

LFC Requester:

Allegra Hernandez

### 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 30, 2025

Check all that apply:

Bill Number: HB 204

Original x Correction       
Amendment      Substitute     

Sponsor: Rep. Meredith Dixon, Rep. Andrea Reeb

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

Short Title: Refusal of Certain Pretrial Statements

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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 expands the rights and protections of victims of crimes under the Victims of Crime Act. See NMSA §§ 31-26-1 to -15 (1994, as amended through 2019). This bill would enact a new section into the Victims of Crime Act, and it would apply to prosecutions for the 21 offenses listed in that act. See Section 31-26-3(B).

Subsection A would provide that a child (under the age of 18) victim or witness shall not be compelled to give a pretrial statement or interview.

Subsection B provides an adult victim the right to refuse a pretrial statement or interview by a party in a criminal proceeding. Where such a statement or interview is refused, it provides a procedure for a party to petition a court to require the victim to answer a set of written interrogatories, which can be tailored by the court to protect the victim’s health, safety, and privacy. The written interrogatories must be asked by a forensic interviewer, and the petitioning party may observe the answers remotely.

Subsection C prohibits a defendant from contacting a victim except through the prosecutor’s office and prohibits the prosecutor from providing the victim’s location or personal information absent a showing to a court of a compelling need.

Subsection D allows an adult victim who consents to a pretrial interview, through the prosecutor’s office, to consent to the time, place, and manner of any pretrial interview. The adult victim can also impose other conditions on the interview and have a victim’s advocate present. It allows the victim to terminate or refuse to answer any question during an interview, and it empowers the prosecutor to protect the victim from harassment, intimidation, or abuse through a protective order.

Subsection E allows the prosecutor to be present for all interviews and to obtain a transcript of any interview for which they are not present.

Subsection F provides that a defendant shall not comment on a victim’s refusal to undergo an interview and mandates a court to instruct the jury of the right to refusal if a defendant violates that prohibition.

## **FISCAL IMPLICATIONS**

N/A

## **SIGNIFICANT ISSUES**

None.

## **PERFORMANCE IMPLICATIONS**

NMDOJ would be responsible for scheduling pretrial interviews for its cases.

## **ADMINISTRATIVE IMPLICATIONS**

None.

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

Rule 5-503(A) NMRA says that any person, other than the defendant, with information which is subject to discovery shall give a statement. The committee commentary says that the rule “requires witnesses to cooperate in the giving of a statement.” As such, HB 204 would likely require a rule change.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

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

Status quo.

## **AMENDMENTS**

None.