

LFC Requester:

Scott Sanchez

## 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:** 2/19/25

*Check all that apply:*

**Bill Number:** HB 445

Original  Correction   
Amendment  Substitute

**Sponsor:** Rep. Nicole Chavez, Rep. Antonio Maestas

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

**Short Title:** Victims of Crime Act Changes

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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:

HB 445 would amend the Victims of Crime Act, NMSA 1978, §§ 31-26-1 through -15, in several ways.

Section 1 would make minor grammatical changes to Section 31-26-2, and would replace an instance of “victims of violent crimes” with “victims.”

Section 2 would change several definitions within the Act. It would completely remove the enumerated list of qualifying criminal offenses. In its place, the definition of “victim” would be altered to include any person directly or proximately harmed by any of the offenses enumerated in Article 2, Section 24 of the New Mexico Constitution, as well as any crime that “resulted in or involved the threat of death, bodily harm, any form of sexual battery, mental anguish or damage to property in excess of one thousand dollars.” It would also alter the definitions of “formally charged,” and “victim’s representative,” as well as adding a definition of “offender.”

Section 3 would modify language in the substantive victim rights provisions, generally cleaning up language and substituting terms (“court proceedings” for “hearings”; “offender” in place of “accused”). It would add the substantive right for a victim to promptly retake possession of a residence or real property after an investigation, and the further right to receive assistance in crime scene cleanup.

Section 4 would remove the requirement that a victim report the offense within 5 days of its occurrence in order to exercise any rights under the Act.

Section 5 would clarify when the duties of law enforcement, prosecutors, and courts would come into effect under the Act.

Section 6 would clean up language surrounding the process for appointing a victim’s representative, allow guardians to exercise a minor victims’ rights, and clarify that victim representatives are not parties to the criminal case.

Section 7 would add duties for law enforcement agencies under the Act. Law enforcement would have to: 1) treat the victim with fairness and respect the victim’s dignity and privacy,

2) provide the victim with all possible information regarding an investigation unless releasing that information would compromise an investigation, and 3) “take reasonable steps to provide for the victim’s protection from the offender.”

Section 8 would alter the procedures that district attorneys must follow after filing charges against an offender. Instead of notifying victims about upcoming hearings, district attorneys would have to give victims information about signing up for an electronic notification system.

Section 9 would substantially change the procedure for notifying victims of court proceedings. Responsibility would shift from district attorneys to clerks of court. Court clerks would be responsible for entering all notices of proceedings into an electronic notification system and then using the system to provide notice.

Section 10 would require the New Mexico Corrections Department or Children, Youth, and Families Department to immediately notify victims directly if an offender escapes from custody.

Section 11 would change the notice procedure that agencies must follow before releasing an offender from custody or criminal supervision.

Section 12 would clean up language to clarify that an offender has no standing to object to the government’s failure to comply with the Act.

Section 13 would fix a typo and clarify a statutory cite in Section 31-26-15.

Section 14 would require the Administrative Office of the Courts (AOC), every board of county commissioners, and the corrections department to establish electronic victim notification systems.

Section 15 would create a nonreverting victims of crime assistance fund. The NMDOJ would administer the fund and use it to contract for services to clean up crime scenes on property owned by victims.

Section 16 would appropriate money. \$1,000,000 would go to AOC to establish and maintain the electronic notification system. \$500,000 would go to the local government division of the Department of Finance and Administration to fund county notification systems. Finally, the victims of crime assistance fund would receive \$500,000.

Section 17 would repeal Section 31-26-10.1, which requires courts to affirmatively inquire as to whether a victim was notified about a hearing and take appropriate action if proper notice was not given.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The financial impact on NMDOJ is unclear. As a law enforcement agency, it would gain new responsibilities, like reasonably protecting victims of crime. However, it may already take such

steps. Its prosecutors would have fewer responsibilities relating to victim notification, which could result in reduced costs and improved productivity. The NMDOJ would have to administer the victims of crime assistance fund, but the bill would appropriate money to the fund for its administration.

## **SIGNIFICANT ISSUES**

Section 2 broadens the list of applicable crimes but does so with some unclear terms. As a result, it could be difficult, especially in the early stages of a case, for district court clerks to determine whether the provisions of the Act apply. For example, the Act would provide coverage to the victim of any crime resulting in or involving “mental anguish.” Considering the significant impact crime has on victims, the term “mental anguish” would benefit from clarification as it is possible to imagine scenarios in which nearly any crime could result in substantial mental suffering. Similarly, “sexual battery” is not a defined term in the New Mexico criminal code. It would presumably cover Criminal Sexual Contact, but it is unclear whether it would encompass other crimes. Further, it is unclear whether court clerks should make these determinations based upon the facts of each case—which might not be available—or the nature of the crime in the abstract.

## **PERFORMANCE IMPLICATIONS**

See Financial Implications above.

## **ADMINISTRATIVE IMPLICATIONS**

See Financial Implications above.

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

Related to and conflicting with HB 190, which would also modify the Act. The two acts define qualifying crimes and other terms differently and make incompatible changes to the same existing statutory language.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

None.

## **ALTERNATIVES**

None.

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

Status quo.

## **AMENDMENTS**

None.