



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2018 LEGISLATURE WEEKLY STATUS REPORT #4

Jim Jackson, Chief Executive Officer

Disability Rights New Mexico

February 12, 2018

Events at the Capitol:

Today – Feb. 12 – Autism Awareness Day

Committee Hearings:

Today – Monday Feb. 12

- HJC: SB 19 (guardianship reform); HM 104 (study IPRA and access to police camera videos)
- SJC: HB 19 (omnibus crime package, including mental health screening and services); SM 98 (study IPRA and access to police camera videos)

The Final Days. This year's 30-day session will end at noon this Thursday. Expect frantic efforts to get bills heard in committees, and long floor sessions to process bills that clear those committees. In a relatively quiet session that has been marked by some bi-partisan initiatives and less rancor than usual, there may still be an opportunity for drama in these last few days.

Senate committee beefs up state budget bill. The Senate Finance Committee has approved its version of HB 2, stepping up total state spending to \$6.389 billion for FY 2019. Recurring (on-going) state spending would rise to \$6.335 billion, an increase of about \$247 million. Of interest to the disability community is an increase of \$3.4 million for the DD waiver – on top of the \$2 million increase already included in the House version of the bill.

Step therapy bill just one step away. An amended version of SB 11, which provides for quick and consistent processes for by-passing insurance requirements to try inexpensive drugs before approving more expensive alternative treatments for persons with chronic illness, passed the Senate unanimously and has already passed out of the only House committee to hear the bill. It's now on the House calendar and could be brought up for a final vote any day now.

HJC to consider guardianship reform. SB 19, the massive overhaul of the state's guardianship and conservatorship system, may be overhauled itself when it is heard this afternoon in the House Judiciary Committee. The current version, 260 pages long, is already the product of extensive amendments in one Senate committee and a substitute adopted in a subsequent committee. As the bill stands now, several changes would be put in place for the next two years, followed by adoption of further reforms

in 2020. It's a "heavy lift" to move such a complex bill through a 30-day session. Look for extensive discussion and the possible offering of a pared-down version in the committee today.

Bills and Memorials Introduced

This list is grouped by disability or subject matter and shows the bill number, sponsor, a description of the bill or memorial, the current committee assignments and action taken so far. See page 8 for a list of abbreviations, including legislative committees, used in this report.

Since this is a short session, the only bills allowed to move forward are funding or tax bills, bills addressing a topic requested by the governor (through a "message" to the legislature), and bills passed in the last session that were vetoed by the governor. All House bills go first to the House Rules Committee to determine whether they fall within one of those categories; on the Senate side, the bills go first to the Senate Committees' Committee. Memorials, resolutions and constitutional amendments do not have to go through that process and are typically referred directly to the relevant committee.

The State Budget

HB 2 General Appropriation Act. Rep. Patty Lundstrom. This is the state budget bill for FY 2019 that includes appropriations for all state agencies. The version of the bill passed by the House provides for total state spending of \$6.32 billion. It included \$90 million for salary increases for state employees, \$69 million more for public school support, and \$6 million more for higher education. Medicaid received an \$18 million increase (compared to \$35 million in the original version), which provides for some provider rate increases and would still fully fund the program in the coming year because HSD has lowered its cost projections for Medicaid significantly. The House version also included \$2 million to provide DD waiver services to persons on the waiting list for the program, enough to serve around 100 individuals.

The Senate Finance Committee on Saturday adopted a series of amendments, including an additional \$3.4 million for the DD waiver. Other SFC increases include \$319,000 for the Commission for the Deaf and Hard of Hearing, \$100,000 for housing for persons with mental illness who are homeless or at risk of homelessness, \$100,000 for suicide prevention and job development on tribal lands, and \$300,000 for Special Olympics.

The full Senate is expected to vote on the revised version of the bill today or tomorrow. If approved, the House will have to agree to these changes or call for a conference committee to resolve any areas of disagreement between the two chambers.

Autism

SB 161 Medicaid Coverage of Autism Services. Sen. Linda Lopez. Requires Medicaid coverage of speech, occupational and physical therapy as well as applied behavioral analysis as treatments for autism spectrum disorder, without regard to an individual's age and without annual or lifetime limits on coverage. This bill did not receive a "message" from the governor and did not advance. SCC.
Note: there is now \$100,000 in HB 2 for Medicaid coverage of autism services.

Behavioral Health/Mental Health

HB 19 Criminal Justice Omnibus Bill. Rep. Nate Gentry. This bill, which now combines the provisions of a number of other bills, requires jails and prisons to screen inmates or detainees who are

in the facility for 30 days or more for substance abuse or mental health issues. The facilities would be required to facilitate access to inmates or detainees by the Medicaid program or Medicaid MCOs for the purpose of Medicaid eligibility determinations. Medicaid care coordinators would have to assess the needs of inmates/detainees, and link eligible individuals to available services upon their release from the correctional facilities. Passed the House 66-1; SJC/SFC. *Scheduled for hearing in SJC today.*

HB 20 Reducing Prison Recidivism. Rep. Nate Gentry and Sen. Daniel Ivey-Soto. This bill had provisions similar to HB 19, above. Since HB 19 is moving forward, HB 20 is now inactive.

HB 132 Rapid Re-housing. Rep. Tomas Salazar. Appropriates \$2 million to the Department of Health, to be provided to the Mortgage Finance Authority, to provide services and supports to homeless persons to help them obtain and maintain permanent housing. HHHC/HAFC. Passed HHHC; heard and tabled in HAFC. *Note: there is now \$100,000 in HB 2 for housing for persons with mental illness who are homeless or at risk of homelessness.*

HB 135 Interventions and Services for At-risk Youth. Rep Sheryl Williams Stapleton. Requires HSD to create a program to provide services to meet the needs of youth with behavioral health issues who are at risk for involvement in the juvenile justice or criminal justice system. HRC ruled that the bill is “not germane” for the 30-day session, so the bill did not advance.

HB 217 Reducing Prison Recidivism. Rep. Daymon Ely and Rep. Nate Gentry. This bill was a substitute for HB 20 (above). Similar provisions have been inserted into HB 19, above, and HB 217 is no longer being pursued.

HB 221 Home Entry for MH Evaluation. Rep. James Strickler. Current NM law allows a police officer to detain and transport a person for an emergency mental health evaluation without a court order if the officer believes, or has been provided a certification by a mental health professional, that an individual presents a likelihood of serious harm to the individual or others and that immediate detention is needed to prevent such harm. This bill is intended to allow a police officer to enter a home without consent or a court order in order to detain and transport the person, if the officer believes the person to be present in the home and the officer has made a good faith (but unsuccessful) attempt to get permission to enter from an owner or occupant. Passed HHHC, but was heard and laid to rest in HJC with the consent of the sponsor after many committee members expressed concern over some of the bill’s provisions.

HB 251 County BH Transportation Fund. Rep. Sheryl Williams Stapleton. Establishes a state fund to support the transportation of low-income persons to behavioral health services. Counties would be allowed to apply for grants from the fund, which would receive an initial appropriation of \$1 million through this bill. HHHC/HAFC. Passed HHHC; HAFC deleted the appropriation from the bill and then passed it. Passed the House 68-0; pending in SFC.

HJR 2 Tap Land Grant Fund. Rep. Daymon Ely. This is a constitutional amendment that would require more of the annual earnings of the Land Grant Permanent Fund to be spent on a variety of public safety programs, including behavioral health services. HCPAC/HLELC/HJC. Passed HCPAC on a 3-2 party-line vote, but tabled in HLELC.

HJR 3 Tap Severance Tax Fund. Rep. Daymon Ely. This is a similar constitutional amendment that would require more of the annual earnings of the Severance Tax Permanent Fund to be spent on a

variety of public safety programs, including behavioral health services. HCPAC/HLELC/HJC. Passed HCPAC on a 3-2 party-line vote, but tabled in HLELC.

HJM 2 Inpatient Services in Southern New Mexico. Rep. Joanne Ferrary. Calls on the Legislative Finance Committee to develop a plan to provide inpatient beds for mental health patients in southern NM, initially through contractual arrangements and then through construction of one or more new facilities. Same as SM 98, below. HAFC. Passed HAFC, awaiting final vote in the House.

HM 104 Study police lapel cameras and IPRA. Rep. Gail Chasey. Calls for a task force to review the issue of public access to police lapel camera videos of encounters between police officers and people who have mental illness or are victims of crime, looking to find the appropriate balance between the public's interest in police conduct and the privacy interests of individuals involved in these encounters. HJC. *Scheduled for hearing in HJC today.*

SB 4 AOT Funding. Sen. Mary Kay Papen and Sen. Peter Wirth. Appropriates \$1 million to DOH to assist cities or counties that implement an Assisted Outpatient Treatment (AOT) program. These programs, authorized by law in 2016, allow for court-ordered mental health outpatient treatment for certain individuals who refuse voluntary treatment, but only in cities or counties that enter into agreements with their local district court to cover the costs of judicial proceedings. SPAC/SFC. Passed SPAC, pending in SFC.

SB 73 Supportive Housing for Persons with Behavioral Health Issues. Sen. Howie Morales. Appropriates \$2.5 million to HSD to provide rental assistance, supportive services and other help to individuals with behavioral health disabilities who are homeless or at risk of homelessness. SPAC/SFC. Passed SPAC, pending in SFC. *Note: there is now \$100,000 in HB 2 for housing for persons with mental illness who are homeless or at risk of homelessness.*

SB 168 Mental Health and Suicide Prevention Info to Students. Sen. Mary Kay Papen. Requires all higher education institutions to provide incoming students with information about available mental health and suicide prevention services provided by the school or affiliated programs, and appropriates \$10,000 for this purpose. SPAC/SFC. Passed SPAC, pending in SFC.

SB 172 Suicide Awareness Prevention Training. Sen. Jerry Ortiz y Pino. Requires most public and private school personnel to receive one or two hours of training annually for suicide awareness and prevention. SPAC/SFC. Passed SPAC, pending in SFC.

SB 220 Crisis Triage Centers. Sen. Mary Kay Papen. Changes the definition to include facilities connected to existing hospitals and to authorize triage centers to provide residential as well as non-residential services. Licensed triage centers are eligible for Medicaid reimbursement. The bill now has an "emergency clause", allowing it to go into effect immediately upon the governor's approval of the bill (if it receives 2/3 of the votes in each chamber). Passed SPAC and SFC, awaiting final Senate vote.

SJM 1 Veterans Suicide Prevention. Sen. Jeff Steinborn. Calls on the Veterans Services Department to convene a task force to hold hearings around the state to gather input on how to reduce the incidence of suicide among New Mexico veterans. **Passed Senate 33-0; passed House 66-0.** No further action needed.

SM 98 Study police lapel cameras and IPRA. Sen. Sander Rue. Same as HM 104, above. SJC. *Scheduled for hearing in SJC today.*

Developmental Disabilities

HB 107 DD Waiver Program Funding. Rep. Miguel Garcia. Appropriates an additional \$25 million for the DD waiver program. The funds could be used to provide additional services and take people off of the waiting list. HHHC/HAFC. Passed HHHC; heard and tabled in HAFC. *Note: there is now \$5.4 million in new money in HB 2 for the DD waiver, most if not all of which is for taking people off the waiting list and moving them into the waiver program.*

HB 176 Special Olympics Funding. Rep. Carl Trujillo. Appropriates \$300,000 for Special Olympics programs. HHHC/HAFC. Passed HHHC, heard and tabled in HAFC. *Note: there is \$300,000 in HB 2 for Special Olympics.*

SB 6 Special Olympics Funding. Sen. Mary Kay Papen. Appropriates \$300,000 for Special Olympics programs. SPAC/SFC. Passed SPAC; pending in SFC. *Note: there is \$300,000 in HB 2 for Special Olympics.*

SB 120 SGF Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$345,000 to DOH for rate increases for providers of DD services funded by State General Funds. SPAC/SFC. Passed SPAC; pending in SFC.

SB 121 FIT Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$5.5 million to the Department of Health for rate increases for providers of Family Infant Toddler (FIT) services. SPAC/SFC. Passed SPAC; pending in SFC.

SB 122 DD Waiver Provider Rate Increases. Sen. Nancy Rodriguez. Appropriates \$5.1 million to the Department of Health for rate increases for providers of DD Waiver services. SPAC/SFC. Passed SPAC; pending in SFC

SB 130 Special Olympics Funding. Sen. John Sapien. Appropriates \$310,000 to support participation in Special Olympics by individuals receiving DD waiver services. SPAC/SFC. Passed SPAC; pending in SFC. *Note: there is \$300,000 in HB 2 for Special Olympics.*

SB 139 DD Waiver Report and Waiting List Funding. Sen. Bill Soules. Would have provided \$25 million to DOH to greatly reduce the waiting list for the DD waiver, and required DOH to issue an annual report on the waiver waiting list, including estimates of the funding needed to gradually eliminate the wait list. The bill was found not “germane” to the 30-day session even though an almost identical bill was ruled germane in the last short session in 2016. Two new bills, dealing just with the appropriation, have been introduced as SB 190 and SB 223 (see below).

SB 190 DD Waiver Waiting List Funding. Sen. Jerry Ortiz y Pino. Appropriates \$25 million to the Department of Health to provide DD Waiver services to persons who are currently on the waiting list for such services. SPAC/SFC. Passed SPAC; pending in SFC. *Note: there is now \$5.4 million in new money in HB 2 for the DD waiver, most if not all of which is for taking people off the waiting list and moving them into the waiver program.*

SB 223 DD Waiver Waiting List Funding. Sen. Bill Soules. Appropriates \$25 million to the Department of Health to provide DD Waiver services to persons who are currently on the waiting list

for such services. SPAC/SFC. Passed SPAC; pending in SFC. *Note: there is now \$5.4 million in new money in HB 2 for the DD waiver, most if not all of which is for taking people off the waiting list and moving them into the waiver program.*

Education

SB 233 School Services for Children in Need of Accommodations Sen. Linda Lopez. This bill requires schools to provide screenings, needs assessments and service plans for any child upon their first violation of school rules in an attempt to avoid referrals to police or juvenile justice authorities. SCC. This bill did not receive a “message” from the governor and did not advance.

Employment and Employment Services

HB 92 Transfer DVR to DWS. Rep Candy Ezzell. Transfers the Division of Vocational Rehabilitation from the Public Education Department to the Department of Workforce Solutions. Same as SB 58, below. Passed the House 66-0; pending in SJC.

HM 16 Minimum Wage Task Force. Rep. Joanne Ferrary. Notes the controversies involving the payment of sub-minimum wages to a small number of employees with disabilities, and calls for a diverse task force to study the issues and recommend solutions. Passed HHHC; awaiting final vote in the House.

SB 58 Transfer DVR to DWS. Sen. Michael Padilla. Same as HB 92, above. SRC/SJC. Passed SRC; still pending in SJC.

Guardianship/Conservatorship

SB 19 Uniform Guardianship and Conservatorship Code. Sen. Jim White. This bill involves a complete rewrite of state law dealing with guardianship and conservatorship, based on a model state law developed by a national commission. The bill would require notice to a wide range of interested persons prior to any court hearings in such cases and open most such hearings to those interested parties; assure legal representation in proceedings for any person alleged to be in need of a guardian or conservator; and impose new and more detailed annual reporting requirements on those serving as guardians or conservators. There would be a stronger requirement to show that less restrictive arrangements, such as supportive decision-making, would not work for the individual. Passed the Senate 40-0; *scheduled for hearing in HJC today.*

Healthcare/Medicaid

HB 42 Limitations on “Step Therapy”. Rep. Liz Thomson and Rep. Monica Youngblood. Imposes some restrictions on (but does not prohibit) “step therapy” or “fail first” requirements in health insurance policies, whereby an individual has to try common or lower cost prescription drugs first, and show that they don’t work, before use of a more expensive drug is allowed. Same as original version of SB 11, below. HRC. This version of the bill is not being pursued by the sponsors.

HM 8 Movement Disorders Center at UNM. Rep Debbie Armstrong. Calls on the Regents of the University of New Mexico to develop a plan to establish a Movement Disorders Center at UNM to provide services and support to persons with movement disorders (including Parkinson’s Disease, Huntington’s Disease, tremors and other disorders) and their caregivers. Same as SM 4, below.

Passed the House 49-0. No further action is needed.

HM 9 Study Possibility of Medicaid Buy-in Plan. Rep Debbie Armstrong. Calls for a study by the interim Legislative Health and Human Services Committee of the feasibility of allowing

low/moderate-income individuals the opportunity to “buy in” to the state Medicaid program by paying a small monthly premium. Same as SM 3, below. **Passed the House 42-24.** No further action is needed.

HM 64 Incentives for Physical Therapists. Rep. Liz Thomson and Rep. Debbie Armstrong. Calls on the secretary of the Higher Education Department to convene a task force to look at how the state’s financial incentives for health professionals could be used to incentivize physical therapists and assistants to practice in New Mexico, with the aim of developing the PT workforce to meet growing need for these services. **Passed the House 66-0.** No further action needed.

SB 2 Due Process for Medicaid Providers. Sen. Mary Kay Papen. Provides protections for Medicaid providers accused of fraud. SJC/SFC. Passed SJC, withdrawn from SFC, awaiting final vote in the Senate.

SB 11 Limitations on “Step Therapy”. Sen. Gay Kernan and Sen. Liz Stefanics. Originally the same as HB 42, above. A substitute version passed the Senate 39-0; passed HHHC and now awaiting final vote in the House.

SB 77 Family Members as Paid Caregivers. Sen. Bill O’Neill. Requires HSD to allow family members to serve as paid caregivers to other adults in the family, including spouses. SCC. This bill did not receive a “message” from the governor and did not advance.

SM 3 Study Possibility of Medicaid Buy-in Plan. Sen. Jerry Ortiz y Pino. Same as HM 9, above. SRC. **Passed the Senate 33-8.** No further action is needed.

SM 4 Movement Disorders Center at UNM. Sen. Jerry Ortiz y Pino. Same as HM 8 above. **Passed the Senate 34-0.** No further action is needed.

Other Disability Issues

HB 101 Mobility License Plates. Rep Sarah Maestas Barnes. Directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. HRC. This bill did not receive a “message” from the governor and did not advance.

HB 120 Sentencing Enhancements. Rep. “Moe” Maestas and Rep. Monica Youngblood. Adds three years to the sentence served by people convicted of felonies in which a person with a disability or a person at least 60 years of age was seriously injured. Passed the House 67-0; SJC/SFC.

HB 171 Blind Parents’ Rights. Rep. Jane Powdrell-Culbert. Prohibits use of a parent’s blindness as a rationale for limiting the person’s parental rights. If blindness is considered a factor in a decision involving parental rights, the blind parent would have to be given an opportunity to show how supportive services could mitigate any perceived negative effect of the person’s blindness. HRC. This bill did not receive a “message” from the governor and did not advance.

HB 230 Disabled Veterans License Plates. Rep. Rick Little. Allows veterans who are at least 50% disabled as a result of their military service to receive two free specialty license plates; current law allows for one free plate. HRC. This bill did not receive a “message” from the governor and did not advance.

SM 61 Sexual Assaults on Persons with Disabilities. Sen. Jerry Ortiz y Pino. Calls for a task force to study the high rate of sexual assaults on individuals with disabilities and recommend legislation to address this problem. The task force would include, among many others, the Statewide Independent Living Council, The Arc of NM, and Disability Rights NM. SRC/SPAC. Withdrawn from SRC, pending in SPAC.

Contacting your Legislators

You can find out who your Senator and Representative are and get their contact information on the Legislature's web page: https://www.nmlegis.gov/Members/Find_My_Legislator.

From this page, choose "Search by Name, District or your Address" for either the House of Representatives or the Senate. Then ...

- Enter your full home address in the box provided under "Your Address" and click on "Go".
- Scroll down to find a picture of your Representative or Senator.
- Click on his or her name to get contact information.
- From the same page with the picture you can choose a different political body to find out who else represents you in Santa Fe or in the U.S. Congress.

Each legislator has an office in the Capitol. You can find the office phone number in the contact information provided through the Find My Legislator function, or you can call the Capitol switchboard at 986-4300 and ask to be put through to the office of any legislator. We encourage you to bring the voice of the disability community to the Legislature!

Policy and Legislative Action Network (PLAN): Join your friends and colleagues in working to promote favorable action on issues of concern to people with disabilities and their families. Become part of the PLAN! We'll let you know when there are opportunities to speak out on bills in the Legislature and other key issues, and give you background info and talking points; you show the power of the disability community by following up with calls or emails to public officials. Sign up by sending an email to info@drnm.org and put PLAN in the subject line.

ABBREVIATIONS USED IN THIS REPORT

Legislative Committees

HAFC	House Appropriations and Finance Committee
HCPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
HHHC	House Health and Human Services Committee
HJC	House Judiciary Committee
HLEDC	House Labor and Economic Development Committee
HLELC	House Local Government, Elections, Land Grants and Cultural Affairs Committee
HTPWC	House Transportation and Public Works Committee
HTRC	House Taxation and Revenue Committee
SCC	Senate Committees Committee
SCORC	Senate Corporations Committee
SEC	Senate Education Committee
SFC	Senate Finance Committee
SJC	Senate Judiciary Committee

SPAC Senate Public Affairs Committee

LFC Legislative Finance Committee (joint House-Senate committee that meets during the interim between legislative sessions)

State Agencies

ALTSD Aging and Long Term Services Department

DDPC Developmental Disabilities Planning Council

DOH Department of Health

GCD Governor's Commission on Disability

HSD Human Services Department

PED Public Education Department

WFS Workforce Solutions Department