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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Sedillo Lopez **ORIGINAL DATE** 02/28/2025

BILL

SHORT TITLE Caregiver Background Checks **NUMBER** Senate Bill 222

ANALYST Rommel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
HCA	0	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 266, Duplicates House Bill 131

Sources of Information

LFC Files

Agency Analysis Received From
Health Care Authority (HCA)
Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From
Department of Health (DOH)

SUMMARY

Synopsis of Senate Bill 222

Senate Bill 222 (SB222) amends Section 29-17-5 NMSA 1978, the Caregivers Criminal History Screening Act. The bill would transfer all functions, records and equipment for overseeing caregiver’s criminal history checks from the Department of Health (DOH) to the Health Care Authority (HCA).

The bill adds felony crimes of sex trafficking, assault of a peace officer, identity theft, and cruelty to animals to the list of disqualifying felony convictions. It further allows HCA to promulgate rules to establish additional disqualifying convictions.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

HCA does not indicate that there will be any fiscal implications in absorbing criminal screening for caregivers. However, the Department of Public Safety (DPS) notes that HCA may incur costs to ensure compliance with FBI Criminal Justice Information Law Unit regulations and respond to federal requirements during the approval process.

SIGNIFICANT ISSUES

HCA notes the following:

In comparison to other states (Nevada, Mississippi, Michigan, Maine, Oklahoma, Georgia, and Idaho), New Mexico has significantly fewer disqualifying convictions. Nearly every comparative state had at least five 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. This amendment brings NM closer to recognized standards.

Increasing the number of felony convictions that disqualify a caregiver may reduce the incidence of abuse, neglect, and exploitation in care provider settings. See Other Substantive Issues.

PERFORMANCE IMPLICATIONS

HCA notes that New Mexico Administrative Code (NMAC) 8.370.5.1 outlines procedures individuals may take to appeal denials to their application and specific circumstances required to appeal. In FY24, over 53 thousand applications were processed, 340 appeals were submitted, and over 180 appeals were granted translating to over 50 percent of applicant appeals being granted in accordance with NMAC 8.370.5.1.

ADMINISTRATIVE IMPLICATIONS

HCA will need to promulgate revised rules to add to the criteria of disqualifying convictions. 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB131 duplicates Senate Bill 222.

Relates to Senate Bill 266, Criminal Offender Employment Act Exemptions. SB266 exempts an agency (i.e., HCA) for consideration of an applicant for employment as a caregiver or hospital caregiver subject to the Caregivers Criminal History Screening Act.

OTHER SUBSTANTIVE ISSUES

According to HCA there has been a 55 percent increase in abuse, neglect, and exploitation cases for individuals receiving developmental disabilities waiver services. Additionally, there has been a 76 percent increase of abuse, neglect, and exploitation cases in healthcare 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.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HCA would lack the authority to update and enforce a comprehensive list of disqualifying offenses, limiting the agency's ability to quickly address emerging risks. This gap in oversight may increase the likelihood of ANE going undetected.

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