

LFC Requester:	Scott Sanchez
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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: 1/29/2025 *Check all that apply:*
Bill Number: SB 166 Original Correction
 Amendment Substitute

Sponsor: Antonio Maestas **Agency Name and Code** AOC 218
Short Title: Harm to Self & Others **Number:** _____
Definition **Person Writing** Adam Leuschel
Title: _____ **Phone:** 505-699-6451 **Email** aocapl@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB 4 (relates)
Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 166 amends NMSA 1978, Section 43-1-3 and NMSA 1978, Section 43-1B-2 to expand the definition of harm to others and harm to oneself. SB 166 accomplishes this by:

- Clarifying that “harm to others” refers to inflicting, attempting, or threatening serious bodily harm or extreme destruction of property
- Adding a requirement to the definition of “harm to others” that the violent behavior will likely be repeated in the future
- Creating a two-part definition for “harm to self” that requires an individual be (1) unable to meet their basic needs on their own and (2) likely to suffer serious physical debilitation without treatment
- Removing language from the definition of “harm to self” addressing suicide attempts
- Removing language from the definition of “harm to others” addressing committing or attempting to commit a criminal sexual offense against another

There is no appropriation listed in this bill.

There is no effective date of this bill. It is assumed that the effective date is June 20, 2025, which is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

Expanding the definition of “harm to others” and “harm to self” may expand the eligibility of the number of individuals brought into the court system for court-ordered, civil mental health commitment to treatment. More commitment actions will require additional judge time, courtroom staff time, and courtroom availability.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced commitment actions and appeals. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

Senate Bill 166 amends the definitions of both “harm to self” and “harm to others.” These new definitions appear to be taken directly from North Carolina’s Code with the exception that North Carolina uses the phrases, “dangerous to himself” and “dangerous to others” instead. *See* N.C. GEN. STAT. § 122C-3(11). *See also* Treatment Advocacy Center, Grading the States: An Analysis of U.S. Psychiatric Treatment Laws, https://www.tac.org/reports_publications/grading-the-states-an-analysis-of-involuntary-psychiatric-treatment-laws-2020/.

1) The proposed definition of “harm to others” includes the language, “or has engaged in extreme destruction of property and that there is reasonable probability that the conduct will be repeated.” North Carolina’s statute that includes “extreme destruction to property” has been in

effect since 1985, yet no other state has adopted this standard. See North Carolina’s legislative bill that created this law <https://www.ncleg.gov/EnactedLegislation/SessionLaws/HTML/1985-1986/SL1985-589.html>.

Washington State does have a limited law allowing for destruction of property as criteria for involuntarily, civilly detaining someone. Under Ricky’s Law,

Community members who are a danger to themselves or others, other’s property, or gravely disabled due to a drug or alcohol problem may be involuntarily detained to a secure withdrawal management and stabilization facility—also known as secure detox.

<https://www.hca.wa.gov/about-hca/programs-and-initiatives/behavioral-health-and-recovery/ricky-s-law-involuntary-treatment-act>. Unlike New Mexico’s involuntary civil commitment and assisted outpatient treatment statutes, Ricky’s Law is only for substance abuse and requires treatment at a secure detoxification facility. <https://www.wsha.org/policy-advocacy/issues/information-about-rickys-law-involuntary-detention-for-substance-use-disorders/>

2) The proposed definition of “harm to self” may capture conditions, conduct, and circumstances of individuals that are otherwise functional in daily life (i.e “unable...to exercise self-control” and “showing of behavior that is grossly irrational”). Currently, Sections 43-1-3 and 43-1B-2 of SB 166 do not address an individual’s independence and decision-making skills, nor do they address the ability of a person to choose how to care for oneself.

SB 166’s definition considers someone who cannot “satisfy the person’s needs for nourishment, personal or medical care, [or] shelter” to be committing harm to self. People who are unhoused or homeless often cannot meet basic needs for nourishment and personal care, but are not necessarily mentally ill. As drafted, SB 166 may qualify many homeless individuals for court-ordered mental health treatment, regardless of whether those individuals are mentally ill.

The National Homelessness Law Center and the University of Miami School of Law Human Rights Clinic report an emerging trend across the United States of creating a “grave disability” standard in involuntary commitment laws, under which neglect of basic needs such as food, clothing, shelter, and safety are included as reasons for involuntary civil commitment.. <https://homelesslaw.org/wp-content/uploads/2023/09/ICCPR-Report-2023.pdf>, ¶ 31. In a 2024 study, the United Nations identified laws that prohibit behavior-based conduct, such as public eating, drinking, and bathing, as laws that criminalize homelessness and poverty. The United Nations reported:

Many of these laws ostensibly aim at maintaining public order and public health, protecting the environment, or reducing visible homelessness. They often appear neutral: they refer to certain behaviours [sic] and do not explicitly target persons experiencing homelessness or people who rely on the street for their survival. Yet while the objective of preventing certain activities may be legitimate from a public order or health perspective, it often results in criminalizing people for having no “home” in which they can sleep, eat or perform hygiene-related activities.

https://www.ohchr.org/sites/default/files/2024-11/a-hrc-56-61-add3-eng_0.pdf (2024 Study).

The 2024 Study reports that laws criminalizing homelessness may violate a range of human rights, including the prohibition of cruel, inhuman or degrading treatment or punishment, the right to the highest attainable standard of physical and mental health, the right to liberty and security, the right to freedom of movement and the choice of residence, and the right to privacy.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “fiscal implications” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 4 proposes to extensively amend the NMSA 1978, Chapter 31, Article 9, which addresses mental illness and competency. HB 4 uses the phrase “serious harm to self or others” throughout in reference to the Mental Health and Developmental Disabilities Code. SB 166 proposes to remove the word “serious” from the definitions of “harm to self” and “harm to others.” This creates confusion and conflicts with the proposed new language in HB 4.

TECHNICAL ISSUES

Both proposed definitions of “harm to self” and “harm to others” contain broad phrases that are undefined and open to interpretation, such as “extreme destruction,” “reasonable probability,” “daily responsibilities,” and “others not otherwise available.”

The Mental Health and Developmental Disabilities Code uses the phrase “serious harm to oneself or others” throughout. SB 166 only amends the definitions section of the Mental Health and Developmental Disabilities Code and does not include the phrase “serious.” The proposed changes in SB 166 will create statutory ambiguity in the Mental Health and Developmental Disabilities Act because the proposed definitions do not address when “harm to self” or “harm to others” is considered serious.

The proposed definition of “harm to others” includes the phrase “within the relevant past.” This phrase is not defined. The Assisted Outpatient Treatment Act provides clear guidelines about when an individual is eligible for assisted outpatient treatment, requiring that all events creating eligibility take place within the past four years. NMSA 1978, Section 43-1B-3. The proposed definition of “harm to others” may create statutory ambiguity within the Assisted Outpatient Treatment Act.

OTHER SUBSTANTIVE ISSUES

The Substance Abuse and Mental Health Services Administration defines self-harm as “when a person hurts their own body on purpose.” <https://www.samhsa.gov/mental-health/what-is->

[mental-health/conditions/self-harm](#). The proposed amendment removes suicide attempts and serious bodily harm to oneself from what constitutes “harm to self.” As drafted, SB 166 would make it harder for individuals who physically attempt to harm themselves to be eligible for court-ordered mental health treatment.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS