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## FISCAL IMPACT REPORT

**SPONSOR** Block/Dow **LAST UPDATED** \_\_\_\_\_  
**ORIGINAL DATE** 02/28/2025  
**SHORT TITLE** Gender Identity and Child Custody **BILL** \_\_\_\_\_  
**NUMBER** House Bill 559  
**ANALYST** Chilton

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

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

#### Duplicates

Relates to Relates to House Bill 185/Senate Bill 459, House Bill 466, House Bill 543, Senate Bill 258, Senate Bill 356, and Senate Bill 500.

#### Sources of Information

LFC Files

Agency Analysis Received From  
 Office of Family Representation and Advocacy (OFRA)  
 New Mexico Attorney General (NMAG)

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

Agency Declined to Respond  
 Department of Health (DOH)

## SUMMARY

### Synopsis of House Bill 559

House Bill 559 (HB559) would prohibit courts from considering parental decisions to restrict or to permit gender-identity of child when deciding on custody of that child. The bill specifies that courts shall not consider a parent’s support or lack of support for that person’s child’s feeling of gender incongruity or the parent’s willingness to provide gender-affirming physical or mental health care. A parent’s decision not to provide these types of care for the child is not to be considered detrimental to the child, neglect or abuse, provision of an unsafe environment for the child, inadequate provision of health care, inability to form a connection with the child or a bad attitude toward the child.

The effective date of this bill is July 1, 2025.

## FISCAL IMPLICATIONS

There is no appropriation in House Bill 559. No fiscal implications are apparent.

## SIGNIFICANT ISSUES

The Office of Family Representation and Advocacy (OFRA) comments that:

The primary responsibility of the court in resolving private custody disputes and establishing custody arrangements is to evaluate and protect the best interests of the child. To make a fully informed custody determination, the judge needs comprehensive information about the child, including the child's developmental, physical, emotional, and mental health needs and strengths. Since gender identity is a core aspect of human development, a parent's response to their child's gender identity should not be excluded from a judge's evaluation of what is in a child's best interests. OFRA is concerned that adoption of this bill may lead to more unhoused children/youth and more children/youth entering the foster care system because of parental rejection based on their non-conforming gender identity. If a judge cannot consider how a parent responds to a child's gender identity, and a child is required to stay in the home of a parent who rejects their core gender identity, that parental rejection can lead to poor outcomes for the child/youth.

OFRA points to a paper published in the journal of the American Academy of Pediatrics', *Pediatrics*, which summarizes its results and conclusions as follows:

**RESULTS.** Higher rates of family rejection were significantly associated with poorer health outcomes. On the basis of odds ratios, lesbian, gay, and bisexual young adults who reported higher levels of family rejection during adolescence were 8.4 times more likely to report having attempted suicide, 5.9 times more likely to report high levels of depression, 3.4 times more likely to use illegal drugs, and 3.4 times more likely to report having engaged in unprotected sexual intercourse compared with peers from families that reported no or low levels of family rejection. Latino men reported the highest number of negative family reactions to their sexual orientation in adolescence.

**CONCLUSIONS.** This study establishes a clear link between specific parental and caregiver rejecting behaviors and negative health problems in young lesbian, gay, and bisexual adults. Providers who serve this population should assess and help educate families about the impact of rejecting behaviors. Counseling families, providing anticipatory guidance, and referring families for counseling and support can help make a critical difference in helping decrease risk and increasing well-being for lesbian, gay, and bisexual youth.

The New Mexico Attorney General (NMAG) sees several likely conflicts between the provisions in this bill and state and federal constitutional law and statutes:

- Conflict with the Equal Protection Clause of the US Constitution.
- Conflict with the New Mexico Constitution, which states that "equality of rights under law shall not be denied on the account of the sex of a person."
- Conflict with "the existing language of Section 40-4-9(A), requiring the court determine

custody based on the best interests of the child. The “best interests of the child” standard is not fixed, and arguably, what may be in the best interests of a transgender child is to be treated by a parent according to their gender identity, rather than the sex they were assigned at birth.”

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

Related to the following bills, all relating to LGBTQ+ persons:

- House Bill 185/Senate Bill 459, identical bills entitled Protection of Women’s Sports Act,
- House Bill 466, Hormone Therapy and Puberty Blocker Protection,
- Senate Bill 356, State Diversity Act,
- House Bill 543, Parental Consent for Minor’s Health Care,
- Senate Bill 258, Human Sexuality Education, and
- Senate Bill 500, Detransitioner Protection Act.

## **TECHNICAL ISSUES**

NMAG points out an inconsistency in the bill’s provisions:

This bill would prohibit courts from considering a parent’s support for their child’s gender identity when making custody decisions. This may raise questions about the converse situation: presumably, this bill may allow a court to favorably consider a parent’s decision to not support their child’s gender identity or desire to seek gender affirming care. The effect may be that parental decisions that support gender affirming care for a transgender child are barred from consideration, while parental decisions that align with maintaining a child according to their assigned gender at birth are still available for judicial consideration.

LAC/hj/SL2