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SENATE BILL 245

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Daniel A. Ivey-Soto

AN ACT

RELATING TO VICTIMS OF CRIME; ENACTING THE CONFIDENTIAL  
SUBSTITUTE ADDRESS ACT; CREATING THE CONFIDENTIAL SUBSTITUTE  
ADDRESS PROGRAM FOR VICTIMS OF CERTAIN CRIMES; REPEALING  
SECTION 40-13-11 NMSA 1978 (BEING LAWS 2007, CHAPTER 131,  
SECTION 1).

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Confidential Substitute Address Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Confidential Substitute Address Act:

A. "agency" means an agency of the state or of a  
political subdivision of the state;

B. "applicant" means a person who submits an  
application to participate in the confidential substitute

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1 address program;

2 C. "application assistant" means a person who works  
3 or volunteers for a domestic violence or sexual assault program  
4 and who assists in preparing an application for the  
5 confidential substitute address program;

6 D. "confidential substitute address" means an  
7 address designated for a participant by the secretary of state  
8 pursuant to the Confidential Substitute Address Act;

9 E. "delivery address" means the address where an  
10 applicant or a participant receives mail, and it may be the  
11 same as the person's residential address;

12 F. "domestic violence" means "domestic abuse", as  
13 defined in the Family Violence Protection Act;

14 G. "participant" means a person certified to  
15 participate in the confidential substitute address program  
16 pursuant to the Confidential Substitute Address Act;

17 H. "public record" means "public records", as  
18 defined in the Inspection of Public Records Act; and

19 I. "residential address" means the street address  
20 where an applicant or participant resides or will relocate.

21 SECTION 3. [NEW MATERIAL] CONFIDENTIAL SUBSTITUTE ADDRESS  
22 PROGRAM--APPLICATION.--

23 A. The "confidential substitute address program" is  
24 created in the office of the secretary of state to provide a  
25 process by which a victim of domestic violence may protect the

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1 confidentiality of the victim's residential and delivery  
2 addresses in public records.

3 B. An applicant, with the assistance of an  
4 application assistant, shall submit an application to the  
5 secretary of state on a form prescribed by the secretary of  
6 state. The application assistant's signature shall serve as  
7 recommendation that the applicant participate in the  
8 confidential substitute address program.

9 C. An application shall be signed and dated by the  
10 applicant and the application assistant and shall include:

- 11 (1) the applicant's name;
- 12 (2) the applicant's statement that the  
13 applicant fears for the safety of the applicant, the  
14 applicant's child or another person in the applicant's  
15 household because of a threat of immediate or future harm;
- 16 (3) the applicant's statement that the  
17 disclosure of the applicant's residential or delivery address  
18 would endanger the applicant, the applicant's child or another  
19 person in the applicant's household;
- 20 (4) the applicant's statement that the  
21 applicant has confidentially relocated in the past ninety days  
22 or will relocate within the state in the next ninety days;
- 23 (5) a designation of the secretary of state as  
24 the applicant's agent for the purpose of receiving mail,  
25 deliveries and service of process, notice or demand;

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1 (6) the applicant's residential and delivery  
2 addresses, if different, the confidentiality of which the  
3 applicant seeks to protect;

4 (7) the applicant's telephone number and email  
5 address; and

6 (8) the applicant's statement under penalty of  
7 perjury that the information contained in the application is  
8 true.

9 SECTION 4. [NEW MATERIAL] SECRETARY OF STATE--DUTIES--  
10 SERVICE ON PARTICIPANT.--

11 A. The secretary of state shall:

12 (1) certify applicants whose applications  
13 comply with the requirements of the Confidential Substitute  
14 Address Act to participate in the confidential substitute  
15 address program; and

16 (2) with respect to each certified  
17 participant:

18 (a) issue a confidential substitute  
19 address identification card;

20 (b) designate a confidential substitute  
21 address that shall be used in place of the participant's  
22 residential or delivery address by state and local government  
23 agencies;

24 (c) receive mail and deliveries sent to  
25 a participant's confidential substitute address and forward the

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1 mail and deliveries to the participant's delivery address at no  
2 charge to the participant;

3 (d) accept service of process, notice or  
4 demand that is required or permitted by law to be served on the  
5 participant and immediately forward the process, notice or  
6 demand to the participant's delivery address at no charge to  
7 the participant; and

8 (e) maintain records of the following  
9 that are received and forwarded by the secretary of state: 1)  
10 a participant's certified and registered mail; and 2) any  
11 process, notice or demand that is served on a participant.

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

15 SECTION 5. [NEW MATERIAL] AGENCIES--USE OF CONFIDENTIAL  
16 SUBSTITUTE ADDRESS--PUBLIC RECORDS.--

17 A. A participant shall:

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

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

23 B. Agencies that receive copies of confidential  
24 substitute address identification cards submitted pursuant to  
25 this section shall use the participant's confidential

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1 substitute address for all purposes.

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

6 D. A participant's residential or delivery address,  
7 telephone number and email address that are maintained by an  
8 agency are not public records and shall not be disclosed  
9 pursuant to the Inspection of Public Records Act while a person  
10 is a participant.

11 SECTION 6. [NEW MATERIAL] CHANGE OF PARTICIPANT NAME,  
12 ADDRESS OR TELEPHONE NUMBER--REQUIREMENTS.--

13 A. A participant shall notify the secretary of  
14 state within ten days of legally changing the participant's  
15 name and shall provide the secretary of state with a certified  
16 copy of documentation of the legal name change.

17 B. A participant shall notify the secretary of  
18 state within ten days of a change to the participant's  
19 residential address, delivery address, telephone number or  
20 email address.

21 SECTION 7. [NEW MATERIAL] PARTICIPANT DECERTIFICATION.--

22 A. A participant shall be decertified from the  
23 confidential substitute address program if:

- 24 (1) the participant submits a request to  
25 withdraw from the confidential substitute address program to

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1 the secretary of the state;

2 (2) the participant fails to notify the  
3 secretary of state of a legal name change or a change to the  
4 participant's residential address, delivery address, telephone  
5 number or email address; or

6 (3) mail that is forwarded by the secretary of  
7 state to the participant's delivery address is returned as  
8 undeliverable.

9 B. If the secretary of state determines that one or  
10 more of the causes for decertification provided in Subsection A  
11 of this section exists, the secretary of state shall send  
12 notice of the participant's decertification to the  
13 participant's delivery and residential addresses and shall  
14 attempt to notify the participant by telephone and email. The  
15 participant shall be given ten days from the date of  
16 decertification to appeal the decertification.

17 C. A person who is decertified from the  
18 confidential substitute address program shall not continue to  
19 use the person's confidential substitute address.

20 D. For six months after a participant has been  
21 decertified, the secretary of state shall forward mail and  
22 deliveries to an address provided by the former participant.  
23 Upon receipt of mail and deliveries pursuant to this  
24 subsection, a former participant shall provide an updated  
25 address to the sender.

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1           SECTION 8.   ~~[NEW MATERIAL]~~ PARTICIPANT RECORDS--

2   CONFIDENTIALITY--DISCLOSURE PROHIBITED.--

3           A.   The secretary of state and an agency shall not  
4   disclose the residential address, delivery address, telephone  
5   number or email address of a participant unless the information  
6   is required to be disclosed pursuant to a court order.  A  
7   person or agency that receives a participant's residential  
8   address, delivery address, telephone number or email address  
9   pursuant to a court order shall not in turn disclose that  
10   information unless pursuant to a court order or unless the  
11   person has been decertified.

12           B.   The secretary of state shall maintain the  
13   confidentiality of all records relating to an applicant for or  
14   participant in the confidential substitute address program  
15   while the person is a participant and shall:

16                   (1)  store all tangible copies of program  
17   records in locked equipment;

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

20                   (3)  restrict access to all program records to  
21   secretary of state staff persons who are approved to access the  
22   records as provided in this section; and

23                   (4)  release program records only on a court's  
24   order.

25           C.   The secretary of state shall establish a system

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1 for restricting access to program records to approved staff  
2 persons. Before being approved and granted access to program  
3 records, the staff person shall:

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

6 (2) not have a record of a sex offense, felony  
7 or a misdemeanor violation related to domestic violence or  
8 sexual assault on the results of the person's criminal  
9 background check; and

10 (3) complete forty hours of training,  
11 including a domestic violence training course provided by the  
12 children, youth and families department and sexual assault  
13 training provided by the department of health or the crime  
14 victims reparation commission or its successor.

15 SECTION 9. [NEW MATERIAL] RULES.--The secretary of state  
16 shall promulgate rules, including rules regarding records and  
17 confidentiality retention, to implement the provisions of the  
18 Confidential Substitute Address Act.

19 SECTION 10. REPEAL.--Section 40-13-11 NMSA 1978 (being  
20 Laws 2007, Chapter 131, Section 1) is repealed.

21 SECTION 11. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2017.