

LFC Requester:	Felix Chavez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: 2/20/2025 *Check all that apply:*
Bill Number: SB 441 Original Correction
 Amendment Substitute

Sponsor: Antoinette Sedillo Lopez, Angel Charley, and Cindy Nava **Agency Name and Code** AOC 218
Short Title: CHILD & DOMESTIC ABUSE TRAINING FOR COURTS **Person Writing** Alison B. Pauk
Phone: 505-470-6558 **Email** aocabp@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	None	

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	Unknown	Unknown	N/A	

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	Unknown	Unknown	Unknown	Recurring	

(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: Senate Bill 441 creates a new sections of the Domestic Relations Act, Chapter 40, and also amends Sections 40-4-9 and 40-4-9.1, as follows:

- **New Section in Chapter 40: Family Violence Training for Judges and Court Personnel**
 - Subsection A: Starting January 1, 2026, the AOC shall provide evidence-based, yearly training for judges and court personnel on domestic abuse.
 - Subsection B: defines “domestic abuse”
- **Section 40-4-9 NMSA 1978:** language cleanup, removing pronouns.
 - Subsection A: adds “evidence of child abuse or domestic violence” to the list of factors the court shall consider when determining custody of a minor.
 - New Subsection D: defines “child abuse” and “domestic abuse”
- **Section 40-4-9.1 NMSA 1978:** adds to the standards for the determination of a parenting plan for joint custody cases.
 - Subsection H: when custody is contested, this bill adds language when there is evidence of child abuse or domestic abuse, the evaluator must be qualified as competent in the areas of the effects of domestic abuse.
 - New Subsection I: when child custody or “necessary aspects” of a parenting plan are contested, and a claim of domestic abuse was made to the court or the court believes a party has committed domestic abuse, the court *shall not* order reunification treatment “unless there is generally accepted and scientifically valid proof of safety, effectiveness and therapeutic value of the reunification treatment.”
 - New Subsection D: defines “child abuse” and “reunification treatment.”

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is June 20, 2025, which is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The amendments found in SB 441 require all judges and staff throughout the judiciary to receive annual evidence-based training regarding domestic abuse, which will result in an increase in costs for such training.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and appeals from convictions, as well commenced civil actions and appeals. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

Senate Bill 441 proposes a new section of Chapter 40, Domestic Affairs, that requires the Administrative Office of the Courts to provide at least annual “evidence-based ongoing training” for judges and court personnel on domestic abuse. In New Mexico, judicial education is regulated by the Rules Governing Judicial Education, Rules 25-101 through 25-104 NMRA 1978. The Supreme Court is responsible for promulgating the rules of practice and procedure that govern court proceedings and the internal operations of the New Mexico Judiciary, as seen in *State ex rel. Anaya v. McBride*, 1975-NMSC-032, which held:

Our constitutional power under N.M.Const. art. III, s 1 and art. VI, s 3 of superintending control over all inferior courts carries with it the inherent power to regulate all pleading, practice and procedure affecting the judicial branch of government. *State v. Roy*, 40 N.M. 397, 60 P.2d 646 (1936). See also *Alexander v. Delgado*, 84 N.M. 717, 507 P.2d 778 (1973); *Sitta v. Zinn*, 77 N.M. 146, 420 P.2d 131 (1966); *State v. Arnold*, 51 N.M. 311, 183 P.2d 845 (1947); *City of Roswell v. Holmes*, 44 N.M. 1, 96 P.2d 701 (1939); cf. *State v. Gunzelman*, 85 N.M. 295, 512 P.2d 55 (1973).

Under the Constitution, the legislature lacks the power to prescribe by statute rules of practice and procedure, although it has in the past attempted to do so. Certainly statutes purporting to regulate practice and procedure in the courts cannot be made binding, for the constitutional power is vested exclusively in this court.

Therefore, it is contrary to the separation of powers for a different branch of government to dictate when and what topics of which the judiciary shall be trained.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

In Senate Bill 441, the amendments to Section 40-4-9.1 NMSA 1978 limit the ability of a court to appoint an evaluator or allow the testimony of an expert witness unless the court finds the person "is qualified as competent, by training and experience, in the areas of effects of domestic abuse on children, adults and families, including the connection between domestic abuse and trauma on children." Additionally, the amendments require the expert to also have training from "[r]ecognized sources with expertise in child abuse or domestic abuse and the traumatic effects of domestic abuse." This provision will likely require the court to hold a hearing to determine if

a proposed expert does meet these requirements, even if the parties agree to the appointment of the expert. This will likely increase costs of litigation and cause a delay in the proceedings.

In SB 441's amendments to Section 40-4-9.1 NMSA 1978, once a claim is made and the child custody or aspects of the parenting plan are contested, the court cannot order reunification treatment "unless there is a generally accepted and scientifically valid proof of the safety, effectiveness, and therapeutic value of the reunification treatment." This would likely result in the courts being unable to order reunification any time there is a claim of domestic violence. Additionally, SB 441 does not require the court to determine if the claim of abuse is supported by evidence. It is unclear how the court is to determine whether the reunification treatment is generally accepted and scientifically proven. Finally, this may have a disparate impact as custody cases are often brought by parents with limited resources.

ALTERNATIVES:

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS