

<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:** 01/29/2025 *Check all that apply:*  
**Bill Number:** HB 125 Original  Correction   
 Amendment  Substitute

**Sponsor:** Marian Mathews **Agency Name and Code:** Developmental Disabilities Council 647  
**Short Title:** Waiver of Liability for Conservators **Number:** \_\_\_\_\_  
**Person Writing:** Alice Liu McCoy  
**Phone:** (505) 225-4973 **Email:** aliceliu.mccoy@ddc.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0	N/A	

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	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	\$0	\$0	\$0	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: This bill would explicitly make conservators not individually liable for contracts entered into on behalf of a Protected Person, unless the contract provides otherwise. Liability for torts committed in the course of their administration of an estate would be waived unless the conservator is personally at fault. Claims can be asserted against the estate by proceeding against the conservator in their fiduciary capacity, regardless of whether the conservator is personally liable. Questions of conservator liability can be determined in a proceeding for accounting, surcharge, or indemnification, or any other appropriate proceeding. Finally, the bill would eliminate the current prohibition against a waiver of the conservator's liability.

#### **FISCAL IMPLICATIONS**

Because NM Office of Guardianship does not provide conservatorship services, this change would have no financial impact on OOG.

#### **SIGNIFICANT ISSUES**

In the past ten years, the guardianship system has undergone close scrutiny and criticism from the public and from disability rights advocates as more and more guardianship and conservatorship abuses were uncovered. Recent reforms in New Mexico laws related to guardianship and conservatorship in the past 6-8 years have strengthened protections for individuals under guardianship from abuse, neglect, or exploitation and reinforced the protected person's right to access the least restrictive options available. These laws include holding conservators accountable for their conservatorship actions and decisions.

An unintended consequence of recent legal changes has been a mass exodus of financial institutions from the conservatorship workforce. It is beneficial for financial institutions and professionals who must practice under specific codes of conduct and ethics to serve as conservators. Without these professionals, only private individuals, including many who do not have expertise in financial management, will be willing to serve as conservators. 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.

#### **PERFORMANCE IMPLICATIONS**

#### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

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