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SENATE BILL 7

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Peter Wirth

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO GRAND JURIES; PROVIDING PROCEDURES FOR A CITIZEN
PETITION FOR A GRAND JURY INVESTIGATION.

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

Section 1. PETITION FOR GRAND JURY--RESPONSIBILITIES OF
PETITIONER--FILING WITH DISTRICT COURT.--

A. A person petitioning for a grand jury
investigation pursuant to Article 2, Section 14 of the
constitution of New Mexico shall obtain a petition form and
shall complete the following portions of the petition:

(1) the name and address of the person, group
or organization initiating the petition; and

(2) the specific charges and factual
allegations in support of the petition for a grand jury and, if
known, an identification of the person alleged to have

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1 committed the offense and the approximate date and location
2 where the alleged offense was committed.

3 B. After completing the portions of the petition
4 provided in Subsection A of this section, the petitioner shall
5 submit the petition to the county clerk for affixing of the
6 initiation date.

7 C. The petitioner shall duplicate the petition with
8 the initiation date affixed for the purpose of obtaining
9 signatures.

10 D. Within one hundred twenty calendar days of the
11 initiation date, the petitioner shall file with the district
12 court of the county all petition sheets containing signatures,
13 together with a request for hearing on the petition.

14 E. The district court shall deliver to the county
15 clerk copies of all the signed petition sheets. The county
16 clerk shall, within fourteen days of receiving the petition
17 sheets, report back to the district court on the number of
18 valid signatures.

19 Section 2. PETITION FOR GRAND JURY--DUTIES OF COUNTY
20 CLERK.--

21 A. The county clerk shall:

22 (1) provide standard grand jury petition forms
23 to the public upon request;

24 (2) affix the initiation date on an unsigned
25 petition completed by a petitioner;

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1 (3) notify the petitioner, on the date of
2 initiation, of the number of verified signatures needed for the
3 petition pursuant to Section 6 of this act; and

4 (4) keep a copy of the completed unsigned
5 petition with the initiation date affixed.

6 B. Within fourteen days of receiving signed
7 petition sheets from the district court, the county clerk shall
8 file with the district court a report indicating whether the
9 petition was filed with the district court within one hundred
10 twenty days of the date of initiation, and if so, whether
11 sufficient signatures were verified to meet the minimum number
12 required by Section 6 of this act. The report from the county
13 clerk shall note in detail each signature that was not counted
14 and the reason it was not able to be verified.

15 C. If the signed petition sheets were not filed
16 with the district court within one hundred twenty calendar days
17 of the date of initiation, the county clerk shall provide the
18 district court with a certified copy of the completed unsigned
19 petition with the initiation date maintained by the county
20 clerk.

21 D. The county clerk shall send a copy of the report
22 to the petitioner at the mailing address listed on the petition
23 by certified mail, return receipt requested, and to the person
24 or entity that is the target of the petition, if known.

25 Section 3. CHALLENGE TO GRAND JURY PETITION.--

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1 A. Any interested person may file a motion with the
2 district court to challenge the county clerk's determination as
3 to the sufficiency and timeliness of a petition for a grand
4 jury filed with the district court. The motion shall be served
5 upon the county clerk and the petitioner in the manner provided
6 in Subparagraph (1) of Paragraph F of Rule 1-004 NMRA.

7 B. If a claim is made that the county clerk erred
8 in making a determination as to whether a signature should or
9 should not be counted, the claim shall specify each signature
10 for which the determination is challenged and the specific
11 ground on which it is challenged. It shall further identify
12 the line number and the page of the petition where each such
13 signature appears.

14 C. If a signature is challenged on the ground that
15 a person has signed the petition more than once, the claimant
16 shall identify the page and line number of each time the person
17 is alleged to have signed the petition.

18 D. If a signature is challenged on the ground that
19 the person signing is not a registered voter of the county, the
20 claimant shall state that the challenge is based on a diligent
21 search of the registration records of the county and shall
22 specify as to each signature:

23 (1) the name and address of each person making
24 the search;

25 (2) the date on which each search was made;

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1 and

2 (3) any variations in names, spelling or
3 addresses for which the search was made.

4 Section 4. PETITION FOR A GRAND JURY--HEARING.--The
5 district court shall hold a hearing to determine whether the
6 requirements of Article 2, Section 14 of the constitution of
7 New Mexico and of this act have been met. The hearing shall be
8 held no earlier than forty-five days from the date of the
9 filing of the petition to allow sufficient time for challenges
10 to the petition. If the court determines that the petition was
11 filed within one hundred twenty days of the date of initiation
12 and that the petition contains a sufficient number of verified
13 signatures, the district court shall order that a grand jury be
14 convened to investigate the charges and allegations contained
15 in the petition.

16 Section 5. PETITION FOR GRAND JURY--FORM OF PETITION.--

17 A. A citizen petition to convene a grand jury shall
18 be on paper approximately eight and one-half inches wide and
19 eleven inches long.

20 B. Each sheet of the petition shall contain the
21 following:

- 22 (1) a space for the initiation date;
23 (2) a space for the name and mailing address
24 of the person, group or organization initiating the petition;
25 (3) a space in which to list the specific

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1 charges and factual allegations in support of the petition for
2 a grand jury; and

3 (4) a notice stating "Petitions are valid for
4 a maximum of one hundred twenty days from date of initiation."

5 C. The remaining portion of each petition sheet
6 shall be substantially in the following form with numbered
7 lines for signatures spaced approximately three-eighths of an
8 inch apart:

9 "I, the undersigned, a registered voter of the county of
10 _____, New Mexico, hereby petition for a grand
11 jury investigation as described in this petition.

12 1. _____
13 (usual (name printed (address as (city or
14 signature) as registered) registered) zip code)

15 2. _____
16 (usual (name printed (address as (city or
17 signature) as registered) registered) zip code)".

18 Section 6. PETITION FOR GRAND JURY--SIGNATURES REQUIRED.--

19 A. No signature shall be signed on a petition prior
20 to the initiation date of the petition.

21 B. Petitions are valid for a maximum of one hundred
22 twenty calendar days from the date of initiation.

23 C. Each signer of a petition shall sign the
24 petition only once.

25 D. A signature shall not be counted unless the

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1 entire line is filled in full and is upon the form prescribed
2 by Section 5 of this act.

3 E. The minimum number of verified signatures needed
4 to validate a petition to convene a grand jury is the greater
5 of two hundred registered voters or two percent of the
6 registered voters of the county based on the number of
7 registered voters in the county on the date of the initiation
8 of the petition.