

THE NEW MEXICO ELECTION INTEGRITY PROJECT
(a task force sponsored by The New Mexico Justice Project)

PRESENTS the CHANGES to the NEW MEXICO ELECTION CODE which were ADOPTED in 2019

[NOTE: This is the fourth in a series of articles addressing the changes made to the New Mexico Election Code during the 2019 legislative session.]

Article #4:

Automatic Voter Registration at the Motor Vehicle Department and the Department of Human Services

Senate Bill 672, the bill that provides for same-day voter registration (sponsored by Senator Daniel Ivey-Soto, D-Albuquerque) also contains provisions for automatically registering voters at the Motor Vehicle Division (MVD) and the Human Services Department (HSD).

MVD

As many of us have learned with the advent of Real ID Driver's Licenses, the MVD does, in fact, collect sufficient documentation to determine if a person is a citizen or not, so voter registrations through the MVD process should be the most secure and accurate form of registration.

However, New Mexico's MVD voter registration process, like other services at the MVD, has suffered from serious issues over the years. In the 2016 election in Bernalillo County, more than 100 voter registrations that had been completed at MVD never made their way to the voter rolls. Those unprocessed registrations became an issue during a state House of Representatives election recount—because one of the criteria for qualifying of provisional ballots is that the voter in question be legally and timely registered. In another instance, a rural New Mexico MVD office failed to submit the voter registration forms it received.

This year, there have been recent reports on some Facebook pages that the MVD system wouldn't allow a person to choose the Republican party when registering, and the allegation is that MVD officials simply directed the voter to "just skip that part."

HSD

Unlike MVD, the New Mexico Human Services Department does not appear to have any way to determine citizenship, and to our knowledge does not collect the same level of documentation that is required for a driver's license. SB 672 says:

"... the human services department shall develop procedures to be approved by the secretary of state to ensure that each benefit program administered by the department appropriately ensures that qualified electors receiving benefits are offered the opportunity to register to vote or update an existing certificate of registration without duplication of information contained by the department or by the secretary of state. No later than the last day of August of each calendar year, the human services department shall issue an annual report detailing implementation of the requirements of this paragraph. The report shall be sent to the legislative council service, the secretary of state and each county clerk..."

The reality is that HSD has no way of actually determining who is a "qualified elector"—defined under Section 1-1-4 of the Election Code as "any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States and includes any qualified resident."

With HSD having no capability of determining whether someone is qualified to register to vote, the current practice at that department has been to include a voter registration form in every single packet for every single person who is requesting benefits or a renewal of benefits. Again, this is done regardless of whether the person is a "qualified elector" or not.

The overwhelming flow over the past eight months of non-citizens into the country has affected New Mexico as well as the other three border states. The so-called border crisis has not only exceeded the Border Patrol's resources and capabilities to respond. It has also been widely reported that the

NM Human Services Department is offering services to migrant families. It is critical to the integrity of the voter file that ineligible people DO NOT become registered to vote.

[NOTE: It is also important to the non-citizens themselves, who should not be co-opted into committing the crime of illegally registering to vote through the misdeeds of the state. Such an error, perhaps unwittingly committed only because they are being given registration forms, can result in being not only denied citizenship, but also deportation.]

REMOVING IMPROPERLY REGISTERED VOTERS

The 2nd House Floor amendment added by Republican lawmakers to Senate Bill 672 says: "If a person who is not a qualified elector becomes registered to vote pursuant to this section, that registration shall not be valid, and the county clerk shall remove the certificate of registration from the register of voters."

This is an important provision that allows for errors to be corrected. It provides a way for ineligible voters to be removed by the county clerk as soon as the error is discovered. Otherwise, ineligible voters can remain on the rolls for another 2 to 4 years until they've been through a full "purge" cycle. This section is now codified as NMSA 1-4-5.8(C) under the Election Code.

In the Report completed for the Yvette Herrell campaign regarding the Doña Ana County election results in the 2018 General Election, an email from Secretary of State Maggie Toulouse-Oliver directed the county clerk NOT to remove ineligible voters until after the election results had been canvassed, despite the fact that the Dona Ana County Clerk had advised her of a non-citizen having been registered through the Human Services Department.

Under the provision added by the House Republicans, any person who is not eligible to vote who gets improperly registered through the automatic registration process at MVD or HSD should be removed without delay. This provision should be extended to ALL forms of voter registration, not just automatic registration at state agencies. It should be extended to any voter who is found not to be a "qualified elector" and who has registered, whether through the old-fashioned paper process, online, through MVD, through HSD, or during the early voting period a county clerk's staff member. If the state Human Services Department is offering voter registration forms to non-citizens, then any invalid voter registrations which end up in the voter file should be removed immediately under this new provision.