

**LFC Requester:**

Sanchez

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 1/16/26*Check all that apply:***Bill Number:** HB 57Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Rep. Andrea Reeb**Agency Name  
and Code**AOC  
218**Short** Traffic Offense Video**Person Writing**Charlene Romero**Title:** Testimony**Phone:** 505-490-5149**Email** aoccar@nmcourts.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
<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**

#### **BILL SUMMARY**

Synopsis: HB 57 proposes to create a new section of the Implied Consent Act to provide for a person who performs or analyzes chemical testing to appear by interactive video. The interactive video will provide the opportunity for the analyst or toxicologist to be questioned and cross-examined, for this person to be clearly visible and audible by the judge, jury and all parties, and the person is to be able to clearly see and hear the proceeding with or without accommodation. HB 57 also proposed to amend 66-8-107 to provide implied consent for the toxicologist or the person who performed the chemical testing to appear via interactive video.

#### **FISCAL IMPLICATIONS**

The New Mexico judiciary previously implemented robust audio-visual procedures and the statewide use of software applications for holding remote proceedings in response to the public health emergency. There would be no significant fiscal implications to the courts as the currently have adequate technology systems in place to allow for the testimony of a person who performs or analyzes chemical testing by interactive video in DWI jury trials that would come before the courts if this Bill is enacted.

Costs related to litigating the constitutional implications of this bill through the appellate process may result if a legal challenge is sought to resolve the confrontation clause issue. (see “Significant Issues” below)

#### **SIGNIFICANT ISSUES**

Allowing laboratory analysts to testify remotely through interactive video may allow for a more efficient use of their time as they will not be required to travel in person when subpoenaed for these proceedings, which presumably will also result in cost-savings for the scientific laboratory division of the Department of Health. Additionally, by easing the scheduling burden on the witnesses, it may allow for court hearings to proceed with fewer need for continuances in order to secure a convenient time for witnesses to appear.

Under both the U.S. Constitution and the New Mexico Constitution, a defendant has a right “to confront all witnesses against him.” In *State v. Thomas*, 2016-NMSC-024, the New Mexico Supreme Court has held that this right to confront means the right to confront a live witness, and not a witness appearing by video, unless a judge finds that would further a compelling public policy interest (for example a child who is a victim of sexual assault need not testify in person). The language of the bill as drafted is open to a constitutional challenge, and could lead to litigation to determine the matter.

#### **PERFORMANCE IMPLICATIONS**

In response to the COVID-19 public health emergency, the New Mexico Supreme Court implemented Emergency Court Protocols that included procedures for allowing for the audio-visual testimony of a witness. All courts in New Mexico were required by necessity to address technological needs to make this kind of hearing possible. Currently, there are no significant technical limitations to allowing a witness, including a person who performs or analyzes chemical testing, to testify via two-way, or interactive, video.

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

See “Performance Implications” above.

## **OTHER SUBSTANTIVE ISSUES**

The language “shall be deemed to have given consent” in Sec. 2, creating 66-8-107(C) is not clear whether that consent can be revoked at a later time by the defendant. This could create a need for litigation to define the limits of consent.

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

## **AMENDMENTS**