



DISABILITY RIGHTS NEW MEXICO

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Promoting and Protecting the Rights of Persons with Disabilities

DISABILITY ISSUES IN THE 2011 LEGISLATURE FINAL REPORT

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By Jim Jackson, Executive Director
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Governor's actions bring joy, disappointment. Opponents of corporal punishment were very happy to learn that Governor Susana Martinez signed **HB 172**, requiring public schools to prohibit the use of corporal punishment. In signing the bill, sponsored by Rep. Rick Miera, the governor indicated that such disciplinary measures should be determined by families, not public schools. DRNM was one of the co-sponsors of a rally at UNM in favor of the bill, held the day before the governor signed it into law.

Other disability-related bills signed by the governor include **HB 93**, requiring training for police on interactions with persons with mental impairments; **HB 432**, allowing the state to set up a pilot program for behavioral health services as an alternative to the current managed care program; **SB 330**, requiring children in early intervention disability programs to move into school-based programs when they reach their third birthday; and **SB 417**, authorizing suicide prevention programs serving the Native American community.

Governor Martinez vetoed **SB 314**, which would have required schools to consider a variety of best-practice interventions when serving children with autism spectrum disorder. The veto appeared to reflect opposition from the Public Education Department based on an interpretation of the bill that autism advocates found questionable. However, in her veto message the governor committed to implementing the provisions of the bill through new state rules to be issued no later than July 31. She further committed to developing legislation for next year's session that would assure that children with autism receive the services they need from public schools.

Several other disability-related bills fell victim to the governor's vetoes. **HB 321** and **SB 418** each required school districts to report data on the number of children suspended, expelled or referred to juvenile authorities, along with demographic information. **SB 297** would have increased the annual caps on insurance coverage of Family Infant Toddler early intervention services. **SB 438** would have established at least two behavioral health safe houses featuring a peer support model.

The governor also vetoed legislation (**SB 38**) that would have established a New Mexico health insurance exchange, in accordance with the provisions of federal health care reform. If the state does not act in time, the federal government will run the exchange in New Mexico. The

DRNM is New Mexico's designated Protection and Advocacy System

governor indicated there is still time to create an exchange in the future. The governor signed legislation (**SB 208**) to improve the process for review of health insurance rate increases before they are approved.

Budget vetoes target autism summer camp, attorney fee limitations. Stating that the legislature should not use the budget bill (**HB 2**) to fund special projects, Governor Martinez used her line-item veto authority to eliminate a number of such projects, including \$65,000 for a popular autism summer camp. She also deleted language that would have prohibited the state from spending more than \$100,000 on court-ordered attorney fees and costs in the Jackson litigation. The governor vetoed a provision in the bill that directed her to find \$2.5 million in savings within the budgets of a group of 11 state agencies, including the Governor's Commission on Disability (GCD) and the Aging and Long Term Services Department (ALTSD), stating that if cuts are to be made, they should be done in a more focused effort.

The governor did *not* veto the extra \$1 million that was included in HB 2 to reduce the waiting list for Developmental Disabilities waiver services, nor a separate appropriation of \$200,000 to assist in transferring the administration of Coordinated Long-Term Services (CoLTS) and other long-term services programs from ALTSD to the Human Services Department. This transfer is expected to occur later this year.

For further details on the state budget and appropriation levels for disability-related agencies, see DRNM's earlier Post-Session Report, which is available on the DRNM web site, www.drn.org.

Bills Signed Into Law by the Governor

- **HB 93** Mental health intervention training. Rep. Ed Sandoval and Sen. David Ulibarri. Requires police officer training in crisis intervention, confrontation de-escalation, and appropriate interaction with persons who have mental impairments. The bill requires forty hours of training at the police academy for new officers, two hours of in-service for existing officers every two years, and one hour of training for dispatchers.
- **HB 172** Prohibiting corporal punishment. Rep. Rick Miera. Requires public school boards, including charter schools, to adopt policies prohibiting the use of corporal punishment.
- **HB 432** Regional pilot programs. Rep. Zachary Cook. Permits, but does not require, the Behavioral Health Purchasing Collaborative to contract with a network of behavioral health providers, in partnership with a risk-based entity owned or controlled by the network, to provide behavioral health services in one or more regions of the state.
- **SB 286** Access aisle markings. Sen. Jerry Ortiz y Pino. Requires access aisles next to accessible ("handicap") parking spaces to be more clearly marked as a no-parking area.
- **SB 330** FIT program placements. Sen. Cindy Nava. Requires children who are enrolled in a Family Infant Toddler program for 0-3 year olds to move into a public school early intervention program when the child reaches three years of age, if the parents want services to continue. Currently, such children can continue in a FIT program until the end of the school year in which they turn three. The change takes effect on July 1, 2012.
- **SB 417** Native American suicide prevention. Sen. Lynda Lovejoy. Directs the Behavioral Health Purchasing Collaborative to establish a state-wide clearinghouse to provide culturally appropriate suicide prevention and related services, and three local Native American youth suicide prevention programs, contingent on available funds.

Bills Vetoed by the Governor

- **HB 321** Public school data reporting. Rep. James Roger Madalena. This bill expanded the Public Education Department's data system to track information on suspensions or expulsions and referrals to juvenile authorities by public and charter schools, with data by gender, race/ethnicity, special education status, etc. It also added family members and advocates to the group that helps plan and oversee data collection from the schools.
- **HB 373** Financial impact of Medicaid changes. Rep. Rhonda King. Required the Secretary of the Human Services Department to submit a report describing the fiscal impact of any proposed major changes to the Medicaid state plan or any waivers of Medicaid requirements requested of the federal government, 60 days prior to submission or as soon as practicable.
- **SB 38/SB 370** Health Insurance Exchange. Sen. Dede Feldman/ Sen. George Munoz. This bill would have established a health insurance exchange program in New Mexico to fulfill the requirements of federal health care reform. The board was weighted toward members of the current Medical Insurance Pool and the Health Insurance Alliance.
- **SB 175** Choice of MH Counselors. Sen. Bernadette Sanchez. Amended the part of the Insurance Code that protects the right of an insured to choose their own provider within the limits imposed by the insurance plan, by adding "professional clinical mental health counselors" to the list of practitioners. The provision did not apply to health maintenance organizations (HMOs).
- **SB 297** Remove limits to early childhood insurance coverage. Sen. Jerry Ortiz y Pino. Current law requires most state-regulated health insurance policies in New Mexico to cover the cost of early childhood services to children up to three years old with developmental disabilities, up to an annual limit of \$3,500 worth of services. This bill would have eliminated the annual cap on coverage for insurance policies issued through group and HMO health plans and raised the cap to \$10,000 for non-group policies.
- **SB 438** Safe House Act. Sen. Jerry Ortiz y Pino. This bill required the Human Services Department to establish behavioral health safe houses in urban and rural areas for persons in crisis, to be staffed with peer counselors and others. It also created a fund to support additional safe houses.
- **SB 314** Autism evaluation and services. Sen. Clinton Harden. This bill required schools to consider a variety of potential appropriate educational interventions for children with autism when developing individual educational plans for them.
- **SB 418** Limiting school referrals to police. Sen. Jerry Ortiz y Pino. Prohibited school districts from automatically referring all acts of petty misconduct or petty misdemeanors to law enforcement agencies. It also required school districts to enter into agreements with law enforcement agencies about what conduct would be referred; develop policies that offer alternatives to suspension and expulsion; and report data annually to the PED concerning the number of students arrested, cited or referred to juvenile authorities, by age, race, gender, and special education eligibility category (if applicable).
- **SB 450** Regional pilot programs. Sen. Mary Kay Papen. This bill was a duplicate of HB 432, permitting the Behavioral Health Purchasing Collaborative to contract with a regional network of behavioral health providers. HB 432 was signed into law.

Memorials Approved by the Legislature

- **HJM 16** Value and dignity of persons with developmental disabilities. Rep. Rick Miera and Sen. Tim Keller. Calls on the governor and the legislature to recognize and respect the value and dignity of persons with developmental disabilities.

- **HJM 17** Alternatives to incarceration. Rep. Rick Miera. Calls for a task force of stakeholders to develop strategies to reduce the unnecessary incarceration of persons with mental illness. DRNM and NAMI-NM will be members of the task force.
- **HM 45** Mental health law study. Rep. Dennis Kintigh. Calls on the Behavioral Health Purchasing Collaborative to convene a task force to study issues related to involuntary civil commitment and the authority of treatment guardians, and to make recommendations to interim legislative committees. The task force will include a wide variety of stakeholders in the mental health and criminal justice systems.
- **HM 62** Solitary confinement study. Rep. Eliseo Alcon. Calls for the convening of a group to review the effects of solitary confinement in prison facilities, collect data on the number of persons with mental illness in solitary confinement, describe the conditions of solitary confinement, and make reports and recommendations to an interim legislative committee.
- **HM 76** Study CDD programs. Rep. Danice Picraux. This memorial calls on the Center on Development and Disabilities at UNM to do a financial and legal review of its programs.
- **SJM 1** Health care reform work group. Sen. Dede Feldman. Calls for continuation of the health care reform work group that was established last year to assist the state in preparing for and implementing the provisions of federal health care reform.
- **SM 39** Support federal Excellence in Mental Health bill. Sen. Howie Morales. Calls on the state's Congressional delegation to work to have this federal proposal reintroduced in the new Congress, and to support it.
- **SM 40** Solitary Confinement. Sen. Mary Kay Papen. Calls for the convening of a group to review the use and effects of solitary confinement in prison facilities in New Mexico. This bill is a duplicate of HM 62 (see above).

Bills That Did Not Pass the Legislature

Behavioral Health

- **HB 497** Limiting DA role in MH commitments. Rep. Dennis Kintigh.
- **HB 498** Re-instate "Guilty But Mentally Ill". Rep. Dennis Kintigh.
- **HB 499** Commitment of mentally ill and dangerous individuals. Rep. Dennis Kintigh.
- **HB 559** Mental health treatment guardianship amendments. Rep. Dennis Kintigh.
- **HJM 23** Task force for children. Rep. Danice Picraux.
- **SB 21** End managed care in behavioral health. Sen. Jerry Ortiz y Pino and Rep. Antonio Lujan.
- **SB 539** DA to pursue extended MH commitments. Sen. Jerry Ortiz y Pino.
- **SB 557** Evaluation of Behavioral Health Purchasing Collaborative. Sen. Jerry Ortiz y Pino.

Brain Injury

- **HB 91** Reductions in fund balances. Rep. Lucky Varela.

Deaf/Hard of Hearing

- **SB 485** Deaf-blind services funding. Sen. Nancy Rodriguez. *This funding was included in HB 2.*
- **SB 488** Sign language program. Sen. Nancy Rodriguez.

Developmental Disabilities

- **HB 243** Therapeutic horseback riding. Rep. Candy Ezzell.
- **HJM 13** Review of CDD programs. Rep. Danice Picraux.
- **SB 494** Community living. Sen. Nancy Rodriguez.
- **SB 531** Re-directing court-ordered attorney fees to DD services. Sen. Rod Adair.

Education

- **HB 21 & HB 100** Ending “social promotions”.
- **HB 510** Tax credits for special education scholarships. Rep. Ray Begaye.
- **SB 142** Limit ancillary program units. Sen. Cindy Nava.
- **SB 192** Special education amendments. Sen. Lynda Lovejoy and Rep. Mimi Stewart.
- **SB 319** Prohibit corporal punishment. Sen. Cindy Nava.
- **SB 398** Special needs student scholarships tax credits. Sen. Jerry Ortiz y Pino.
- **SJM 37** Early childhood/public school coordination. Sen. Cindy Nava.

Government Restructuring

- **HB 66** Administrative services by DFA. Rep. Lucky Varela.
- **HB 88** State agency sunsets. Rep. Paul Bandy and Sen. Lynda Lovejoy.
- **HB 94** Health Care Financing Agency. Rep. Danice Picraux.
- **HB 189** Transfer all ALTSD programs to HSD. Rep. Al Park.
- **HB 570** Transfer ALTSD programs to HSD and CYFD. Rep. Bob Wooley.
- **SB 15** Health Policy and Financing Agency. Sen. Dede Feldman.
- **SB 67/SB 104** Consolidate administrative hearings in one agency. Sen. Ryan/ Sen. Eichenberg.
- **SB 158** Repeal certain boards and commissions.
- **SB 162** Health Administration and Finance Agency. Sen. Linda Lopez.

Health Care

- **HB 33** Health Insurance Exchange. Rep. Danice Picraux and Sen. Dede Feldman.
- **HB 493** Health care bill of rights. Rep. Al Park.
- **HB 584** Health insurance exchange. Rep. Terry McMillan.
- **HJM 9** Amendments to Affordable Care Act. Rep. Mimi Stewart.
- **HJM 50** School-based Medicaid. Rep. Mimi Stewart.
- **SB 22** Health care provider protection. Sen. Jerry Ortiz y Pino.
- **SB 206** Eliminate Medicaid managed care. Sen. Jerry Ortiz y Pino.
- **SB 497** Managed Care Ombudsman. Sen. Jerry Ortiz y Pino.
- **SB 536** Drug price controls. Sen. Tim Jennings.

Self-Determination

- **HB 105** Electronic Voter Registration. Rep. Eleanor Chavez.
- **HB 229** Parental notification act. Rep. Alonzo Baldonado.
- **HB 271** Extend guardianship powers. Rep. Bill O’Neill.
- **SB 125** Limitations on driver’s licenses. Sen. Peter Wirth.
- **SB 230** Parental notification act. Sen. William Sharer.
- **SB 340** Permanent absentee ballot requests. Sen. Jerry Ortiz y Pino and Rep. James Smith.

Other

- **HB 399** Restroom Access Act. Rep. Tom Anderson.
- **HB 431** Motor vehicle registration fee exemption. Rep. Miguel Garcia.
- **HJR 24** Property tax exemption. Rep. Miguel Garcia.
- **SB 65** Fees to Disability Fund. Sen. Phil Griego.
- **SB 205** Protection of genetic information in employment. Sen. Cisco McSorley.
- **SB 334** Adult residential provider licensing. Sen. Tim Jennings.
- **SB 416** Tax break for residential autism facilities. Sen. Clint Harden.
- **SB 517** Motor vehicle registration fee exemption. Sen. Linda Lopez.
- **SB 566** Purchasing from persons with disabilities. Sen. Mark Boitano.
- **SM 72** Mi Via study group. Sen. Jerry Ortiz y Pino.