

Dear Pat:

In reviewing bills that are being introduced during the legislative session, I noticed that HB 198 addresses “gender neutral language” in our state statutes. I thought New Mexico already had a statute that addressed this issue. In these difficult economic times, how much will implementing this statute cost us?

*Signed,
“Bill” Finder*

Dear “Bill” Finder:

House Bill 198 requires that gender neutral language be used in enacting and revising state legislation and rules. The current law NMSA 1978, §12-2A-5(B) provides that “Use of a word of one gender includes corresponding words of the other genders.” Why change?

Using a masculine pronoun or noun to refer to a person of either sex reinforces stereotypes. As a New York Assembly Member said, “What we say, how we say it, sends a message. We changed the term *stewardess* to *flight attendant* and that changed the image. We now have police officers instead of policemen, as one example.”

The current law has not been effective in making our laws more gender neutral. Since 2002 the Committee on Women and the Legal Profession first supported a bill similar to HB 198, acting pursuant to the unanimous authorization of the Board of Bar Commissioners. Unfortunately, the situation has not improved since then. In 2002, there were 2,459 statutes that contained the word *he* but not *she*. By 2005, that had grown to 2,616. In 2002, there were 79 references to the attorney general as *he* but not *she*. Now, there are 77 such references. In 2002, there were 402 references to judges as *he* but not *she*. Today that number is 424. One provision prohibits the “father, son, or brother” of a district attorney from defending a person charged with a criminal offense in that district, but says nothing about whether a mother, daughter or sister of a district attorney may do so. *See* NMSA 1978, §36-2-20.

The late Supreme Court Justice Pamela Minzner recognized this problem and, at the request of the Committee on Women and the Legal Profession, was largely responsible for amending the New Mexico Supreme Court’s General Rules in 2006. The amendment to Rule 23-106, approved by the Supreme Court on Jan. 10, 2006, requires “all proposed amendments and new rules” to be drafted with gender neutral language. HB 198 adopts similar language for all new statutes and amendments.

As for cost, “Bill,” there is no cost involved. House Bill 198 requires that new and newly amended statutes be written in gender neutral language—on a going forward basis only. Massive rewrites and going back through all existing statutes is not required.

The Committee on Women and the Legal Profession encourages you to contact your state legislator to encourage each legislator’s support of HB 198. When HB 198 is enacted at the end of this session, New Mexico will join Maine, Maryland, Ohio, Minnesota and other states that have passed similar legislation.

*Sincerely,
Pat*

Ask Pat, provided by the Committee on Women and the Profession, will answer questions about gender bias in the legal profession. Letters are loosely based on real events. Send comments or letters to “Ask Pat,” State Bar of New Mexico, PO Box 92860, Albuquerque, NM 87199-2860.