

<b>LFC Requester:</b>	<b>Chavez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** Jan 25, 2025 *Check all that apply:*  
**Bill Number:** HB 132 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Reeb **Agency Name and Code** 218 AOC  
**Short Title:** Repeal of Deposit of Will **Number:** \_\_\_\_\_  
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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
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: HB 132 repeals NMSA 1978, Section 45-2-515. Section 45-2-515 provides that testators or their agents may deposit a will “with the clerk of any district court in New Mexico for safekeeping.” The statute further requires the district court clerk to notify any person designated to receive the will, or deliver the will to the appropriate court upon being informed of a testator’s death.

#### **FISCAL IMPLICATIONS**

Section 45-2-515 creates an additional administrative burden for district court clerk’s offices beyond the core function of maintaining court case files. Due to the impracticalities of prompt notification of a death and the unavailability of contact information for a testator’s designee, this administrative responsibility has minimal public benefit. Removing this responsibility will have positive albeit minimal fiscal impact upon the courts.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

#### **SIGNIFICANT ISSUES**

- 1) If informed of a testator’s death, Section 45-2-515 requires the district court clerk holding a will to a) notify any person designated to receive the will, or b) deliver the will to the appropriate court upon being informed of a testator’s death. However, compliance with the statute is effectively impossible because updated contact information is not routinely provided to the district court.
- 2) District court clerk’s offices are the official record-keeper of court cases; receiving and maintaining custody of wills is beyond the core scope of a district court clerk’s duties. Wills deposited for safekeeping are not part of any court case. As a result, district clerk’s offices are merely storage facility for these wills.
- 3) The statute does not contain any geographical restrictions or limitations on who can deposit wills and where. Thus, district courts may receive wills from individuals living in other judicial districts, other states, or even other countries. District court clerks would have no way of knowing if a testator who deposited a will within its court passed away while living in another judicial district, state or country, and therefore would be unable to notify the testator’s designee or the appropriate court of jurisdiction that it has a will that that has been deposited for safekeeping.
- 4) There is no requirement or system that tracks the personal identifiers of the testator to verify the testator’s identity after a will has been deposited. It is impossible to differentiate any will deposited for individuals that have the same name (e.g., Juan Garcia, Steve Smith, etc.). Thus, if a district court clerk were to receive notice of an individual who deposited a will has passed away, and there are other individuals with the

same name who have deposited a will in any judicial district, there is no way of know which will (if any) belongs to the decedent.

- 5) At least sixteen states do not have laws allowing for the deposit of will for safekeeping with courts, and an additional seven have moved in recent years to repeal or sunset such laws (Kansas, Kentucky, Maine, New Hampshire, Rhode Island, Texas, and Utah).

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

Repealing Section 45-2-515 will positively benefit district court clerks' offices. The Section creates an additional administrative burden for district court clerk's offices beyond the core function of maintaining court case files. Due to the impracticalities of prompt notification of a death due to the lack of current contact information for a testator's designee, this administrative responsibility has minimal public benefit.

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**