

LFC Requester:

Scott Sanchez

## 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 57

Original x      Correction         
Amendment             Substitute       

**Sponsor:** Rep. Andrea Reeb

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Person Writing**

**Short Title:** TRAFFIC OFFENSE VIDEO  
TESTIMONY

**Analysis:** AAG Tyler Sciara

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### 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
<b>Total</b>						

(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