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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/26/25

SPONSOR Maestas

BILL

SHORT TITLE Harm to Self & Others Definition **NUMBER** Senate Bill 166

ANALYST Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH/NMBHI	No fiscal impact	Indeterminate but possibly substantial	Indeterminate but possibly substantial	Indeterminate but possibly substantial	Recurring	General Fund
HCA	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Law Office of the Public Defender (LOPD)
 Office of the Attorney General (NMAG)
 Healthcare Authority (HCA)
 Department of Health (DOH)
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From
 Developmental Disabilities Council (DDC)

SUMMARY

Synopsis of Senate Bill 166

Senate Bill 166 (SB166) proposes amendments to the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act by defining “harm to self” and “harm to others.” The bill clarifies that “harm to self” includes situations where an individual is unable to provide for their basic needs, such as nourishment, medical care, or shelter, and is at significant risk of serious physical debilitation without treatment. “Harm to others” is defined to include instances where an individual has inflicted, attempted, or threatened serious bodily harm, created a substantial risk of such harm, or engaged in extreme destruction of property with a reasonable probability of repetition. By providing these definitions, the bill seeks to refine the

legal framework for involuntary commitment and assisted outpatient treatment, ensuring a clearer standard for mental health interventions.

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

SB166 does not contain a direct appropriation; however, expanding the definitions of “harm to self” and “harm to others” in the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act could result in increased demands on judicial, law enforcement, and behavioral health resources. While the precise fiscal impact remains uncertain, multiple agencies anticipate additional costs associated with increased commitments, regulatory updates, and service provision.

Due to an increase in involuntary commitment petitions, the courts may experience a higher caseload, potentially requiring additional judge time and courtroom resources. Law enforcement agencies may see expanded responsibilities related to transporting and managing individuals meeting the new criteria, which could increase operational costs for crisis intervention teams and detention facilities. However, cost projections from the Department of Public Safety (DPS) and local law enforcement agencies are not available.

The Department of Health (DOH) has indicated that the bill could increase referrals to the New Mexico Behavioral Health Institute (NMBHI), where approximately 90 percent of patient costs are covered by state general funds. The Health Care Authority (HCA) has noted that regulatory updates and staff training may be necessary, but the fiscal impact of these changes has not been quantified. Because the number of individuals who may become eligible for commitment or outpatient treatment under the revised definitions is unknown, estimating total expenditures remains difficult.

SIGNIFICANT ISSUES

SB166 modifies the definitions of “harm to self” and “harm to others” in the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act, which may have implications for civil commitment procedures, eligibility for court-ordered treatment, and the administration of behavioral health services.

The revised definitions expand the criteria for determining when an individual may be subject to involuntary commitment or assisted outpatient treatment. This includes new language referencing “extreme destruction of property” and the inability to meet basic needs due to impaired judgment. DOH noted these changes could result in an increased number of referrals to state-operated behavioral health facilities, though the extent of this impact is uncertain.

The bill also removes explicit references to suicide as a qualifying factor for civil commitment. The Administrative Office of the Courts (AOC) and behavioral health stakeholders have raised questions about whether this change could affect the criteria used to determine eligibility for court-ordered treatment. Additionally, the bill replaces the current evidentiary standard of “more likely than not” with a “reasonable probability” standard when assessing future harm. Some

agencies have noted that this term is not currently defined in statute, which could lead to varying interpretations.

The Health Care Authority (HCA) indicated administrative rule changes may be required to align existing policies with the bill's provisions. However, a timeline for these adjustments has not been established. Law enforcement agencies have also noted that expanded criteria for civil commitment may lead to increased interactions between officers and individuals experiencing mental health crises.

The proposed changes may also impact how behavioral health interventions are structured and delivered. Some agencies have identified potential shifts in demand for inpatient treatment, while others have noted the possibility of increased reliance on community-based services. The overall effect on service capacity and resource allocation remains undetermined.

TECHNICAL ISSUES

Analysis from HCA states:

Page 3, letter H: “the department” or “division” that oversees Crisis Triage Centers is the Health Care Authority’s Division of Health Improvement (DHI), not the Behavioral Health Services Division. This should be corrected.

Page 6, letter P: “Mental disorder” may need clarification.

Page 6, letter R: Refers to a physician being the one to make a decision for commitment. Psychologists should be added.

Page 8, letter U: Should include Licensed Alcohol and Drug Abuse Counselor (LADAC) as this licensure is considered an independent license to work with individuals with substance use disorders per 16.27.11 NMAC.

Page 8, letter U: “Independent licensed social worker” should be changed to “Licensed Clinical Social worker.”

Analysis from the Office of the Attorney General (NMAG) states:

The new proposed definition of “harm to self” requires that someone is unable to care for themselves in the way defined if they are unable to do so without care, supervision, *and* the continued assistance of others. This language “care, supervision[,] and the continued assistance of others not otherwise available” may be simply using a phrase of art, but could have the potential of precluding application of this definition when two out of the three of those listed requirements are satisfied.