Repeat Offenders, the Dingbat Defense, and Wolf Criers

What does HB 0008 do, about them? Creates a wasteful, abusive pipeline.

The legislature is considering House Bill 0008, to address an issue of public safety. There exists a problem with repeat offenders getting off the hook for their crimes, by falsely claiming incompetency to stand trial. This bill may be an attempt to conscientiously address that public safety matter.

The text for House Bill 0008, along with cross outs of the prior wording, for comparison, can be found at:

https://www.nmlegis.gov/Sessions/25%20Regular/bills/house/HB0008.HTML

The goal of this bill is laudable. Certainly, we as a society, don't want repeat offenders to play the system, to get off the hook. Could this bill achieve the desired outcome? Possibly. But not well. I'll get into some of the, "*not well*" details, in a bit.

This bill also raises some additional concerns. It removes buffers that protect the innocent. We don't want to include them, in the ways whereby we address the repeat offender. So how do we protect those who are innocent? And sane? There needs to be a way to protect the innocent, wrongly accused.

Read on, for some specific sections of this bill, and observations about those sections.

Section 31-9-1.1 NMSA 1978 … Section 2 is amended to read:
31-9-1.1. DETERMINATION OF COMPETENCY--EVALUATION AND DETERMINATION.-- [The]
A. A defendant's competency shall be ["*professionally*," is crossed out] evaluated by a psychologist or psychiatrist or other qualified professional recognized by the district court as an expert. ["*and a report shall be submitted*" is crossed out] The qualified professional who evaluates a defendant's competency shall prepare an evaluation report and submit the report as ordered by the court.

Observation: Why should, "*professionally*" be crossed out? Why should non-professional, or worse yet, downright unprofessional, evaluations, be tolerated? So any jo blo the judge likes, and who is a fellow gangsta, can do the not so professional, evaluating. The omission of the specification, "*professionally*," seems like a design to rubber stamp, by law, false accusations by fellow gangstas "*recognized by the district court as experts*." They don't have to be licensed by the state. No PhD in psychology required. No MD in psychiatry. Just recognition by the district court. Hey, Joe, ya wanna help my careeeeyer, your own, and make tons of money in a state funded scam? Yes? OK: I now recognize you as an expert. Now start labeling people nuts, who aren't. Let's make tons of profit, and climb the dishonest careeeeyer ladder! It won't really hurt the state: Those state funds ultimately come from the federal government, anyway! Who cares if this is wasteful and abusive! We profit!

31-9-1.1.
C. If, in the opinion of the qualified professional, a defendant is not competent to stand trial, … [a bunch of wheels turn, essentially feeding the pipeline.]

So who is this, "*qualified professional?*" Anyone the district court recognizes as such. They may not even have a bachelor's degree in underwater basket weaving. Forget about a PhD in psychology, or an MD in psychiatry. The, "*recognition*" may amount to a criminal scheme to abuse this law, to commit grand financial fraud. Later on in the text of this bill, recommendations can be made by people who amount to mere jailers. That is a job which requires - - - ready for this? The applicant must be at least 18 years old. Hardly a sanity analysis credential. And certainly no guarantee against abuse of power; especially for fraudulent gain.

SECTION 6. Section 31-9-1.5 NMSA 1978 ... Chapter 108, Section 6, ... is amended to read:
31-9-1.5. DETERMINATION OF COMPETENCY--CRIMINAL COMMITMENT--EVIDENTIARY HEARING.--
E. If the district court finds by clear and convincing evidence that the defendant committed
[crossed out the list of the crimes specific to this law] the crime charged and enters a finding that the defendant remains [crossed out: "*incompetent to proceed*"] not competent to stand trial and remains dangerous [crossed out: "*pursuant to*"] as determined by the court in accordance with Section 31-9-1.2 NMSA 1978 [the wheels the court must grind through, to reach this finding] :
(1) the defendant shall be detained by the department of health in a secure, locked facility;

Observation: The innocent and sane, sicced in this, "*secure, locked facility*," for up to 3 months, are tossed into the <u>same</u> DOH facility with artful, <u>dangerous</u> criminals (especially sex crime perverts), and <u>repeat</u> offenders, who are slick enough to slither out of jails by feigning incompetence.

The DOH can then pimp off of endless "*treatments*" which artful types would be too skillful to get subjected to; but sane, innocent people tossed in there, would.

The next section of this bill shunts the direction of this pipeline away from being based on an evaluation, resulting in a finding, over to the entire DOH simply "*determining,*" on its own, if the defendant is dangerous. No PhD's or MD's required, for that determination. No evaluations. All DOH personnel's incomes on the line, over feeding the pipeline. Gee: With the pipeline funding flow, what do you think the DOH is going to determine, in each and every case? And they don't have to be quick about it: They can bilk more funds, lolligaging beyond 60 days, keeping a sane person in the "*secure, locked facility*" before moseying around to initiating involuntary commitment proceedings. Here's that section.

31-9-1.6. HEARING TO DETERMINE DEVELOPMENTAL OR INTELLECTUAL DISABILITY--
C. If the department of health [crossed out: "*evaluation results in a finding*"] determines that the defendant presents a likelihood of serious harm to self or others, [crossed out: "*within sixty days of the department's evaluation*"] the department shall ... initiate involuntary commitment proceedings ...

I'm sure you, the reader, can find more problematic parts. What I've offered here are just a few specific examples.

That doesn't mean the intent to address artful repeat offenders who wish to play the system, to get off the hook, should be abandoned. That is still a worthy goal. It should most definitely be pursued. It still relates to public safety. But the bill's problematic areas need to be addressed, as well.

Overall: I don't see anything in this bill, which would criminalize a fictitious dingbat defense. All any repeat offender would have to do, would be to feign that they're nuts. If they were not accused of any of the crimes listed, they'd be off the hook completely.

The worst that they would face, would be to end up in a nuthouse, where they could terrorize people falsely accused of being nuts, while the latter were waiting to get to court for a determination hearing. The latter could include people who might not be guilty of any crime, and might not be nuts. Ordinary, law abiding, people like you. There are plenty of fakers, however, who might use a fictitious dingbat defense in their own case, and who would be artful, conniving, and bullying enough, to relish preying upon those who shouldn't be in any nuthouse to begin with.

There is nothing in this bill, which would criminalize falsely accusing someone of being nuts, in order to slow down proceedings, or, outright get away with crimes committed against anyone falsely accused of incompetence to stand trial. Meanwhile, judges would be tempted to refuse to allow the falsely accused, to present exonerating evidence, testimony, and witnesses, etc., for themselves, or to present convincing evidence, etc., of the ruse of deliberate false accusation; whether related to the nuts accusation, or, the original criminal case. Nor would judges be inclined to let the falsely accused, cross examine witnesses and challenge manufactured, fabricated, or chain-compromised, evidence against them. They'd be obligated to, by law; but uninclined. And that could make all the difference, in the outcome of the case.

One may term a nuthouse a hospital, secure facility, prison for the incompetent, a treatment center, wellness farm, vacation getaway, or luxury spa, for all I care. The terminology makes no difference. A nuthouse under any guise, is still, a nuthouse.

Moreover, this bill would shunt dollars from a nuthouse, ("*treatment center*") into the whole of the state's Department of Health (DOH). That's mind numbing, in its wastefulness.

You would then have a much, much, larger number of employees, whose jobs would depend, upon maintaining and even expanding, that pipeline. The pipeline would begin from a false accusation of being nuts, and then shunt one into perpetual confinement in a nuthouse. That would involve confinement with actual criminals, who know how to play the system, and get off the hook, for crimes of which they are, indeed, guilty. And the false accusations would keep the false accusers able to habitually offend, repeating the crimes they, too, got away with via their false accusations. And a large swath of personnel, would have their incomes on the line, over keeping the pipeline going, and expanding. A dishonest careeeeeyer path would be carved, for those who expand this pipeline, deliberately harming the innocent and sane. That's mind numbing, in its degree and scope of abuse. It does not keep you, a member of the public, safe. It counters the noble goal of addressing public safety.

This bill would amp up a trend already going in the wrong direction. See –

… return of Psychiatric Imprisonment:
https://www.theguardian.com/commentisfree/2025/apr/27/psychiatric-incarceration-mental-ill

Or alternatively, reference the above article, here –

View of … return of Psychiatric Imprisonment:
https://b5ae-7a634fa3f553.usrfiles.com/ugd/8b1f01_0d7064f077f64c5e82206815d5a89533.pdf

What should happen:

1. Criminalize wolf cries: whether of an original crime, or, of incompetence to stand trial. Build that directly into the language of the proposed legislation. Make the sentencing commensurate to what the wolf crier subjected their target to the risk of; plus, the wolf crier permanently loses their job, if employed in the courts, law enforcement, the penal system, or the so-called healthcare industry.

2. Criminalize phony dingbat defenses. Build that directly into the language of the proposed legislation.

3. Criminalize refusals to let the accused present their case, when no final determination of incompetence to stand trial, has been made. Build that directly into the language of the proposed legislation.

4. Engage crime victims in my proposed Report Card system. Funding should not be based upon whether someone accused of being nuts turns out to be: nuts, sane and rational, in a nuthouse, in jail, or out of both places. Nor should funding be based on whether such a person becomes deemed competent to stand trial, either. It should be based EXCLUSIVELY upon the grade designated by the crime victim. And all funding should go to pay SOLELY whomever the crime victim decrees should get that funding. Certainly not the entire DOH, nor the entirety of any agency.

See my Sample Report Card, here:

https://img1.wsimg.com/blobby/go/c178db95-3ee1-4cb7-b576-a43d27e80304/Sample%20Report%20Card.pdf?

~~~~~~~~~~~~~~~

Question: Want to contact this author? The gods of Substack won't let you. This account was set up via a wrongfully no longer available to this registrant, yahoo email account. I'd love to hear from you. But you'll have to either reply directly, or, request the folks at Substack allow this writer's account to move over to my current email address.

Wonder who might be behind this censorship? Well, there's a clue in my immediately prior, issue, at:
https://open.substack.com/pub/aartemis/p/who-funds-hush-its-a-secret?r=psvr6&utm_campaign=post&utm_medium=web&showWelcomeOnShare=true

~~~~~~~~~~~~~~~
~~~~~~~~~~~~~~~
~~~~~~~~~~~~~~~
~~~~~~~~~~~~~~~
~~~~~~~~~~~~~~~