

LFC Requester:	Scott Sanchez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/16/2024
Bill No: HB57

Sponsor: Stefani Lord
Short Title: Chemical Castration as a Condition of Parole for Sex Offenders

Agency Name and Code Number: 770 - NMCD
Person Writing Anisa Griego-Quintana
Phone: 505-479-2296 **Email** anisa.griego-quinta@cd.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
0	0	0	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	Substantial	Substantial	Substantial	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 57 would require chemical castration as a condition of parole for sex offenders; refusing treatment is a parole violation.

Applies to sex offenders pursuant to Sec. 30-4-1, 30-9-11, 30-9-13, 30-6A-3, 30-6A4, and 30-37-3.2.

Requirements of the chemical castration treatment:

- Must begin at least one month prior to release from custody and continue until the Parole Board determines treatment is no longer necessary.
- Treatment administered by Corrections Department or where advised by the person’s parole officer
- Offender pays for all costs associated with the treatment, but may not be denied parole based solely on inability to pay for the treatment
- Offender must authorize the Corrections Department to share with the Parole Board all medical records relating to the castration treatment
- Refusal to undergo treatment is a violation of parole and calls for immediate remanding to Corrections Department custody for the remainder of the sentence
- Court must inform the offender about the effects of the treatment prior to its administration, and offender must sign a written acknowledgment of receipt of the information.

FISCAL IMPLICATIONS

If treatment is to be administered by the NMCD it would be difficult to estimate a fiscal impact as the cost of the medication and the duration for completing castration can vary based on individual circumstances, medical protocols, and the specific medications used.

Fiscal implications would also be dependent on the number of persons who refuse the treatment thereby facing a parole violation, violations could result in an increase of individuals in prison and community supervision.

SIGNIFICANT ISSUES

The bill would create a mandatory chemical castration requirement as a condition of parole for sex offenders sentenced to a term of incarceration. The State of New Mexico does not currently have laws related to chemical castration.

It is unclear whether a mandatory chemical castration requirement would be constitutional under the U.S. Constitution or the Constitution of the State of New Mexico. Alabama, California,

Florida, Georgia, Iowa, Louisiana, Montana, Oregon, Texas, and Wisconsin all have some form of chemical castration laws, but the U.S. Supreme Court has not ruled on the constitutionality of a mandatory chemical castration. New Mexico state courts have no reported opinions about the constitutionality of mandatory chemical castration. The United States Court of Appeals for the Tenth Circuit and the U.S. District Court for the District of New Mexico also have no reported opinions about the constitutionality of mandatory chemical castration.

Section 3, Item F states that a person shall pay for all costs associated with the treatment, it is unclear if they cannot afford the treatment if the department is obligated to pay.

PERFORMANCE IMPLICATIONS

None for the Corrections Department.

ADMINISTRATIVE IMPLICATIONS

The bill requires the Corrections Department to administer chemical castration treatment if a person is incarcerated during the person's parole term. The bill also requires that a parole officer advise a person released from custody during the person's parole term where to go to receive chemical castration treatment. It is unclear what person or entity would offer chemical castration treatment for persons on parole.

The bill also provides that the district court is required to advise a person subject to the mandatory chemical castration treatment requirement about the effect of chemical castration treatment and any side effects that may result from the treatment. District judges are lawyers and not usually qualified healthcare professionals, and it does not appear that the district court would be administering the treatment.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None for the Corrections Department.

TECHNICAL ISSUES

None for the Corrections Department

OTHER SUBSTANTIVE ISSUES

None for the Corrections Department

ALTERNATIVES

None proposed by the Corrections Department

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None proposed by the Corrections Department.