

LFC Requestor: SANCHEZ, Scott

2025 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate

Category: Bill

Number: 166

Type: Introduced

Date (of THIS analysis): 1/29/2025

Sponsor(s): Maestas

Short Title: Changing the definition of harm to self and harm to others for civil commitment

Reviewing Agency: Agency 665 - Department of Health

Analysis Contact Person: Arya Lamb

Phone Number: 505-470-4141

e-Mail: arya.lamb@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 25	FY 26		
\$0	\$0		

The changes in the definition would lead to more people being eligible for referral into the Adult Psychiatric Division at NMBHI. The number of increased referrals is not known, and there is no reliable or valid way to predict it. The admissions under this code at NMBHI are reimbursed for approximately 10% of the stay. The remaining 90% of the cost would require state general funds.

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 25	FY 26	FY 27		
\$0	\$0	\$0		

0

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 25	FY 26	FY 27	3 Year Total Cost	Recurring or Non- recurring	Fund Affected
Total	\$0	\$0	\$0	\$0		

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act:

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

SB166 proposes to change the definitions related to “harm to self” and “harm to others”, in the definition sections of the New Mexico Mental Health and Developmental Disabilities Code, NMSA 43-1-3 and 43-1B-2.

Section 1 of SB166 amends section 43-1-3 of the Mental Health and Developmental Disabilities Code. The bill replaces the current definitions of “likelihood of serious harm to oneself” and “likelihood of serious harm to others”.

SB166 strikes the current definition of “likely to result in serious harm to self” and replaces it with “harm to self”, defined as:

“(1) a person is unable, without care, supervision and the continued assistance of others not otherwise available, to exercise self-control, judgment and discretion in the conduct of the person's daily responsibilities and social relations or to satisfy the person's need for nourishment, personal or medical care, shelter or self-protection and safety; and
(2) there is a reasonable probability of the person suffering serious physical debilitation in the near future unless adequate treatment is provided pursuant to the Mental Health and Developmental Disabilities Code. A showing of behavior that is grossly irrational, actions that the person is unable to control, behavior that is grossly inappropriate to a situation or other evidence of severely impaired insight and judgment creates a prima facie inference that a person is unable to care for the person's self”

SB166 strikes the current definition of “likely to result in serious harm to others” and replaces it with “harm to others”, defined as:

“means that within the relevant past, the person has inflicted, attempted to inflict or threatened to inflict serious bodily harm on another, has acted in such a way as to create a substantial risk of serious bodily harm to another or has engaged in extreme destruction of property and that there is a reasonable probability that the conduct will be repeated.”

Section 2 of SB166 amends section 43-1B-2, which is the definitions section for the Assisted Outpatient Treatment Act.

- The changes to the definitions in this section are similar to the changes in the definition section related to civil commitment.
- The only difference in the changes to the two definition sections is the reference to the “Mental Health and Developmental Disabilities Code” is replaced with a reference to the “Assisted Outpatient Treatment Act” in the section related to “harm to self”.

Is there an emergency clause? Yes No

b) Significant Issues :

- The most significant issues are found the definitions in Section 1 and Section 2. By adding the “harm to self” definition, SB166 strikes the current definition for “likelihood of serious harm to oneself”. In striking that term and definition, a suicidal individual would not be eligible for a civil commitment.

*This concern has been discussed with Senator Maestas and DOH anticipates the bill to be amended to adjust for these issues. An amendment is offered in the “Amendments” section of this analysis.

- Reference to “grave passive neglect” is similar to part (2) of the the new definition of “harm to self”.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No

The increase in referrals to the APD division of NMBHI could impact the current wait list and availability of capacity at NMBHI.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

This bill will increase the number of referrals to the APD division of NMBHI.

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

None

9. HEALTH IMPACT(S)

None

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If Senate Bill 166 is not enacted the same people will remain eligible for civil commitment as defined in existing law.

12. AMENDMENTS

Beginning on page 4, line 24, the definition of “likelihood of serious harm to oneself” is stricken from the bill. NMDOH recommends the following definition for the replacement term “harm to self”, which would include reference to a person likely to attempt suicide in the near future:

Section 1 -Mental Health and Developmental Disabilities Code:

“harm to self” (1) means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, ~~including grave passive neglect~~; and (2) a person is unable, without care, supervision and the continued assistance of others not otherwise available, to exercise self-control, judgment and discretion in the conduct of the person's daily responsibilities and social relations or to satisfy the person's need for nourishment, personal or medical care, shelter or self-protection and safety; and (3) there is a reasonable probability of the person suffering serious physical debilitation in the near future unless adequate treatment is provided pursuant to the Mental Health and Developmental Disabilities Code. A showing of behavior that is grossly irrational, actions that the person is unable to control, behavior that is grossly inappropriate to a situation or other evidence of severely impaired insight and judgment creates a prima facie inference that a person is unable to care for the person's self;

Section 2- Assisted Outpatient Treatment Act

DOH would also recommend mirroring this change in Section 2, beginning on page 11

“harm to self” (1) means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, ~~including grave passive neglect~~; and (2) a person is unable, without care, supervision and the continued assistance of others not otherwise available, to exercise self-control, judgment and discretion in the conduct of the person's daily responsibilities and social relations or to satisfy the person's need for nourishment, personal or medical care, shelter or self-protection and safety; and (3) there is a reasonable probability of the person suffering serious physical debilitation in the near future unless adequate treatment is provided pursuant to the Assisted Outpatient Treatment Act. A showing of behavior that is grossly irrational, actions that the person is unable to control, behavior that is grossly inappropriate to a situation or other evidence of severely impaired insight and judgment creates a prima facie inference that a person is unable to care for the person's self;

This concern and suggestion has been discussed with Senator Maestas and DOH anticipates the bill to be amended to adjust for these issues, which will resolve the contemplated scenario involving suicide.