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| LFC Requester: | |
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1-28-17
Bill No: SB245

Sponsor: Daniel A. Ivey-Soto
Short Title: Confidential Substitute Address Act

Agency Code: 264
Person Writing: Gail MacQuesten
Phone: 466-0532 **Email:** gailmacquesten@gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY17 | FY18 | | |
| 0 | 0 | n/a | n/a |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------|---------------|
| FY17 | FY18 | FY19 | | |
| 0 | 0 | 0 | n/a | n/a |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | minimal | minimal | minimal | Minimal | Recurring | General |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB245 enacts the “Confidential Substitute Address Act.” The Act directs the secretary of state to create the “confidential substitute address program” to provide a process for the victim of domestic violence to protect the confidentiality of his or her residential and delivery addresses in public records.

An applicant must provide a statement under penalty of perjury asserting that the applicant fears for his or her safety, the safety of the applicant’s child or another person in the applicant’s household because of a threat of immediate or future harm, and that disclosure of the applicant’s residential or delivery address would endanger the applicant, child or household member. The applicant must assert that he or she has confidentially relocated in the past ninety days or will locate within the state in the next ninety days. The applicant designates the secretary of state as the applicant’s agent for the purpose of receiving mail, deliveries and service of process, notice or demand.

The secretary of state will issue a confidential substitute address identification card, designate a substitute address, and receive mail and deliveries sent to that address and forward the mail and deliveries to the participant at no charge to the participant. The secretary of state will accept and forward to the participant service of process, notice or demand and maintain records of those transactions. Service made pursuant to these provisions is perfected three days after it is accepted by the secretary of state.

Agencies that receive copies of the confidential substitute address identification card from participants shall use the substitute address for all purposes. The participant’s residential or delivery address, telephone number and email address that are maintained by an agency are not public records and shall not be disclosed pursuant to the Inspection of Public Records Act while a person is a participant.

SB245 sets out how a participant can be “decertified” from the program.

The secretary of state and agencies who have contact information about a participant shall not disclose such information except upon court order. The secretary of state is to maintain and keep confidential all program records, and restrict access to the records to approved staff, who must pass a criminal background check and complete 40 hours of training.

SB245 repeals NSMA 1978, Section 40-13-11, a substitute address provision in the Family Violence Protection Act.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The most significant fiscal impact will be on the secretary of state, who must implement and administer the program. Other state entities, including the district attorneys, will need to comply with the requirements of SB245 when a participant presents a confidential substitute address identification card, and when processing inspection of public records act requests. This will result in additional time and effort, and some increased costs.

SIGNIFICANT ISSUES

SB245 replaces the existing substitute address provision in Section 40-13-11. That provision only protects the victim of domestic violence, not the victim's child or another household member. Section 40-13-11 is a very short provision, and does not provide details on the administration of the program, and does not contemplate cooperation by other state entities in protecting the confidentiality of the participant.

PERFORMANCE IMPLICATIONS

See Administrative Implications, below.

ADMINISTRATIVE IMPLICATIONS

State entities will need to comply with SB245 when a participant presents a confidential substitute address identification card, and when processing inspection of public records act requests. Issues will likely arise when an entity denies an inspection of public records act request for contact information about a participant, even though the participant has been "decertified" from the program. There is no provision to notify agencies that a participant has been decertified.

Entities that provide legal notice, such as the district attorneys, will have to factor in additional time when providing notice to participants, because the notice will not be perfected until three days after it is accepted by the secretary of state. This could complicate some legal proceedings that are conducted on very short time lines.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The substitute address provision of NMSA 1978, Section 40-13-11 will remain in effect. It provides that a victim of domestic violence who believes his or her safety is at risk may apply to use the secretary of state as a substitute address. The applicant must pay a \$75 fee, which may be waived if the applicant is indigent.

AMENDMENTS

None proposed.