

LFC Requestor: Choose an item.

**2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House

Category: Bill

Number: 233 HCS

Type: Substitution

Date (of THIS analysis): February 5, 2024

Sponsor(s): HHC Committee Substitute

Short Title: Competency and competency restoration

LFC Requester: Marty Daly

Reviewing Agency: Agency 665 - Department of Health

Person Writing Analysis: Arya Lamb

Phone Number: 505 – 470 - 4141

e-Mail: arya.lamb@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: Rewritten

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

House Bill 0233 proposes to amend the Competency Code to allow for diversion programs for those charged with misdemeanors and non-violent felonies and provides an option for diversion to community competency restoration for those that do not require inpatient restoration services. HB233 requires the state pay for competency examinations.

HB0233 seeks to address a problem faced increasingly in many states- offenders being made to go through forensic evaluations and take up valuable court resources for minor crimes, that will, in most cases, end up being dismissed. HB0233 allows for misdemeanor and some non-violent felony offenders to be diverted into pre adjudication treatment programs.

HB0233 also allows for some offenders who have been found to be incompetent to stand trial to attend restoration services on an out-patient basis in their communities of origin.

Is this an amendment or substitution? Yes No

Amended- same bill number

Is there an emergency clause? Yes No

b) Significant Issues

HB0233 attempts to resolve issues with chronic mentally ill, incompetent, individuals' cases being routed into the criminal justice system and being adjudicated and dismissed without receiving any mental health services. HB0233 allows for the diversion of certain offenders into treatment without having to undergo a forensic evaluation or other time-consuming court processes. HB0233 also allows for some offenders to receive competency restoration in their community when inpatient services are not needed, thus, connecting the individual with community resources that can sustain a longer recovery.

HB0233 continues to allow for inpatient competency restoration for those who require the safety of an inpatient setting.

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

The population served at NMBHI, through DOH, is not directly impacted by this bill or the substitute. NMBHI serves a specific subset of the population of offenders indicated in this bill, notably those charged with violent felonies that are deemed incompetent to participate in their own criminal proceedings. In these cases, NMBHI endeavors to restore defendants to legal competency so that they can proceed with their criminal trial. NMDOH does not currently have an outpatient competency restoration or diversion from jail program. The outpatient division at BHI, Community Based Services, does not have the specialization or capacity to provide the outpatient services outlined in this bill, but there is nothing in this bill that states there is an expectation for NMDOH to add these outpatient services.

There are a number of places in the bill where it states that a person may be evaluated for a civil commitment, which could be referred to NMBHI. This is not a change and would not impact NMDOH.

This will have no impact to NMDOH if judicial districts continue to return patients after completion.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes No N/A

- If there is an appropriation, is it included in the LFC Budget Request?

Yes No N/A

- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

8. DISPARITIES ISSUES

The bill targets individuals with mental illness in the criminal justice system. The bill is intended to improve access to mental health services for this population.

HEALTH IMPACT(S)

The bill has the potential of positively impacting the mental health of certain individuals in the criminal justice system by linking them with community services and resources.

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Current regulations will be used for determination and restoration of competency for a small number of defendants charged with violent felonies.

12. AMENDMENTS