LFC Requester:	Scott Sanchez

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: 2/14/25 *Check all that apply:*
Bill Number: HB354 Original *X* Correction __
Amendment __ Substitute __

Sponsor: Rep. Tara Lujan
Short Title: Community Criminal Justice Project

Agency Name and Code Number: HCA 630
Person Writing Anita Mesa
Phone: 505.709.5665 **Email** Anitam.mesa@hca.nm

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	**FY26**		
$0	$0	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	**FY26**	**FY27**		
$0	$0	$0	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
BHSD	$0.0	$658.3	$658.3	$1,316.6	Recurring	General Fund
MAD	$0.0	$35.8	$35.8	$71.6	Recurring	General Fund
MAD	$0.0	$35.8	$35.8	$71.6	Recurring	Federal Fund
ITD	$0.0	$490.2	$0.0	$490.2	Nonrecurring	General Fund
ITD	$0.0	$1,470.6	$0.0	$1,470.6	Nonrecurring	Federal Fund
Total	**$0.0**	**$2,690.7**	**$729.9**	**$3,420.6**	**Recurring and Nonrecurring**	**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: Senate Bill 0354 (SB354) establishes the 6-year, Community Criminal Justice diversion fund in the Health Care Authority Behavioral Health Services Division (HCA BHSD) to divert certain offenders from the criminal justice system to community-based services and treatment and reduce crime, homelessness and recidivism and improve public health. This bill proposes a coordinated multi-agency and partnering county approach to addressing individuals in, or at risk of entering the criminal justice system including creating a community referral process, a mobile crisis response team, a pre-arrest diversion policy for at least petty misdemeanor offenses or violations of municipal ordinances.

FISCAL IMPLICATIONS

HCA BHSD would require five FTE coordinator positions (Soc/Com SV Coord-A Pay Band 70) and one FTE program manager at (Soc/Com Supv Pay Band 75) to administer this project, for an estimated total amount of $1,317,100 for salaries, fringe and benefits and operational costs.

Evaluation services to analyze, interpret and disseminate the scope of data proposed in the bill is difficult to quantify without a specific appropriation amount. Evaluation services are commensurate with the scope of services requested and typically fall within a range of ten to fifteen percent of a project budget (evaluation.gov). For example, evaluation services for a one-million-dollar project may cost between one hundred to one hundred fifty thousand per contract year for evaluation services.

The Medical Assistance Division (MAD) and its contracted managed care organizations (MCO) will need to coordinate with BHSD to support Medicaid-eligible participants across the behavioral

health and community-based services continuum. MAD requests 1 FTE program coordinator (Soc/Com SV Coord-A Pay Band 70) at $71,500 in salary and benefits to ensure coordination of services, billing is disbursed adequately, and reporting is collected, analyzed, and evaluated.

SIGNIFICANT ISSUES

The components proposed in Section 1.D.(1-5.(a-c)) are key in assuring a continuum of care for NM residents, and in particular, individuals impacted by the justice system. HCA BHSD currently supports these components either directly, or indirectly, through collaboration with statewide entities and key stakeholders. These services presently exist in Class A and Class B counties cited in the legislation.

The Sequential Intercept Model (SIM) is an evidence-based framework that helps communities identify and address how people with mental health disorders interact with the criminal justice system by identifying five intercepts across which interventions exist (DOJ.BJA.OJP.gov, 2024). HCA BHSD uses SIM to inform its funding decisions for supporting justice related programs and services. In FY25, HCA committed $1,600,000 to pre-arrest/deflection and jail diversion services (SIM Intercepts 0-3); $4,000,000 to jail-based services (SIM intercept 3-4) and $1,000,000 to reentry services and post-release services (SIM intercepts 4-5). In this same year HCA allocated $3,000,000 to support Competency to Stand Trial (CST), evaluations which is used as resource to address competency factors which may be related to behavioral health issues.

It is unclear if HB354 is seeking to consolidate the distribution of these services through the "Community Criminal Justice Diversion Project," or is seeking a means to streamline how existing services are identified, distributed, evaluated, and reported upon.

Each of the 13 NM Judicial Districts has its own Criminal Justice Coordinating Council (CJCC). These CJCCs were convened in 2013 and are governed by NM Statute 31-28-3 to serve as a forum for criminal justice stakeholders to promote public safety and efficient use of resources by identifying and collaboratively solving problems in the criminal justice system. The CJCC's goals include developing strategies to ensure justice and improved outcomes for victims of crime and for those accused of crimes, remove roadblocks that impede the fair and timely disposition of cases, and improve communication among criminal justice entities (www.nmlegis.gov).

Re: Section 3D: HCA has a current statewide plan to establish the crisis continuum of care (including the 988 crisis call center that refers people to Certified Community Behavioral Health Clinics (CCBHCs), Crisis Triage Centers (CTCs), and Mobile Crisis Teams (MCTs). These service sites can also receive referrals from other community stakeholders and individuals. HCA oversees the certification and approval for specialized behavioral health services as alternatives to inpatient residential care and provides services to individuals in crisis. HCA would need to update these processes to ensure activities align with the work of other agencies listed in the bill. HCA identified areas of the state that could support multiple CCBHCs due to the number of individuals in that community with mental health and substance use needs. HCA is ensuring that all crisis service providers are collaborating to ensure seamless provision of services. HCA identified existing barriers for rural counties and established goals, objectives and priorities for crisis services across the state. HCA established methods to evaluate service effectiveness which will be reported at the end of calendar year 2025. HCA and the 988 crisis call/text/chat lines have established agreements to ensure that Managed Care members have a referral point for follow up by their MCO, and the 988-call center also deploys mobile crisis teams that are being developed statewide.

HCA has oversight of 8.321.2 NMAC specialized behavioral health services for Medicaid enrolled

mobile crisis teams that consist of a behavioral health clinician, a certified peer support worker, or other qualified personnel. Medicaid does not allow payment for mobile response models that include law enforcement officers. However, HCA requires Medicaid approved providers to establish agreements with law enforcement to support community based mobile response and collaborate on community responses with and independent from law enforcement. HCA issued Final-LOD-20-Mobile-Crisis-Intervention-Mobile-Response-and-Stabilization-Services.pdf to managed care organizations and Provider Supplement: Supplement-24-14-Final-Mobile-Crisis-Provider-Supplement.pdf.

In addition, HCA launched the Certified Community Behavioral Health Clinic (CCBHC) initiative on January 1, 2025 with five sites in the following counties: Bernalillo, Dona Ana, Eddy, McKinley, Santa Fe, Sandoval and San Juan, with future expansion planned. CCBHC services include provision of crisis stabilization, 24/7 mobile crisis services and collaboration and partnership with law enforcement and other key safety, social, health providers within their catchment areas. See Supplement-24-22-CCBHC-providersupplement_AH11.11.24_v3.pdf or nmrecovery.org/ccbhc for more information.

Section F - While the proposed data requests may be collectible within individual entities, a statewide data collection, evaluation and reporting process requested in HB354 would require data sharing mechanisms not currently available and potentially prohibited by the Health Insurance Portability and Accountability Act (HIPAA).

PERFORMANCE IMPLICATIONS

Many of the dates proposed in Section 1.G do not support the scope of services, data collection, evaluation and reporting requested in Section1.B-F. In FY19, HCA BHSD applied for and received a $6 million grant distributed over three years to create, develop and implement Law Enforcement Assisted Diversion programs (SIM Intercept 0-3). In its application, HCA projected one year planning and two years of implementation because of its intent to deliver services across six NM counties (Class A and B). However, it took eighteen months to plan because each of the six selected counties faced various barriers such as: capacity building, county commission approvals and the securing of necessary Memorandum of Understanding agreements with other local units of government within their counties. Also, evaluation planning required twelve months to design and to obtain approval from relevant Institutional Review Boards (IRB) as required for the type of data to be collected. This bill is seeking the same type of data and more. A report citing the outcome of this project is available for review. Recommendation for more obtainable dates may be:

- Budget to legislative finance committee on or before June 30, 2026 – An inventory of existing programs should be conducted before projecting the overall budget for this proposed project.
- Request for Application process to released by July 1, 2026, and selection of awardees by January 1, 2027.
- Interim reporting beginning on October 1, 2025, for progress updates, and quarterly thereafter.
- Final report to governor and the legislature by November 1, 2032, reflecting four years of implementation data and outcomes.

Section G1- SB0354 The bill remains unclear whether a new set of rules will be needed. If new rules are required, the due date of December 1, 2025, does not support the time necessary to

appropriately bring together the required workgroup and complete the entire promulgation process to start accepting applications from participants.

Program structure is lacking and therefore is not known how this program will impact Medicaid Manage Care Organizations, waiver populations, or the fee for service population including Native American enrolled in fee-for-service Medicaid.

ADMINISTRATIVE IMPLICATIONS
BHSD and MAD would need to collaborate on key elements of this bill and current staffing levels are not in place to meet the deadlines proposed in the bill or perform many of the program functions requested.

HCA would collaborate with Department of Health (DOH), New Mexico Corrections (NMCD), NM Administrative Office of the Courts (NM AOC), NM CJCCs and NM County offices in this project.

HB354 states that: "Participants shall collect and analyze data regarding the implementation of the participants' diversion programs, and the division shall evaluate that data to determine if the diversion programs reduced crime, homelessness and recidivism and improved public health." The bill does not specify the format or manner in which data should be collected and submitted to BHSD. If the application and data submission require an IT solution, then detailed requirements would need to be gathered to be able to estimate a cost and timeline for completion. Furthermore, should the data collection render more demand on provider reporting today, that may be construed as an unfunded mandate and/or provider burden. Using previous projects as a baseline, implementing such a system is estimated to start in state fiscal year 2026 and cost $1,960,750.00 with 75% Federal funds and 25% State funds, or $1,470,562.50 and $490,187.50, respectively.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
SB054-630

TECHNICAL ISSUES
Define "selected" process – The bill cites initial parameters for as to classification and valuation of counties, but it does not address the type of epidemiological data, Medicaid criteria or crime statistics and other preferred factors to be considered when establishing eligibility criteria to be considered when selecting the "participant".

Define "certain offenders" - Please clarify what type of offenders and from what type of institution (e.g. State correctional or county detention).

Define "improve public health" – Please clarify in what context public health is to be measured (e.g. emergency department visits, harm reduction)

OTHER SUBSTANTIVE ISSUES
None

ALTERNATIVES
N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS
N/A