

Proposed

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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

.233418.4

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 is enacted  
5 to read:

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

7 A. A person acting under color of law or otherwise  
8 shall not:

9 (1) order, bring or keep a troop or armed  
10 person or persons in the civil, military or naval service of  
11 the United States to any location used as a polling place, or  
12 within fifty feet of a monitored secured container as used in  
13 Subsection E of Section 1-6-9 NMSA 1978, beginning twenty-eight  
14 days before an election through election day, unless such force  
15 is necessary to repel armed enemies of the United States;

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

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

22 (4) interfere in any manner with the secretary  
23 of state, a county clerk, a municipal clerk or an employee or  
24 agent of the secretary of state, an employee or agent of a  
25 county clerk, an employee or agent of a municipal clerk or a

1 member of an election board in the discharge of the person's  
2 duties pursuant to the Election Code.

3 B. A person who violates Subsection A of this  
4 section is guilty of a misdemeanor.

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

7 (1) the attorney general;

8 (2) the secretary of state;

9 (3) a county clerk with respect to violations  
10 that occur within the county clerk's county; and

11 (4) a voter who experienced intimidation as  
12 used in Section 1-20-14 NMSA 1978, or was not able to vote due  
13 to obstruction or disturbance of the polling place as used in  
14 Sections 1-20-17 and 1-20-20 NMSA 1978, as a result of a  
15 violation of this section.

16 D. In a civil action brought pursuant to this  
17 section, a court may:

18 (1) grant temporary, preliminary or permanent  
19 injunctive relief;

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

23 (3) award any other appropriate relief.

24 E. A court shall expedite the scheduling and  
25 disposition of a civil action brought pursuant to this section

.233418.4

1 if the action is filed during the period beginning twenty-eight  
2 days before election day and ending with the completion of the  
3 state canvass.

4 F. A prevailing plaintiff who is a voter shall be  
5 awarded reasonable attorney fees and litigation costs.

6 G. The provisions of this section shall not prevent  
7 a qualified elector from exercising the right of suffrage in an  
8 election in this state and shall not be construed to authorize  
9 an action that would be prohibited by federal law or to limit  
10 any federal authority that is validly exercised pursuant to  
11 federal law."

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

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

15 A. Upon issuance of an executive order declaring a  
16 state of emergency or an executive order for an impending  
17 emergency, the secretary of state shall authorize county clerks  
18 in impacted counties to evaluate and develop emergency  
19 contingency plans to ensure maximum participation in the  
20 electoral process and to provide a safe and orderly procedure  
21 for impacted elections.

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

1                   (1) the county clerk shall identify the number  
2 of polling places that are functional and the number of polling  
3 places that are no longer functional. If a polling place is  
4 destroyed, inaccessible or unsafe, the county clerk shall work  
5 with federal, state and local emergency management agencies to  
6 permit the orderly establishment of a new polling place. An  
7 alternate emergency location shall be designated by the county  
8 clerk and authorized by the secretary of state and shall meet  
9 the requirements for a voter convenience center pursuant to  
10 Section 1-3-4 NMSA 1978. The designation of a new polling  
11 location shall not require court approval. The secretary of  
12 state may authorize a county to loan a mobile voting unit to  
13 another county;

14                   (2) the county clerk shall notify the  
15 secretary of state in writing of any impact to mailed ballot  
16 delivery. The secretary of state may authorize the county  
17 clerk to transmit ballot and balloting materials by secured  
18 electronic transmission available to the county clerk to voters  
19 who have submitted an emergency mailed ballot request on a form  
20 prescribed by the secretary of state. Any delays, closures of  
21 secured monitored containers or additional changes affecting  
22 the ability of voters to receive or return a mailed ballot  
23 shall be posted as soon as practicable on the county clerk's  
24 website with information on how voters may participate in the  
25 election;

.233418.4

1 (3) the county clerk shall publish in a  
2 newspaper of general circulation in the county and post to the  
3 county clerk's website the details of any changes to the voting  
4 process pursuant to this section, including any changes to  
5 voting times and locations; and

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

11 C. Nothing in this section shall be interpreted as  
12 extending or authorizing an extension of the time period for an  
13 election."

14 SECTION 4. Section 1-20-14 NMSA 1978 (being Laws 1969,  
15 Chapter 240, Section 438, as amended) is amended to read:

16 "1-20-14. INTIMIDATION.--

17 A. Intimidation consists of inducing or attempting  
18 to induce fear in the secretary of state, a county clerk, a  
19 municipal clerk or ~~[any]~~ an employee or agent of the secretary  
20 of state, an employee or agent of a county clerk, an employee  
21 or agent of a municipal clerk, a member of an election board, a  
22 voter, a challenger or a watcher by use of or threatened use of  
23 force, violence, infliction of damage, harm or loss, or any  
24 form of economic retaliation upon the secretary of state, a  
25 county clerk, a municipal clerk or ~~[any]~~ an employee or agent

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1 of the secretary of state, an employee or agent of a county  
2 clerk, an employee or agent of a municipal clerk, a member of  
3 an election board, a voter, a challenger or a watcher for the  
4 purpose of impeding or preventing the free exercise of the  
5 elective franchise or the impartial administration of the  
6 election or Election Code, under color of law or otherwise.

7 B. Whoever commits intimidation is guilty of a  
8 fourth degree felony."

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