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HOUSE MEMORIAL 23

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Joanne J. Ferrary and Elizabeth "Liz" Thomson and
Deborah A. Armstrong

A MEMORIAL

REQUESTING THE FORMATION OF A TASK FORCE TO STUDY AND REPORT ON
SUPPORTED DECISION MAKING IN NEW MEXICO AS AN ALTERNATIVE TO
GUARDIANSHIP AND CONSERVATORSHIP.

WHEREAS, many people in New Mexico are vulnerable to
exploitation, abuse and neglect, including those with
intellectual or developmental disabilities and the elderly with
dementia; and

WHEREAS, some elderly people with dementia or people with
intellectual or developmental disabilities need some support to
make appropriate and safe decisions and to have informed choice
on the impact of those decisions; and

WHEREAS, plenary guardianship and conservatorship removes
almost all individual rights to decision making and should be
used only as the last resort for individuals for whom supported

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1 decision making does not afford adequate protection; and

2 WHEREAS, many states across the country have enacted
3 statutes related to supported decision making in recent years;
4 and

5 WHEREAS, in recent years, some guardians, conservators and
6 those involved in less restrictive arrangements have been
7 accused of financial exploitation of hundreds of New Mexicans
8 with intellectual or developmental disabilities and the elderly
9 with dementia; and

10 WHEREAS, guardianship, conservatorship and trust reforms
11 have been implemented in the last two years in New Mexico, but
12 that legislation did not include supported decision making; and

13 WHEREAS, individuals with intellectual or developmental
14 disabilities receiving services under the developmental
15 disabilities waiver program in New Mexico often report right
16 restrictions, such as not being able to choose meals or
17 roommates or make the decision to date, regardless of whether
18 those individuals have been adjudicated incapacitated;

19 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
20 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the
21 developmental disabilities planning council be requested to
22 create a task force to study supported decision making as an
23 alternative to guardianship and conservatorship in New Mexico;
24 and

25 BE IT FURTHER RESOLVED that the developmental disabilities

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1 planning council be requested to lead the task force and
2 include the following members on the task force: the arc of
3 New Mexico; disability rights New Mexico; the office of
4 guardianship; the aging and long-term services department;
5 parents reaching out; the administrative office of the courts;
6 a provider agency for individuals with a disability; self-
7 advocates, including people with disabilities and the elderly,
8 both with and without guardians; family guardians; the New
9 Mexico guardianship association; and an advocacy agency for the
10 elderly; and

11 BE IT FURTHER RESOLVED that the task force be requested to
12 develop a strategic plan to examine options to guardianships
13 and conservatorships in New Mexico, including consideration of
14 the effectiveness and existing barriers to those options, how
15 those options are being implemented in other states and
16 specific concerns related to guardianships and conservatorships
17 in New Mexico; and

18 BE IT FURTHER RESOLVED that the task force be requested to
19 develop a strategic plan to decrease the number of new
20 individuals being deemed incapacitated and being appointed
21 guardians or conservators while continuing to ensure the
22 protection of vulnerable individuals from exploitation or
23 restrictions of rights by those who are charged with helping
24 them with decision making; and

25 BE IT FURTHER RESOLVED that by November 1, 2020, the task

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1 force be requested to distribute the strategic plan and give a
2 presentation to the disabilities concerns subcommittee of the
3 legislative health and human services committee with
4 recommendations as to legislative actions that might be needed;
5 and

6 BE IT FURTHER RESOLVED that copies of this memorial be
7 transmitted to the developmental disabilities planning council
8 and the governor.

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