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## FISCAL IMPACT REPORT

**SPONSOR** Salazar **ORIGINAL DATE** 02/02/10  
**LAST UPDATED** 02/13/10 **HB** 217/aHJC

**SHORT TITLE** No Abuse in Resident or Care Provider Homes **SB** \_\_\_\_\_

**ANALYST** Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$5.0 - \$50.0			Recurring	Various

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Health Policy Commission (HPC)

Department of Health (DOH)

Public Defender Department (PDD)

Human Services Department (HSD)

Aging and Long-Term Services Department (ALTSD)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee Amendment to House Bill 217 makes a technical correction to further clarify the intent of the bill.

#### Synopsis of Original Bill

House Bill 217 amends the definition of a “care facility” in Section 30-47-3 B NMSA 1978, the Resident Abuse and Neglect Act, to include “a resident or care provider’s home in which personal care, sheltered care or nursing care is provided.”

### FISCAL IMPLICATIONS

PDD notes that the bill would increase the number of “caregivers” potentially subject to prosecution, especially given the enormous number of family members who care for aging parents.

There is no appropriation in the bill to support enforcement under the Act.

## **SIGNIFICANT ISSUES**

The purpose of the Resident Abuse and Neglect Act is to provide meaningful deterrents and remedies for abuse, neglect or exploitation of care facility residents and to provide an effective system for reporting instances of abuse, neglect or exploitation.

## **PERFORMANCE IMPLICATIONS**

The bill would allow for the protections, violations and penalties of the Resident Abuse Act to apply to incidents of abuse, neglect or exploitation that occur in a private home.

## **ADMINISTRATIVE IMPLICATIONS**

DOH reports the Division of Health Improvement currently has the authority to investigate abuse, neglect and exploitation by caregivers paid by public funds when it occurs in a private home. If a caregiver is not paid by public funds, the investigation would fall under the ALTSD Adult Protective Services Division.

## **TECHNICAL ISSUES**

DOH notes that the definition of “care facility” currently includes a “private residence that provides personal care”. It may be unclear how the amended language in the bill is any different than the “personal residence” language already included in the Act.

The bill could further define the terms “personal care” and “sheltered care”.

## **OTHER SUBSTANTIVE ISSUES**

The Caregivers Criminal History Screening Act prevents persons who have been convicted of certain crimes from working with individuals receiving health care.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The definition of a “care facility” in the Resident Abuse and Neglect Act would not be expanded to include a resident’s or care provider’s home in which personal care, sheltered care or nursing care is provided.

ALTSD further reports that the ability to investigate abuse, neglect or exploitation in a home care setting may continue to be excluded under the Act.

## **POSSIBLE QUESTIONS**

Does the bill apply to unpaid persons administering care to a relative or friend in a private home?

AHO/svb:mew