

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 1](#). General Provisions

→ **§ 45-5-101. Definitions and use of terms**

Unless otherwise apparent from the context, in Chapter 45, Article 5 NMSA 1978:

- A. “conservator” is as defined in [Section 45-1-201 NMSA](#) 1978;
- B. “court” means the district court or the children's or family division of the district court where such jurisdiction is conferred by the Children's Code;
- C. “functional impairment” means an impairment that is measured by a person's inability to manage the person's personal care or the person's inability to manage the person's estate or financial affairs or both;
- D. “guardian” is as defined in [Section 45-1-201 NMSA](#) 1978;
- E. “guardian ad litem” is as defined in [Section 45-1-201 NMSA](#) 1978;
- F. “incapacitated person” means any person who demonstrates over time either partial or complete functional impairment by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that the person is unable to manage the person's personal affairs or the person is unable to manage the person's estate or financial affairs or both;
- G. “inability to manage the person's personal care” means the inability, as evidenced by recent behavior, to meet one's needs for medical care, nutrition, clothing, shelter, hygiene or safety so that physical injury, illness or disease has occurred or is likely to occur in the near future;
- H. “inability to manage the person's estate or financial affairs or both” means gross mismanagement, as evidenced by recent behavior, of one's income and resources or medical inability to manage one's income and resources that has led or is likely in the near future to lead to financial vulnerability;
- I. “interested person” means any person who has an interest in the welfare of the person to be protected under this article;
- J. “least restrictive form of intervention” means that the guardianship or conservatorship imposed on the incapacitated person or minor protected person represents only those limitations necessary to provide the needed care and rehabilitative services and that the incapacitated person or minor protected person shall enjoy the greatest amount of personal freedom and civil liberties;
- K. “letters” is as defined in [Section 45-1-201 NMSA](#) 1978;
- L. “limited conservator” means any person who is qualified to manage the estate and financial affairs of an incapacitated person pursuant to a court appointment in a limited conservatorship;
- M. “limited conservatorship” means that an incapacitated person is subject to a conservator's exercise of some but not all of the powers enumerated in [Sections 45-5-424](#) and [45-5-425 NMSA](#) 1978;

N. “limited guardian” means any person who is qualified to manage the care, custody and control of an incapacitated person pursuant to a court appointment of a limited guardianship;

O. “limited guardianship” means that an incapacitated person is subject to a guardian's exercise of some but not all of the powers enumerated in [Section 45-5-312 NMSA](#) 1978;

P. “minor” is as defined in [Section 45-1-201 NMSA](#) 1978;

Q. “minor protected person” means a minor for whom a guardian or conservator has been appointed solely because of minority;

R. “protective proceeding” means a conservatorship proceeding under [Section 45-5-401 NMSA](#) 1978;

S. “protected person” means a minor or other person for whom a guardian or conservator has been appointed or other protective order has been made;

T. “qualified health care professional” means a physician, psychologist, physician assistant, nurse practitioner or other health care practitioner whose training and expertise aid in the assessment of functional impairment; and

U. “visitor” means a person who is an appointee of the court who has no personal interest in the proceeding and who has been trained or has the expertise to appropriately evaluate the needs of the person who is allegedly incapacitated. A “visitor” may include, but is not limited to, a psychologist, a social worker, a developmental incapacity professional, a physical and occupational therapist, an educator and a rehabilitation worker.

CREDIT(S)

L. 1975, Ch. 257, § 5-101; L. 1987, Ch. 12, § 1; L. 1989, Ch. 252, § 3; [L. 1993, Ch. 301, § 1](#); [L. 2008, Ch. 9, § 4, eff. May 14, 2008](#); [L. 2009, Ch. 159, § 26, eff. June 19, 2009](#).

Formerly 1953 Comp., § 32A-5-101.

HISTORICAL AND STATUTORY NOTES

L. 2008, Ch. 9, § 4, in subsec. C, twice substituted “the person's” for “his”; in subsecs. F, G and H, substituted “the person” or “the person's” for “he” or “his”, throughout; in subsecs. J and M, made nonsubstantive changes; and in subsec. T, inserted “physician assistant,” following “psychologist.”

L. 2009, Ch. 159, § 26, in subsec. J, twice substituted “protected person” for “ward”; in subsec. Q, substituted “protected person” for “ward”; in subsec. S, inserted “guardian or” following “person for whom a”; in subsec. T, added “and”; deleted subsec. U, defining the term “ward”; and redesignated former subsec. V as subsec. U; in newly designated subsec. U, three times inserted “a” prior to “social worker”, “developmental” and “physical”, respectively. Former subsec. U read:

“U. “ward” means a person for whom a guardian has been appointed; and”

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Current through the Second Session of the 49th Legislature (2009)