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FISCAL IMPACT REPORT

SPONSOR <u>Lujan/Hochman-Vigil</u>	LAST UPDATED _____
Community Criminal Justice Division	ORIGINAL DATE <u>2/19/25</u>
SHORT TITLE <u>Project</u>	BILL NUMBER <u>House Bill 354</u>
	ANALYST <u>Sanchez</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA	No fiscal impact	At least \$2,690.7	At least \$729.9	\$3,420.6	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Healthcare Authority (HCA)
 Department of Public Safety (DPS)
 Administrative Office of the Courts (AOC)
 Administrative Office of District Attorneys (AODA)
 Sentencing Commission (NMSC)
 Office of the Attorney General (NMAG)

SUMMARY

Synopsis of House Bill 354

House Bill 354 (HB354) proposes the creation of the Community Criminal Justice Diversion Project, a six-year pilot program housed within the Behavioral Health Services Division (BHSD) of the Healthcare Authority (HCA). The bill does not amend existing statutes but instead introduces a new statutory section within NMSA 1978 to establish the program. It defines “diversion” as an alternative to prosecution that temporarily interrupts criminal proceedings to allow eligible individuals to participate in mental health and behavioral intervention services rather than face traditional adjudication.

The bill creates the community criminal justice diversion project fund, which HCA would administer to provide financial assistance to eligible participants, support program operations, and fund necessary services. The project mandates specific participation criteria, requiring collaboration between law enforcement, the judiciary, and behavioral health service providers to identify individuals suitable for diversion.

Additionally, HB354 outlines specific duties for BHSD, including developing program

guidelines, monitoring participant outcomes, and reporting annually to the Legislature on the project's effectiveness. The program's goal is to reduce recidivism, address underlying mental health issues among justice-involved individuals, and alleviate strain on the criminal justice system. At the conclusion of the six-year pilot, BHSD must submit a final report with findings and recommendations regarding the potential for permanent implementation.

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

HB354 establishes the community criminal justice diversion project fund but does not specify an initial appropriation, leaving the total fiscal impact indeterminate. The fund is intended to provide financial assistance to state agencies and local governments for implementing diversion programs; however, without designated funding levels, it is unclear how much support will be available for participating jurisdictions. BHSD is responsible for overseeing program implementation, approving funding requests, and collecting and evaluating data. The agency estimates administrative costs of approximately \$3.4 million over three years, including staffing expenses for program coordinators and evaluation services.

The bill allows for the use of Medicaid funding to support certain behavioral health and community services, but it is unclear whether Medicaid will cover all costs associated with program implementation. Services such as transportation, housing assistance, and other social support may not be fully reimbursable under Medicaid, potentially requiring additional state or local funding sources. The bill also requires participating jurisdictions to collect and analyze data to assess the program's impact, but it does not establish a standardized reporting format or allocate funding for IT infrastructure necessary for compliance.

The bill mandates that any unexpended funds in the community criminal justice diversion project fund revert to the general fund at the end of fiscal year 2031.

SIGNIFICANT ISSUES

The Legislature has made significant investments in behavioral health services, including committing \$424 million from 2020 to 2024, though reports indicate that a portion of these funds remain unspent. Additionally, the state recently launched seven certified community behavioral health clinics offering crisis response and diversionary services. HB354 does not specify how the proposed project would align with these efforts.

Existing diversion programs may also interact with the initiatives proposed in HB354. District attorneys are already required to establish pre-prosecution diversion programs under the Preprosecution Diversion Act (Sections 31-16A-1 through -8, NMSA 1978). The bill does not indicate how it would integrate with these programs, nor does it outline how referrals from law enforcement would be coordinated with existing judicial diversion initiatives. Additionally, several judicial districts operate competency-based diversion programs that assist individuals with mental health conditions who may not be able to participate in traditional court proceedings. HB354 does not clarify how it would interact with these programs, whether coordination mechanisms would be established, or if eligibility criteria would align.

Additionally, data collection and evaluation requirements under HB354 may require further

definition. The bill directs participating jurisdictions to collect and analyze data on program implementation and outcomes but does not establish a standardized reporting framework. Existing data-sharing agreements between behavioral health and criminal justice agencies vary by jurisdiction, and some data may be subject to privacy protections under the federal Health Insurance Portability and Accountability Act (HIPAA) and other confidentiality laws. If the program expands beyond the pilot phase, long-term evaluation and reporting mechanisms may require additional coordination.

The bill also sets a series of deadlines for implementation that may require consideration. HCA is tasked with submitting a budget to the Legislative Finance Committee by September 1, 2025, selecting program participants by April 1, 2026, and producing a final report by November 1, 2031. HCA and other agencies have noted that previous diversion and behavioral health initiatives have required extended planning periods due to administrative coordination, county approvals, and program design. The feasibility of meeting the outlined deadlines may depend on factors such as program readiness, stakeholder engagement, and the availability of supporting infrastructure.

PERFORMANCE IMPLICATIONS

The bill does not specify performance metrics or baseline measures for evaluating success. However, it mandates that participating jurisdictions collect and analyze data on crime reduction, homelessness, recidivism, and public health improvements. The ability to assess program outcomes will depend on the consistency of data reporting across jurisdictions and the availability of comparative data from existing diversion efforts.

If implemented as envisioned, the project could affect case processing trends in district courts by diverting certain individuals before formal criminal charges are filed. This could result in changes to caseload volumes, case disposition rates, and pretrial detention trends, particularly in participating jurisdictions. However, without a clear framework for tracking diversion participants who might otherwise have entered the traditional justice system, it may be difficult to measure the program's direct impact on court operations.

Additionally, the requirement for BHSD to evaluate the project's effectiveness suggests a need for longitudinal tracking of participants, particularly to assess long-term recidivism trends and sustained engagement with behavioral health services. Given that similar programs in other states have faced challenges in maintaining participant follow-up over extended periods, establishing a mechanism for tracking post-diversion outcomes will be necessary for evaluating the project's overall effectiveness.

The project's six-year duration provides an opportunity to measure trends over time. However, the absence of interim performance benchmarks may make it difficult to assess progress before the final report is due in 2031. If the program is intended to inform future policy decisions regarding statewide diversion efforts, periodic assessments that provide measurable indicators of success before the pilot phase concludes may be needed.

ADMINISTRATIVE IMPLICATIONS

HB354 requires cross-agency coordination among BHSD, the courts, law enforcement agencies, and behavioral health providers to ensure effective diversion practices. While some jurisdictions

already have Criminal Justice Coordinating Councils (CJCCs) or similar collaborative structures in place, others may need to establish new partnerships to comply with the program's requirements. Given the number of stakeholders involved, the administrative burden associated with interagency agreements, data-sharing protocols, and program oversight could be significant.

HB354 also mandates that participating jurisdictions collect and report data on program outcomes, but it does not specify whether BHSD will provide standardized reporting tools or require jurisdictions to develop their own data collection methods. If jurisdictions are responsible for independently designing reporting systems, this could introduce variability in data quality and increase administrative demands at both the local and state levels. Ensuring consistency in program administration across multiple jurisdictions may require ongoing guidance from BHSD throughout the six-year pilot period.

TECHNICAL ISSUES

Analysis from the Office of the Attorney General (N MAG) noted HB354 may overlap with provisions in the Preprosecution Diversion Act (Sections 31-16A-1 through -8, NMSA 1978), which already require district attorneys to establish pre-prosecution diversion programs where financially feasible. It is unclear how HB354's diversion efforts will align with or differ from these existing statutory requirements.

OTHER SUBSTANTIVE ISSUES

HB354 does not clearly define certain terms which may impact implementation. N MAG and HCA pointed out that the bill does not specify which categories of offenders qualify for diversion or whether eligibility is based on criminal history, mental health status, or other criteria. Similarly, the bill states the program aims to "improve public health" but does not define which public health indicators will be used to measure success. This lack of specificity may create inconsistencies in program implementation across jurisdictions.

HB354 mandates that participating jurisdictions collect and analyze data on program outcomes, but it does not specify a standardized reporting framework or a statewide data-sharing mechanism. HCA noted statewide data collection and evaluation may require new IT infrastructure and that some necessary data may be subject to privacy protections under HIPAA. Without established mechanisms for cross-agency data sharing, jurisdictions may face challenges in complying with reporting requirements, and the state may encounter difficulties in assessing program effectiveness across multiple sites.

The bill directs HCA to leverage Medicaid funding where possible. However, some services commonly associated with diversion programs—such as transportation, legal assistance, and housing support—are not traditionally covered by Medicaid. Without alternative funding sources for these wraparound services, program participants may face gaps in care, which could affect long-term outcomes.