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FISCAL IMPACT REPORT

BILL NUMBER: Senate Bill 3/aSJC/aHJC

SHORT TITLE: Commitment Procedure Changes & Definitions

SPONSOR: Sens. Maestas, Brantley and Campos/Rep. Herndon

LAST ORIGINAL
UPDATE: 2/5/2026 **DATE:** 1/20/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DOH/NMBHI	No fiscal impact	Indeterminate but possibly substantial	Indeterminate but possibly substantial	Indeterminate but possibly substantial	Recurring	General Fund
HCA	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis
Administrative Office of the District Attorneys
Office of the Attorney General

Agency or Agencies That Were Asked for Analysis but did not Respond
Administrative Office of the Courts
Law Office of the Public Defender
Health Care Authority
Department of Health
Department of Public Safety
Developmental Disabilities Council

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received. Analysis of the nearly identical Senate Judiciary Committee Substitute for Senate Bill 166 (from the 2025 Legislative session) has been included in place of agency analysis of the current bill.

SUMMARY

Synopsis of HJC Amendments to Senate Bill 3

The House Judiciary Committee amendments to Senate Bill 3 modify the bill by inserting the

word “serious” before references to “harm” throughout the definitions of “harm to self” and “harm to others” in both the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act. The amendments also remove one subsection from the definition of harm to self, relating to “experimental treatment” and re-letter the remaining subsections. In addition, the committee amended the bill to specify that conduct leading to harm to self must be intentional, rather than unintentional, in both statutory sections amended by the bill.

The House Judiciary Committee amendments further revise the criteria related to decisional capacity. The amendments add language stating that a lack of decisional capacity must occur as a result of a mental disorder and that determinations regarding decisional capacity must be made by a qualified mental health professional.

Synopsis of SJC Amendments to Senate Bill 3

The Senate Judiciary Committee amended Senate Bill 3 by replacing the term “commit suicide” with “cause self-inflicted death” on pages 5 and 11, and by removing additional language following the word “self” in each instance. These changes were adopted unanimously by the committee.

Synopsis of Original Senate Bill 3

Senate Bill 3 (SB3) amends Section 43-1-3 and Section 43-1B-2, NMSA 1978, the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act, by refining the definitions of "harm to self" and "harm to others."

"Harm to self" would be defined as an individual’s inability to meet their basic needs for nourishment, medical care, shelter, or self-protection, with a likelihood of death, serious bodily injury, or severe physical or mental debilitation if treatment is not provided.

"Harm to others" would apply to individuals who have recently inflicted or attempted to inflict serious bodily harm or created a substantial risk of such harm, with a high likelihood of recurrence.

The bill removes “extreme destruction of property” as a criterion for determining harm to others and clarifies the role of crisis triage centers as evaluation facilities for individuals requiring emergency mental health services.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

SB3 does not contain a direct appropriation; however, changes to the definitions of “harm to self” and “harm to others” in the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act may lead to increased demands on judicial, law enforcement, and behavioral health resources. By refining the legal criteria for involuntary commitment and assisted outpatient treatment, the bill may result in changes in the number of petitions filed, court hearings held, and services required for individuals who meet the updated standards. The

Administrative Office of the Courts’ (AOC) analysis of the original bill indicated the fiscal impact of these changes are uncertain, but additional petitions for involuntary commitment could increase caseloads and require additional courtroom resources.

Law enforcement agencies may experience expanded responsibilities related to transporting and managing individuals who meet the new commitment criteria. The Department of Public Safety (DPS) and local law enforcement agencies have not provided cost estimates related to potential increases in transport costs or the costs of increased interactions with individuals experiencing mental health crises. The Department of Health’s (DOH) analysis of the original bill indicated that the bill may result in more referrals to the New Mexico Behavioral Health Institute, where the state general fund covers a significant portion of patient costs. The Health Care Authority’s (HCA) analysis of the original bill noted that implementing the bill’s provisions may require updates to administrative regulations and staff training, but the agency has not quantified the potential fiscal impact. Due to the uncertainty surrounding how many individuals would become eligible for commitment or outpatient treatment under the revised definitions, the total fiscal impact of SB3 remains undetermined but potentially substantial.

SIGNIFICANT ISSUES

Under SB3, the revised definition of “harm to self” would require a demonstration that an individual is unable to meet their basic needs for nourishment, medical care, shelter, or self-protection, with a likelihood of death, serious bodily injury, or severe physical or mental debilitation if treatment is not provided. The bill removes explicit references to suicide risk as a factor in determining harm to self, which could affect how eligibility for commitment is assessed and how clinicians evaluate risk in emergency situations. The definition of “harm to others” would now specify that the individual must have recently inflicted or attempted to inflict serious bodily harm or acted in a way that creates a substantial risk of such harm, with a high likelihood of recurrence. The bill removes references to extreme destruction of property as a criterion for determining harm to others.

The bill clarifies the role of crisis triage centers as evaluation facilities for individuals requiring emergency mental health services. State agencies, including HCA and DOH, have indicated that administrative rule changes may be necessary to align agency policies with the bill’s provisions. AOC’s analysis of the original bill noted that the revised definitions may lead to an increase in petitions for involuntary commitment or assisted outpatient treatment. However, the extent of this impact is uncertain. DPS’ analysis suggests that changes to commitment criteria may increase interactions between law enforcement and individuals experiencing mental health crises. DPS also notes that the bill aligns the commitment standard more closely with conditions encountered by first responders and could support earlier interventions in behavioral health emergencies. Behavioral health stakeholders have raised questions about whether the removal of explicit suicide references could affect clinical assessments of risk and whether additional training or guidance may be required to ensure consistency in implementation.

The Law Office of the Public Defender cautions that the broader definitions could significantly expand the population eligible for commitment, potentially increasing workload and requiring additional indigent defense resources. The agency also identified ambiguities in the bill’s language, including references to “decisional capacity,” and recommended clarification of terms to reduce legal uncertainty and ensure consistent interpretation across jurisdictions.

The Office of the Attorney General notes two primary concerns with SB3. First, while the bill amends definitions in the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act, related sections in the Criminal Procedure Code—specifically Sections 31-9-1.1, 31-9-1.2, and 31-9-1.6—may also need to be updated to maintain statutory consistency in competency determinations. Second, the use of the term “serious bodily harm” may create interpretive challenges, as criminal statutes and jury instructions more commonly use the term “great bodily harm,” which has a defined meaning under Section 30-1-12(A).

ADMINISTRATIVE IMPLICATIONS

HCA, DOH, and AOC may need to update policies, procedures, and training programs to align with the revised definitions of “harm to self” and “harm to others.” The bill may require state agencies to develop administrative rules to ensure consistent implementation of the new commitment criteria. AOC may also need to provide training to judges and court personnel on how to apply the revised definitions in commitment proceedings. Law enforcement agencies may need to revise crisis intervention training to ensure officers understand the updated criteria for determining when an individual qualifies for involuntary commitment.

The bill does not include a specific appropriation to support administrative changes, and agencies have not provided estimates of the costs associated with updating policies and training personnel. The timeline for implementing these changes is not specified in the bill, and state agencies have not indicated when administrative updates would be completed.

OTHER SUBSTANTIVE ISSUES

DPS noted that the revised definitions in SB3 may promote greater consistency across behavioral health and public safety systems by aligning statutory language with circumstances frequently encountered by first responders. DPS also observed that removing references to “threatening” behavior and instead including conduct that creates a “substantial risk” may broaden the scope of behaviors that trigger intervention, potentially capturing situations that previously fell outside the statutory threshold.

The New Mexico Attorney General’s Office (NMAG) highlighted the removal of the term “likelihood” from the definitions of harm, noting this shifts the focus away from prospective risk assessments and toward observable recent behavior. NMAG also noted that the new definitions eliminate the subjective fear component previously included in some interpretations of “harm to others,” which may change how risk is evaluated in legal proceedings. In addition, NMAG raised the possibility that the phrases “recent behavior” and “within the recent past” could introduce uncertainty, as these terms are not explicitly defined and may require judicial interpretation.

DPS and NMAG both noted that SB3 incorporates language related to “decisional capacity” when evaluating harm to self, but the bill does not define that term or specify who is responsible for making such determinations. The absence of a definition may affect how consistently the term is applied across jurisdictions. Relatedly, while other states use “decisional capacity” as part of a broader “gravely disabled” standard, New Mexico statutes currently lack corresponding definitions or criteria.

Agencies also noted that although the bill amends definitions within the Mental Health and Developmental Disabilities Code and the Assisted Outpatient Treatment Act, these terms are also referenced in other areas of statute, including criminal competency provisions in Chapter 31. Absent corresponding revisions in those sections, agencies identified the potential for inconsistent application or interpretation across civil and criminal contexts.

Finally, DPS observed that the revised standard preserves the constitutional safeguards established in *O'Connor v. Donaldson* and *Addington v. Texas* by requiring a connection between recent conduct and a likely outcome of serious harm, and by maintaining a preponderance of the evidence standard in civil commitment proceedings. However, this observation was not accompanied by a formal legal analysis or opinion.

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