

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 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: January 15, 2025

Check all that apply:

Bill Number: HB 57

Original Correction
Amendment Substitute

Sponsor: Rep. Pamelya Herndon

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

Person Writing

Short Title: Attorneys for Indigent Domestic Abuse Victims

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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 would amend the Family Violence Protection Act (FPVA), NMSA 1978, §§ 40-13-1 et seq., (FVPA) to provide that any indigent, alleged domestic abuse victim has the right to an attorney to assist them in all legal proceedings related to the alleged domestic abuse or the alleged domestic abuser, with the attorney’s services and related expenses and court costs paid by public expense.

Section 1 of the bill would amend Section 40-13-2 (Definitions) by adding a definition for “indigent person” in a new subsection (G), resulting in the current definitions being re-lettered accordingly after (G). Under the bill, Section 40-13-2(G) would define “indigent person” as an individual who, “taking into account present income, liquid assets and requirements for basic necessities of life for the individual and the individual’s dependents, is unable, without undue hardship, to pay for all or part of the expenses of legal representation[.]”

Section 2 would add a new section to the FVPA, providing that an alleged domestic abuse victim is entitled to representation by an attorney in all legal proceedings under Chapter 40 NMSA 1978 that are related to the alleged domestic abuse or the alleged domestic abuser. Chapter 40 NMSA 1978 relates to domestic affairs, including but not limited to statutes regulating marriage, divorce, child custody, guardianship.

Section 2 of the bill goes on to provide that the new section of the FVPA would provide that the attorney’s services (and expenses and court costs) for indigent persons would be provided at “public expense.” That provision represents the core addition to the FVPA as provided in this bill. The new section would also provide that the judge in the court in which the alleged domestic abuse victim first appears, must notify the alleged domestic abuse victim of these rights.

Section 3 would add a new section to the FVPA that governs the determination of indigency.

Section 4 would add a new section to the FVPA addressing the contractual process to be used by the courts to provide for attorneys to provide services to indigent domestic abuse victims. Specifically, it states that the director of the administrative office of the courts may, “upon direction of the [New Mexico] supreme court with respect to habeas corpus proceedings initiated in the supreme court, or upon request of a district court, enter into contracts with attorneys designated by those courts whereby the attorney shall undertake to perform” the described

services in all or any specified portion of the cases originating in such district.

Section 5 would add a new section to the FVPA that provides that attorneys providing services to indigent domestic abuse victims shall not be liable in any civil action for the attorney's performance or nonperformance of such services.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

It is not clear why there is a reference to "habeas corpus proceedings initiated in the supreme court" in Section 4, as set forth above, related to the obtaining of contracts with private attorneys for services to be performed to indigent domestic abuse victims.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None.