

LFC Requester:	Christine Boerner
-----------------------	--------------------------

**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original	<input checked="" type="checkbox"/>	Amendment	<input checked="" type="checkbox"/>	Date	<u>February 2, 2015</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB 53</u>

Sponsor:	<u>Rep. Pacheco and Sen. Papen</u>	Agency Code:	<u>Attorney General's Office</u>
Short	<u>Assisted Outpatient</u>	Person Writing	<u>Patricia Padrino Tucker, AAG</u>
Title:	<u>Treatment Act</u>	Phone:	<u>505-222-9082</u> Email <u>ptucker@nmag.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: Senate Bill 53 is an act creating provisions allowing for assisted outpatient treatment for the mentally ill who may be facing criminal charges. Senate Bill 53 also appropriates \$3 million to implement the program; \$275,000 to hire personnel for training and data reporting; and \$200,000 to conduct a study of the effectiveness of the program.

FISCAL IMPLICATIONS

The act makes an appropriation of \$3 million from the general fund to implement the program; an appropriation of \$275,000 from the general fund to the administrative office of the courts to hire personnel for training and data reporting; and \$200,000 from the general fund to the University of New Mexico to conduct a study of the effectiveness of the program.

The program enacted through this bill could potentially impact the Attorney General’s Office in that it could be required to assist in the enforcement of the Act. However, it is unclear whether this would be the case and exactly how enforcement is implemented.

SIGNIFICANT ISSUES

Senate Bill 53 expands the definition of protected health information to “past, present or future physical or mental health or condition,” and “payment for the provision of health care.” This definition is not consistent with the federal HIPAA definition, nor with the Mental Health and Developmental Disabilities Code, which is cited within Senate Bill 53.

Senate Bill 53 describes how a person would qualify for assisted outpatient treatment and under what circumstances he or she would be ordered to participate; however, there is little description of the program itself aside from a definition in the definitions section. Additionally, although the department of health appears to have oversight, this type of court-ordered treatment is more frequently monitored by a probation officer in a criminal context, and possibly a guardian ad litem in a civil context. The department of health may require some re-organization in order to handle oversight of this program.

Additionally, it is unclear how the treatment requirements would be enforced. The act provides for consequences against the various agencies involved, but does not appear to provide for consequences or right of enforcement if the court-ordered individual fails to comply with the assisted outpatient treatment.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A