

LFC Requester:**Rachel Mercer-Garcia****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov****(Analysis must be uploaded as a PDF)****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: _____ *Check all that apply:*
Bill Number: SB66-630 Original ___ Correction ___
 Amendment Substitute ___

Sponsor: Senator Duhigg and Senator Berghmans **Agency Name and Code** HCA 630
Short Title: Expand Exemptions Criminal Background Checks **Number:** _____
Person Writing Dan Lanari **Phone:** 505-475-2261 **Email** Dan.lanari@hca.nm.gov

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	None	None

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	None	None

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB66 relates to employment and provides that the criminal offender employment act does not apply to certain agencies. Those exempt agencies shall then promulgate rules related to criminal history screening. These changes are highlighted in the amended version of 28-2-5 NMSA 1978. Additional exempt agencies listed in the bill include: Early Childhood Education, agency for consideration of an applicant for employment as a caregiver or hospital caregiver, Children, Youth and Families Department, and the Public Education Department. HCA is the affected agency related to caregivers or hospital caregivers exemption.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

The current statute 29-17-5 for the Caregiver Criminal History Screening Program includes only a limited number of disqualifying convictions for caregiver or hospital caregiver applicants, thus increasing the risk of abuse, neglect, and exploitation (ANE) for healthcare recipients. For example, since FY22, there has been a **55% increase** in ANE cases for individuals receiving developmental disabilities waiver services. Additionally, there has been a **76% increase** of ANE cases in health care facilities (e.g., hospitals, nursing homes, and assisted living facilities). These increases equate to over 250 more abuse, neglect, and exploitation cases occurring in FY24 compared to FY22.

In comparison to other states (Nevada, Mississippi, Michigan, Maine, Oklahoma, Georgia, and Idaho), New Mexico has significantly less disqualifying convictions. Nearly every comparative state had at least 5 times more disqualifying convictions than the current amount listed in New Mexico's statute. Seven of the eight comparison states also included a list of misdemeanor crimes as disqualifying convictions while New Mexico's statute does not include any misdemeanor crimes. Adopting a more comprehensive list of disqualifying convictions—and the ability to add to that list by rule—aligns with national best practices for protecting vulnerable populations.

SB 66 supports the HCA to promulgate additional rules and bring New Mexico closer to recognized standards.

PERFORMANCE IMPLICATIONS

SB66 advances the mission of the HCA's Caregiver Criminal History Screening Program by clarifying the HCA may fully enforce and implement its disqualifying conviction protocols, thus allowing the HCA to thoroughly review and address high-risk criminal histories without being constrained by the broader provisions of the Criminal Offender Employment Act. Adding to the screening criteria of caregivers and hospital caregivers will protect people from potential harm as a result of abuse, neglect, and exploitation. Both expanding the list of felonies and HCA

promulgating rule for additional disqualifying convictions is necessary to adequately close the gap in the current statute. Without making these changes, it is anticipated the increasing trend of abuse, neglect, and exploitation cases will increase each year.

ADMINISTRATIVE IMPLICATIONS

The Health Care Authority will need to promulgate revised rules to add to the criteria of disqualifying convictions related to the Caregiver Criminal History Screening Program. The addition of disqualifying convictions may increase the number of caregiver criminal history screenings that trigger an additional level of administrative review and legal reconsiderations.

No IT impact.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB66, as proposed, states that the Act is not applicable to “an agency for consideration of an applicant for employment as a caregiver or hospital caregiver subject to the Caregivers Criminal History Screening Act.” The HCA Division of Health Improvement is an agency that would fall in within this exemption. This bill has a relationship with HB 131 Caregiver Criminal History Program. HB 131 expands the list of disqualifying felony convictions and permits HCA to promulgate rule to add additional disqualifying convictions.

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The status quo of the gap in oversight will continue. This increases the likelihood of ANE going undetected, thereby placing New Mexicans at greater risk.

AMENDMENTS

None