

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

**SPONSOR** Sedillo Lopez                      **ORIGINAL DATE** 02/16/21  
**LAST UPDATED** 03/10/21                      **HB** \_\_\_\_\_  
**SHORT TITLE** Domestic Violence Victim Release from Lease                      **SB** 338/aSHPAC  
**ANALYST** Gaussoin

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Crime Victims Reparation Commission (CVRC)

### SUMMARY

#### Synopsis of SHPAC Amendment

The Senate Health and Public Affairs Committee amendment to Senate Bill 338 removes a requirement the violent incident occur at the resident of the victim.

#### Synopsis of Original Bill

Senate Bill 338 creates a new section of the Uniform Owner-Resident Relations Act that would allow a victim of sexual assault or domestic violence committed on the premises to break a lease without penalty if the victim provides the owner with a protective order that states the resident is a victim of domestic violence or sexual assault or a letter from a provider of services for victims.

Under the legislation, the resident would be required to terminate the rental agreement in writing within 30 days of the assault unless the owner waives that limitation, would still owe rent up to the date of termination notice, and would lose any prepaid rent. A resident who terminates a lease under the new provision in SB338 and is convicted of falsely filing an order of protection would be liable to the owner for three times the damages of terminating the lease early.

The owner would have the right to refuse access to anyone accused of violence in the written evidence provided by the victim unless the person is escorted by a law enforcement officer. The person accused of assault, whether part of the rental agreement or not, would be deemed to have interfered with the rental agreement and would be civilly liable for all economic losses incurred by the owner as a result of the early lease termination, including unpaid rent, early lease termination fees, costs to repair damages, and any reductions or waivers of rent previously granted to the victim.

A termination filed under the provisions in SB338 would terminate the lease agreement for all other residents who are part of the agreement and, except for the accused, also release them from any financial obligations.

SB338 also amends existing law to add victims of sexual assault to eviction protections already available to victims of domestic violence under certain conditions and makes minor changes to grammar and gendered language.

The effective date of the legislation is July 1, 2021.

## **FISCAL IMPLICATIONS**

SB338 would have limited fiscal impact on any state agency, although landlords may face some losses. AOC reports minimal administrative cost for the statewide update, distribution, and documentation of statutory changes.

## **SIGNIFICANT ISSUES**

AOC notes SB338 limits the evidence a resident can provide:

While the intent of this legislation is to allow a victim of domestic violence or sexual assault the ability to terminate a rental agreement without facing an early termination fee or penalty, the only two forms of “proof” that are allowed to be presented to an owner are a protective order or a letter/form from a service provider of domestic violence or sexual assault services. Missing from this list of acceptable “proof” is a police report or a letter indicating that the resident is a victim in a criminal case involving domestic violence. A victim of domestic violence or sexual assault may not seek a protective order or see a service provider and without doing so would not be able to utilize this new portion of the Uniform Owner-Resident Relations Act.

Both AOC and CVRC note the absence of victims of stalking in SB338, CVRC noting the addition of stalking victims would “encompass the entire class of victims who are eligible for orders of protection.”

AOC ties that concern to the bill’s lack of a definition of domestic violence. From AOC:

Another significant issue is the lack of a definition of domestic violence. The Family Violence Protection Act allows a protective order to be issued if “domestic abuse” occurs between household members, or for perpetrators of sexual assault and stalking, regardless of the relationship with the victim. A strict reading of this legislation could exclude stalking victims and other crimes that are not included in the Family Violence Protection Act.

CVRC explains the site of a crime often causes anxiety for the crime victim and said SB338 would address that issue:

The public policy foundations of this bill provide much needed support for crime victims whose trauma is often triggered by the psychological cues that are linked to the site of their victimization. Relief from flashbacks of crime victimization caused by geographical reminders is a frequent basis for compensation requests for relocation costs.

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

The near-identical SB106 introduced in 2020 died with no action. SB338 is also similar to SB423 from 2019, which released domestic violence victims from lease agreement. SB423 was approved by the Senate Public Affairs Committee and died without further action.

### **TECHNICAL ISSUES**

AOC notes inconsistency with existing law: “Section 47-8-33(J) NMSA 1978, references a ‘temporary domestic violence restraining order.’ The Section 2 of SB 338 uses the term ‘protective order’ so Subsection J of this bill should be changed to be consistent.”

CVRC indicates the provision penalizing those who falsely file an order of protection could be unenforceable: “New Mexico does not have a crime of falsely filing for an order for protection. The offense would be categorized as perjury.”

HG/sb/al/rl