

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 1/22/2026 **Check all that apply:**  
**Bill Number:** SB 3 **Original**  **Correction**    
  **Amendment**   **Substitute**  

<b>Sponsor:</b> <u>Antonio Maestas</u>	<b>Agency Name and Code Number:</b> <u>AOC-218</u>
<b>Short Title:</b> <u>Harm to Self &amp; Others Definition</u>	<b>Person Writing</b> <u>Adam Leuschel</u> <b>Phone:</b> <u>505-699-6451</u> <b>Email</b> <u>aocapl@nmcourts.gov</u>

**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

<b>Appropriation</b>		<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>		
\$0	\$0		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

<b>Estimated Revenue</b>			<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>FY26</b>	<b>FY27</b>	<b>FY28</b>		
\$0	\$0	\$0		

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY26</b>	<b>FY27</b>	<b>FY28</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	\$0	\$0	\$0			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None  
Duplicates/Relates to Appropriation in the General Appropriation Act: None

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: SB 3 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 3 accomplishes this by:

- Clarifying that “harm to others” refers to inflicting, attempting, or threatening serious bodily harm within the recent past
- Adding a requirement to the definition of “harm to others” that the violent behavior will likely be repeated in the future
- Adding a second definition of “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 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 May 20, 2026, 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**

1) A bill similar to SB 3, SB 166 (2025), was introduced during the 2025 Regular Legislative Session. The proposed definitions of “harm to others” and “harm to self” in SB 166 (2025) appeared to come directly from North Carolina law. Close to the end of the 2025 Regular Legislative Session, a Senate Judiciary Committee substitute for SB 510 was introduced that mirrored SB 3. The proposed definitions of “harm to others” and “harm to self” in SB 3 are only otherwise seen in the Senate Judiciary Committee substitute for SB 510 from the 2025 regular session. No other state has enacted the proposed definitions in SB 3.

The proposed definition of “harm to self” states that an individual commits harm to self when their recent behavior demonstrates a lack of “decisional capacity” regarding food, personal care, and housing. “Decisional capacity” is not defined in SB 3 or elsewhere in New Mexico law. SB 3 does

not explain how “decisional capacity” is determined and does not include the criteria for making that determination. It also does not specify whether “decisional capacity” is determined by the court or a medical professional with a specialty in mental health.

## **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**

## **TECHNICAL ISSUES**

The Mental Health and Developmental Disabilities Code uses the phrase “serious harm to oneself or others” throughout. SB 3 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 3 could 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.

## **OTHER SUBSTANTIVE ISSUES**

The Assisted Outpatient Treatment Act provides clear guidelines for when and why a person is eligible for assisted outpatient treatment (AOT). NMSA 1978, Section 43-1B-3(A)-(F). For the court to order a person to participate in AOT, a petitioner must demonstrate that the subject of the petition meets all six factors in Section 43-1B-3:

1. The person is over 18 and lives in a county or city with an AOT program;
2. The person has a primary diagnosis of a mental disorder;
3. The person has a history of a lack of compliance for treatment for their mental disorder;
4. The person is unwilling or unlikely to participate voluntarily in outpatient treatment;
5. The person needs treatment as the least restrictive appropriate alternative; and
6. The person will likely benefit from receiving AOT.

A lack of compliance with treatment must result in one of the three following subfactors: the person has been hospitalized or received forensic services while incarcerated at least twice within the last four years; the person has committed one or more serious acts of violent behavior in the last four years; or the person has been hospitalized or incarcerated for six months or more and will either be discharged within the next 30 days or was discharged within the last 60 days. Section 43-1B-3(C)(1)-(3).

In addition to demonstrating the above, the petition must also be accompanied by an affidavit from a qualified professional. NMSA 1978, Section 43-1B-4(D). A qualified professional must personally examine the subject of the petition within 10 days of the petition being filed and testify

in support of ordering AOT. NMSA 1978, Section 43-1B-6(H).

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**AMENDMENTS**