

BEHAVIORAL HEALTH IN CRIMINAL SYSTEMS GLOSSARY

AOT AND CIVIL COMMITMENT:

Assisted Outpatient Treatment (AOT) – Out-patient behavioral health services ordered by a district court. Also known as “out-patient civil commitment” and “mandatory outpatient treatment.” This is a process that is already law in New Mexico.

Proposals being discussed would expand the categories of people who can file a petition for AOT and would expand those eligible for commitment under AOT.

Involuntary Civil Commitment – Inpatient treatment in a hospital that is ordered by a court for a fixed (but renewable) period of time, pursuant to a finding that the person, as the result of a mental disorder, presents a likelihood of serious harm to self or others.

COMPETENCY:

Competency to Stand Trial – The legal standard required to determine whether someone is fit to stand criminal trial. The standard assesses a person’s present ability to understand the nature of the charges and proceedings brought against them and to effectively and rationally assist in their legal defense.

Competency Restoration – Competency restoration is not behavioral health treatment and is not therapeutic, though behavioral health treatment is sometimes a tool used to restore competency. It is a process of working with a (often) severely mentally ill person to help them to understand the nature of the charges and proceedings brought against them and to be able to effectively and rationally assist in their legal defense (see above). Once competency is restored, criminal charges may proceed against them. In New Mexico, the only institution authorized to restore competency is the State Hospital in Las Vegas, NM.

Proposals being discussed would allow for community competency restoration. Infrastructure to support these new services is not accounted for in proposals.

Competency Diversion – The term used to describe a diversion program aimed at addressing the overwhelm of the criminal competency system. The programs operate to divert individuals who may be found not competent to stand trial from going through the ordinary criminal competency proceeding. Someone may be diverted at any number of intervention points in the competency proceedings, in diversion from the competency determination process, from competency restoration, or from the criminal proceedings altogether.

Proposals being discussed would include both pre-competency determination diversion and post-competency determination diversion and dismissal through AOT (see above).

Outpatient/Community Competency Restoration – Services to restore competency (see above) offered in an outpatient or community model rather than a hospital setting. This is currently not available in New Mexico.

Proposals being discussed would create community competency restoration.

OTHER RELEVANT SYSTEMS LANGUAGE:

Client Self-Determination – A core ethical principle in social work that recognizes a client’s right to make decisions about their life and treatment.

Deflection – Diversion away from the criminal justice system prior to formal arrest/charges – i.e., avoiding the criminal justice system altogether, as opposed to diversion out of the system once enmeshed in it.

Diversion – A change from a course of traditional criminal prosecution to some alternative remedy, often aimed at avoiding the inefficiencies of the criminal legal system at repairing harm or addressing the needs of those involved.

Deferred/Suspended Sentencing – A late-intervention diversion model. Under the deferred sentence diversion model, an individual who successfully completes a court operated program, such as drug treatment counseling, avoids a criminal sentence (and sometimes also avoids a conviction). If the individual fails to complete the court operated program, the conviction remains and a criminal sentence is imposed. Under the suspended sentence diversion model, the sentence *is* imposed, but is “suspended,” pending the individual’s success in a diversion program. If the individual does not successfully complete the program, the person is required to serve the pre-determined sentence.

Inpatient Treatment – Treatment provided in a hospital or other institution.

Law Enforcement Assisted Diversion (LEAD) – An early diversion and deflection model. This model involves early intervention, at the time of law enforcement encounter. The model allows an arresting officer to use discretion not to book an individual (under certain criteria, often low-level, non-violent misdemeanors and petty misdemeanors) and to instead refer them to community-based services. This is an effective model and has been adapted effectively in Seattle and other cities for those experiencing acute behavioral health needs. Five counties currently operate LEAD programs in New Mexico (Rio Arriba, Santa Fe, Taos, San Juan, Bernalillo).

Mobile Crisis System – A system that helps individuals experiencing a behavioral health crisis event to achieve relief quickly and resolve the crisis situation when possible and provides appropriate care and support while avoiding unnecessary law enforcement involvement, emergency department use, and hospitalization. The Substance Abuse and Mental Health Services Administration’s core components of a robust mobile crisis system are: 1) a clinically-staffed call center that operates 24/7/365 to act as the hub of an integrated mental health crisis system, 2) crisis response teams that respond in lieu of law enforcement, and 3) crisis stabilization facilities providing short-term services that can be readily accessed. Mobile crisis teams may include both professionals and paraprofessionals such as trained peer support providers who are trained in crisis intervention skills.

Outpatient Treatment – Treatment provided outside a hospital or other institution.

Pre-prosecution Diversion – The umbrella term to describe the model of criminal diversion programs that happen early in the criminal legal process, post-arrest and booking but before charges are brought against an individual.

Specialty Courts – The umbrella term used to describe court programs designed to meet a specific population or need. Individuals processed through specialty courts are required to complete programs, service hours, and other alternatives to prison or jail time. These programs have strict eligibility requirements, and ordinarily non-compliance with the program will result in criminal conviction and a jail or prison sentence. Examples of specialty courts operating in New Mexico are veterans court, drug court, mental health court, homeless court, and domestic violence court. These courts are not available throughout the state and do not exist in most judicial districts and counties. In New Mexico, all specialty courts are post-conviction courts, meaning that they require a defendant to plead guilty as a condition for participation.