



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2019 LEGISLATURE STATUS REPORT #2

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(See page 9 for a list of abbreviations, including legislative committees, used in this report.)

Coming Events:

- **Wednesday:** Alzheimer's Advocacy Day at the Capitol
- **Feb. 4-6: Disability Rights Awareness Days** in Santa Fe. Self-advocacy training, exhibits by sponsoring agencies, and legislator visits at the Capitol on Monday; breakfast with legislators Wednesday morning at the Drury Hotel. Tuesday's conference events are already at capacity and registration for them has been closed. Monday's events at the Capitol are open to all.
- **Feb. 6: Behavioral Health Day** at the Capitol

Committee Hearings:

Monday morning: HB 90 (Aid in dying) in HHHC;

Tuesday morning: HB 136 (driver registry) in HTPWC

Tuesday afternoon: SB 204 (medical marijuana in schools), SB 101 (Health commission) in SPAC

Saturday, Feb. 2: Public input on education reform to joint meeting of SEC and HEC

HAFC hearings this week include the Department of Health budget on Thursday and the Medicaid budget on Friday.

Off to a fast start. The second week of the session set a record pace, with the House and Senate voting on many of the bills on the "rocket docket". It's rare to see any substantive bills pass a chamber so early in a 60-day session. And many committees got right to work, acting on a significant number of bills. Two House committees met this past weekend, which is unusual – a Sunday hearing at this stage of a session is probably unprecedented.

Education issues continue to be a priority for the legislature, with hearings and briefings held on a variety of issues and proposals.

Budget hearings also underway. The House Appropriations and Finance Committee continues its hearings this week on state agency budget requests. Agencies reviewed this week will include the Department of Finance and Administration, which includes funds for legal services for low-income individuals (Wednesday), the Department of Health, including DD services (Thursday), and the Human Services Department, including Medicaid programs (Friday). Based on the rules

of the Legislature, the House is supposed to complete these hearings and act on a proposed state budget by the 35th day of the session (Feb. 19th). Then it will officially be the Senate's turn to work on the budget. However, the Senate Finance Committee has already begun its process for reviewing issues and requests that will affect the state budget, so it will be prepared to respond quickly once the budget bill (HB 2) comes over from the House.

The same legislative rules call for the final version of the budget bill to be passed by the Legislature and sent to the governor for action with nearly a week left in the session. That target is hardly ever met.

Bills and Memorials Introduced or Expected in the 2019 Session

This list is grouped by disability or subject matter and shows the bill number, sponsor, a description of the bill and the current committee assignments and action taken on the bill or memorial. The report also includes a few bills or memorials expected but not yet introduced. The deadline for introducing most bills is the half-way point of the session, which this year is Thursday, February 14th. Memorials can be introduced at any time.

Behavioral Health/Mental Health

HB 43 Behavioral health interventions for non-violent offenders. Rep. Sheryl Williams Stapleton. Charges the Human Services Department with responsibility to develop a method for meeting the needs of non-violent offenders with behavioral health diagnoses when they are in jail or prison and to connect them with supports and services when they are released, to reduce recidivism. HSD would be required to set up a grant program for counties seeking funds to implement the program. Appropriates \$1.5 million to HSD for this purpose. Passed HHHS, pending in H AFC.

HB 59 Non-discrimination against art therapists. Rep. Christine Trujillo. Requires insurance companies to pay licensed art therapists for the services they provide if those services are covered by a policy and they pay other behavioral health providers for the same services. *Tabled indefinitely* in HHHC and very unlikely to move forward.

HB 83 Extreme risk protection orders. Rep. Daymon Ely. Allows for court orders for police to seize guns from those determined to pose a high risk of violence to themselves or others. The bill does not include any reference to mental illness, and is written so that it would apply to cases of domestic violence or other threatening situations, but the sponsor of the bill has made it clear that the primary intent of the bill is to allow for the confiscation of guns from people with mental illness who are suicidal or who pose a threat of gun violence to family members or other individuals. Passed HCPAC, pending in HJC.

HB 153 Suicide awareness training. Rep. Patricio Ruiloba. Requires virtually all licensed health care providers to receive a one-hour training annually on suicide awareness and prevention. HHHC/HJC.

HB 267 Info sharing and local councils. Rep. Daymon Ely. Allows for information sharing without individual consent for research purposes or for continuity of care for persons with mental illness or developmental disabilities who are entering or being discharged from criminal justice facilities. Establishes local criminal justice coordinating councils and provides grants for reform initiatives. The bill includes an appropriation of \$35.5 million. HSEIC/HJC/H AFC.

HB 342 Criminal justice reforms. Rep. Antonio Maestas. One part of this omnibus bill is nearly the same as HB 43, above, directing HSD to develop a method for meeting the needs of persons with behavioral health diagnoses when they are in jail or prison and to connect them with supports and services when they are released. HSD would be required to set up a grant program for counties seeking funds to implement the program. This bill is not limited to non-violent offenders, and because there is no appropriation in the bill, these provisions would not go into effect until funding is provided. HJC.

HB 348 Emergency MH evaluations and restrictions on release of information. Rep. James Strickler. Current state law allows a mental health professional to ask law enforcement officers to detain and transport an individual for emergency evaluation and treatment if the person poses an immediate danger to self or others due to mental illness. This bill would allow a court to order such detention and transport for the same reason, and the court order would allow the law enforcement officer to enter a building where the person is believed to be present, in order to carry out the detention and transport, without the consent of the person or the owner of the building. The bill establishes the right of a law enforcement officer to enter a building without consent when there is an emergency and an immediate need to assist a person or protect property. In addition, the bill extensively amends the state MH/DD Code to separate a police report containing information about a person's mental health condition from any other police report related to that person. The record containing mental health information, and any police officer dash cam or belt cam recordings, would generally be confidential and not subject to release to the public except by court order. A judge considering a request for an order to release such information would be required to balance the public interest, the individual's right to privacy, and the individual's best interest. HHHC/HJC.

HB 364 Limiting solitary confinement. Rep. Antonio Maestas. Prohibits jails and prisons from placing persons with serious mental illness in solitary confinement ("restricted housing"). This prohibition would not apply during the first five days of detention, and would cover persons whose diagnosis is known to the facility and those who are exhibiting obvious signs of mental illness. The bill also covers juveniles and pregnant women. HHHC/HJC.

SB 64 Behavioral health investment zones. Sen. Cisco McSorley. Directs HSD to divide the state into different geographic zones, and give priority in targeting certain funding to zones with the highest needs. Tabled indefinitely [Sen. McSorley has resigned his Senate seat and bills that he pre-filed will not be acted upon].

SB 128 Behavioral health clinic funding. Sen. Mary Kay Papen. Would allow behavioral health clinics in rural or other underserved areas, if owned by a county or municipality, to access funding from the Behavioral Health Capital Fund to assist with construction, repair or remodeling. SPAC/SFC.

SB 141 Interstate psychology compact. Sen. Jerry Ortiz y Pino. Adopts an interstate agreement regulating the temporary practice of psychology across state lines through tele-psychology. SPAC/SJC.

SB 152 MH-DD Code grievance procedure. Sen. Liz Stefanics. Requires the Department of Health to establish a grievance procedure to address disputes related to a client's consent to mental health treatment or a determination that the client lacks the capacity to consent. SPAC/SJC.

SB 334 AOT Funding. Sen. Mary Kay Papen. Provides \$1 million to the Department of Health to pass through to cities or counties that have implemented an Assisted Outpatient Treatment program for involuntary treatment of individuals with mental illness. SPAC/SFC.

Brain Injury

SB 134 Brain injury fund appropriation. Sen. Jerry Ortiz y Pino. Appropriates \$500,000 for the Brain Injury Services fund. Passed SPAC, pending in SFC.

SB 171 Brain injury fee increase. Sen. Bill Tallman. Increases from \$5.00 to \$6.40 the portion of traffic violation fines that goes to support the Brain Injury Services Fund. *Tabled indefinitely* in SJC and very unlikely to move forward.

SB 327 Non-waiver of fine supporting BI fund. Sen. Cliff Pirtle. Requires that if an individual is cited for a traffic violation, the portion of the fine that is earmarked to support the Brain Injury Service Fund (currently \$5 dollars) cannot be waived, deferred or suspended by a court. SCORC/SFC.

Deafness/Blindness

HB 96 Blind parents' rights. Rep. Tomas Salazar. Prohibits blindness from being used as a basis for denial of parental rights. HHHC/HJC.

HB 243 Instructional opportunities for children with hearing impairment. Rep. Dayan Hochman-Vigil. Requires all school districts and charter schools to provide individualized instruction for children who are deaf or have moderate to severe hearing loss. The bill establishes the factors to be considered in deciding upon the instructional setting for the child and requires the school to offer the choice of ASL, oral communication, or a combination of the two. HHHC/HEC.

Developmental Disabilities

HB 68 Reduce the DD Waiver waiting list. Rep. Liz Thomson. Directs the Department of Health to move 600 individuals on the waiting list into waiver services each year over the next five years, and appropriates \$25 million to the Department of Health for this purpose. Passed HHHC, pending in HAFC.

HB 69 Early detection of cerebral palsy. Rep. Liz Thomson. Appropriates \$200,000 to the Department of Health to provide training to health care professionals on new methods for early detection of cerebral palsy. Passed HHHC, pending in HAFC.

HB 354 Autism diagnosis and services. Rep. Liz Thomson. Appropriates \$3.6 million to the Department of Health to fund diagnostic and support services and a regional office on autism at both NMSU and UNM, to provide DD waiver services to youth who are now in residential treatment facilities, and to fund an intensive residential supports program at UNM. It also appropriates \$400,000 to CYFD for wrap-around services for high needs youth. HHHC/HAFC.

SB 355 DD provider rate increases. Sen. Nancy Rodriguez. Appropriates \$5 million for rate increases for agencies providing direct care services to individuals in the DD waiver program. SPAC/SFC.

SM 25 Medically fragile waiver task force. Sen. Liz Stefanics. Calls on the Center on Development and Disability at UNM to convene a task force to develop recommendations for amendments to the Medically Fragile waiver program. SRC/SPAC.

Expected: A bill amending the membership and duties of the state Developmental Disabilities Planning Council

Education Issues

HB 5 Education changes. Rep. Sheryl Williams Stapleton. Proposes a variety of changes to education policy and funding processes, including higher teacher salaries, funding for extended school time, more professional development time, and requirements that school districts report on how they spend the funding they generate based on special education enrollment. Same as SB 1, below. HEC/HAFC.

SB 1 Education changes. Sen. Mimi Stewart. Same as HB 5, above. Passed SEC, pending in SFC.

SB 48 Diabetes management in schools. Sen. Mimi Stewart. Requires training of public school staff in diabetes management, requires school personnel to provide diabetes management services in conjunction with an approved plan for individual students, and allows students to self-manage their diabetes in school settings. *Part of the “rocket docket”*. Passed the Senate 31-10; now referred to HHHC.

SB 179 Lottery scholarship eligibility. Sen. Liz Stefanics. Extends lottery scholarship eligibility to students with disabilities who had to attend an out-of-state high school in order to receive a free, appropriate education (as required by the Individuals with Disabilities Education Act), if they graduated from an accredited school. *Part of the “rocket docket”*. Passed the Senate 41-0; now referred to HHHC.

SB 204 Medical marijuana in schools. Sen. Candace Gould. Directs public schools to allow parents/guardians to store and administer medical marijuana in the school for their child if the child is certified to receive it under state law because of the child’s medical condition, but allows schools to opt out of this requirement in certain circumstances. SPAC/SJC. *SPAC hearing Tuesday, Jan. 29.*

SB 229 School support and accountability. Sen. Mimi Stewart. Repeals the A-B-C-D-F school rating system currently in place and replaces it with a new set of criteria for rating schools. Reports on school performance would have to include data specific to students with disabilities. SEC/SPAC. *SEC hearing Monday, Jan. 28.*

Health Care

HB 48 Training on assisted listening technology. Rep. Patricia Roybal Caballero. Requires audiologists and other hearing aid dispensers to provide information about assisted listening systems. Passed HHHC, pending in HSEIC.

HB 70 Health insurance coverage of prosthetics and orthotics. Rep. Liz Thomson. Requires insurance policies to cover prosthetics and orthotics to at least the same extent as Medicare and on terms equivalent to other covered services. Passed HHHC, pending in HCEDC.

HB 72 Occupational therapy practice act. Rep. Liz Thomson. Updates the OT practice act to reflect current standards and practices. *Part of the “rocket docket”*. Passed the House 68-0; now referred to SJC.

HB 81 Limiting co-pays for therapy services. Rep. Eliseo Alcon. Limits the co-pays that insurance companies charge for occupational therapy, physical therapy, or speech/language therapy to the amounts they charge for primary care visits. Passed HHHC, pending in HCEDC.

HB 88 Health care value & access commission. Rep. Debbie Armstrong. Establishes a state commission to gather data about health care services and costs and to make recommendations to improve and better coordinate the provision of health care services in NM. Same as SB 101, below. HHHC/HAFC.

HB 90 Aid in Dying. Rep. Debbie Armstrong. Authorizes prescriptions that an individual with a terminal illness could self-administer that would bring about the person's death. Same as SB 153, below. HHC/HJC. *HHC hearing Monday, Jan. 28.*

HB 142 Pre-existing condition exclusions. Rep. Patricia Roybal Caballero. Prohibits health insurers from denying coverage to persons with pre-existing conditions. Does not prohibit higher premiums for coverage, nor prohibit annual or lifetime coverage limits. HHC/HJC.

HB 143 PCS rate and wage increase. Rep. Christine Trujillo. Provides \$6 million to HSD to increase provider reimbursement rates for Medicaid personal care services, with a requirement that at least half of the money be used to increase wages for the workers who provide personal care services. HHC/HAF.

HB 213 Family and medical leave program. Rep. Patricia Roybal Caballero. Creates a new benefit program allowing employees to take paid leave to take care of themselves or other family members experiencing a serious medical condition. The benefit would be paid for through employee contributions and administered by the Department of Workforce Solutions. HEDC/HJC/HEC.

HB 264 Family and medical leave program Rep. Christine Chandler. This bill also creates a new benefit program providing paid leave for employees who need to take care of themselves or a family member due to a serious medical condition. The program would be funded by both employer and employee contributions. HEDC/HJC/HEC.

HB 285 Short-term and limited benefit insurance plans. Rep. Micaela Cadena. Establishes state standards for a variety of insurance plans and authorizes the Superintendent of Insurance to regulate such plans. HHC/HEDC.

HB 295 Health Security Act. Rep. Debbie Armstrong. Establishes a state Health Care Commission, beginning in 2021, with the authority to design a single-payer health care system for the state of New Mexico. The bill calls for the development of a plan for adding long-term services and supports to the plan after the first year of plan implementation. Same as SB 279, below. HHC/HSEIC/HAF

HB 322 Autism coverage. Rep. Liz Thomson. Prohibits health insurance companies and the Medicaid program from imposing age limits or expense limits on covered services for persons with autism. Such limits are prohibited under the federal Affordable Care Act, which has been challenged in court, but are not currently included in state law. HPC/HHS.

SB 41 Medicaid providers due process. Sen. Mary Kay Papen. Provides protections for Medicaid providers accused of fraud. Passed SJC, pending in SFC.

SB 85 Domestic worker minimum wage. Sen. Liz Stefanics. Repeals the provision of current state law that exempts "domestic workers" from minimum wage requirements. This would assure that personal care workers, among others, would receive at least the state minimum wage, and that the Department of Workforce Solutions would enforce their rights to such wages. Passed SPAC, pending in SCORC.

SB 101 Health care value & access commission. Sen. Jeff Steinborn. Same as HB 88, above. SPAC/SJC/SFC. *SPAC hearing Tuesday, Jan. 29.*

SB 112 Limiting insurance policy changes. Sen. Liz Stefanics. Prohibits health insurers from changing coverage or co-pays for prescription drugs during a plan year, and requires notice of any proposed changes at least 90 days before a new plan year. SPAC/SJC. Held over in SPAC while sponsor considers amendments.

SB 123 Using sick leave for caregiving. Sen. Liz Stefanics. Allows employees of private businesses as well as state and public school employees who have accumulated sick leave provided by their employer to use such leave for the purpose of caring for an ailing family member. SPAC/SJC.

SB 153 Aid in dying. Sen. Liz Stefanics. Same as HB 90, above. SPAC/SJC.

SB 185 Monitoring neurological disorders. Sen. Jeff Steinborn. Appropriates \$100,000 to the Department of Health to establish a program to monitor the incidence of neurological disorders and to identify, prevent and treat such disorders. SPAC/SFC.

SB 279 Health Security Act. Sen. Carlos Cisneros. Same as HB 295, above. SPAC/SJC/SFC.

Expected: Creating a Medicaid buy-in program to offer a new health coverage option that will increase affordability and access to care by leveraging the Medicaid program.

Motor Vehicles/Accessible Parking

HB 136 Voluntary driver registry. Rep. Liz Thomson. Allows but does not require persons with disabilities to note, in conjunction with their car registration, that they have a disability that might affect their ability to communicate. Law enforcement officers would be required to consult the registry prior to interacting with a motorist and to take appropriate steps when attempting to communicate with a driver or regular passenger who is on the registry.

HTPWC/HJC. *HTPWC hearing Tuesday, Jan. 29.*

HB 209 Car registration fee waiver. Rep. Miguel Garcia. Allows a low-income person with a severe, permanent disability to register one vehicle owned by the person without having to pay the usual registration fee. HTPWC/HTRC.

HB 245 Accessibility icon on specialty plates. Rep. Dayan Hochman-Vigil. Directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. Same as SB 206, below, but not part of the “rocket docket”.

HTPWC/HTRC.

HB 248 Blocking accessible parking spaces. Rep. Martin Zamora. Makes it unlawful to park a motor vehicle in such a way that it blocks access to an accessible parking space, and establishes a fine of \$250 to \$500 for violations (the same as illegally parking in an accessible space).

HTPWC/HJC.

SB 189 Parking placards for disability agencies. Sen. Sander Rue. Allows agencies that own or lease vehicles used to transport individuals with disabilities to obtain parking placards for those vehicles, allowing them to be parked in accessible parking spaces. *Part of the “rocket docket”*. Passed the Senate 40-0; now referred to HTPWC.

Passed the Senate 40-0; now referred to HTPWC.

SB 206 Accessibility icon on specialty plates. Sen. Mark Moores. Directs the Motor Vehicle Division to develop an accessibility emblem or decal that could be affixed to any other specialty license plate. Same as HB 245, above. *Although this bill is part of the “rocket docket”, it is not receiving the expedited handling for other bills on that list.* SCORC.

SB 236 2nd free license plate for disabled veterans. Sen. Ron Griggs. Allows disabled veterans to obtain two free specialty licenses plates; under current law, they can get one free plate. *Part of the “rocket docket”*. Passed the Senate 38-0; now referred to HTPWC.

Protective Arrangements and Services / Investigations

HB 61 Sexual assault study. Rep. Christine Trujillo. Appropriates \$450,000 to the Crime Victims Reparation Commission to conduct a study of sexual assaults against persons with

disabilities and to identify needed improvements in data collection to support future steps to address this problem. Passed HHC, pending in HAF.

SM 22 Sexual assault task force. Sen. Linda Lopez. Calls for a task force, appointed by the legislature, to make recommendations on how to improve and coordinate reporting of sexual assaults against individuals with disabilities. SRC/SPAC.

Expected: Legislation to provide better notice of the rights of an allegedly incapacitated person, and deleting an existing provision giving guardians of adults all the same rights as a parent of a minor child.

Other

HB 82 Home rehab for veterans. Rep. Eliseo Alcon. Appropriates \$2 million to the Mortgage Finance Authority to rehabilitate homes owned and occupied by low-income veterans; includes home modifications for accessibility. Same as SB 46, below. Passed HLVMC, pending in HAF.

HJR 3 Low-income property tax exemption. Rep. Miguel Garcia. Would amend the state constitution to exempt very low-income persons with severe disabilities from property taxes on a home they own and occupy. HLLC/HTRC.

SB 42 Expanding the use of “silver alerts”. Sen. Richard Martinez. Expands these alerts to include endangered missing persons of any age who have dementia, and to all endangered missing persons over 50 years old. It also expands the dissemination of such alerts. Passed SPAC, pending in SJC.

SB 46 Home rehab for veterans. Sen. Richard Martinez. Same as HB 82, above. Passed SPAC, pending in SFC.

SB 53 State park accessibility. Sen. Jeff Steinborn. Requires the adoption of state rules intended to make state parks as affordable for and accessible to all state residents as possible. SCONC/SPAC.

SB 63 Medical and geriatric parole. Sen. Cisco McSorley. Directs the Corrections Department to implement a program providing parole for eligible inmates who are elderly, permanently incapacitated, or terminally ill. *Tabled indefinitely* [Sen. McSorley has resigned his Senate seat and bills that he pre-filed will not be acted upon].

SB 139 Funding for GCD programs. Sen. Jerry Ortiz y Pino. Appropriates \$300,000 to the Governor’s Commission on Disability for its assistive technology and home modifications programs. Passed SPAC, pending in SFC.

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 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 “Search”.
- You should now see a picture of your Representative or Senator.

- Click on his or her name to get contact information.

Each legislator has an office in the Capitol during the session. 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
HCEDC	House Commerce and Economic Development Committee
HCPAC	House Consumer and Public Affairs Committee
HEC	House Education Committee
HHHC	House Health and Human Services Committee
HJC	House Judiciary Committee
HLVM	House Labor, Veterans, and Military Affairs
HLLC	House Local Government, Land Grants and Cultural Affairs Committee
HSEIC	House State Government, Elections and Indian 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