



DISABILITY RIGHTS NEW MEXICO

1720 Louisiana Blvd. NE, Suite 204 • Albuquerque, New Mexico 87110
TEL/TTY: (505) 256-3100 • FAX: (505) 256-3184
State-wide Toll Free 1-800-432-4682
WEBSITE: www.drn timer.org • EMAIL: info@drnm.org
James Jackson, Executive Director

Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2015 LEGISLATURE FINAL REPORT

Jim Jackson, Executive Director
Disability Rights New Mexico
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Governor approves most disability legislation passed by the Legislature. In DRNM's post-session report last month, we noted 11 disability-related bills we had been following, including the state budget bill (HB 2), that had passed the Legislature and awaited final action by Governor Martinez. Last Friday was the deadline for such action, and the governor signed all but two of those bills, though as noted below there were some line item vetoes in the state budget bill.

Most notable, perhaps, of the bills we followed that were signed into law was SB 42, by Sen. Jerry Ortiz y Pino, which prohibits HSD from terminating Medicaid eligibility for individuals when they go into a jail or prison and allows inmates to apply for Medicaid before they are released. In the past, the department has terminated eligibility for individuals upon their incarceration and has refused to allow inmates to submit applications for Medicaid until after their release. These practices have been a substantial barrier to persons with mental illness or brain injury, for example, who need prompt access to support services to lessen the chances of ending up back in jail. Maintaining eligibility during incarceration and allowing applications before release will help to ensure access to needed services without undue delay when the person returns to the community. This was one of the last bills signed into law by the governor and she waited until the very last day to do so.

The two disability bills that were vetoed were HB 108 and HB 258. HB 108, by Rep. Patty Lundstrom, would have required the Behavioral Health Purchasing Collaborative to divide the state into "zones" based on criteria such as mortality related to alcohol use, drug overdose and suicide, and then give priority in non-Medicaid funding for behavioral health services to zones identified as high-risk and high-need. HB 258, by Rep. Miguel Garcia, would have required managed care organizations and other health care insurers to allow their enrollees to choose from among available mental health counselors in the insurer's network.

A list of disability-related bills which have now been signed into law begins on page 2, below, followed by a recap of memorials which also passed the legislature. A list of all the disability-related bills that did not make it through the session begins on page 4.

Whatever happened to... Most of the bills of significant importance to disability advocates failed to make it through the session. Here's a quick look back at how far they got:

- SB 53 (Sen. Mary Kay Papen), a highly controversial bill authorizing court-ordered outpatient treatment for certain persons with mental illness, passed three Senate committees (each of which made major changes to the bill) and then passed the Senate 30-11 after being further amended on the floor. The bill then went through three House committees, where it was amended two more times, and then passed the House 64-0 with about ten minutes left on the last day of the session. There was no time left for the Senate to concur on the House amendments so the bill failed.
- SB 216 (Sen. Bill Soules), calling for an annual report on the DD waiver program and the waiting list for that program, passed the Senate 42-0 and then passed its two House committees unanimously, but House leadership did not provide an opportunity for a vote by the full House.
- SB 283 (Sen. Bill O'Neill), prohibiting seclusion and restraint in the public schools, easily passed its two Senate committees but then languished on the Senate floor calendar because the chamber's leadership never called it up for a final vote in the Senate.
- HB 222 (Rep. Jason Harper), authorizing a pilot program of Community Engagement Teams to reach out to and encourage persons with mental illness to participate in available mental health services, passed the House 57-0 and passed two Senate committees but was not voted on by the Senate in the final day or two of the session.
- HB 340 (Rep. Cathrynn Brown), requiring photo ID in order for persons to vote, was tabled in a House committee but "resurrected" and then passed by the House 37-29 in a near party-line vote. The bill, widely opposed by disability and other public interest advocates, was never acted on by the Senate.
- HB 448 (Rep. Sheryl Williams Stapleton), authorizing "ABLE" savings accounts in New Mexico, passed its first House committee but was then tabled in the House Ways and Means Committee.

State budget bill approved with a few vetoes. HB 2, the state budget bill, was signed into law by Governor Martinez with a number of line-item vetoes, some of which eliminated about \$8 million in state spending out of the total of \$6.2 billion authorized in the bill. Other vetoes eliminated language earmarking certain appropriations to specific communities or areas, which preserved the funding but gives the administration more flexibility in determining where the money will be spent.

Fortunately, none of the new funding for disability-related services was vetoed by the governor. As noted in earlier DRNM status reports, this additional funding includes a total of over \$6 million for behavioral health projects, including crisis stabilization (triage) centers, intensive service coordination ("behavioral health homes"), supportive/transitional housing, the statewide crisis/help line, and in-patient psychiatric services for those who don't qualify for Medicaid.

The budget also includes \$900,000 for rate increases for DD and Family-Infant-Toddler providers, and \$400,000 to take a small number of people off the DD waiver waiting list and move them into services. The budget also includes an increase of \$300,000 for civil legal services to low-income individuals.

Other Bills Passed and Signed into Law

These bills passed the House and the Senate and have now been signed into law by the governor:

- **HB 53** Rep. Nora Espinoza. Prohibits schools from requiring administration of psychiatric medications for students as a condition for attending school, and makes it clear that parental refusal to consent to such medications cannot be grounds for removing children from a parent's custody.
- **HB 103** Rep. David Gallegos. Authorizes a special license plate to promote autism awareness. The plate will cost \$35, and \$25 of the fee will go toward autism research, outreach and education.

- **HB 139** Rep. Tomas Salazar. Allows hospitalized patients to designate a volunteer lay care provider to be involved in discharge planning and to receive training on meeting some of the care needs of an individual after being discharged from the hospital to the patient's home.
- **HB 212** Rep. Terry McMillan. Provides authority to DOH to license crisis triage centers that provide stabilization for persons in a mental health crisis, and directs HSD to establish a Medicaid reimbursement rate for services provided by a triage center.
- **HB 505** Rep. Deborah Armstrong. Requires Medicaid to cover young New Mexicans up to age 26 who were formerly in foster care, whether in New Mexico or other states. The Affordable Care Act requires coverage for former foster kids but has been interpreted to allow states to limit this to children who were in that state's foster care system and refuse coverage for those who were in another state's system. HSD had chosen not to cover them, but this new law changes that policy.
- **SB 42** Sen. Jerry Ortiz y Pino. Requires HSD to help residents of jails and prisons apply for Medicaid if they are likely to qualify and are not already enrolled, and to maintain Medicaid eligibility for recipients who enter jail or prison, in order to facilitate the prompt delivery of Medicaid services once such persons are released.
- **SB 233** Sen. Pat Woods. Requires the same level of benefit for temporary or permanent disability for a worker who develops a mental disability due to a work-related injury as one who develops or experiences a physical disability. Current law provides a lesser benefit for mental disability. The bill also re-establishes a cap on certain benefits that had been eliminated in a recent court case.
- **SB 506** Sen. William Payne. Provides that a disabled veteran who is entitled to a property tax exemption and sells his/her residence may choose to claim the exemption for that year on either the old house or the new house (but not both).

Memorials that Passed in the 2015 Session

Memorials typically request that state agencies or others convene task forces or conduct studies and make recommendations. Memorials don't have the force of law and thus did not require approval by the governor after passage in the Legislature.

- **HM 9** Rep. David Adkins. Calls for DOH and the UNM Center for Development and Disability to convene a task force to study the needs of young adults with significant health care needs as they transition from pediatric care to the adult-oriented health care system. Same as SM 68, below.
- **HM 15** Rep. Carl Trujillo. Calls on the U.S. Congress to eliminate the "marriage penalty" for persons with disabilities who are on SSI. When two individuals on SSI get married, their total benefits are reduced by 25% compared to their two individual benefits, and the amount of resources they are allowed to keep is also reduced by 25%. Same as SM 3, below.
- **HM 47** Rep. Gail Chasey. Calls for re-establishment and continuation of the J. Paul Taylor task force to further develop an early childhood behavioral health action plan. Same as SM 69 and SJM 10, below.
- **SJM 4** Sen. Sander Rue. Calls on the Association of Counties to form a task force to study alternative placements for people with mental illness in jail awaiting trial or an evaluation of their competence to stand trial.
- **SM 3** Sen. Jerry Ortiz y Pino. Calls on the U.S. Congress to eliminate the "marriage penalty" for persons with disabilities who are on SSI. Same as HM 15, above.

- **SM 37** Sen. Nancy Rodriguez. Calls for the governor to designate March as Developmental Disabilities Awareness Month and calls on all public officials to recognize the accomplishments and capacity of persons with developmental disabilities and to treat them with respect.
- **SM 44** Sen. Sander Rue. Calls on HSD, the Mortgage Finance Authority, the NM Coalition to End Homelessness and the Albuquerque Heading Home program to identify strategies to coordinate efforts more effectively, identify gaps, and make recommendations to the Legislature.
- **SM 48** Sen. Jerry Ortiz y Pino. Recognizes the work of a group of young disability leaders and their efforts to promote disability history and awareness, and calls on the Public Education Department to encourage local school districts, charter schools and colleges and universities to offer educational programs related to disability history and awareness.
- **SM 69** Sen. Jerry Ortiz y Pino. Calls for the re-establishment and continuation of the J. Paul Taylor task force. Same as HM 47, above, and SJM 10, below.
- **SM 115** Sen. Jerry Ortiz y Pino. Calls on the UNM Department of Psychiatry to establish a task force to review the Sequoyah Adolescent Treatment Facility and its current treatment model, staffing level and other issues and make recommendations on how to improve the facility's operations and finances.

Disability-Related Bills and Memorials That Did Not Pass

- **HB 29** Child abuse reporting. Rep. Brian Egolf.
- **HB 44** Gun show sales and reporting MI determinations. Rep. Miguel Garcia.
- **HB 47** Funding for homeless assistance. Rep. Tomas Salazar.
- **HB 61** Voter ID and other voting procedures. Rep. Jim Smith.
- **HB 72** Tax credit for long-term care insurance. Rep. Christine Trujillo.
- **HB 77** Accessibility license plates for transportation agencies. Rep. Paul Pacheco.
- **HB 222** Mental health community engagement teams. Rep. Jason Harper.
- **HB 223** Funding for CYFD supportive housing. Rep. Roger Madalena. (HB 2 includes this \$900,000).
- **HB 224** Behavioral health parity. Rep. Roger Madalena.
- **HB 271** PED-CYFD sharing info on students in state custody. Rep. Gail Chasey.
- **HB 276** Disabled veteran license plates. Rep. Jeff Steinborn.
- **HB 340** Photo ID requirement for voting. Rep. Cathrynn Brown.
- **HB 376** Prohibiting solitary confinement for persons with mental illness. Rep. Moe Maestas.
- **HB 388** Limit co-pays for physical rehabilitation services. Rep. Terry McMillan.
- **HB 448** Authorizing ABLE savings accounts. Rep. Sheryl Williams Stapleton.
- **HB 455** Funding for 3-county BH pilot project. Rep. John Zimmerman. (HB 2 includes \$100,000 for such a program but due to partial veto by the governor, this money is not earmarked for southern NM).
- **HB 464** Mobility impairment logo on other special license plates. Rep. Deborah Armstrong.
- **HB 467** ABLE accounts. Rep. Ken Martinez.
- **HB 476** Increasing the special needs child adoption tax credit. Rep. Alonzo Baldonado.
- **HB 493** Funding for monitoring of guardianship arrangements. Rep. Sarah Maestas Barnes. (It appears that HB 2 includes \$175,000 for this purpose).
- **HB 543** Mental illness awareness license plates. Rep. Wonda Johnson.
- **HB 545** Limit pre-trial detention for misdemeanors. Rep. Stephanie Maez.
- **HB 556** Insurance coverage for brain injury services. Rep. Deborah Armstrong.

- **HB 574** Background checks for therapists. Rep. Sharon Clahchischilliage.
- **HJR 7** Property tax exemption for low-income persons with 100% disability. Rep. Miguel Garcia.
- **HM 56** Study possible link of autism and Roundup. Rep. Brian Egolf.

- **SB 19** DD waiver waiting list plan and funding. Sen. Bill Soules.
- **SB 36** Funding for monitoring of guardianship arrangements. Sen. Michael Padilla.
- **SB 38** Funding for supportive housing and support services. Sen. Jerry Ortiz y Pino. (HB 2 appears to contain \$1 million which could be used for this purpose).
- **SB 43** Transfer Sequoyah Adolescent Treatment Facility to UNM. Sen. Jerry Ortiz y Pino.
- **SB 44** Funding for behavioral health in school-based clinics. Sen. Jerry Ortiz y Pino.
- **SB 45** Funding for behavioral health “warm line” and resource center. Sen. Jerry Ortiz y Pino.
- **SB 48** Funding for psychiatric nurse practitioner training. Senator Mary Kay Papen. (HB 2 contains \$300,000 for this purpose).
- **SB 53** Assisted Outpatient Treatment. Senator Mary Kay Papen. Authorized court-ordered mental health outpatient treatment for certain persons with a history of mental illness.
- **SB 55** Due process protection for Medicaid providers. Sen. Mary Kay Papen.
- **SB 87** Funding for the Housing Trust Fund. Sen. Nancy Rodriguez.
- **SB 88** Funding for homeless assistance. Sen. Nancy Rodriguez.
- **SB 89** Funding for Brain Safe program. Sen. Mark Moores. (HB 2 contains \$175,000 for this).
- **SB 139** Medicaid for former foster children. Sen. Michael Padilla. Same as HB 505, which passed the Legislature and was signed by the governor.
- **SB 154** Funding for BH training for medical professionals. Sen. Sue Wilson Beffort.
- **SB 155** Funding for recruitment of health care professionals. Sen. Sue Wilson Beffort.
- **SB 181** Funding for civil legal services. Sen. Nancy Rodriguez. (HB 2 includes an additional \$300,000 for this purpose).
- **SB 188** State regulation of youth wilderness programs. Sen. Sue Beffort.
- **SB 203** Disability and language accommodations in school testing. Sen. John Sapien.
- **SB 216** DD waiver annual waiting list report. Sen. Bill Soules.
- **SB 218** Free parking for disabled veterans in publicly-owned lots. Sen. Bill Soules.
- **SB 244** Screening and services for children. Sen. Jerry Ortiz y Pino.
- **SB 248** Special assessment exemption for disabled veterans. Sen. Michael Sanchez.
- **SB 278** Missing persons with DD: "Brittany" alerts. Sen. Jacob Candelaria.
- **SB 283** Prohibiting seclusion/restraint in public schools. Sen. Bill O’Neill.
- **SB 308** Motorcycle helmets optional based on fee. Sen. Jerry Ortiz y Pino.
- **SB 312** Funding to restore DD provider rate cuts. Sen. Carlos Cisneros. (HB 2 includes \$450,000 for this purpose.)
- **SB 320** Limiting emergency procurement of health care services. Sen. Jacob Candelaria.
- **SB 327** Mandatory use of motorcycle helmets. Sen. Jerry Ortiz y Pino.
- **SB 345** Report court findings of mental incapacity. Sen. Daniel Ivey-Soto.
- **SB 359** Limit co-pays for physical rehabilitation services. Sen. Bill O’Neill.
- **SB 431** Student training on brain injuries. Sen. Bill Soules.
- **SB 449** Disabled veteran license plates. Sen. William Burt.
- **SB 460** Funding for FIT provider rate increases. Sen. Howie Morales. (HB 2 includes \$450,000 for this purpose).
- **SB 484** Corrections-related behavioral health services. Sen. Sander Rue.
- **SB 492** Athlete brain injury protocols. Sen. Michael Sanchez.

- **SB 517** Health care appeals and continuation of benefits pending appeal. Sen. Jacob Candelaria.
- **SB 522** Priority zones for BH services. Sen. George Muñoz.
- **SB 538** Limit pre-trial detention for misdemeanors. Sen. Mimi Stewart. Same as HB 545, above.
- **SB 566** Priority zones for BH services. Sen. Mary Kay Papen.
- **SB 595** Funding for Native American suicide prevention. Sen. John Pinto. (HB 2 contains \$200,000 for UNM for this purpose).
- **SB 620** Funding for behavioral health services in McKinley County. Sen. George Muñoz. (HB 2 included \$300,000 for this purpose but the language earmarking the funding for McKinley County was vetoed by the governor).
- **SB 640** New education funding formula. Sen. Mimi Stewart.
- **SB 666** Priority zones for BH services. Sen. George Muñoz.
- **SJM 10** J. Paul Taylor task force. Sen. Jerry Ortiz y Pino. Same as HM 47 and SM 69, which both passed the Legislature.
- **SJM 24** School mental health task force. Sen. Sander Rue.
- **SM 68** Medical transitions for young adults. Sen. Jerry Ortiz y Pino. Same as HM 9, which passed the legislature.
- **SM 112** Behavioral health study. Sen. Clemente Sanchez.

ABBREVIATIONS USED IN THIS REPORT

BH	Behavioral health
CYFD	Children, Youth and Families Department
DD	Developmental disabilities
DOH	Department of Health
HB	House Bill
HM	House Memorial
HSD	Human Services Department
NMSU	New Mexico State University
PED	Public Education Department
SB	Senate Bill
SJM	Senate Joint Memorial
SM	Senate Memorial
UNM	University of New Mexico