

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

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

<i>Check all that apply:</i>				Date Prepared:	1/16/2024
Original	X	Amendment		Bill No:	HB 57
Correction		Substitute			

Sponsor:	Stefani Lord	Agency Name and Code Number:	305 – New Mexico Department of Justice
Short Title:	CHEMICAL CASTRATION FOR SEX OFFENDERS	Person Writing Analysis:	Peter Valencia
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

House Bill 57 proposes to require convicted sex offenders undergo chemical castration as a condition of their parole pursuant to NMSA 1978 31-21-10.1 (2007) by means of hormonal drugs such medroxyprogesterone acetate. At this time, at least nine US states have laws authorizing chemical castration.

House Bill 57 requires that the district court inform the person about the effect of the treatment and any side effects that may result from it. The person would be required to sign a written acknowledgement of the receipt of the side effect information. The person is required to start the procedure a month before being released from the corrections department and continue treatment until the parole board decides it is no longer necessary. If incarcerated, the corrections department would administer the chemical castration, or if released, the person’s parole officer would advise the person on where to receive the treatment. The person’s medical records relating to chemical castration treatment would be shared with the parole board. The person must pay for the procedure themselves, though release to parole from custody shall not be denied based on an inability to pay. A person’s refusal to undergo chemical castration shall constitute a parole violation and the person shall be immediately remanded to the custody of New Mexico Corrections Department for the remainder of the sentence from which the person was paroled.

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.

SIGNIFICANT ISSUES

HB 57 will be subject to scrutiny under the 8th amendment of the U.S. Constitution, which prohibits cruel and unusual punishment. (Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted, U.S. Const. amend. VIII). The New Mexico Constitution includes the same restriction. See N.M. Const. art. II, § 13.

The New Mexico Supreme Court has held that the state constitution’s prohibition against

cruel and unusual punishment affords greater protection than its federal counterpart. (“Article II, Section 13, prohibiting cruel and unusual punishment, have been interpreted as providing greater protection than their federal counterparts. See State v. Vallejos, 1997–NMSC–040, ¶¶ 35–38, State v. Rueda, 1999–NMCA– 033, ¶¶ 9–14,” cited by Montoya v. Ulibarri, 2007-NMSC-035, ¶ 22.). While chemical castration has withstood challenges in other states, it is unclear how courts in New Mexico would decide if the law was litigated. Further, House Bill 57 would impose chemical castration as a mandatory condition of parole for all sex offender convictions, as opposed to chemical castration laws in other states that are limited violent crimes or crimes against minors.

House Bill 57 would apply to a broad range of crimes, including those that do not have mandatory incarceration terms. A conviction of these crimes would not necessarily result in an incarceration sentence requiring a parole term. Thus, it is unclear what the legislative intent is for violations of sex offender crimes that do not result in a term of parole.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS