

LFC Requester:

Helen Gaussoin

## 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 24, 2025

Check all that apply:

Bill Number: HB 123

Original  Correction   
Amendment  Substitute

Sponsor: Rep. Charlotte Little

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

Person Writing

Short Title: Uniform Cohabitants' Economic Remedies Act

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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**

*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:

This bill seeks to enact a new Act, the Uniform Cohabitants’ Economic Remedies Act. (Section 1) (Section 2 is definitions, interspersed throughout the description below, as relevant.)

(Section 4) This bill creates a means through which cohabitants (“two people not married to each other who live together as a couple”) may commence a legal action in family court against the other cohabitant “on a contractual claim or on an equitable claim that arises out of contributions to the[ir] relationship.” These claims may arise out of an agreement between cohabitants which are made orally, in a record, expressly, or implied-in-fact. (Section 6)

(Section 3) The Act only applies to a claim (equitable or contractual) concerning an interest, promise, or obligation arising from the contributions to the relationship. The rights and remedies identified in the act are **not** exclusive.

(Section 4) Contributions generally means things done by either person that benefit the other person, both persons, or their relationship, and can include cooking, cleaning, shopping, housework, errands, and taking care of children or other family members, but does not include sexual relations. Property has a broad definition as well, including anything subject to ownership, tangible or intangible, etc.

Cohabitation terminates when one dies, when they stop living together, or when they marry, whichever comes first. (Section 2)

(Section 4) The Act permits a person who is or was a cohabitant to commence an action on a claim arising out of contributions to the relationship (though the Act expressly does not create an equitable *lien*). Although such claim is not derived from sexual relations, the action may not be barred because of a sexual relationship. The action itself is also not subject to additional requirements due to the cohabitation or any sexual relationship or extinguished upon marriage.

(Section 6) The Act accounts for any agreement that may adversely impact a child, rendering it unenforceable. It is also voidable if a term requires or limits the ability to pursue a civil, criminal, or administrative remedy to the extent the remedy is available as a result of

domestic violence (DV).

(Section 7) The Act provides for equitable relief regarding claimed entitlement to property based on contributions to the relationship, *in addition to* any other remedy under the Act or law. Such a claim accrues on termination of cohabitation. It is subject to equitable defenses. The bill delineates the various factors to be considered by the family court judge in arriving at a holding for such claims.

(Section 8) A court order under the Act serves as a judgment in favor of a general creditor, but does not impair the rights of a good-faith purchaser from or secured creditor of a cohabitant.

Section 9 states that general principles of law and equity supplement the Act, but if they are inconsistent with the Act, the Act controls. Section 10 simply “promotes” uniformity in application of the law.

Section 11 states that the Act modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not modify, limit, or supersede 15 U.S.C. § 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. § 7003(b).

(Section 12) The bill states that the Act only applies to cohabitants’ agreements made on or after the effective date of the Act, and only applies to equitable claims that accrue on or after the effective date of the Act. The bill also contains a severability clause (Section 13) and an effective date of 7/1/25 (Section 14).

In the event of the death of one of the cohabitants, the bill allows for an action either by or for the estate of a deceased cohabitant. The Act includes a choice-of-law provision (Section 5).

## **FISCAL IMPLICATIONS**

None noted for this office.

## **SIGNIFICANT ISSUES**

This act has the potential to impact the amount of litigation surrounding disputes between cohabitants, which definition is not fleshed out.

The bill would permit disputes arising out of any agreement, including any oral agreements, and any equitable claims to be brought in family court, which would require a family court judge to evaluate the nature of the relationship as claimed by the parties to determine whether certain acts as defined in the bill (including cleaning and cooking) served as substantial consideration for whatever contractual or equitable relief is being sought, what the value of such contributions are, and other involved and testimony-heavy questions. In other words, this bill provides an official forum for couples to dispute each of their perceptions regarding the value of what they brought to the relationship to determine whether each is owed something from the other. This seems akin to what you might see in a divorce proceeding, but it could arise at any time between any couple living together.

This bill could increase litigation so substantially as to require a significant increase in the need for judges, courtrooms, and other judicial resources.

“Couple” is not defined. It does not appear that the Act precludes roommates. Not only would this issue then need to be litigated, but it would also likely add to the increased resources needed in order to effectuate this Act.

As to Section 11, it is unclear whether this state law could modify, limit, or supersede the federal law. Here, I think it order to effectively do that, it would need to be related to the federal law, and it is unclear how this Act relates to the federal law indicated. 15 U.S.C. § 7001 is “General rule of validity” and provides that, in general, notwithstanding any statute, regulation, or law “with respect to any transaction in or affecting interstate or foreign commerce,” a signature, contract, or other record may not be denied legal effect, etc., solely due to an electronic signature, electronic record, or electronic form.

### **PERFORMANCE IMPLICATIONS**

See above. Because the Act would likely greatly increase the need for judicial resources across the board, it would be difficult to effectuate the Act with current resources.

### **ADMINISTRATIVE IMPLICATIONS**

None noted.

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

None.

### **TECHNICAL ISSUES**

Defining “couples” is likely necessary. Clarifying why 15 U.S.C. § 7001 has been incorporated would be helpful.

### **OTHER SUBSTANTIVE ISSUES**

Although the Act allows a DV situation to render an agreement under the Act voidable, it does not expand upon this or provide any details regarding what would and would not void such an agreement.

### **ALTERNATIVES**

None noted.

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

Status quo. Notably, it is likely that the intent behind this bill is to provide a path for cohabitants to be equitably reimbursed for sacrifices made in favor of their cohabitants. Without this or another Act addressing this need, an imbalance between cohabitants will remain. Arguably, there are other avenues to have at least some of these claims addressed, but it seems this bill seeks to create a clear path.

### **AMENDMENTS**

N/A