

LFC Requester:	Felix Chavez
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 January 21, 2025
Bill No: House Bill 57

Sponsor: Rep. Pamela Herndon
Short Attorneys for Indigent
Title: Domestic Abuse Victims

Agency Name and Code
Number: 218 AOC
Person Writing Patricia M. Galindo
Phone: 505-670-2656 **Email** aocpmg@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None	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	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 57 amends portions of the Family Violence Protection Act as follows:

- defines “indigent person”
- adds new sections:
 - Right to Representation
 - Determination of Indigency
 - Contractual Services of Counsel
 - Counsel Not Subject to Liability

House Bill 57 does not contain an appropriation to implement the significant statutory changes of providing alleged domestic abuse victims with legal representation in all legal proceedings under Chapter 40 NMSA 1978, the section addressing all family law matters from divorce and child custody to adoption.

House Bill 57 does not contain an effective date and would be effective on June 20, 2025, 90 days following adjournment of the Legislature, if signed into law.

FISCAL IMPLICATIONS

House Bill 57 does not contain an appropriation to cover the additional costs for the judiciary to appoint counsel for alleged domestic abuse victims in all legal proceedings under Chapter 40 NMSA 1978. There will be a significant administrative cost for the statewide update and implementation of these statutory changes, including the development of new rules and court operation procedures.

The fiscal impact is most significant in 1) the cost of court appointed attorneys; and 2) court costs associated with an increase in hearings and case processing time as a result of the additional separate hearings contemplated by the bill to advise victims of their right to counsel. The bill expands access to court appointed attorneys for all case types in Chapter 40, the statutory section covering all family law matters. If court appointed attorneys are available, which is not a given considering New Mexico’s chronic attorney shortage, the cost would likely exceed \$4M as there will likely be a significant increase in the number of parties alleging they are victims of domestic abuse and family law cases tend to reopen and remain open for many years. AOC would also require funding for two FTEs to administer this program.

SIGNIFICANT ISSUES

These proposed statutory changes in HB57 will have a significant impact on the judiciary.

- 1) Additional Procedure: House Bill 57 states that when an alleged domestic abuse victim first appears in court the judge shall advise the alleged victim of the right:
 - to be represented by counsel of the victim's choosing,
 - to have an adjournment to confer with counsel, and to have counsel assigned by the court in any case in which the victim is financially unable to obtain counsel.Domestic violence proceedings are prone to parties not appearing, and adding hearings increases the potential for no-show parties.
- 2) Court-appointed attorney case-type expansion: HB 56 expands AOC's court-appointed attorney program to include all cases under Chapter 40 NMSA 1978 could require the appointment of counsel in the following case types:
 - Dissolution of marriage (divorce)
 - Child support
 - Adoption
 - Name change
 - Kinship guardianship
 - Parentage
 - Domestic violence orders of protection
 - Extreme risk firearm protection orders
- 3) AOC capacity: Section 4 specifically identifies AOC as the entity to develop and oversee contracts with court appointed attorneys. AOC will require additional FTEs and a substantial new budget to implement and administer this new AOC Court Appointed Attorney program.
- 4) Court-appointed attorney availability: court appointed attorney work in the area of child welfare and mental health is not only difficult because of the issues involved, but because it is not lucrative. Court appointed attorneys may typically be reimbursed between \$300 and \$1500 *per case*. AOC currently confronts the annual challenge of identifying attorneys interested in serving in this capacity. The scope of HB 57 would substantially expand this effort. Even with funding, AOC is unable to confirm that enough court appointed attorneys are available to fulfill appointment in the case types required under HB 57.
- 5) Case process barriers remain: For domestic violence orders of protection (DVOP) cases, courts must set hearings within 10 days of the issuance of a temporary order of protection. As written, HB57 requires a judge to advise an alleged domestic abuse victim at their first appearance in court of their right to have legal counsel appointed. In DVOP cases, the petitioner does not see a judge when asking that a temporary DVOP be granted. The first opportunity for an alleged domestic abuse victim to see a judge is at the 10-day hearing. In calendar year 2024, there were 10,780 petitions for a DVOP filed statewide. Most petitions for a DVOP are filed by the alleged domestic abuse victim, not by an attorney. Under the proposed statute, an attorney would not be included in the process

until the first hearing which could be 10 days after the filing of the filing of the victim's petition. If a counter-petition is filed, the second hearing would also include notice to the counter-petitioners that they have a right to counsel and a third hearing would be set to address the claims in both petitions.

- 6) Additional hearings for Domestic Violence Orders of Protection: In calendar year 2024, there were 14,888 hearings in DVOP cases. If the alleged domestic abuse victims ask the court to appoint legal counsel in 40% of the cases, this will result in an additional 4,312 hearing to be reset. There is likely to be an increase in domestic violence petitions filed, as well as counter-petitions, if parties alleging domestic violence are able to be assigned legal counsel after alleging domestic abuse. It is unlikely that most judicial districts will be able to absorb this type of increase in hearings. This may result in a delay in having the first 10-day hearing set in DVOP cases and the need for additional judges and/or hearing officers to handle the caseload increase. In addition, the time to disposition for DVOP cases will increase statewide.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill will have a significant impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP – none identified.

TECHNICAL ISSUES – none.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

Without an appropriation, the judiciary court appointed attorney fund will not be sufficient to cover the costs of contract attorneys to represent alleged domestic abuse victims in all case types under Chapter 40 NMSA 1978. Alternatives to HB57 to ensure prompt assistance for victims of domestic abuse could include:

1. Directing an appropriation to AOC for distribution to civil legal services organizations to provide trained advocates to assist victims of domestic abuse and facilitate access to community resources
2. Legislation supporting the creation and piloting of a program to train community justice workers to provide specialized assistance to victims of domestic abuse
3. Increase funding for guardians ad litem in domestic relations cases to represent children in contested custody cases.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL – none.

AMENDMENTS – none.