



DISABILITY RIGHTS NEW MEXICO

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James Jackson, Chief Executive Officer

Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2018 LEGISLATURE STATUS REPORT #3

Jim Jackson, Chief Executive Officer

Disability Rights New Mexico

February 5, 2018

Events at the Capitol:

Today – Feb. 5 – Pat Grange ALS Awareness Day (Senate)

Committee Hearings:

Today – Monday Feb. 5

- HAFC: HB 107 (DD waiver funding); HB 92 (move DVR); HJM 2 (mental health services in southern NM)
- HHHC: HB 221 (home entry by police officers for mental health detention/evaluation); HB 251 (county transportation fund for behavioral health services)
- SCORC: SB 11 (step therapy)
- SJC: SB 19 (guardianship); SB 58 (move DVR)

Tuesday Feb. 6

- HAFC: HB 132 (rapid re-housing for homeless mentally ill)
- HLELC: HJR 2 (tap land grant fund); HJR 3 (tap severance tax fund)
- SPAC: SB 220 (crisis triage centers)

Eleven days to go. Last Wednesday was the mid-point of this short 30-day session and the last day to introduce bills. There are now almost 690 bills under consideration, although over 100 of these are “dummy bills” – placeholders available to committee chairs and other legislative leaders that can be converted into substantive bills if needed. While this year’s total may seem like a lot for a short session, 10 years ago there were nearly twice as many bills in play at the same point of the session.

The pace of committee hearings has picked up significantly, as illustrated by the number of disability-related bills that will be heard today and tomorrow. Nonetheless, most bills have a long way to go and there are only 11 days left in this year’s session.

Criminal justice package advances. A bipartisan combination of several measures dealing with the criminal justice system has passed the House and is now being considered by the Senate. HB 19 is of interest to the disability community because it includes provisions requiring behavioral health screenings for many people entering county jails and state prisons, facilitating enrollment in Medicaid, and linking those discharged from such facilities to community mental health resources as needed.

Guardianship reform effort faces test. SB 19 will be heard for the second time in the Senate Judiciary Committee today. A proposed substitute will be offered that would implement some changes immediately: opening hearings to the public, providing notice of hearings to most family members, making it harder to limit visitations between family members and protected persons, and requiring bonds for professional conservators. The substitute will include numerous other proposed reforms, based on model legislation crafted with input from various stakeholders, but would delay them for two years, to be implemented only if significant new funds are provided to the courts.

Budget bill moves to Senate. The House has passed its version of the state budget bill, spending about \$240 million of the nearly \$300 million in “new money” available this year, and sent it to the Senate. Although the Senate Finance Committee provided only 27 hours for senators to suggest proposed amendments to HB 2, over a hundred amendments were expected, proposing increases in state spending on various programs. Five senators each proposed adding another \$3 million to move people off the waiting list for the DD waiver program (in addition to the \$2 million in the final House version of the bill). Final Senate action on the budget is not expected until near the end of the session.

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. Although the deadline for introducing most bills has now passed, memorials can be introduced at any time.

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 House passed its version of the bill by a vote of 65-3. As it stands now, the bill provides for total state spending of \$6.32 billion, which is an increase of about \$240 million over the current year. It includes \$90 million for salary increases for state employees, \$69 million more for public school support, and \$6 million more for higher education. Medicaid would receive a \$16 million increase (compared to \$35 million in the original version), but this would still fully fund the program in the coming year because HSD has lowered its cost projections for Medicaid significantly. HB 2 also includes \$2 million to provide DD waiver services to persons on the waiting list for the program. This should be enough to serve around 100 individuals; there are over 6,500 people on the waiting list.

The bill is now being reviewed by the Senate Finance Committee.

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. SCC. This bill has not yet received a “message” from the governor and will not proceed unless one is provided.

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.

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, this bill (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/H AFC. Passed HHHC; *scheduled for hearing in HAFC Feb. 6.*

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. The bill also establishes a transportation fund that counties could apply for to cover the cost of transporting individuals to the services they need, and appropriates \$1 million to the new fund. HRC has ruled this “not germane” for the 30-day session; the bill will not advance unless the governor provides a “message”.

HB 217 Reducing Prison Recidivism. Rep. Damon 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. HHHC/HJC. *Scheduled for hearing in HHHC today.*

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/H AFC. *Scheduled for hearing in HHHC today.*

HJR 2 Tap Land Grant Fund. Rep. Damon 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; *scheduled for hearing in HLELC on Tuesday, Feb. 6.*

HJR 3 Tap Severance Tax Fund. Rep. Damon 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; *scheduled for hearing in HLELC on Tuesday, Feb. 6.*

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. HAFC. *Scheduled for hearing in HAFC on Monday, Feb. 5.*

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.

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 of triage centers to include facilities connected to existing hospitals and to authorize triage centers to provide residential services. Licensed triage centers are eligible for Medicaid reimbursement. SPAC/SFC. *Scheduled for hearing in SPAC on Tuesday, Feb. 6.*

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; awaiting House committee assignments.

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; *scheduled for hearing in HAFC today.*

HB 176 Special Olympics Funding. Rep. Carl Trujillo. Appropriates \$300,000 for Special Olympics programs. HHHC/H AFC. Passed HHHC, pending in H AFC.

SB 6 Special Olympics Funding. Sen. Mary Kay Papen. Appropriates \$300,000 for Special Olympics programs. SPAC/SFC. Passed SPAC; pending in SFC.

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

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. Surprisingly, 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.

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.

Education

SB 233 School Services for Children in Need of Accommodations Sen. Linda Lopez. This bill is a duplicate of a bill introduced last year. It 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. It calls for the prohibition of seclusion and restraint in public schools, although this was already accomplished by law last year. SCC. This bill has not yet received a “message” from the governor and will not proceed unless one is provided.

Employment and Employment Services

HB 92 Transfer DVR to WFS. 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 HEC; *scheduled for hearing in H AFC today.*

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. HHHC.

SB 58 Transfer DVR to WFS. Sen. Michael Padilla. Same as HB 92, above. SRC/SJC. Passed SRC; *scheduled for hearing in SJC today.*

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. SPAC/SJC. Amended and passed by SPAC; an initial hearing has been held in SJC, and further amendments will be proposed at the next SJC hearing. *Scheduled for SJC 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 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. HHHC. Passed HHHC, awaiting final House vote.

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. HEC. *HEC hearing scheduled today, Feb. 5*

SB 2 Due Process for Medicaid Providers. Sen. Mary Kay Papen. Provides protections for Medicaid providers accused of fraud. SJC/SFC. Passed SJC, pending in SFC.

SB 11 Limitations on “Step Therapy”. Sen. Gay Kernan and Sen. Liz Stefanics. Same as HB 42, above. SPAC/SCORC. A substitute version passed SPAC; *scheduled for hearing in SCORC today.*

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 has not yet received a “message” from the governor and will not proceed unless one is provided.

SM 3 Study Possibility of Medicaid Buy-in Plan. Sen. Jerry Ortiz y Pino. Same as HM 9, above. SRC. Passed SRC and SPAC; awaiting final vote in the Senate.

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 has not yet received a “message” from the governor and will not proceed unless one is provided.

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. HJC/H AFC.

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 has not yet received a “message” from the governor and will not proceed unless one is provided.

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 has not yet received a “message” from the governor and will not proceed unless one is provided.

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.

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