

<b>LFC Requester:</b>	<b>Rachel Mercer-Garcia</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**  
**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 1/31/25 *Check all that apply:*  
**Bill Number:** HB149 Original  Correction   
 Amendment  Substitute

**Sponsor:** Reps. Abeyta and Ferrary **Agency Name and Code:** HCA 630  
**Short Title:** Supported Decision-Making Act **Number:** \_\_\_\_\_  
**Person Writing:** Claudia Rice  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0.00	\$289.0	Nonrecurring	DD Council-GF

*(Parenthesis ( ) indicate expenditure decreases)*

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0.00	\$0.00	\$0.00	N/A	N/A

*(Parenthesis ( ) indicate revenue decreases)*

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.00	\$0.00	\$0.00	\$0.00	N/A	N/A

*(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: House Bill 149 proposes to enact a Supported Decision-Making Act. Included in the Supported Decision-Making Act is the proposal for a Supported Decision-Making program to be created within the Office of Guardianship in the Developmental Disabilities Council. Requirements for Supported Decision-Making Agreements, duties for Supporters, provisions for a limit of liability, and reporting requirements are also included in this Act.

#### **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

- House Bill 149 appropriates two hundred eighty-nine thousand dollars (\$289,000) to the Developmental Disabilities Council in fiscal year 2026 to carry out provisions of the bill; no funds are appropriated to the Developmental Disabilities Supports Division.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

#### **SIGNIFICANT ISSUES**

- Enacting a Supported Decision-Making Act and a Supported Decision-Making program within the Office of Guardianship in the Developmental Disabilities Council would provide individuals with a less restrictive, more empowering alternative to guardianship.
- Many New Mexicans need additional support when making major decisions, such as medical and financial decisions, but are not appropriate for guardianship. Guardianship restricts and removes a person's legal rights and should be considered as a last resort for people who are incapacitated and require substitute decision makers. For many New Mexicans, especially those who do not have access to Developmental Disabilities Medicaid waiver services, supported decision making can be an effective tool to assist in making important decisions, allowing them to retain control over their lives.
- Supported Decision-Making is a person-centered approach that allows adults to choose to enter into agreements with people of their choice, and receive assistance with making informed choices, research, and communication.
- The description of a Supported Decision-Making Agreement demonstrates a thoughtful, person-centered, and comprehensive outline of everything required to be included to protect and support individuals who choose this model of support.
- A Supported Decision-Making Act and program can provide much-needed assistance to New Mexicans who typically seek guardianship services, or who may find themselves in expensive and dire financial or medical situations due to lack of support.

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

- If House Bill 149 were enacted, the Developmental Disabilities Supports Division would adopt these processes and take any needed steps to implement supported-decision making

agreements within its Medicaid waivers. This may result in amendments to the 1915c waivers which would require HCA Medical Assistance Division (MAD) submission of 1915c waiver amendment(s) to the Centers for Medicare and Medicaid Services. This process requires 4-6 months for completion and is necessary before any changes can be implemented. Any IT system changes related to this bill will be handled under existing contracts at no additional cost.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

- The New Mexico Uniform Healthcare Decisions Act, 24-7A-1 et seq. NMSA 1978, allows the appointment of a Surrogate Healthcare Decision Maker for constituents receiving services and supports through the Developmental Disabilities Supports Division.
- The role of a Surrogate Healthcare Decision Maker is short term to address a current medical issue in the event that a guardian becomes incapacitated or passes away, or an individual who need a guardian does not yet have one.
- Fiduciary status not being required poses a fundamental legal protection for a supporter that would not be in a supported person’s best interest.
- There is an overlap in this measure with existing provisions as noted above as well as power-of-attorney existing codes that have long standing and tested provisions protecting persons at risk.

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

- House Bill 149 could impact individuals who would not otherwise be appropriate for guardianship, specifically individuals with Traumatic Brain Injury and serious mental illness. This bill does not address individuals in populations outside of intellectual and developmental disabilities.
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Commented [FD1]: @Gunn, Christie, HCA since it is already for IDD wouldn't we just add TBI, SMI ?

**ALTERNATIVES**

N/A

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

- If House Bill 149 is not enacted, a Supported Decision-Making Act would not be enacted, and a Supported Decision-Making program would not be created within the Office of Guardianship in the Developmental Disabilities Council.

**AMENDMENTS**

N/A