

LFC Requester:

Jacobs, Henry

### 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: 1/23/2026

Check all that apply:

Bill Number: SB 51

Original  Correction   
Amendment  Substitute

Sponsor: Sen. Antoinette Sedillo Lopez

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

Short Title: Wrongful Conviction Compensation Act

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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)**

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<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 bill provides that a person who was wrongfully convicted may petition for exoneration and also provides such a person with a claim for monetary damages. It creates a “wrongful conviction compensation fund” to be administered by the Department of Finance and Administration. It also creates additional duties of the New Mexico Attorney General (NMDOJ).

**Section 1** amends NMSA 1978, § 31-16-7 to provide that, if a district attorney seeks reimbursement from a criminal defendant who improperly received indigent defense legal services (essentially LOPD), typically because they did not qualify for such free services, the person’s ability to reimburse the State shall **not** be determined based on a monetary award to the person under the Wrongful Conviction Compensation Act.

**Section 2** amends NMSA 1978, § 37-2-1, which concerns which causes of action (i.e., legal claims) survive the death of the injured party. It would add a claim under this act to the list of claims that survive that person’s death. As a result, if an exonerated (or later exonerated) person dies, his estate could still pursue a claim under this act.

**Section 3** would title the act as the “Wrongful Conviction Compensation Act.”

**Section 4** contains various definitions of key terms as used in the act, such as “Alford plea,” “conviction,” “exoneration” and “wrongful conviction” etc.

**Section 5** provides that venue for any action filed under the act, i.e., for exoneration or monetary damages, shall be filed in the district court covering the county in which the petitioner resides, or in the first judicial district court.

**Section 6** provides for the ability to file and pursue a petition for exoneration. It describes the matters to be proved to be successful. Section 6(D) provides that the Attorney General “shall represent” the State in such proceedings. It also provides that the Attorney General may appoint a district attorney to represent the State if the Attorney General determines a conflict of interest or other good cause requires the appointment. Section 6(E) provides various defenses the State can assert. Section 6(F) states that, upon the filing of a petition, the court shall serve notice upon the Attorney General and schedule a hearing within ten days, with the hearing to be held within 120 days from the petition filing date, unless the court finds good cause to hold it at a later date.

**Section 7** provides that, upon a court taking certain actions (e.g., overturning a conviction), or the Governor issuing a pardon, the court or Governor's office, as applicable, shall provide the person with notice of his or her rights under the act, which notice shall include a copy of the act. This section also provides that, generally, subject to extensions as specified in that same section, an action initiated under the act shall be filed no later than six years from the date the person received such notice.

**Section 8** addresses monetary relief. It provides that an exonerated person shall be entitled to various compensation, including a minimum of \$75,000 for each year the person was imprisoned, a minimum of \$50,000 for each year the person was released on probation or parole, or (even if not on probation or parole) was subject to the requirements of the Sex Offender Registration and Notification Act (SORNA). The section also provides that the person shall receive an additional \$25,000 for each year that they were imprisoned if they were awaiting the execution of the death sentence. The section also provides that the person can be compensated for "actual damages" including lost wages, fines, fees, restitution or child support arrearage, etc. The section makes it clear that the person shall **not** be awarded any compensation if the person was incarcerated (or on probation / parole, or subject to SORNA) anyways, during that same time frame, for a "separate intact conviction unrelated to the conviction for which the person was exonerated[.]" The delineated amounts shall be adjusted for cost of living.

The section also provides that the compensation, which shall be paid in a lump sum, may be reduced due to damages the person may have possibly obtained in a prior civil action that is based on the same facts that gave rise to the person's petition for exoneration. (This may refer to situations in which the person prevailed in a prior civil lawsuit against a law enforcement agency for civil rights violations, if based on the same facts that gave rise to the petition for exoneration). The section also provides that if the person receives a subsequent award of certain damages, related to the same facts that gave rise to their exoneration, they must reimburse the State in that amount (to account for the State having already paid compensation related to the exoneration).

**Section 9** governs other relief. It provides that if a court approves a petition for exoneration, the court shall enter an order expunging all publicly available records related to the person's arrest, prosecution, conviction and sentence, with the expungement being immediate and in the same manner as an order of expungement issued pursuant to the Criminal Record Expungement Act.

Subsection 9(B) provides that the court also enter an order directing the Attorney General to, within 60 days of the order, provide the exonerated person with a letter, "no longer than one page in length," that states that the person was wrongfully convicted of the felony offense and lists the applicable time periods during which the person was wrongfully imprisoned, on probation or parole, or otherwise subject to SORNA.

**Section 10** provides that sovereign immunity is waived for actions under the act pursued in state court.

**Section 11** provides that the act shall operate retroactively for actions pursuant to the Wrongful Conviction Compensation Act that accrue before July 1, 2026.

**Section 12** provides that a court hearing a petition under the act shall give due consideration to the difficulties of proof caused by the passage of time, the death or unavailability of witnesses, and similar concerns. It also provides that a judgment under the act, or evidence that a petition for exoneration was granted or denied shall not be admissible evidence in any other proceeding.

**Section 13** creates the wrongful conviction compensation fund, which is a nonreverting fund in the state treasury. The fund is to be administered by the Department of Finance and Administration. It provides that monetary relief awarded under the act shall be paid from that fund, but otherwise the state shall be liable for the relief.

**Section 14** provides for interim, temporary financial assistance upon being released from custody pursuant to an order under the act. It provides that the released person (exonerated person) shall receive \$6,000 as a one-time payment to cover immediate expenses for housing, utilities, etc., and a monthly payment of \$1,000 for six months from the date the person is released.

**Section 15** appropriates \$9,000,000 from the general fund to the wrongful conviction compensation fund, to carry out the purposes of the act. Any unexpended balance at the end of a fiscal year shall not revert to the general fund.

**Section 16** provides that the effective date of the act would be July 1, 2026.

### **FISCAL IMPLICATIONS**

Section 6(D) imposes upon the Attorney General (New Mexico Department of Justice) the duty to represent the State, in cases where a person has filed a petition for exoneration. As also noted above (Section 6(F)), there are court hearings to be held within a certain amount of time after the filing of the petition.

Section 9(B) requires that, upon an order of exoneration being issued by a court, the Attorney General must, within sixty days of the date of such order, issue a letter to the exonerated person with certain information in such letter.

As noted above, Section 13 provides that the “wrongful conviction compensation fund” shall be administered by the Department of Finance and Administration, and that money in the fund is appropriated to DFA for expenditures made pursuant to the act (Wrongful Conviction Compensation Act). The bill (Section 15) provides for an appropriation of \$9,000,000 to the “wrongful conviction compensation fund” to “carry out the purposes of the Wrongful Conviction Compensation Act.”

While it is not completely clear, it does not appear that any of that fund would be available to the NMDOJ for the staff and resources that may be needed to carry out the additional duties imposed on the Attorney General, as enumerated above.

### **SIGNIFICANT ISSUES**

None apparent.

### **PERFORMANCE IMPLICATIONS**

As noted above (Fiscal Implications), additional duties are imposed by the act upon the Attorney General.

Section 6(D) imposes upon the Attorney General (New Mexico Department of Justice) the duty to represent the State, in cases where a person has filed a petition for exoneration. In the same

section, it also provides that the Attorney General may appoint a district attorney to represent the State if the Attorney General determines a conflict of interest or other good cause requires the appointment.

Section 9(B) requires that, upon an order of exoneration being issued by a court, the Attorney General must, within sixty days of the date of such order, issue a letter to the exonerated person with certain information in such letter.

#### **ADMINISTRATIVE IMPLICATIONS**

None apparent.

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

None.

#### **TECHNICAL ISSUES**

None apparent.

#### **OTHER SUBSTANTIVE ISSUES**

None apparent.

#### **ALTERNATIVES**

None.

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

The status quo will continue.

#### **AMENDMENTS**

None.