

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

FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/7/25

SPONSOR Cervantes

BILL

SHORT TITLE Structured Settlement Guardian Ad Litem **NUMBER** Senate Bill 282

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Courts	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 124

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Public Defender Department (PDD)
 General Services Department (GSD)
 Office of the State Auditor (OSA)

Agency Analysis was Solicited but Not Received From
 Administrative Office of the Courts (AOC)
 Developmental Disabilities Council (DDC)

Agency Declined to Respond
 Office of Family Representation and Advocacy (OFRA)
 Administrative Office of the District Attorney (AODA)

SUMMARY

Synopsis of Senate Bill 282

Senate Bill 282 (SB282) amends the Structured Settlement Protection Act to require the appointment of a guardian ad litem in all structured settlement transfer cases. It establishes procedural requirements for structured settlement transfers, ensuring that courts conduct a review to determine if the transfer is in the best interests of the payee.

SB282 strikes language throughout the Act referencing other sections of the Act in plain language and replaces those internal references with numerical statutory citation (i.e. replacing “Section 4 of the Structed Settlement Protection Act” with “39-1A-4 NMSA 1978”). Under the bill, any application to transfer structured settlement payment rights must be filed in court by the transferee. At least 20 days before the hearing, the transferee must notify all interested parties, including the court, the payee’s dependents, and other relevant stakeholders. The notice must include a copy of the application, the transfer agreement, a financial disclosure statement, a list of dependents, the hearing date, and instructions on how to file written responses. Interested parties have 15 days from the date of notice to submit a response.

SB282 adds Subsection D to explain that upon receiving an application for transfer, the court must appoint a guardian ad litem to evaluate whether the proposed transfer is in the payee’s best interest. The guardian ad litem must assess factors such as the payee’s understanding of the agreement, the impact of the transfer on financial stability, the ability to meet child support or spousal maintenance obligations, and whether the payee has alternative sources of financial support. If the structured settlement was intended to cover future medical expenses or lost income, the guardian ad litem must determine whether the payee has sufficient funds to meet those needs after the transfer.

SB282 adds Subsection E to explain that the guardian ad litem may consult with a certified public accountant, actuary, or other licensed professionals to assist with the assessment. The transferee is responsible for covering all costs and reasonable fees for the guardian ad litem, in an amount determined by the court. SB282 adds Subsection F calling for the guardian ad litem to submit an interim report at least 10 days before the hearing, allowing all parties to review the findings related to the evaluation of if the proposed transfer is in the payee’s best interest. Subsection G, a new section, requires that any written responses to the report must be filed at least five days before the hearing. SB282 adds Subsection H explaining that the final report must be submitted no later than two days before the scheduled hearing.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The General Services Department (GSD) provides the following:

SB282 will not have a fiscal implication on the Risk Management Division (RMD) of the General Services Department (GSD). While the public liability fund will fund structured settlements in some cases (i.e. for minors or those incapacitated), once the structured settlement is funded, there is no longer a state interest. GSD/RMD has no interest or ability to be involved in the maintenance or transfer of a structured settlement. Further, the bill indicates that any costs and fees associated with the guardian ad litem will be paid by the transferee.

As mentioned by GSD, the costs and fees associated with the guardian ad litem will be paid by the transferee. Therefore, the fiscal impact to the Administrative Office of the Courts is indeterminate but minimal; the only operating cost that would be incurred would be using resources to find sufficient guardians ad litem that are qualified and work in the best interest of the payee.

SIGNIFICANT ISSUES

The New Mexico Attorney General provides the following:

In proposed Section 39-1A-6(D)(1), the language “maturity level” is somewhat vague and potentially redundant to other factors listed therein.

If any of the factors in proposed Section 39-1A-6(D)(1)-(6) are intended to have more weight than other factors, or if they are alternatively intended to be considered as part of a totality of circumstances analysis, then it might be helpful to specify in Section 39-1A-6(D) that the factors are or are not intended to be given certain weight in relation to others.

The contents required for the “interim report” and “final report” referenced in proposed Sections 39-1A-6(E)-(G) are not defined. Therefore, it may be helpful to include language stating what the reports must contain.

There is potential ambiguity arising from proposed Section 39-1A-6(E). Specifically, it is not completely clear whether the guardian ad litem’s reasonable costs and fees for which the transferee shall be liable also include the consultations with certified professionals referenced therein. In other words, it is unclear from the language of Section 39-1A-6(E) whether the transferee (1) shall be liable for only the guardian ad litem’s attorneys’ fees and costs, (2) whether costs for professional consultations may in some cases be considered part of the guardian ad litem’s reasonable costs upon a finding of reasonableness by a court (similar to how attorneys’ fees petitions are decided), or (3) whether the statute intends to require the transferee to bear costs for professional consultations in all instances where a guardian ad litem uses said professional services. Therefore, revisions might address who bears responsibility for the costs of professional consultations and the guardian ad litem, respectively. Alternatively, revisions might instead clearly identify in Section 39-1A-6(E) the extent to which the guardian ad litem’s reasonable costs and fees include those incurred when the guardian ad litem consults with licensed professionals.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The New Mexico Attorney General provides the following:

May relate to other legislation potentially impacting GALs such as House Bill 124. There appears to be a low likelihood of conflict with these bills or existing law.

FC/hj