

ASSEMBLY, No. 4994

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED NOVEMBER 16, 2020

Sponsored by:

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

Assemblyman Giblin

SYNOPSIS

Establishes guardianship monitoring program in Office of Public Guardian for Elderly Adults.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/19/2020)

1 AN ACT concerning guardians for the elderly and amending
2 P.L.1985, c.298.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 6 of P.L.1985, c.298 (C.52:27G-25) is amended to
8 read as follows:

9 6. The public guardian, as administrator and chief executive
10 officer:

11 a. Shall administer and organize the work of the office and
12 establish therein any administrative divisions he may deem
13 necessary, proper and expedient. The public guardian may delegate
14 to subordinate officers or employees of the office any of his powers
15 as he may deem desirable to be exercised under his supervision and
16 control;

17 b. Shall adopt rules and regulations in accordance with the
18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
19 1 et seq.) to effectuate the purposes of this act;

20 c. Shall appoint and remove stenographic, clerical and other
21 secretarial assistants as may be required for the proper conduct of
22 the office, subject to the provisions of Title 11A of the New Jersey
23 Statutes, and other applicable statutes, and within the limits of
24 funds appropriated or otherwise made available therefor. In
25 addition, and within funding limits, the public guardian may
26 appoint, retain or employ, without regard to the provisions of Title
27 11A of the New Jersey Statutes or any other statutes, any officers,
28 financial managers, social workers or other professionally qualified
29 personnel on a contract basis or otherwise as the public guardian
30 deems necessary;

31 d. Shall maintain suitable headquarters for the office and other
32 quarters as the public guardian may deem necessary to the proper
33 functioning of the office;

34 e. May accept the services of volunteer workers or consultants
35 at no compensation, at nominal or token compensation, or at full
36 compensation, as appropriate, and reimburse them for their proper
37 and necessary expenses;

38 f. Shall keep and maintain proper financial and statistical
39 records concerning all cases in which the public guardian provides
40 guardianship or conservatorship services, provided that the privacy
41 and confidentiality of these records for each ward are preserved;

42 g. May serve as guardian and conservator or either of these,
43 after appointment by a court pursuant to the provisions of Title 3B
44 of the New Jersey Statutes, and with the same powers and duties of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 a private guardian or conservator, except as otherwise limited by
2 law or court order;

3 h. May intervene in any guardianship or conservatorship
4 proceeding involving a ward, by appropriate motion by the court, if
5 the public guardian or the court deems the intervention to be
6 justified because an appointed guardian or conservator is not
7 fulfilling his duties, the estate is subject to disproportionate waste
8 because of the costs of the guardianship or conservatorship, or the
9 best interests of the ward require intervention;

10 i. Shall establish a guardianship monitoring program within
11 the office to monitor court-appointed legal guardians of elderly
12 adults to detect abuse, neglect or exploitation. The monitoring
13 program shall provide a system for review of reports submitted by a
14 court-appointed guardian of an elderly adult, which may include
15 reports concerning the ward's well-being, and inventory and
16 accounting reports.

17 In order to accomplish the goal of the program, the public
18 guardian shall:

19 (1) Ensure that the court-appointed guardian is in compliance
20 with the initial and periodic reporting requirements for a guardian
21 of an elderly adult as established by the Superior Court pursuant to
22 a judgment of incapacity or judgment of guardianship, or as
23 required pursuant to letters of guardianship issued by the Surrogate;

24 (2) Review reports and accompanying documentation submitted
25 by the court-appointed guardian in accordance with the established
26 reporting requirements; and

27 (3) If any problems or inconsistencies are identified following
28 review of the reports and documentation, the Public Guardian may
29 intervene in proceedings in accordance with subsection h. of this
30 section.

31 For the purposes of this section, the Office of the Public
32 Guardian for Elderly Adults shall be deemed an interested party and
33 therefore be served with any initial and periodic reports as required
34 by the Superior Court or Surrogate.

35 j. Shall perform any other function which may be prescribed
36 by this act or by any other law;

37 **[j.]** k. Shall appoint and employ, notwithstanding the
38 provisions of P.L.1944, c.20 (C.52:17A-1 et seq.), a general counsel
39 and such other attorneys or counsel as the public guardian may
40 require, for the purpose, among other things, of providing legal
41 advice on such matters as the public guardian may from time to
42 time require, of attending to and dealing with all litigation,
43 controversies, and legal matters in which the public guardian or any
44 ward of the public guardian may be a party or in which these rights
45 and interests may be involved, and of representing the public
46 guardian and any ward in all proceedings or actions of any kind
47 which may be brought for or against them in any court of this State.
48 With respect to all of the foregoing, the counsel and attorneys shall

1 be independent of any supervision or control by the Attorney
2 General or by the Department of Law and Public Safety, or by any
3 division or officer thereof.
4 (cf: P.L.1989, c.248, s.2)

5
6 2. This act shall take effect on the 60th day following
7 enactment.

8
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10 STATEMENT

11
12 This bill establishes a guardianship monitoring program within
13 the Office of the Public Guardian for Elderly Adults.

14 Under current law, if a court finds that a person is unable to
15 govern himself or manage his affairs, the court may make a
16 determination that the person is incapacitated and appoint a
17 guardian to exercise all rights and powers of the incapacitated
18 person.

19 Unless relieved of doing so by the court, a guardian must furnish
20 a bond in accordance with N.J.S.3B:15-1 et seq. In addition,
21 pursuant to N.J.S.3B:12-42, a guardian must report on the condition
22 of the person and the condition of the property of the person for
23 whom the guardian has been appointed, unless the court waives this
24 requirement. The guardian must report at time intervals established
25 by the court or Surrogate, which is most often on a yearly basis.
26 The guardian may be required to report on the person's well-being,
27 an inventory of the person's property, and an accounting of the
28 person's estate.

29 The periodic reports must be filed with the Surrogate and must
30 be served on all interested parties. An interested party includes the
31 nearest of kin of the incapacitated person, any agent appointed
32 pursuant to a power of attorney or advance directive, the director of
33 a residential care facility having custody of the incapacitated
34 person, and an attorney appointed for the incapacitated person in
35 the guardianship action.

36 P.L.1985, c.298 (C.52:27G-20 et seq.), which established the
37 Public Guardian for Elderly Adults, provides for guardianship
38 services to be provided to elderly persons when private
39 guardianship is not feasible.

40 Under the statutes setting out the powers and duties of the Office
41 of the Public Guardian for Elderly Adults, an elderly adult is
42 defined as a person aged 60 years or older. Pursuant to 2010 census
43 data, New Jersey had the 10th highest population of elderly
44 individuals, with the elderly population increasing 15 percent
45 during the period from 2000 to 2010.

46 Due to the volume of adult guardianship cases, some reports
47 submitted by court-appointed guardians may not be thoroughly
48 reviewed, allowing abuse to go undetected. These periodic reports

1 can provide key information as to whether a guardian is abusing,
2 neglecting or exploiting an elderly person. While most guardians
3 are family members and friends who are dedicated to the care of the
4 individual for whom they are responsible, there have been a number
5 of documented cases of abuse, neglect and exploitation of elderly
6 adults by their guardians. It is the sponsor's belief that the
7 guardianship monitoring program will help provide protection for
8 those individuals.

9 Under the bill, the Office of the Public Guardian for Elderly
10 Adults is designated as an "interested party" that must be served
11 with the periodic reports that must be filed by a court-appointed
12 guardian. The bill provides for review of these reports and
13 accompanying documentation through the guardianship monitoring
14 program.