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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. SHORT TITLE.--This act may be cited as the
"Confidential Substitute Address Act".

SECTION 2. 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
address program;

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

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

E. "delivery address" means the address where an

1 applicant or a participant receives mail, and it may be the
2 same as the person's residential address;

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

5 G. "participant" means a person certified to
6 participate in the confidential substitute address program
7 pursuant to the Confidential Substitute Address Act;

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

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

12 SECTION 3. CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM--
13 APPLICATION.--

14 A. The "confidential substitute address program"
15 is created in the office of the secretary of state to provide
16 a process by which a victim of domestic violence may protect
17 the confidentiality of the victim's residential and delivery
18 addresses in public records.

19 B. An applicant, with the assistance of an
20 application assistant, shall submit an application to the
21 secretary of state on a form prescribed by the secretary of
22 state. The application assistant's signature shall serve as
23 recommendation that the applicant participate in the
24 confidential substitute address program.

25 C. An application shall be signed and dated by the SB 245
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1 applicant and the application assistant and shall include:

2 (1) the applicant's name;

3 (2) the applicant's statement that the
4 applicant fears for the safety of the applicant, the
5 applicant's child or another person in the applicant's
6 household because of a threat of immediate or future harm;

7 (3) the applicant's statement that the
8 disclosure of the applicant's residential or delivery address
9 would endanger the applicant, the applicant's child or
10 another person in the applicant's household;

11 (4) the applicant's statement that the
12 applicant has confidentially relocated in the past ninety
13 days or will relocate within the state in the next ninety
14 days;

15 (5) a designation of the secretary of state
16 as the applicant's agent for the purpose of receiving mail,
17 deliveries and service of process, notice or demand;

18 (6) the applicant's residential and delivery
19 addresses, if different, the confidentiality of which the
20 applicant seeks to protect;

21 (7) the applicant's telephone number and
22 email address; and

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

1 SECTION 4. SECRETARY OF STATE--DUTIES--SERVICE ON
2 PARTICIPANT.--

3 A. The secretary of state shall:

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

8 (2) with respect to each certified
9 participant:

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

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

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

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

25 (e) maintain records of the following

1 that are received and forwarded by the secretary of state:

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

4 B. Service made pursuant to the provisions of this
5 section is perfected three days after it is accepted by the
6 secretary of state.

7 SECTION 5. AGENCIES--USE OF CONFIDENTIAL SUBSTITUTE
8 ADDRESS--PUBLIC RECORDS.--

9 A. A participant shall:

10 (1) contact each agency that requests or
11 uses an address; and

12 (2) provide the agency with a copy of the
13 participant's confidential substitute address identification
14 card.

15 B. Agencies that receive copies of confidential
16 substitute address identification cards submitted pursuant to
17 this section shall use the participant's confidential
18 substitute address for all purposes.

19 C. A school district shall use a participant's
20 confidential substitute address as the participant's address
21 of record and, if necessary, shall verify a student's
22 enrollment eligibility with the secretary of state.

23 D. A participant's residential or delivery
24 address, telephone number and email address that are
25 maintained by an agency are not public records and shall not

1 be disclosed pursuant to the Inspection of Public Records Act
2 while a person is a participant.

3 SECTION 6. CHANGE OF PARTICIPANT NAME, ADDRESS OR
4 TELEPHONE NUMBER--REQUIREMENTS.--

5 A. A participant shall notify the secretary of
6 state within ten days of legally changing the participant's
7 name and shall provide the secretary of state with a
8 certified copy of documentation of the legal name change.

9 B. A participant shall notify the secretary of
10 state within ten days of a change to the participant's
11 residential address, delivery address, telephone number or
12 email address.

13 SECTION 7. PARTICIPANT DECERTIFICATION.--

14 A. A participant shall be decertified from the
15 confidential substitute address program if:

16 (1) the participant submits a request to
17 withdraw from the confidential substitute address program to
18 the secretary of state;

19 (2) the participant fails to notify the
20 secretary of state of a legal name change or a change to the
21 participant's residential address, delivery address,
22 telephone number or email address; or

23 (3) mail that is forwarded by the secretary
24 of state to the participant's delivery address is returned as
25 undeliverable.

1 B. If the secretary of state determines that one
2 or more of the causes for decertification provided in
3 Subsection A of this section exists, the secretary of state
4 shall send notice of the participant's decertification to the
5 participant's delivery and residential addresses and shall
6 attempt to notify the participant by telephone and email.
7 The participant shall be given ten days from the date of
8 decertification to appeal the decertification.

9 C. A person who is decertified from the
10 confidential substitute address program shall not continue to
11 use the person's confidential substitute address.

12 D. For six months after a participant has been
13 decertified, the secretary of state shall forward mail and
14 deliveries to an address provided by the former participant.
15 Upon receipt of mail and deliveries pursuant to this
16 subsection, a former participant shall provide an updated
17 address to the sender.

18 SECTION 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 persons 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 persons. Before being approved and granted access to program
20 records, the staff person 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 SECTION 9. PARTICIPANT VOTER RECORDS--
8 CONFIDENTIALITY.--

9 A. Notwithstanding the provisions of the Voter
10 Records Systems Act, the secretary of state shall maintain a
11 secured module within the state voter registration electronic
12 management system in which participant voter registrations
13 are maintained. Voter registrations in the secured module
14 shall not be viewable, except as required by staff designated
15 by the secretary of state, and shall not appear in the voter
16 file.

17 B. Upon a person's certification as a participant,
18 the secretary of state shall determine whether the
19 participant is a voter. If the participant is a voter, the
20 secretary of state shall transfer the participant's voter
21 registration from the voter file to the secured module. If
22 the participant is not a voter but appears to be a qualified
23 elector, the secretary of state shall offer the participant
24 the opportunity to become registered to vote, and if the
25 participant chooses to do so, the secretary of state shall

1 enter the participant's voter registration information into
2 the secured module.

3 C. Upon a voter's decertification as a
4 participant, the secretary of state shall transfer the voter
5 registration information of a former participant who is a
6 voter from the secured module into the voter file and shall
7 deliver any certificates of registration to the county clerk
8 of the county of the former participant's residential address
9 used on the latest voter registration certificate on file
10 with the secretary of state.

11 D. Notwithstanding the provisions of the Absent
12 Voter Act, for each statewide election that takes place while
13 a voter is a participant, the secretary of state shall send
14 the participant a ballot for the precinct in which the
15 participant's residential address is located. The ballot
16 shall be sent thirty-five days before the election without
17 requiring an application for an absentee ballot. The ballot
18 and balloting materials shall be otherwise as prescribed by
19 the Absent Voter Act, except that the ballot shall be
20 returned by the voter to the confidential substitute address.
21 The ballots shall be tallied by the secretary of state in a
22 manner that does not disclose the participant's information
23 to any unauthorized person but that is otherwise
24 substantially similar to the process used for qualifying and
25 counting provisional ballots.

1 E. The secretary of state shall include the votes
2 cast by participants who are voters in the tally of the state
3 canvass. The secretary of state shall also prepare a report
4 viewable only by members of the state canvassing board that
5 details:

- 6 (1) the total number of participants;
- 7 (2) the number of participants who are
8 voters;
- 9 (3) the number of ballots returned by
10 participants; and

11 (4) such other information as may be
12 required to secure the secrecy of the ballot and the purity
13 of elections and guard against the abuse of the elective
14 franchise.

15 F. When a recount of an office that is statewide
16 or located in more than one county occurs, the secretary of
17 state shall provide the votes of participants who are voters
18 to the state canvassing board in the same manner as votes are
19 provided for a state canvass.

20 G. When a recount of an office that is wholly
21 within one county occurs, the secretary of state shall
22 prepare and deliver to the county canvassing board a
23 confidential report of the votes from participants who are
24 voters. The report shall be substantially similar to the
25 report described in Subsection E of this section and shall

1 only be viewed by the county canvassing board, the county
2 attorney and the county clerk.

3 H. When a contest of an election occurs, the
4 secretary of state shall prepare for the court a confidential
5 report of the votes cast by participants who are voters. The
6 report shall be substantially similar to the report described
7 in Subsection E of this section, shall be viewed in camera by
8 the judge and attorneys in the case and shall not be admitted
9 into evidence.

10 SECTION 10. RULES.--The secretary of state shall
11 promulgate rules, including rules regarding records and
12 confidentiality retention, to implement the provisions of the
13 Confidential Substitute Address Act.

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

16 SECTION 12. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2017. _____

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