

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 01/27/14 **HB** _____

SPONSOR Rue

SHORT TITLE Services for Mentally Ill & Awaiting Trial **SB** SJM 4/aSRC

ANALYST Dunbar

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

Responses Received From

- Administrative Office of the Courts (AOC)
- Department of Health (DOH)
- New Mexico Corrections Department (NMCD)
- Public Defenders Department (PDD)
- Aministrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of SRC Amendment

The Senate Rules amendment to Senate Joint Memorial 4 adds the following stakeholders:

- Veterans Services Department
- The Behavioral Health Services Division of the Human Services Department
- The Department of Finance and Administration
- The Behavioral Health Purchasing Collaborative
- Mental Health Clinicians

In order to capture additional police associations, the amendment strikes “association” and inserts in lieu thereof “associations”

As noted below the stakeholder will participate in a “taskforce” to examine clinically appropriate housing options for individuals with serious mental illness who are in the custody of county detention facilities.

Synopsis of Original Bill

Senate Joint Memorial 4 (SJM4) cites findings related to individuals with mental illness and competency to stand trial issues based on studies which would all indicate that there is a correlation with mental illness and longer detention in jail. SJM4 would create a “taskforce” to examine clinically appropriate housing options for individuals with serious mental illness who are in the custody of county detention facilities. The group would be made up of representatives including, but not limited to, the following:

1. NM Municipal League
2. Department of Health
3. Aging and Long Term Services Department
4. Corrections Department
5. The Administrative Office of the District Attorney
6. Administrative Office of the Courts
7. The Public Defender’s Office
8. The NM Sheriffs and Police Association
9. New Mexico Behavioral Health Institute
10. The NM Hospital Association
11. Disability Rights New Mexico
12. National Alliance on Mental Illness, and
13. Two consumers of mental health services identified by the Behavioral Health Collaborative

The group would then be required to report its findings to the appropriate interim legislative committees by December 1, 2015. SJM4 also includes a notice provision so that stakeholders identified in the memorial are made aware of it.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) is included in the joint memorial as a stakeholder, and will bear the costs of travel to task force meetings. AOC anticipates minimal budget implications of \$500 dollars. The task force work should be completed with no more than six meetings, and travel will likely be from Santa Fe to Albuquerque.

Additionally, the Association of Counties will be required to report its findings to the appropriate interim legislative committees by December, 1, 2015

SIGNIFICANT ISSUES

Currently, in determining whether to release a defendant awaiting trial on bond, the court must consider the defendant’s danger to others. Judges are routinely faced with the choice of allowing a defendant with evident behavioral health challenges to go free on bond but without treatment. The other option is keep the defendant in a county detention center in order to get some kind of treatment.

AOC supports this bill as it provides an alternative system of release that assures security and treatment for individuals diagnosed with mental illness.

Senate Joint Memorial 4 – Page 3

The Memorial does not name the Human Services Department (HSD), the lead executive agency responsible for mental health services, as a stakeholder. HSD could still be invited to participate because the list in the memorial is not exhaustive, nonetheless given the subject matter of the memorial, naming the lead agency could be important to assure their inclusion.

Many of NMCD's inmates also suffer from mental illness at the time of the commission of their crimes and/or admission to NMCD custody. Treating these individuals in prison appropriately and safely housing them while in prison are two challenges faced by NMCD every day.

Public Defender Department reports that one of the recurring problems in this area is the number of clients who suffer from some form of mental illness (estimates are as high as 75 percent of inmates) and the ease with which this population picks up felony charges (battery on HC worker, battery on PO when clearly in psychotic states). Because of the ease of picking up felony charges, this population of clients has competency raised more than other clients which causes the extra length of stay in the jails and the resulting use of state funded competency evaluators and the State Hospital in Las Vegas (NMBHI).

ADMINISTRATIVE IMPLICATIONS

The implications for DOH should SJM4 be enacted would be limited to staff participation in the task force.

If requested by the association of counties, the NMCD will have to designate a person to attend the stakeholder meetings designed to study and make recommendation for clinically appropriate housing options for individuals with serious mental illness who are in custody in county detention facilities. The NMCD should be able to absorb this administrative impact.

AMENDMENTS

Page 2, line 25, follow "...league;" add "the human services department;"

TECHNICAL ISSUES

The study should include fiscal implications for clinically appropriate housing options.

OTHER SUBSTANTIVE ISSUES

The Administrative Office of District Attorneys indicates that other studies have been carried out on these issues, e.g., the Grant County mental health jail diversion program. These studies should be considered by the facilitator along with involving specific persons who worked on these studies.

ALTERNATIVES

The AODA suggests including a DA representative rather than an AODA person as a stakeholder.

One of the possible resolutions of this current crisis noted by PDD is to either fund more beds at

Senate Joint Memorial 4 – Page 4

NMBHI, or fund more forensic psychologists (NM Criminal Rule 5-602(C) requires the Courts to pay for the costs of forensic examinations) so that examinations could be done more quickly. At this time, in Bernalillo County, there are only 2 forensic examiners who examine all of the indigent clients. This is all contracted through OPTUM health and if there were more examiners perhaps the process would flow more smoothly.

Furthermore, PDD offers the following alternatives:

- Additional areas of concern in this area might be addressed by statutory changes. If Battery on a healthcare worker charges (NMSA 1978 30-3-9.2) were not a felony, this would drastically cut the number of competency proceedings and the length of stay for incarcerated defendants.
- One of the other major categories of charges this clientele face, which contributes to the length of time of incarceration and the number of competency evaluations, is the charge of Commercial Burglary as interpreted to include what would be a misdemeanor level shoplifting into a felony. The NM Ct.App. has recently ruled (State v. Archuleta, ____ NMCA ____, No. 32,794) that this type of charge should not be a felony, but the N.M. S.Ct. has indicated that they are granting *certiorari* so if they overturn the Ct. of Appeals, a change to NMSA 30-16-3(B) should be contemplated to indicate that shoplifting in conjunction with a no trespass order from a commercial enterprise should be treated as a shoplifting pursuant to NMSA 30-16-20 and not a fourth degree felony.

POSSIBLE QUESTIONS

Which detention centers offer mental health treatment?

BD/bb