

HOUSE BILL 204

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL PROCEDURE; PROVIDING FOR THE RIGHT TO REFUSE PRETRIAL STATEMENTS OR INTERVIEWS BY A CHILD VICTIM, CHILD WITNESS AND ADULT VICTIM; PROVIDING PROCEDURES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Victims of Crime Act is enacted to read:

"[NEW MATERIAL] RIGHT TO REFUSE PRETRIAL STATEMENT OR INTERVIEW--PROCEDURES.--

A. A child victim or child witness in a criminal proceeding shall not be compelled to give a pretrial statement or interview. As used in this section, "child" means a person under the age of eighteen at the time of the requested pretrial statement or interview.

B. An adult victim shall have the right to refuse a

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1 pretrial statement or interview conducted or initiated by a
2 party in a criminal proceeding. If an adult victim declines to
3 be interviewed or places limits on the scope of questioning
4 during an interview pursuant to Subsection D of this section, a
5 party may petition the court for approval of written
6 interrogatories that shall be asked of the victim by an
7 individual trained in forensic interviews, including a law
8 enforcement officer, in a recorded interview at which the
9 parties shall not be present but may observe remotely. The
10 court shall deny interrogatories that are not material to the
11 party's preparation for trial or that duplicate questions
12 previously answered by the victim in a statement that has been
13 made available to the parties. The court may modify
14 interrogatories in a manner that protects the victim's health,
15 safety and privacy; provided that the modification does not
16 substantially diminish a party's access to material information
17 that is not contained in a previous interview.

18 C. The defendant shall not initiate contact with
19 the victim except through the prosecutor's office. The
20 prosecutor's office shall promptly inform the victim of the
21 defendant's request for an interview and shall advise the
22 victim of the victim's right to refuse the interview. The
23 prosecutor's office shall not notify the defendant of the
24 victim's address, telephone number, location or any other
25 personally identifiable information unless it is ordered to do

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1 so by a court upon a showing of compelling need for the
2 information.

3 D. When an adult victim consents to an interview,
4 the prosecutor's office shall inform the defendant of the time,
5 place and manner the adult victim has selected for the
6 interview. If the adult victim wishes to impose other
7 conditions on the interview, the prosecutor's office shall
8 inform the defendant of the conditions. The victim shall have
9 the right to have an advocate present at the interview, to
10 terminate the interview at any time or to refuse to answer any
11 questions during the interview. At the request of the victim,
12 the prosecutor shall have authority to protect the victim from
13 harassment, intimidation or abuse during the interview and may
14 seek a protective order. All parties participating in the
15 interview shall respect the victim's health, privacy and
16 dignity.

17 E. Unless otherwise directed by the victim and
18 except as provided in Subsection B of this section, the
19 prosecutor may attend all interviews. If the prosecutor is not
20 in attendance, the prosecutor may request a copy of an
21 interview transcript at the prosecutor's expense.

22 F. The defendant shall not comment on the victim's
23 refusal to undergo an interview during trial. If such comment
24 is made, the judge shall instruct the jury that the victim has
25 the right to refuse an interview."