

N. M. S. A. 1978, § 45-5-408

West's New Mexico Statutes Annotated Currentness

Chapter 45. Uniform Probate Code

▣ Article 5. Protection of Persons Under Disability and Their Property (Refs & Annos)

▣ Part 4. Protection of Property of Persons Under Disability and Minors

→ § 45-5-408. Temporary conservators

A. When a petition for appointment of a conservator has been filed, but adherence to the procedures set out in this section would cause serious, immediate and irreparable harm to the estate or financial interests, or both, of the person to be protected, the court may appoint a temporary conservator prior to the final hearing and decision on the petition, subject to the requirements of this section.

B. Upon motion of the petitioner, the court shall schedule a hearing on the appointment of a temporary conservator for the earliest possible date, appoint counsel for the person to be protected and give notice as provided in Section 45-5-405 NMSA 1978. Upon a finding that serious, immediate and irreparable harm to the estate and financial interests of the person to be protected would result during the pendency of petition, the court shall appoint a temporary conservator and shall specify the temporary conservator's powers in order to prevent serious, immediate and irreparable harm to the property of the person to be protected. The duration of the temporary conservatorship shall not exceed sixty days, except that upon order of the court, the temporary conservatorship may be extended for no more than thirty days.

C. A temporary conservator may be appointed without notice to the person to be protected only if it clearly appears from specific facts shown by affidavit or sworn testimony that serious, immediate and irreparable harm will result to the estate or financial interests of the person to be protected before a hearing on the appointment of a temporary conservator can be held. The person to be protected shall be notified in a writing by the petitioner within twenty-four hours of the appointment of a temporary conservator in substantial accordance with the provisions of Subsection B of Section 45-5-405 NMSA 1978. On two days' notice to the party who obtained the appointment of a temporary conservator without notice or on such shorter notice to that party as the court may prescribe, the person to be protected may appear and move for dissolution or modification of the court's order, and, in that event, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

D. Appointment of a temporary conservator shall have the effect of limiting the legal rights of the person to be protected. Appointment of a temporary conservator shall not be evidence of incapacity.

L. 1989, Ch. 252, § 21; L. 1993, Ch. 301, § 18.

LIBRARY REFERENCES

Guardian and Ward ↪13(6).

Mental Health ↪114.

Westlaw Key Number Searches: 196k13(6); 257Ak114.

C.J.S. Insane Persons § 121.

RESEARCH REFERENCES

Treatises and Practice Aids