

LFC Requester:	Rachel Mercer-Garcia
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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: 1/17/25 *Check all that apply:*
Bill Number: HB 124 Original Correction
 Amendment Substitute

Sponsor: Rachel Mercer-Garcia
Death of Protected Person or Guardian

Agency Name and Code Number: NM Governor's Commission on Disability, 645

Person Writing: Lisa McNiven

Short Title: _____ **Email:** Lisa.mcniven@gcd.nm.gov

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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	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
Total	None	None	None	None	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

This is a bill to update the existing Death of the Protected Person or Guardian Act with new language and description.

BILL SUMMARY

Synopsis:

In the death of a guardian, a successor guardian will be assigned to the protected person as guardianship will continue even after the death of the existing guardian. However, the existing guardian may have assigned a successor to be appointed, which the court may consider.

In the death of the protected person, the guardian must notify the court within three days of learning of the death of the protected person.

The guardian has the authority to obtain a death certified without a court order of the protected person. Guardian or interested person may request the court to have a hearing regarding limited matters, direct the deposition of the protected person, if there is no next of kin willing to make arrangements or if there is no document appointing a personal representative to take on this duty.

To authorize the guardian to use protected person's estate to pay for reasonable funeral services. Upon these items, the court will hold a hearing within seven days of the request and may issue an order from this court hearing.

Guardian is also to deliver to the court safekeeping of any will by the protected person, to inform representative or beneficiary named in will and deliver estate to the appointed representative or persons entitled to the estate. If after 40 days, if no other person been appointed personal representative or a petition for appointment has been filed, the guardian can apply to be personal representative to administer and distribute the decedent's estate without further appointment.

If there is a conservator seeking appointment as the personal representative, they shall have priority over the guardian as the personal representative of the protected person's estate.

A final report will be provided by the guardian after forty-five days of the protected person's death, the court shall hold a hearing to determine deliverance of the decedent's estate to a duly appointed personal representative or other persons entitled to the estate. After this hearing, the court shall issue an order terminating the guardianship and the guardian's authority upon the court's satisfaction that all matters are resolved. Termination does not affect liability for all prior acts of obligation to account for funds and assets of the protected person.

In this new bill, it changes the legal language of incapacitated to protected person, as this new language change allows the courts to see that the person is not necessarily incapacitated but are need of protection. This includes him or her languages, to change to Protected Person to address who is in reference to.

FISCAL IMPLICATIONS

None noted

Note: major assumptions underlying fiscal impact should be documented.

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

SIGNIFICANT ISSUES

None noted.

PERFORMANCE IMPLICATIONS

May need additional educational materials to note the changes if this bill were to pass. This takes some understanding to the general public of what this bill includes.

ADMINISTRATIVE IMPLICATIONS

It may need legal review to make sure this bill can legally withstand any court's concerns.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified.

TECHNICAL ISSUES

Need to make sure there is understanding between what a guardian is vs a conservator vs a personal representative.

OTHER SUBSTANTIVE ISSUES

None identified.

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The bill will remain with the old concepts and language, it may not be updated to what is needed today according to this HB 124.

AMENDMENTS

None