

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://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:** 21 January 2026*Check all that apply:***Bill Number:** HB 57Original ☒ Correction ☐Amendment ☐ Substitute ☐**Sponsor:** Reeb**Short** Traffic Offense Video**Title:** Testimony**Agency Name
and Code**New Mexico Sentencing
Commission (354)**Number:****Person Writing**

Douglas Carver

Phone: 505-239-8362**Email** dhmcarter@unm.edu**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

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

BILL SUMMARY

Synopsis:

HB 57 adds a new section of law to the Implied Consent Act providing for video testimony of the person who analyzes chemical testing under the Act. HB 57 also adds a new subsection to Section 66-8-107 of that Act, regarding implied consent to submit to a chemical test, so that implied consent is also given for allowing for video testimony of the analyst.

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

Driving under the influence is frequently charged in the state. Since FY25 there have been 4,100 cases with Section 66-8-102, the state's DUI statute, as the lead offense. Of these, 673 (16.4%) are disposed cases. Of these disposed cases, 106 (15.8%) resulted in a conviction, 483 (71.8%) resulted in a dismissal, 81(12.0%) were deferred, and three (0.04%) were acquitted. Anecdotally, dismissals are often attributed to the difficulty in getting the analyst for the chemical tests of breath and blood allowed under the Implied Consent Act to court to testify in person. Video testimony would make it easier for the analyst to appear, possibly resulting in greater conviction rates. The average per day cost to incarcerate someone in the state's prison system is \$153.08/day; this average includes private and public facilities.

There are considerable constitutional issues raised by video testimony of witnesses in criminal proceedings, particularly with the Sixth Amendment's Confrontation Clause, under which courts generally require live trial testimony over video testimony. Accommodations made during the height of the Covid pandemic saw some softening of these restrictions, but the US Supreme Court has not provided strong guidance and lower courts have been divided on the issue. In a pre-Covid case in New Mexico, the state Supreme Court upheld the importance of face-to face confrontation of witnesses in criminal proceedings in *State v. Thomas*, 2016-NMSC-024, holding that "[a] criminal defendant may not be denied a physical, face-to-face confrontation with a witness who testifies at trial unless the court has made a factual finding of necessity to further an important public policy and has ensured the presence of other confrontation elements concerning the witness testimony including administration of the oath, the opportunity for cross-examination, and the allowance for observation of witness demeanor by the trier of fact."

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