

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS – 2026 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: 1/20/2026 **Check all that apply:**
Bill Number: HB 57 **Original** **Correction**
Amendment **Substitute**

Sponsor: Andrea Reeb
Short Traffic Offense Video
Testimony

Agency Name and Code
Number: 790 – Department of Public Safety
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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
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: (Nearly identical to 2025 HB105; 2024 HB62; 2023 HB159) Adds a new section to the Implied Consent Act to permit an analyst or toxicologist to testify at a court proceeding related to traffic offenses via interactive video. A defendant is deemed to have given consent to an analyst's interactive video appearance if the analyst is subpoenaed to testify about chemical testing that the analyst performed to determine if the defendant was driving a motor vehicle under the influence of intoxicating liquor or drug.

FISCAL IMPLICATIONS

No fiscal impact to DPS.

SIGNIFICANT ISSUES

DPS does not have any significant issues with this legislation. This bill aims to streamline court proceedings and mitigate logistical challenges respective to the scheduling of laboratory experts. The bill is in line with modern judicial practices using technology to enhance efficiency. The ability of laboratory analysts or toxicologists to appear in court via video will not only allow for streamlined court processes but will permit critical laboratory analysts and toxicologists to perform their important primary functions with less burden, reduce delays associated with scheduling in-person testimony, and increase the availability of expert testimony in DUI cases. All these things will potentially strengthen the enforcement of traffic safety laws.

Under the U.S. Supreme Court's two-part test in *Maryland v. Craig*, 497 U.S. 836 (1990), video testimony in criminal proceedings is permissible only when: (1) denial of face-to-face confrontation is necessary to further an important public policy; and (2) the reliability of the testimony is otherwise assured through oath, cross-examination, and ability to observe demeanor. HB57 permits automatic video appearance upon subpoena without any case-specific judicial finding of necessity, which may not satisfy the Craig standard. However, the bill's requirement of two-way "interactive video" where the witness can "clearly see and hear the proceeding" provides stronger confrontation protections than one-way video systems.

Notably, HB57 may assist compliance with *Bullcoming v. New Mexico*, 564 U.S. 647 (2011), which requires the actual analyst who performed or certified testing—not a surrogate—to testify. By facilitating remote testimony from the actual analyst, HB57 removes a practical barrier that sometimes leads prosecutors to use surrogate witnesses in violation of *Bullcoming*.

PERFORMANCE IMPLICATIONS

New Mexico Department of Public Safety believes the ability to have experts appear in court via video will not only allow for streamlined court processes but will permit critical laboratory experts to perform their important primary functions with less burden, reduce delays associated with scheduling in-person testimony, and increase the availability of expert testimony in DWI cases.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

Section 1, pages 1 - 2, states that the witness shall be able to clearly see and hear the proceeding "with or without accommodation." This phrase is vague and may create ambiguity regarding what accommodations are

permissible and who is responsible for providing them.

The bill does not address procedures for technology failures during testimony, such as loss of video or audio connection. Courts may benefit from guidance on whether testimony must be suspended, restarted, or whether the witness must appear in person if technical difficulties cannot be resolved.

The bill does not explicitly require that the witness testify under oath when appearing by video. While this may be implied by standard court procedures, explicit statutory language would remove any ambiguity.

OTHER SUBSTANTIVE ISSUES HB57 permits automatic video appearance upon subpoena without any judicial finding, which represents a departure from existing statutory frameworks for alternative testimony methods in criminal proceedings. Existing New Mexico statutes that permit video or alternative testimony in criminal proceedings generally require judicial findings before such procedures are invoked. For example, NMSA 1978, Section 30-9-17 (videotaped depositions of child victims in sexual offense cases) requires the court to find “good cause” before ordering video testimony. Similarly, the Child Witness Protective Measures Act, NMSA 1978, Sections 38-6A-1 to -6, requires case-specific determinations.

Section 1 of HB57, which proposes to create a new section of the Implied Consent Act, refers to “a person who performs or analyzes chemical testing pursuant to the Implied Consent Act, including an analyst or a toxicologist,” which is a narrow, specific descriptive phrase. Conversely, Section 2 of HB57, which proposes to amend Section 66-8-107 NMSA 1978, refers more broadly to “a person who performed a chemical test or a toxicologist.”

ALTERNATIVES

Not applicable to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

This bill is a well thought out proposal aimed at increasing judicial efficiency through the adoption of modern judicial practice that also secures the rights of the accused. Without this legislation, laboratory analysts and toxicologists will continue to face scheduling burdens that require in-person court appearances across New Mexico’s geographically dispersed judicial districts. This may result in: (1) continued delays in DWI prosecutions due to expert witness unavailability; (2) potential dismissals when cases cannot proceed within speedy trial requirements; (3) increased pressure on prosecutors to use surrogate witnesses in potential violation of *Bullcoming v. New Mexico*; and (4) diversion of limited Scientific Laboratory Division resources from primary analytical functions to travel and court appearances. The status quo, however, maintains full face-to-face confrontation rights for defendants as currently interpreted under New Mexico and federal constitutional law.

AMENDMENTS

None at this time.