

LFC Requester:	Scott Sanchez
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 01/27/2025 *Check all that apply:*
Bill Number: HB4 Original Correction
 Amendment Substitute

Sponsor: Representatives Christine Chandler and Marianna Anaya **Agency Name and Code:** University of New Mexico- 952
Short Title: Criminal Competency & Treatment **Person Writing:** Kaisa Marshall; Caroline Bonham
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$2,000,000	\$2,000,000	Recurring	BHSD

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Minimal impact	Minimal impact	Minimal impact		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This bill seeks to increase resources available for the competency to stand trial process and improve the infrasture for defendants in the process. The bill offers an expanded definition of who is qualified to compelte these evaluation as well referrals issues to be addressed by the evaluator (e.g., dangerousness, appropriateness for AOT, etc.).

FISCAL IMPLICATIONS

- The BHSD contract for competency evaluation (currently \$750,000) would need to be increased so that there is funding for evaluator to conduct risk/amenability assessments. This would need to be increased by \$ 700,000.
- This legislation is expected to have minimal impact on revenue sources. Although defendants may be spending less time in jail, there by using fewer resources, we anticipate this legistaltion will lead to increased utlitzation of health care resources.
- If there needs to be a new position at the State to oversee these evaluations we would estimate an additional recurring \$100,000/year to cover the position and benefits. If we add in funding for AOT in each quadrant of the state, then it would be \$300,000 per quadrant to fund these services.

SIGNIFICANT ISSUES

- The legislation proposes changing the definition of “evaluators” from psychologists and psychiatrists to “qualified mental health professionals” as recognized by the district court. We are concerned that the district court does not have the subject matter expertise to make this determination. Nationally recognized training programs in forensics are only in existence for psychologists and psychiatrists.
- This legislation states that competency to stand trial reports can be used to determine whether someone meets criteria for involuntary hospitalization. By NM Statute, competency to stand trial evaluations and reports do not address these elements
 - Additionally, evaluators are not currently required to diagnose; they are required to identify symptoms and impairment and connect those to impairments in competency abilities. Assigning a diagnosis often requires the ability to establish frequency and duration of symptoms. It can be difficult to gather enough information in a timely manner for a competency evaluation to provide a disgnosis, particularly when it is the symptoms that are relevant to competency, not the formal diagnosis. Diagnoses are more commonly (and effectively) identified in hospital settings and in outpatient clinics, where treatment teams work closely with an individual over time to identify symptoms and properly diagnose.

PERFORMANCE IMPLICATIONS

- The bill requires additional evaluations and reports for defendants that are found not competent including dangerousness assessments, assessments as to suitability for AOT, or involuntary commitment. Asking for multiple evaluations in one would significantly delay the process of arriving at an opinion and turning around a report. Many of these

questions would rely on having considerable records, and we already have a lot of difficulty getting basic records.

- These are extensive assessments that are not currently funded within our system and would require an appropriation and a clear designation as to which agency is overseeing these additional assessments.

ADMINISTRATIVE IMPLICATIONS

- Throughout this legislation, civil commitments and criminal commitments are conflated. These are two separate processes. Unless the court is using a diversion program prior to a competency evaluation occurring, an individual should only be moved over the civil side once restoration attempts have been made and it is deemed that they are unlikely to be restored. Then, once the case is dismissed because someone is not competent and not restorable, the civil process is commenced- if they are deemed dangerous, the system would seek involuntary commitment but they are no longer in a criminal process and have solely been transferred over to the civil side. As it is written, defendants are being evaluated for involuntary commitment multiple times in the process which would take considerable time and resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

- It is important to clarify that someone can only be found not competent to stand trial due to a mental health issue
- We have concerns about the civil rights implications and due process in Section 6. This wording suggests that if an individual is found not competent and not restored and then if the person is deemed dangerous, they can be held in a locked facility for no longer than the time they could have been convicted. Paragraph B of Section 6 lacks a standard for how hearsay evidence would be introduced in these hearings and could lead to issues upon appeal. There has to be a showing of necessity to bring in the evidence in this way.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

- We believe that if the current statute could be updated to include a few adjustments in wording, we would not need to pass new legislation. Specifically, these additions should include that impairments in competency abilities be related to a mental health issues (symptoms, not a full diagnosis) and broaden the language for who has authority to provide restoration services. We suggest a work group can be convened to determine who can re-write NMAC to address these issues.
- The bill outlines steps to expand competency restoration through NMBHI and through community-based restoration. There would need to be additional funding for community-based restoration programs. Another option to consider including is [jail based restoration programs](#).
- We recommend additional funding for evaluations by mental health professionals that can address the questions of harm to self or others. Doubling the current budget would allow such evaluations to be done.
- Rather than asking evaluators to answer several referral questions in one evaluation, language can be added to the statute that has the evaluator speak to the likelihood that a

defendant can be restored to competency in a reasonable amount of time and in what setting restoration services would be appropriate.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

- Should this bill not be enacted then the competency process would continue as usual. The State will continue to have limited available options to offer restoration services to defendants found not competent, leading to charges likely being dismissed. This can result in individuals not receiving any restoration treatment.

AMENDMENTS