

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

SECTION I: GENERAL INFORMATION*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 1/20/2026*Check all that apply:***Bill Number:** HB 57Original Correction Amendment Substitute **Sponsor:** Rep. Andrea Reeb**Agency Name and Code Number:** 305 – New Mexico Department of Justice**Short Title:** TRAFFIC OFFENSE VIDEO TESTIMONY**Person Writing****Analysis:** AAG Tyler Sciara**Phone:** 505-645-5980**Email:** Fir.request@nmdoj.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	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: The New Mexico Implied Consent Act generally provides that any person who operates a motor vehicle within the state is deemed to have consented to a breath or blood test if arrested on suspicion of driving under the influence. HB57 amends the Implied Consent Act to include a provision that such individuals are also deemed to have consented to allow the person who conducted the chemical test to testify at court proceedings by video appearance.

FISCAL IMPLICATIONS

None apparent.

SIGNIFICANT ISSUES

HB57 may violate the Confrontation Clause of the Sixth Amendment to the United States Constitution. Face-to-face confrontation is an element of the Sixth Amendment and “any exceptions to the general rule providing for face-to-face confrontation [must be] ‘narrowly tailored’ and include ‘only those situations where the exception is necessary to further an important public policy.’” *State v. Chung*, 2012-NMCA-049, ¶ 11.

To be sure, “[t]he state has a strong interest in obtaining evidence from a chemical test[,]” *Matter of Suazo*, 1994-NMSC-070, ¶ 18, 117 N.M. 785, and “in enforcing its statutes and managing criminal prosecutions[.]” *State v. Neal*, 2008-NMCA-008, ¶ 11, 143 N.M. 341. But it appears unlikely that a waiver of face-to-face confrontation by statutorily implied consent would be considered narrowly tailored to survive constitutional scrutiny.

For instance, as indicated above, the Implied Consent Act includes a provision that a driver is deemed to have consented to a blood alcohol test. However, our courts have held that this provision is unconstitutional; the Fourth Amendment does not permit warrantless blood draws for alcohol testing because “[i]t is significantly more intrusive” than breath tests. *State v. Storey*, 2018-NMCA-009, ¶¶ 25-26.

To illustrate further, the State has a particularly “strong public policy [interest] . . . to protect child victims of sexual crimes from the further trauma of in-court testimony.” *State v. Fairweather*, 1993-NMSC-065, ¶ 25, 116 N.M. 456. Even so, a defendant's right to face-to-face confrontation with an alleged child victim may not be abridged absent a specific factual finding that “the child is unable to testify before the court without suffering unreasonable and

unnecessary mental or emotional harm.” Rule 5-504(B)(1) NMRA; *State v. Berry*, 2025-NMCA-009, ¶¶ 14, 17. Accordingly, it appears rather likely that defendants will be able to raise viable constitutional challenges to the amendments made in HB57.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A