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FISCAL IMPACT REPORT

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| SPONSOR <u>Lopez/Sharer</u> | LAST UPDATED _____ |
| | ORIGINAL DATE <u>02/08/2023</u> |
| | BILL <u>Senate Bill</u> |
| SHORT TITLE <u>Developmental Disability References</u> | NUMBER <u>260/aSHPAC</u> |
| | ANALYST <u>Chilton</u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--|---------|------------------|------------------|----------------------|------------------------------|------------------|
| | Minimal | No fiscal impact | No fiscal impact | Minimal | Nonrecurring | General Fund |

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent version of this legislation.

Relates to Senate Bill 203

Sources of Information

LFC Files

Responses Received From

Department of Health (DOH)
General Services Department (GSD)
Human Services Department (HSD)

No Response Received

Developmental Disabilities Planning Council (DDPC)

SUMMARY

Synopsis of SHPAC Amendment

The Senate Health and Public Affairs Committee amendment revises the definition in Section 12 of the bill of “developmental or intellectual disability”. The new meaning is “a severe chronic disability attributable to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, cerebral palsy, autism or neurological dysfunction that requires similar treatment or habilitation.”

Synopsis of Original Senate Bill 260

Senate Bill 260 updates statutes with more modern and less offensive terminology and with other updating changes. The main change throughout the bill is substitution of the term “individuals with developmental or intellectual disabilities” for “the mentally retarded.” The table below indicates where that substitution is made. Other substitutions are also detailed within the table, except for minor updating changes.

| Section of SB260 | Section of Statute Modified | Title of the Modified Section of Statute | Other changes made |
|------------------|-----------------------------|---|---|
| 1 | 15-7-3 | Risk Management Division activities | “Regulation” replaced with “rule” |
| 2 | 24-26-2 | Patient Care Monitoring Act | “Aging and Long-term Services Department replaces “Agency for Aging” |
| 3 | 27-2-6 | Supplemental Postnatal Assistance | |
| 4 | 27-2-12 | Medicaid managed care | |
| 5 | 27A-2A-4 | Recovery of Medical Assistance Payments | |
| 6 | 27-7A-2 | Employee Abuse Registry Act | |
| 7 | 28-16-15 | Developmental Disabilities Planning Council | The word “planning” is removed from the council’s name |
| 8 | 29-17-4 | Caregivers Criminal History Screening Act | |
| 9 | 30-47-3 | Resident Abuse and Neglect Act | |
| 10 | 31-9-1.6 | Hearing to Determine Developmental of Intellectual Disability | |
| 11 | 38-6-8 | Witnesses with developmental of intellectual disability | |
| 12 | 43-1-3 | Developmental Disabilities Code | “Developmental disability” is defined at length, to include deficits due to mental or physical impairment or injury, begins prior to age 22, is expected to be permanent, results in at least three limitations of major life activity, and reflects the need for services, to be planned and coordinated individually. |

Section 13 of the bill repeals Section 24-1-5.4 NMSA 1978, which has to do with controlling intermediate care facilities “for the mentally retarded.”

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

There is no appropriation in Senate Bill 260. There would be minimal expenses for updating books and websites containing statutes.

SIGNIFICANT ISSUES

The main thrust of this bill is to replace the outmoded term, used in numerous locations in statute, “the mentally retarded” with “individuals with developmental or intellectual disabilities.” This is in keeping with the move generally to adopt “People First Language,” where individuals are identified first as “people”, “children,” “individuals”, “voters,” “workers,” etc. before their exceptionality (such as intellectual disability or diabetes) qualifies their personhood. In the words of the federal Office of Disability Rights, “‘People First Language’ (PFL) puts the person before the disability, and describes what a person has, not who a person is. PFL uses phrases such as ‘person with a disability,’ ‘individuals with disabilities,’ and ‘children with disabilities’ as opposed to phrases that identify people based solely on their disability, such as ‘the disabled.’”

RELATIONSHIP

Relates to Senate Bill 203, which requires the collection and use of data regarding services provided to people with developmental disabilities.

TECHNICAL ISSUES

HSD points to two areas of potential problems:

Under Section 2. A. Definitions. The definition of “agency” is proposed to be replaced with term and definition of “department”. “Department” is defined as the Aging and Long-Term Services Department (ALTSD). This definition is limiting as services and supports to persons with IDD are provided through multiple departments, primarily but not limited to, the Human Services Department (HSD) and the Department of Health (DOH).

Under Section 3. Supplemental Postnatal Assistance. SB260 proposes to remove the term “health and social services” as the department who established a program of supplemental postnatal assistance. Removal of this term in combination of the update referenced above under the Section 2 Definitions, indicates the proposed department to provide supplemental postnatal assistance to be ALTSD. ALTSD currently does not have any involvement with the referenced postnatal assistance or temporary assistance for needy families. Both would be administered under the HSD.

LAC/al/ne/rl