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FISCAL IMPACT REPORT

SPONSOR Matthews LAST UPDATED _____
ORIGINAL DATE 02/03/2025
BILL
SHORT TITLE Liability Waivers for Conservators NUMBER House Bill 125
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bills 124 and 149.

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)

New Mexico Attorney General (NMAG)

Developmental Disabilities Council (DDC)

SUMMARY

Synopsis of House Bill 125

House Bill 125 removes provisions in law that currently prohibit conservators (representatives of protected person regarding their financial affairs) from seeking or enforcing a release or waiver of liability for their actions regarding the conservatorship.

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

There is no appropriation in House Bill 125. No fiscal impacts are identified.

SIGNIFICANT ISSUES

The Development Disability Council (DDC) makes note of recent New Mexico regulations that protect people using conservator services from neglect, abuse, or exploitation, but the council

also mentions the departure of many financial institutions from working as conservators, coming as a result of these new regulations and risks. This often leaves only individuals, who may or may not have the knowledge and skills necessary to be effective conservators, as the only available conservators.

NMAG states that New Mexico courts have generally found releases or waivers of liability were unenforceable unless those releases or waivers were generally and expressly agreed to and complied with the state's public policy.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 125 relates to House Bill 149, which would create a category of supporter that could advise an individual on life decisions but not make the decision for them.

It also relates to House Bill 124, although AOC raises concerns:

This legislation appears to conflict with House Bill 124, introduced by Rep. Joanne Ferrary, and endorsed by the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) this year. HB124 provides for a mandatory hearing upon the death of the protected person. After holding a hearing, the judge “shall issue an order terminating the conservatorship and conservator’s authority upon the court’s satisfaction that all matters are resolved. Termination does not affect the conservator’s liability for prior acts nor the conservator’s obligation to account for funds and assets of the conservator’s protected person.

TECHNICAL ISSUES

DDC suggests, “A proposed solution that maintains protections for the protected person and their estate could be an inclusion of a statute of limitations, beginning at the time the interested party discovers the misconduct.”

LAC/hg