F I S C A L   I M P A C T   R E P O R T

SPONSOR	Reeb	**LAST UPDATED**	
		ORIGINAL DATE	2/5/25
SHORT TITLE	Repeal of Deposit of Will	**BILL NUMBER**	House Bill 132
		ANALYST	Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
District Courts	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Administrative Office of the Courts (AOC)
New Mexico Attorney General (NMAG)

Agency Declined to Respond
Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of House Bill 132

House Bill 132 (HB132) repeals Section 45-2-515, NMSA 1978. Section 45-2-515 provides that testators or their agents may deposit a will with the clerk of any New Mexico district court for safekeeping purposes. The section also details that during the testator's lifetime, the deposited will can only be delivered to them or a designee and that a conservator can examine the deposited will if confidentiality is kept, to the extent possible. Finally, the section states that upon being informed of the death of the testator, the district clerk must notify the person designated to receive the will and deliver it to them on request or the clerk may deliver the will to the appropriate court.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) provides the following:

> Section 45-2-515 creates an additional administrative burden for district court clerk's offices beyond the core function of maintaining court case files. Due to the impracticalities of prompt notification of a death and the unavailability of contact information for a testator's designee, this administrative responsibility has minimal public benefit. Removing this responsibility will have positive albeit minimal fiscal impact upon the courts.

> There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

The AOC provides the following analysis on the significant issues of Section 45-2-515, NMSA 1978 as it stands currently:

> 1) If informed of a testator's death, Section 45-2-515 requires the district court clerk holding a will to a) notify any person designated to receive the will, or b) deliver the will to the appropriate court upon being informed of a testator's death. However, compliance with the statute is effectively impossible because updated contact information is not routinely provided to the district court.

> 2) District court clerk's offices are the official record-keeper of court cases; receiving and maintaining custody of wills is beyond the core scope of a district court clerk's duties. Wills deposited for safekeeping are not part of any court case. As a result, district clerk's offices are merely storage facilities for these wills.

> 3) The statute does not contain any geographical restrictions or limitations on who can deposit wills and where. Thus, district courts may receive wills from individuals living in other judicial districts, other states, or even other countries. District court clerks would have no way of knowing if a testator who deposited a will within its court passed away while living in another judicial district, state or country, and therefore would be unable to notify the testator's designee or the appropriate court of jurisdiction that it has a will that that has been deposited for safekeeping.

> 4) There is no requirement or system that tracks the personal identifiers of the testator to verify the testator's identity after a will has been deposited. It is impossible to differentiate any will deposited for individuals who have the same name (e.g., Juan Garcia, Steve Smith, etc.). Thus, if a district court clerk were to receive notice of an individual who deposited a will has passed away, and there are other individuals with the same name who have deposited a will in any judicial district, there is no way of know which will (if any) belongs to the decedent.

> 5) At least sixteen states do not have laws allowing for the deposit of will for safekeeping with courts, and an additional seven have moved in recent years to repeal or sunset such laws (Kansas, Kentucky, Maine, New Hampshire, Rhode Island, Texas, and Utah).

ADMINISTRATIVE IMPLICATIONS

Repealing Section 45-2-515 would remove the administrative burden on district court clerks' offices of maintaining deposited wills and would allow the clerks place more focus on their core function, maintaining court case files.

The New Mexico Attorney General provides the following:

> The proposed bill would eliminate the district courts' administrative responsibilities associated with receiving wills, safekeeping deposited wills, and notifying designated persons upon the death of testators. While the bill does not address how to process wills already deposited with and in the custody of a district court, Section 45-2-516 NMSA 1978, pertaining to custodian of wills, would likely apply to court clerks.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

As described in the "Significant Issues" section, if Section 45-2-515 NMSA 1978 is not repealed, the administrative burden surrounding deposited wills will persist with minimal public benefit.

FC/rl/SR