

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to 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: January 31, 2025 *Check all that apply:*
Bill Number: HB 204 Original Correction
 Amendment Substitute

Sponsor: Adnrea Reeb/Merith Dixon **Agency Name and Code** Administrative Office of the District Attorneys 264
Short Title: Refusal of certain pretrial statements **Number:** _____
Person Writing Troy Davis
Phone: 5053858461 **Email** Davistr@msn.com

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

BILL SUMMARY

Synopsis:

HB 204 establishes protects for victim of crime related to pretrial interviews. Child victims or witnesses under 18 cannot be compelled to give pretrial statements or interviews. Adult victims have the right to refuse pretrial statements or interviews conducted by a party in a criminal proceeding. If they decline, the court can approve written interrogatories conducted by a trained professional. The defendant must initiate contact with the victim only through the prosecutor's office which must inform the victim of their right to refuse the interview. An adult victim can impose conditions on interviews, have an advocate present, terminate the interview at any time, and refuse to answer questions. The prosecutor may attend the interviews unless directed otherwise by the victim. The defendant cannot comment on the victim's refusal to undergo an interview during the trial.

FISCAL IMPLICATIONS

HB 204 does not establish who would pay for a forensic examiner. The cost of forensic examiner could impact the judiciary, prosecutor's offices, or the law office of the public defenders' budgets.

SIGNIFICANT ISSUES

Section B state "**shall** be asked of the victim by an individual trained in forensic interviews, including a law enforcement officer, in a recorded interview at which the parties shall not be present but may observe remotely." HB204 through out the statute giving the power to the victim in pretrial interview "**shall**" should be "**may**" to give the victim the decision. The cost of and availability of forensic interviewer maybe hampered in bigger jurisdiction in being able to comply. Forensic interviews could be limited to sex crime cases or case of domestic abuse cases.

Section C states "The defendant shall not initiate contact with the victim..." courts may read that to literally whereby defense counsel could have contact with the victim. Recommend: "Neither the defendant, nor their counsel, shall initiate contact with the victim..."

Section D allows the termination of an interview. We recommend indicating that there shall be no sanction against the state in the event an interview is terminated by defense counsel. LR 2-308 allows for sanction for failing to comply with PTIs, this could lead to a situation where the court could still sanction the state even if the state complied with the new statute.

TECHNICAL ISSUES