

SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 264

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

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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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;

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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 conduct  
 8 of the election or the secretary of state, a county clerk, a  
 9 municipal clerk or an employee or agent of the secretary of  
 10 state, an employee or agent of a county clerk, an employee or  
 11 agent of a municipal clerk or a member of an election board,  
 12 voter, challenger or watcher in the discharge of the person's  
 13 duties pursuant to the Election 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

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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

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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

1 election."

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

4 "1-12-5. CONDUCT OF ELECTION--STATE POLICE--OTHER PEACE  
5 OFFICERS.--

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

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

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

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

24 "1-20-3. REGISTRATION OFFENSES.--

25 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

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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

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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,

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

2 "1-20-16. ELECTIONEERING TOO CLOSE TO THE POLLING  
3 PLACE.--

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

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

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

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

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

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

25 "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

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1 or election observer;

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

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

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

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

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

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

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

19 "1-20-20. DISTURBING THE POLLING PLACE.--

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

