

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
-----------------------	----------------------

## AGENCY BILL ANALYSIS – 2026 SESSION

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](https://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:** 20 JAN 2026 *Check all that apply:*  
**Bill Number:** SB 3 Original ☒ Correction ☐  
Amendment ☐ Substitute ☐

**Sponsor:** Senator Antonio Maestas **Agency Name and Code**  
**Short** Definition of Harm to Self and **Number:** 790 – Department of Public Safety  
Harm to Others **Person Writing** Lorenzo Aguirre  
**Phone:** 505-551-4713 **Email:** lorenzo.aguirre@dps.nm.gov

### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(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**

Amends the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act to change the standard for imposing civil commitment or assisted outpatient treatment in New Mexico by redefining “harm to self” and “harm to others.” The new definitions expand the criteria beyond the commission or threat of certain criminal behaviors to include other facets of self-protection.

#### **FISCAL IMPLICATIONS**

None to DPS.

#### **SIGNIFICANT ISSUES**

##### **1. . Proposed Revised Definition – “Harm to Others”**

Harm to others” means that within the recent past, the person has inflicted, attempted to inflict, or made credible threats to inflict serious bodily harm on another; has engaged in conduct demonstrating a substantial risk of serious bodily harm to another; or has acted in such a way that a reasonable probability exists that serious bodily harm to another will occur in the near future, based on the person’s behavior, statements, or circumstances.

This bill will have a significant and positive impact on public safety. The current statutory definitions of “harm to self” and “harm to others” are drawn so narrowly that many individuals who present a genuine and escalating risk are excluded from timely intervention. As a result, individuals who clearly meet the underlying intent of the Mental Health and Developmental Disabilities Code often fall through the cracks simply because they have not yet caused actual physical injury.

The existing definition of “harm to others” fails to account for credible threats, escalating behavior, and conduct that creates a substantial and foreseeable risk of serious bodily harm. The revised definition corrects this deficiency by allowing earlier intervention when an individual’s actions or statements demonstrate a reasonable probability of harm occurring in the near future. This approach reflects modern behavioral health and public safety practices, which emphasize prevention rather than reaction.

By expanding the safety net to include individuals who pose a real danger to others, but who have not yet crossed the threshold of inflicting great bodily harm or death, the bill enables the state’s behavioral health system to provide timely and appropriate care. Early intervention not only protects potential victims but also addresses untreated mental health conditions that frequently underline violent or criminal behavior.

Providing clearer and more uniform definitions will promote consistent application of mental health laws across courts, facilities, and practitioners statewide. The updated language establishes a more objective and workable standard, reducing variability in interpretation while ensuring that individuals who present a danger to others receive necessary treatment in a manner that is fair, clinically appropriate, and consistent with due process.

Overall, the changes in this bill strike a balanced and effective approach to mental health care—expanding access to treatment, enhancing public safety, and ensuring that interventions remain the least restrictive option appropriate to the individual’s condition and risk.

## **PERFORMANCE IMPLICATIONS**

DPS supports this bill because it aligns the definitions in the Mental Health and Developmental Disabilities Code with the real-world conditions first responders encounter. By doing so, the bill expands the ability of criminal justice partners and social service providers to effectively serve individuals who frequently utilize emergency and public safety services. The resulting impact is that more individuals in need receive appropriate care earlier, helping prevent further deterioration while enhancing public safety and overall community quality of life.

## **ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No conflict, duplication, companionship or relationship to DPS.

## **TECHNICAL ISSUES**

No technical issues.

## **OTHER SUBSTANTIVE ISSUES**

The revised definitions align with constitutional requirements established in *O'Connor v. Donaldson*, 422 U.S. 563 (1975), which prohibits confinement of non-dangerous individuals capable of surviving safely in freedom. The bill maintains the "more likely than not" standard (preponderance) for predicting future conduct while requiring evidence of recent past behavior, which comports with due process requirements articulated in *Addington v. Texas*, 441 U.S. 418 (1979).

The expanded "harm to self" definition incorporating "decisional capacity" follows a national trend toward broader "gravely disabled" standards adopted in states like California and Washington. This approach recognizes that individuals with severe mental disorders may lack insight into their condition (*anosognosia*) and cannot make rational treatment decisions even when facing serious deterioration. The standard still requires a nexus between the lack of decisional capacity and likely death, serious bodily injury, or serious debilitation—maintaining constitutional safeguards against commitment based solely on mental illness.

The bill removes the term "threatening" from the "harm to others" definition but adds "acted in such a way as to create a substantial risk." This substitution may actually be broader, capturing conduct that creates danger even absent explicit threats.

## **ALTERNATIVES**

Not applicable as no impact to DPS.

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

Status quo will remain.

## **AMENDMENTS**

None at this time.