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FISCAL IMPACT REPORT

ORIGINAL DATE 3/1/07

SPONSOR Arnold-Jones LAST UPDATED _____ HB 1229

SHORT TITLE Parental Consent for Mental Health Treatment SB _____

ANALYST Hanika Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		see narrative				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)
 Developmental Disabilities Planning Council (DDPC)
 Children, Youth & Family Department (CYFD)
 Human Services Department (HSD)
 Health Policy Commission (HPC)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 1229 amends Section 32A-6-11.1 NMSA 1978 of the Children’s Mental Health and Developmental Disabilities Act (Act) to change the age of consent for residential treatment for mental health disorders, or habilitation treatment for developmental disabilities, from fourteen to eighteen. It will effectively require parental consent for that treatment for people under the age of eighteen.

The bill also amends NMSA Section 32A-6-14 of the Act to eliminate the right of a child less than eighteen years old to receive individual psychotherapy, group psychotherapy, guidance, counseling, or other forms of verbal therapy without parental consent. It would also amend that section to eliminate the right of a child aged fourteen or older to receive psychotropic medications or interventions involving aversive stimuli or substantial deprivation without parental consent.

The bill repeals NMSA Section 32A-6-12 of the Act which provides for voluntary residential

treatment for mental disorders or habilitation for developmental disabilities for children aged fourteen or older.

FISCAL IMPLICATIONS

The HPC reports that 44,406 New Mexican children under the age of 18 suffer a diagnosable mental disorder that seriously interferes with the child's role or functioning in family, school or community activities. Only one-fourth of children aged 9-17 with mental health disorders receive services for mental, behavior or substance use problems.

HB 1229 is not part of the Governor's Executive Budget request for FY08. HSD reports that two of the Governor's primary performance outcomes in behavioral health are to reduce youth suicide; and, to increase access to services. HSD states the provisions of this bill will make it more difficult and less likely, for youth to access services, particularly in school-based health centers where it's readily available. The fiscal and administrative impact to State agencies from poor school performance, drug abuse and other behavioral problems resulting from the restrictions within the bill could be significant.

SIGNIFICANT ISSUES

This bill seeks to repeal the right of older children to participate in their mental health treatment decisions, requiring that only parents make mental health treatment decisions for youth between the ages of fourteen and eighteen. The bill makes an assumption that parents possess what a child lacks in capacity for making sound judgments concerning their need for care or treatment.

The Departments report that in June of 2006 a task force was convened who worked through October of 2006 to review and update this section of the Children's Code. The Task Force had 35 appointed members, including representatives from CYFD, HSD, DOH, children's mental health service providers, parents, advocates and other interested people. In addition, the Task Force received public input through written comments. The Task Force was fully aware of the high rates of mental illness, substance abuse and suicide in New Mexico's children. As a result, the Task Force carefully weighed the need for older adolescents to have access to mental health care and the need to participate in their own treatment decisions with the need to support families in the treatment process. HB 637 reflects the thoughtful deliberation of the Task Force regarding consent issues. CYFD has adopted the Task Force recommendations in HB 637 which is consistent with national best practice standards.

CYFD comments that if this bill is enacted and the current rights to self-determination regarding mental health treatment and placement decisions of 14 – 17 year olds are abrogated, New Mexico will be in opposition to the national trend. Children and adolescents age 14 to 17 nationwide, particularly those housed within the protective and juvenile justice systems, have been granted the right to make informed decisions regarding their own mental health and substance abuse treatment residential treatment placements.

PERFORMANCE IMPLICATIONS

DDPC notes that the Children’s Mental Health and Developmental Disabilities Code, enacted in 1995, recognized the need for older children to participate in their mental health treatment decisions.

ADMINISTRATIVE IMPLICATIONS

If enacted, this Bill will require significant changes in State departments policies and procedures with regard to mental health admission, discharge, programmatic and medication consents for youth age 14 to 17 years of age.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB637/a, Children’s Mental Recodification, which attempts to strike a balance between a youth’s right to access services; and, parental involvement in treatment planning.

TECHNICAL ISSUES

DOH notes the bill approaches developmental disabilities and mental health treatment as though they were similar enough to be interchangeable and does not recognize the distinct differences between the two populations. Educational and treatment approaches for children with developmental disabilities differ greatly from that of children who have mental health issues.

OTHER SUBSTANTIVE ISSUES

CYFD notes if this bill were passed it would potentially make it much more difficult – and less likely - for youth to access services, particularly in the schools, and will consequently make it more difficult to intervene with children who were contemplating suicide.

CYFD further notes the quality of the therapeutic relationship, including cooperation and “buy-in” with treatment, is associated with better clinical outcomes. These factors can be negated when a person capable of making an informed choice instead feels compelled to participate in treatment.

AMENDMENTS

Retain the language “the child shall be released or” on line 17 of page 8.

AHO/nt