

HOUSE BILL 373

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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and Joanne J. Ferrary

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO MENTAL HEALTH; AMENDING AND ENACTING SECTIONS OF THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE; DEFINING "CRISIS TRIAGE CENTER"; AUTHORIZING PEACE OFFICERS TO BRING INDIVIDUALS IN CRISIS TO CRISIS TRIAGE CENTERS FOR MENTAL STATUS EXAMINATIONS; AUTHORIZING CRISIS TRIAGE CENTERS TO INVOLUNTARILY ADMIT CERTAIN INDIVIDUALS IN CRISIS AND TO PROVIDE INVOLUNTARY TREATMENT TO CERTAIN INDIVIDUALS IN CRISIS.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"[NEW MATERIAL] CRISIS TRIAGE CENTERS--ADMISSION OR TREATMENT.--A crisis triage center HHHC→shall←HHHC HHHC→may←HHHC accept:

- A. voluntary admissions;
- B. individuals who are voluntarily seeking treatment;
- C. involuntary admissions; and
- D. individuals who are not voluntarily seeking treatment."

SECTION 2. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended) is amended to read:

"43-1-3. DEFINITIONS.--As used in the Mental Health and Developmental Disabilities Code:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the client, is administered or done to the client for the purpose of reducing the frequency of a behavior, but does not include verbal therapies, physical restrictions to prevent imminent harm to self or others or psychotropic medications that are not used for purposes of punishment;

B. "client" means any patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present

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in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent or guardian or by any court order;

C. "code" means the Mental Health and Developmental Disabilities Code;

D. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the client, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the client;

(2) involve no restrictions on physical movement and no requirement for residential care except as reasonably necessary for the administration of treatment or for the protection of the client or others from physical injury; and

(3) are conducted at the suitable available facility [~~closest~~] close to the client's place of residence;

E. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including but not limited to electroconvulsive treatment and insulin coma treatment;

F. "court" means a district court of New Mexico;

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G. "crisis triage center" means a health facility

that:

(1) is licensed by the department of health;

and

(2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization;

[G.] H. "department" or "division" means the behavioral health services division of the human services department;

[H.] I. "developmental disability" means a disability of a person that is attributable to mental retardation, cerebral palsy, autism or neurological dysfunction that requires treatment or habilitation similar to that provided to persons with mental retardation;

[I.] J. "evaluation facility" means a community mental health or developmental disability program, a crisis triage center or a medical facility that has psychiatric or developmental disability services available, including the New Mexico behavioral health institute at Las Vegas, the Los Lunas medical center, or, if none of the foregoing is reasonably available or appropriate, the office of a physician or a certified psychologist, and that is capable of performing a mental status examination adequate to determine the need for involuntary treatment;

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[J-] K. "experimental treatment" means any mental health or developmental disabilities treatment that presents significant risk of physical harm, but does not include accepted treatment used in competent practice of medicine and psychology and supported by scientifically acceptable studies;

[K-] L. "grave passive neglect" means failure to provide for basic personal or medical needs or for one's own safety to such an extent that it is more likely than not that serious bodily harm will result in the near future;

[L-] M. "habilitation" means the process by which professional persons and their staff assist a client with a developmental disability in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

[M-] N. "likelihood of serious harm to oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to the person's self by violent or other self-destructive means, including grave passive neglect;

[N-] O. "likelihood of serious harm to others" means that it is more likely than not that in the near future a

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person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense, as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from the person;

[P-] P. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental disability;

[P-] Q. "mental health or developmental disabilities professional" means a physician or other professional who by training or experience is qualified to work with persons with a mental disorder or a developmental disability;

[Q-] R. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

[R-] S. "protected health information" means individually identifiable health information transmitted by or maintained in an electronic form or any other form or media that relates to the:

- (1) past, present or future physical or mental

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health or condition of an individual;

(2) provision of health care to an individual;

or

(3) payment for the provision of health care to an individual;

~~[S.]~~ T. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

~~[F.]~~ U. "qualified mental health professional licensed for independent practice" means an independent social worker, a licensed professional clinical mental health

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counselor, a marriage and family therapist, a certified nurse practitioner, ~~[or]~~ a clinical nurse specialist with a specialty in mental health or a licensed art therapist, all of whom by training and experience are qualified to work with persons with a mental disorder;

~~[U.]~~ V. "residential treatment or habilitation program" means diagnosis, evaluation, care, treatment or habilitation rendered inside or on the premises of a mental health or developmental disabilities facility, hospital, clinic, institution or supervisory residence or nursing home when the client resides on the premises; and

~~[V.]~~ W. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."