, policeman or other peace officer~~  
2 ~~any person who shall not be a citizen of the state of New~~  
3 ~~Mexico, and]~~ No person shall assume or exercise the functions,  
4 powers, duties and privileges incident and belonging to the  
5 office of special deputy sheriff [~~special constable~~], marshal,  
6 [~~or~~] policeman or other peace officer without first having  
7 received [~~his~~] an appointment in writing from [~~the lawfully~~  
8 ~~constituted authorities of the state of New Mexico~~] a person  
9 authorized by law to appoint special deputy sheriffs, marshals,  
10 policemen or other peace officers; provided that nothing in  
11 this section shall apply to lawfully appointed United States  
12 marshals or to deputies of [~~any such~~] those marshals or to  
13 railroad peace officers appointed pursuant to Section 63-2-18  
14 NMSA 1978 in the performance of their duties as peace officers.

15 This section shall not apply in times of riot or unusual  
16 disturbance and when so declared by the public proclamation of  
17 the governor of the state."

18 Section 3. EMERGENCY.--It is necessary for the public  
19 peace, health and safety that this act take effect immediately.

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