

SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILL 264

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

DISCUSSION DRAFT

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING AND ENACTING SECTIONS OF THE ELECTION CODE;
PROHIBITING PERSONS ACTING UNDER COLOR OF LAW OR OTHERWISE FROM
ORDERING TROOPS TO A PLACE WHERE AN ELECTION IS HELD UNLESS
NECESSARY TO REPEL ARMED ENEMIES OF THE UNITED STATES;
PROHIBITING INTERFERENCE WITH A PERSON'S RIGHT OF SUFFRAGE AT
AN ELECTION; PROVIDING PENALTIES; PROVIDING REMEDIES; PROVIDING
PROCEDURES FOR ELECTIONS FOLLOWING A DECLARATION OF A STATE OF
EMERGENCY.

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

SECTION 1. A new section of the Election Code, Section
1-1-29 NMSA 1978, is enacted to read:

"1-1-29. [NEW MATERIAL] UNDER COLOR OF LAW.--As used in
the Election Code, "under color of law" means acting or

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underscored material = new
[bracketed material] = delete

1 purporting to act in the performance of official duties, under
2 the authority of a statute, ordinance, regulation, proclamation
3 or order of the United States or this state."

4 SECTION 2. A new section of the Election Code, Section
5 1-1-30 NMSA 1978, is enacted to read:

6 "1-1-30. [NEW MATERIAL] PEACE OFFICER.--As used in the
7 Election Code, "peace officer" means any full-time salaried or
8 certified part-time salaried officer of a police or sheriff's
9 department that is part of or administered by the state or any
10 political subdivision of the state who by virtue of office or
11 public employment is vested by law with the duty to maintain
12 the public peace."

13 SECTION 3. A new section of the Election Code is enacted
14 to read:

15 "[NEW MATERIAL] INTERFERENCE WITH ELECTIONS.--

16 A. A person acting under color of law or otherwise
17 shall not:

18 (1) order, bring or keep a troop or armed
19 person or persons in the civil, military or naval service of
20 the United States to any location used as a polling place,
21 including parking areas for the polling location, or within
22 fifty feet of a monitored secured container as used in
23 Subsection E of Section 1-6-9 NMSA 1978, beginning twenty-eight
24 days before an election through election day, unless such force
25 is necessary to repel armed enemies of the United States;

.233418.5

1 (2) prescribe, fix or attempt to prescribe or
2 fix the qualifications of voters at an election in this state
3 contrary to the laws of the state;

4 (3) impose or attempt to impose a rule,
5 standard or practice for conducting an election in this state
6 contrary to the laws of the state; or

7 (4) interfere in any manner with the secretary
8 of state, a county clerk, a municipal clerk or an employee or
9 agent of the secretary of state, an employee or agent of a
10 county clerk, an employee or agent of a municipal clerk or a
11 member of an election board, voter, challenger or watcher in
12 the discharge of the person's duties pursuant to the Election
13 Code.

14 B. A person who violates Subsection A of this
15 section is guilty of a fourth degree felony, in addition to any
16 other offense provided by law.

17 C. The following persons may bring a civil action
18 in district court to enforce the provisions of this section:

19 (1) the attorney general;
20 (2) the secretary of state;
21 (3) a county clerk with respect to violations
22 that occur within the county clerk's county; and

23 (4) a voter who experienced intimidation as
24 used in Section 1-20-14 NMSA 1978, or was not able to vote due
25 to obstruction or disturbance of the polling place as used in

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1 Sections 1-20-17 and 1-20-20 NMSA 1978, as a result of a
2 violation of this section.

3 D. In a civil action brought pursuant to this
4 section, a court may:

5 (1) grant temporary, preliminary or permanent
6 injunctive relief;

7 (2) impose a civil penalty of not less than
8 five thousand dollars (\$5,000) and not more than fifty thousand
9 dollars (\$50,000) per violation; and

10 (3) award any other appropriate relief.

11 E. A court shall expedite the scheduling and
12 disposition of a civil action brought pursuant to this section
13 if the action is filed during the period beginning twenty-eight
14 days before election day and ending with the completion of the
15 state canvass.

16 F. A prevailing plaintiff who is a voter with
17 standing pursuant to Subsection C of this section shall be
18 awarded reasonable attorney fees and litigation costs.

19 G. The provisions of this section shall not prevent
20 a qualified elector from exercising the right of suffrage in an
21 election in this state and shall not be construed to authorize
22 an action that would be prohibited by federal law or to limit
23 any federal authority that is validly exercised pursuant to
24 federal law."

25 SECTION 4. A new section of the Election Code is enacted

1 to read:

2 "[NEW MATERIAL] EMERGENCY ELECTIONS PROCEDURES.--

3 A. Upon issuance of an executive order declaring a
4 state of emergency or an executive order for an impending
5 emergency, the secretary of state shall authorize county clerks
6 in impacted counties to evaluate and develop emergency
7 contingency plans to ensure maximum participation in the
8 electoral process and to provide a safe and orderly procedure
9 for impacted elections.

10 B. A county clerk shall notify the secretary of
11 state in writing of a natural disaster or other emergency
12 impacting election operations. As soon as possible following
13 the issuance of an executive order declaring an emergency:

14 (1) the county clerk shall identify the number
15 of polling places that are functional and the number of polling
16 places that are no longer functional. If a polling place is
17 destroyed, inaccessible or unsafe, the county clerk shall work
18 with federal, state and local emergency management agencies to
19 permit the orderly establishment of a new polling place. An
20 alternate emergency location shall be designated by the county
21 clerk and authorized by the secretary of state and shall meet
22 the requirements for a voter convenience center pursuant to
23 Section 1-3-4 NMSA 1978. The designation of a new polling
24 location shall not require court approval. The secretary of
25 state may authorize a county to loan a mobile voting unit to

.233418.5

1 another county;

2 (2) the county clerk shall notify the
3 secretary of state in writing of any impact to mailed ballot
4 delivery. The secretary of state may authorize the county
5 clerk to transmit ballot and balloting materials by secured
6 electronic transmission available to the county clerk to voters
7 who have submitted an emergency mailed ballot request on a form
8 prescribed by the secretary of state. Any delays, closures of
9 secured monitored containers or additional changes affecting
10 the ability of voters to receive or return a mailed ballot
11 shall be posted as soon as practicable on the county clerk's
12 website with information on how voters may participate in the
13 election;

14 (3) the county clerk shall publish in a
15 newspaper of general circulation in the county and post to the
16 county clerk's website the details of any changes to the voting
17 process pursuant to this section, including any changes to
18 voting times and locations; and

19 (4) contingency plans involving the
20 elimination or consolidation of a polling place or the
21 establishment of an alternative voting or mobile voting unit
22 within an Indian nation, tribe or pueblo shall occur pursuant
23 to Section 1-21A-9 NMSA 1978.

24 C. Nothing in this section shall be interpreted as
25 extending or authorizing an extension of the time period for an

election."

SECTION 5. Section 1-12-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 244, as amended) is amended to read:

"1-12-5. CONDUCT OF ELECTION--STATE POLICE--OTHER PEACE OFFICERS.--

A. Any member of the New Mexico state police or other peace officer may enter a polling place upon request for the purpose of observing the conduct of the election.

B. No member of the New Mexico state police or other peace officer shall interfere in any way with a member of the ~~[precinct]~~ election board, a voter or the conduct of the election except to assist in maintaining order and orderly control of access when requested by the presiding judge, ~~[or]~~ an election judge, a county clerk or the secretary of state.

C. Any member of the New Mexico state police or other peace officer violating Subsection B of this section is guilty of a petty misdemeanor and in addition to any other penalty provided by law shall be subject to dismissal and is ineligible for reinstatement."

SECTION 6. Section 1-20-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 428, as amended by Laws 1993, Chapter 314, Section 60 and by Laws 1993, Chapter 316, Section 58) is amended to read:

"1-20-3. REGISTRATION OFFENSES.--

A. Registration offenses consist of performing,

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1 under color of law or otherwise, any of the following acts
2 willfully and with knowledge and intent to deceive any
3 registration officer or to subvert the registration
4 requirements of the law or rights of any qualified elector:

5 [A.] (1) signing or offering to sign a
6 certificate of registration when not a qualified elector;

7 [B.] (2) falsifying any information on the
8 certificate of registration;

9 [C.] (3) soliciting, procuring, aiding,
10 abetting, inducing or attempting to solicit, procure, aid, abet
11 or induce any person to register or attempt to register with
12 the name of any other person, whether real, deceased or
13 fictitious; or

14 [D.] (4) destroying the certificate of
15 registration of any qualified elector, or removing such
16 certificate from its proper binder or file, except as provided
17 in the Election Code.

18 B. Whoever commits a registration offense is guilty
19 of a fourth degree felony, in addition to any other offense
20 provided by law."

21 SECTION 7. Section 1-20-4 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 429) is amended to read:

23 "1-20-4. UNLAWFUL OPENING OF A BALLOT BOX.--

24 A. Unlawful opening of a ballot box consists of,
25 under color of law or otherwise, opening any ballot box or

1 inspecting or removing the contents thereof without lawful
2 authority, or conspiring with others to have the same done.

3 B. Whoever commits unlawful opening of a ballot box
4 is guilty of a fourth degree felony, in addition to any other
5 offense provided by law."

6 **SECTION 8.** Section 1-20-5 NMSA 1978 (being Laws 1969,
7 Chapter 240, Section 430) is amended to read:

8 "1-20-5. UNLAWFUL OPENING OF A VOTING MACHINE.--

9 A. Unlawful opening of a voting machine consists
10 of, under color of law or otherwise, without lawful authority,
11 opening, unlocking, inspecting, tampering, resetting or
12 adjusting a voting machine owned by any county, or conspiring
13 with others to have the same done.

14 B. Whoever commits unlawful opening of a voting
15 machine is guilty of a fourth degree felony, in addition to any
16 other offense provided by law."

17 **SECTION 9.** Section 1-20-6 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 431, as amended) is amended to read:

19 "1-20-6. UNLAWFUL POSSESSION OF KEYS.--

20 A. Unlawful possession of keys consists of, under
21 color of law or otherwise, the possession at any time of any
22 key to a voting machine, ballot box or monitored secured
23 container, or possession of an imitation or duplicate thereof,
24 or making or causing to be made any imitation or duplicate
25 thereof, unless authorized by the Election Code.

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1 B. Whoever commits unlawful possession of keys is
2 guilty of a fourth degree felony, in addition to any other
3 offense provided by law."

4 SECTION 10. Section 1-20-7 NMSA 1978 (being Laws 1971,
5 Chapter 111, Section 1, as amended) is amended to read:

6 "1-20-7. UNLAWFUL POSSESSION OF ABSENTEE BALLOT.--
7 Unlawful possession of absentee ballot consists of, under color
8 of law or otherwise, the possession at any time of absentee
9 ballot materials when not authorized by the Election Code to be
10 in possession of such materials, or when such materials were
11 obtained in an unlawful manner, and includes the establishment,
12 designation or operation of any container or receptacle to
13 receive voted ballots by a person who is not authorized by the
14 Election Code and entering information into or altering the
15 absentee ballot register. As used in this section, "absentee
16 ballot materials" means an absentee ballot, absentee ballot
17 envelopes, the absentee ballot register or an absentee ballot
18 return. Whoever commits unlawful possession of absentee ballot
19 is guilty of a fourth degree felony, in addition to any other
20 offense provided by law."

21 SECTION 11. Section 1-20-9 NMSA 1978 (being Laws 1969,
22 Chapter 240, Section 433, as amended) is amended to read:

23 "1-20-9. FALSIFYING ELECTION DOCUMENTS.--

24 A. Falsifying election documents consists of, under
25 color of law or otherwise, performing any of the following acts

1 willfully and with knowledge and intent to deceive or mislead
2 any voter, precinct board, canvassing board or other election
3 official:

4 [A.] (1) printing, causing to be printed,
5 distributing or displaying false or misleading instructions
6 pertaining to voting or the conduct of the election;

7 [B.] (2) printing, causing to be printed,
8 distributing or displaying any official ballot, sample ballot,
9 facsimile diagram or pretended ballot that includes the name of
10 any person not entitled by law to be on the ballot, or omits
11 the name of any person entitled by law to be on the ballot, or
12 otherwise contains false or misleading information or headings;

13 [C.] (3) defacing, altering, forging, making
14 false entries in or changing in any way a certificate of
15 nomination, registration record or election return required by
16 or prepared and issued pursuant to the Election Code;

17 [D.] (4) suppressing any certificate of
18 nomination, registration record or election return required by
19 or prepared and issued pursuant to the Election Code;

20 [E.] (5) preparing or submitting any false
21 certificate of nomination, registration record or election
22 return; or

23 [F.] (6) knowingly falsifying any information
24 on a nominating petition.

25 B. Whoever falsifies election documents is guilty

1 of a fourth degree felony, in addition to any other offense
2 provided by law."

3 SECTION 12. Section 1-20-13.1 NMSA 1978 (being Laws 1995,
4 Chapter 198, Section 15) is amended to read:

5 "1-20-13.1. COERCION OF VOTERS.--

6 A. Coercion of voters consists of, under color of
7 law or otherwise, compelling any voter at any election to vote
8 for or to refrain from voting for any candidate, party,
9 proposition, question or constitutional amendment either
10 against the voter's will or in the absence of the voter's
11 ability to understand the purpose and effect of [~~his~~] the
12 voter's vote.

13 B. Whoever commits coercion of voters is guilty of
14 a fourth degree felony, in addition to any other offense
15 provided by law, and shall be sentenced pursuant to the
16 provisions of Section 31-18-15 NMSA 1978."

17 SECTION 13. Section 1-20-14 NMSA 1978 (being Laws 1969,
18 Chapter 240, Section 438, as amended) is amended to read:

19 "1-20-14. INTIMIDATION.--

20 A. Intimidation consists of inducing or attempting
21 to induce fear in the secretary of state, a county clerk, a
22 municipal clerk or [~~any~~] an employee or agent of the secretary
23 of state, an employee or agent of a county clerk, an employee
24 or agent of a municipal clerk, a member of an election board, a
25 voter, a challenger or a watcher by use of or threatened use of

1 force, violence, infliction of damage, harm or loss, or any
 2 form of economic retaliation upon the secretary of state, a
 3 county clerk, a municipal clerk or ~~[any]~~ an employee or agent
 4 of the secretary of state, an employee or agent of a county
 5 clerk, an employee or agent of a municipal clerk, a member of
 6 an election board, a voter, a challenger or a watcher for the
 7 purpose of impeding or preventing the free exercise of the
 8 elective franchise or the impartial administration of the
 9 election or Election Code, under color of law or otherwise.

10 B. Whoever commits intimidation is guilty of a
 11 fourth degree felony, in addition to any other offense provided
 12 by law."

13 **SECTION 14.** Section 1-20-15 NMSA 1978 (being Laws 1969,
 14 Chapter 240, Section 439) is amended to read:

15 "1-20-15. CONSPIRACY TO VIOLATE ELECTION CODE.--

16 A. Conspiracy to violate the Election Code consists
 17 of, under color of law or otherwise, knowingly combining,
 18 uniting or agreeing with any other person to omit any duty or
 19 commit any act, the omission of which duty, or ~~[combination]~~
 20 commission of such act, would by the provisions of the Election
 21 Code constitute a fourth degree felony.

22 B. Whoever commits conspiracy to violate the
 23 Election Code is guilty of a fourth degree felony, in addition
 24 to any other offense provided by law."

25 **SECTION 15.** Section 1-20-16 NMSA 1978 (being Laws 1969,

Chapter 240, Section 440, as amended) is amended to read:

"1-20-16. ELECTIONEERING TOO CLOSE TO THE POLLING PLACE.--

A. Electioneering too close to the polling place consists of, under color of law or otherwise, any form of campaigning within:

(1) one hundred feet of the building in which the polling place is located on election day when voting at a school, church or private residence; and

(2) one hundred feet of the door through which voters may enter to vote at the office of the county clerk, an alternate voting location, a mobile voting site or any location used as a polling place on election day that is not a school, church or private residence.

B. Electioneering includes the display or distribution of signs or campaign literature, campaign buttons, t-shirts, hats, pins or other such items and includes the verbal or electronic solicitation of votes for a candidate or question.

C. Whoever commits electioneering too close to the polling place is guilty of a petty misdemeanor, in addition to any other offense provided by law."

SECTION 16. Section 1-20-17 NMSA 1978 (being Laws 1969, Chapter 240, Section 441, as amended) is amended to read:

"1-20-17. OBSTRUCTING THE POLLING PLACE.--

1 A. Obstructing the entrance to the polling place
 2 consists of, under color of law or otherwise, a person other
 3 than an authorized individual approaching nearer than fifty
 4 feet from the door through which voters may enter to vote at a
 5 polling place or a person who willfully blocks access to a
 6 monitored secured container or the entrance to a polling place
 7 so as to prevent free ingress and egress.

8 B. Intentionally obstructing access to the polling
 9 place consists of, under color of law or otherwise,
 10 intentionally preventing free ingress and egress to or from a
 11 voting location due to rendering ingress or egress impassable,
 12 intimidation or disturbance of the polling place as used in
 13 Sections 1-20-14 NMSA 1978 and 1-20-20 NMSA 1978.

14 [~~B.~~] C. A person conducting lawful, non-election-
 15 related business nearer than fifty feet from the door through
 16 which voters may enter to vote is not guilty of obstructing a
 17 polling place, provided the person does not willfully block
 18 access to a monitored secured container or the entrance to the
 19 polling place.

20 [~~C.~~] D. As used in this section, "authorized
 21 individual" means an individual who is not electioneering and
 22 who is:

- 23 (1) a voter offering to vote;
- 24 (2) a member of the election board;
- 25 (3) a lawfully appointed watcher, challenger

or election observer;

(4) an individual giving assistance to a specific person offering to vote;

(5) an election official or contractor having business in the polling place;

(6) an attorney representing the county or state, a political party or a candidate having business in the polling place; or

(7) a language translator where required by federal law.

~~[D-]~~ E. Whoever obstructs the entrance to the polling place is guilty of a petty misdemeanor, in addition to any other offense provided by law.

F. Whoever intentionally obstructs the polling place is guilty of a fourth degree felony, in addition to any other offense provided by law."

SECTION 17. Section 1-20-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 444) is amended to read:

"1-20-20. DISTURBING THE POLLING PLACE.--

A. Disturbing the polling place consists of, under color of law or otherwise, creating any disorder or disruption at the polling place ~~[on]~~ beginning twenty-eight days before an election through election day ~~[or consists of interfering with in any manner the conduct of the election or with a member of the precinct board, voter, challenger or watcher in the~~

~~performance of his duties~~].

B. Whoever disturbs the polling place is guilty of
a petty misdemeanor, in addition to any other offense provided
by law."

- 17 -

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[bracketed material] = delete