

[First Reprint]

SENATE, No. 2886

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Revises law concerning standby guardianship for minor child or ward.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on October 8, 2020, with amendments.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning standby guardianship and amending various
2 parts of the statutory law.

3

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

6

7 1. N.J.S.3B:12-39 is amended to read as follows:

8 3B:12-39. Delegation of parent's, custodian's, or guardian's
9 powers regarding child's or ward's care, custody or property;
10 limitations.

11 a. **[A]** ¹**[(1)]**¹ A parent, other than where sole or full legal
12 and physical custody of **[a]** the parent's minor child has been
13 awarded to another by a court of competent jurisdiction, ¹**[may]**¹
14 with the consent of the other parent, **[if the latter is living and not**
15 **an incapacitated person]** ¹[unless the other parent is deceased,
16 incapacitated, or unavailable, or

17 (2) a custodian of a minor child who is not that child's parent
18 may, with the consent of a parent with whom the custodian shares
19 legal custody, unless that parent is deceased, incapacitated, or
20 unavailable, or

21 (3)] or a custodian of a minor child who is not that child's
22 parent, with the consent of a parent with whom the custodian shares
23 legal custody, unless that parent is deceased, incapacitated, or
24 unavailable, or¹ a guardian of ¹**[the person of]**¹ a minor ¹child¹ or
25 an incapacitated person **[,]** may:

26 by a properly executed power of attorney, **[may]** delegate to
27 another person **[, for a period not exceeding six months,]** any of
28 ¹**[his]** the parent's, custodian's, or guardian's¹ powers regarding
29 care, custody, or property of the minor child or ward **[, except his**
30 **power to consent to marriage or adoption of a minor ward]**.

31 b. A delegation made under this section shall ¹:(1)¹ expire one
32 year from the effective date of the properly executed power of
33 attorney, provided ¹,¹ however ¹,¹ that the parent, custodian, or
34 guardian shall be permitted to renew the delegation for additional
35 one-year periods using the same process as applies to the original
36 delegation ¹**[.**

37 c. A delegation made under this section] ; and

38 (2)¹ may become effective upon proper execution of the power
39 of attorney or upon another triggering event specified in a properly
40 executed power of attorney.

41 ¹**[d.]** c.¹ A parent, custodian, or guardian may revoke a
42 delegation made under this section by notifying the attorney-in-fact

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted October 8, 2020.

1 named in the power of attorney orally, in writing, or by any other
2 act evidencing a specific intent to revoke the power of attorney.

3 ¹[e.] d.¹ A parent, custodian, or guardian may delegate under
4 this section only such powers as ¹[he] the parent, custodian, or
5 guardian¹ possesses.

6 ¹[f.] e.¹ A delegation made under this section shall not deprive
7 the parent, custodian, or guardian of ¹[his] the parent's,
8 custodian's, or guardian's¹ existing powers regarding care, custody,
9 or property of the minor child or ward, but the parent, custodian, or
10 guardian shall exercise such powers, insofar as ¹[he] the parent,
11 custodian, or guardian¹ is able, concurrently with the attorney-in-
12 fact named in the power of attorney.

13 ¹[g.] f.¹ Nothing in this section shall be construed to
14 involuntarily deprive any parent of parental rights.

15 ¹[h.] g.¹ As used in this section:

16 "Attending physician" means the physician who has primary
17 responsibility for the treatment and care for the parent, custodian, or
18 guardian making the delegation. When more than one physician
19 shares this responsibility, or when a physician is acting on the
20 primary physician's behalf, any such physician may act as the
21 attending physician pursuant to this section. When no physician has
22 this responsibility, a physician who is familiar with the parent's,
23 custodian's, or legal guardian's medical condition may act as the
24 attending physician.

25 "Attorney-in-fact" means the person to whom a parent,
26 custodian, or guardian delegates powers under a properly executed
27 power of attorney pursuant to this section.

28 "Consent" means written consent of a non-delegating parent as
29 evidenced by that person's signature on the power of attorney, in
30 the presence of two witnesses.

31 "Criminal proceeding" means any incarceration on criminal
32 charges, including pending charges, or a criminal sentence that
33 separates a parent, custodian, or guardian from a minor child or
34 ward.

35 "Custodian" means a person, other than a parent, who has been
36 granted legal and physical custody of a minor child by a court of
37 competent jurisdiction.

38 "Debilitated" means the parent, custodian, or guardian has a
39 chronic and substantial inability, as a result of a physically
40 debilitating illness, disease, or injury, to care for the parent's,
41 custodian's, or guardian's minor child or ward.

42 "Guardian" means a person appointed by a court of competent
43 jurisdiction as a guardian of ¹[the person of]¹ a minor ¹child¹ or an
44 incapacitated person, including ¹,¹ but not limited to ¹,¹ a kinship
45 legal guardian.

46 "Immigration administrative action" means any immigration
47 proceeding, enforcement action, detention, removal, or deportation

1 that separates a parent, custodian, or guardian from a minor child or
2 ward.

3 “Incapacitated” means the parent, custodian, or guardian has a
4 chronic and substantial inability, as a result of mental or physical
5 impairment, to understand the nature and consequences of decisions
6 concerning the care of the parent’s, custodian’s, or guardian’s
7 minor child or ward, and a consequent inability to make these
8 decisions.

9 “Military service” means duty by any person in the active
10 military service of the United States or the active military service of
11 the State, including in the National Guard or State Guard, that
12 separates a parent, custodian, or guardian from a minor child or
13 ward.

14 “Minor child” means a child under the age of 18 years but
15 excludes a child residing in a placement funded or approved by the
16 Division of Child Protection and Permanency in the Department of
17 Children and Families pursuant to either a voluntary placement
18 agreement or court order.

19 ¹“Parent” means the biological or adoptive parent of a minor
20 child.]¹

21 “Triggering event” means an event stated in the delegation that
22 empowers the attorney-in-fact to assume the duties of the office.
23 Triggering events include, but are not limited to: ¹[(1)]¹ the
24 execution of a power of attorney pursuant to this section; ¹[(2)]¹
25 the parent’s, custodian’s, or guardian’s attending physician
26 concludes that the parent, custodian, or guardian is
27 ¹[(“incapacitated” as defined in this section)] incapacitated¹; ¹[(3)]¹
28 the parent’s, custodian’s, or guardian’s attending physician
29 concludes that the parent, custodian, or guardian is ¹[(“debilitated”
30 as defined in this section)] debilitated¹; ¹[(4)]¹ the parent,
31 custodian, or guardian is subject to ¹[(“immigration administrative
32 action” as defined in this section)] immigration administrative
33 action¹; ¹[(5)]¹ the parent, custodian, or guardian is subject to
34 ¹[(“criminal proceedings” as defined in this section)] criminal
35 proceedings¹; ¹[(6)]¹ the parent, custodian, or guardian is in
36 ¹[(“military service” as defined in this section)] military service¹; or
37 (7) the death of the parent, custodian, or guardian.

38 “Unavailable” means: ¹[(a)]¹ a parent who has not been
39 involved in raising or financially supporting the child for two years
40 or a third of the life of the child, whichever is less, immediately
41 preceding the delegation made pursuant to this section; ¹[(b)]¹ a
42 parent whose identity or whereabouts are unknown; or ¹[(c)]¹ a
43 parent who cannot be reached after diligent efforts.

44 “Ward” means ¹[(an individual)] a person¹ for whom a guardian
45 is appointed.

1 [i.] h.¹ A delegation ¹made under this section¹ may, but need
2 not, be in the following form:

3

4 POWER OF ATTORNEY AND DELEGATION OF AUTHORITY
5 BY PARENT, CUSTODIAN, OR GUARDIAN CONCERNING
6 MINOR CHILD(REN) OR WARD(S) PURSUANT TO N.J.S.

7

3B:12-39

8

9 This power of attorney is made between (name(s), of parent(s),
10 custodian(s), or guardian(s)), residing at (address(es) of parent(s),
11 custodian(s), or guardian(s)) and reachable at (telephone number(s)
12 of parent(s), custodian(s), or guardian(s)) and (name of alternative
13 caregiver), referred to here as “attorney-in-fact,” residing at (home
14 address of alternative caregiver) and reachable at (telephone
15 number of alternative caregiver).

16

17 If a parent is signing, the other parent must generally also sign
18 below to show consent. Similarly, if a custodian who shares legal
19 custody with a parent is signing, the parent who shares legal
20 custody must generally also sign below to show consent. If such
21 parent does not sign below, please check off reason(s) to explain
22 why:

23

24 ___ Such parent is deceased.

25

26 ___ By order of a court of competent jurisdiction, such parent
27 retains neither legal nor physical custody of child(ren).

28

29 ___ Such parent is mentally or physically unable to give consent.

30

31 ___ Such parent has not been involved in raising or financially
32 supporting child(ren) for two years or a third of the life of the
33 child(ren), whichever is less, immediately preceding the date of the
34 latest signature below.

35

36 ___ Identity or whereabouts of such parent are unknown to me.

37

38 ___ Despite diligent efforts described below, I was unable to reach
39 such parent.

40

41 Diligent efforts included:

42

43 _____

44

45 _____

46

47 _____

48

1 Other:
2 _____
3 _____
4 _____
5 _____

6
7 I/we appoint said attorney-in-fact, pursuant to N.J.S.3B:12-39, and
8 delegate to said attorney-in-fact the following powers, all of which
9 I/we possess, concerning the care, custody, and/or property of
10 my/our child/ward, (name of child/ward), born on _____ day of
11 _____, 20____ (add other children's or wards' names and birthdates
12 as appropriate)

13
14 Care-Giving. The attorney-in-fact shall have temporary care-
15 giving authority for the child(ren)/ward(s), until such time as the
16 child(ren)/ward(s) is/are returned to '【our/my】 my/our' physical
17 custody, or his/her/their custody status is altered by a federal, state,
18 or local agency; or changed by a court of law.

19
20 Well-Being. The attorney-in-fact shall have the power to
21 provide for the physical and mental well-being of the
22 child(ren)/ward(s), including ' , ' but not limited to ' , ' providing
23 food and shelter.

24
25 Education. The attorney-in-fact shall have the authority to
26 enroll the child(ren)/ward(s) in the appropriate educational
27 institutions; obtain access to school records; authorize his/her/their
28 participation in school activities; and make any and all decisions
29 related to his/her/their education, including, but not limited to, those
30 related to special education.

31
32 Health Care. The attorney-in-fact shall have the authority, to
33 the same extent that a parent/custodian/guardian would have the
34 authority, to make medical, dental, and mental health decisions; to
35 sign documents, waivers ' , ' and releases required by a hospital or
36 physician; to access medical, dental, or mental health records
37 concerning the child(ren)/ward(s); to authorize '【his/her/their】 the
38 child(ren)/ward(s)' admission to or discharge from any hospital or
39 medical care facility; to consult with any '【provider of】' health
40 care 'provider' ; to consent to the provision, withholding,
41 modification ' , ' or withdrawal of any health care procedure; and to
42 make other decisions related to the health care needs of the
43 child(ren)/ward(s).

44
45 Travel. The attorney-in-fact shall have the authority to make
46 travel arrangements on behalf of the child(ren)/ward(s) for
47 destinations both inside and outside of the United States by air

1 and/or ground transportation; to accompany the child(ren)/ward(s)
2 on any such trips; and to make any and all related arrangements on
3 behalf of the child(ren)/ward(s), including ¹,¹ but not limited to ¹,¹
4 hotel accommodations.

5
6 _____ Financial Interests. The attorney-in-fact may handle any and
7 all financial affairs and any and all personal and legal matters
8 concerning the child(ren)/ward(s).

9
10 _____ All Other Powers. The attorney-in-fact shall have the
11 authority to handle and engage in any and all other matters relating
12 to the care, custody, and property of the ¹[child or ward]
13 child(ren)/ward(s)¹ which are permitted pursuant to applicable State
14 law.

15
16 By this delegation, I/we provide that the attorney-in-fact's authority
17 shall take effect upon the following "triggering event" (check one
18 that applies):

19
20 _____ The execution of this document on the latest date below; or

21
22 _____ My attending physician concludes that I am mentally
23 incapacitated, and thus unable to care for my child(ren)/ward(s); or

24
25 _____ My attending physician concludes that I am physically
26 debilitated, and thus unable to care for my child(ren)/ward(s); or

27
28 _____ I am detained in immigration detention, removed, or deported;
29 or

30
31 _____ I am incarcerated based on criminal charges, including pending
32 charges, or conviction; or

33
34 _____ I am deployed in military service; or

35
36 _____ Upon my death.

37
38 In the event that the person designated above is unable or unwilling
39 to act as attorney-in-fact to my child(ren)/ward(s), I hereby name
40 (name, address ¹,¹ and telephone number of alternate attorney-in-
41 fact), as alternate attorney-in-fact of my child(ren)/ward(s).

42
43 I/we understand that this delegation will expire one year from the
44 execution of this document on the latest date below, and that the
45 authority of the attorney-in-fact, if any, will cease, unless by that
46 date (i) I renew this delegation, by the same process applicable to
47 the original delegation, or (ii) a court of competent jurisdiction

1 appoints a custodian, guardian, or standby guardian for the minor
2 '[child or ward] child(ren)/ward(s)' .

3
4 I/we hereby authorize that the attorney-in-fact as set forth above
5 shall be provided with a copy of my/our attending physician's
6 statement(s), if applicable.

7
8 In the event that a triggering event occurs and a power of attorney is
9 activated pursuant to this statement, I declare that it is my intention
10 to retain full parental rights to the extent consistent with my
11 condition and circumstances and, further, that I retain the authority
12 to revoke the power of attorney consistent with my rights herein at
13 any time.

14
15 Parent's/Custodian's/Guardian's Signature:

16
17 Date:

18
19 Signature of other parent or of parent who shares legal custody with
20 a custodian who signed above:

21
22 Date:

23
24 Witness's Signature:

25
26 Address:

27
28 Date:

29
30
31 Witness's Signature:

32
33 Address:

34
35 Date:

36 (cf: P.L.2005, c.304, s.27)

37
38 2. Section 2 of P.L.1995, c.76 (C.3B:12-68) is amended to read
39 as follows:

40 2. The Legislature finds and declares that there is an imperative
41 need to create an expeditious manner of establishing a guardianship
42 known as a standby guardianship, in order to enable a **[custodial]**
43 **parent [or legal], custodian [suffering from a progressive chronic**
44 **condition or a fatal illness], or guardian who cannot currently, or**
45 **who anticipates being unable to, provide adequate care to a minor**
46 **child or ward,** to make plans for the permanent future care or the
47 interim care of a minor child or ward without terminating parental
48 or legal rights. The Legislature further finds that current law does

1 not adequately address the needs of **【custodial】** parents, custodians,
2 or **【legal custodians】** guardians who are **【suffering from a**
3 **progressive chronic condition or a fatal illness】** facing separation
4 from their minor children or wards because of illness, immigration
5 administrative action, criminal proceedings, military service, or
6 other reasons, and who desire to make plans for the future care of
7 their children or wards without terminating parental or legal rights.
8 (cf: P.L.1995, c.76, s.2)

9

10 3. Section 3 of P.L.1995, c.76 (C.3B:12-69) is amended to read
11 as follows:

12 3. As used in P.L.1995, c.76 (C.3B:12-67 et seq.):

13 "Appointed standby guardian" means a person appointed
14 pursuant to section 6 of P.L.1995, c.76 (C.3B:12-72) to assume the
15 duties of guardian over the person and, when applicable, the
16 property of a minor child or ward upon **【the death or a**
17 **determination of incapacity or debilitation, and with the consent, of**
18 **the parent or legal custodian】** a ¹ **【“triggering event” as defined in**
19 this section】 triggering event¹ .

20 "Attending physician" means the physician who has primary
21 responsibility for the treatment and care for the petitioning parent,
22 custodian, or **【legal custodian】** guardian. When more than one
23 physician shares this responsibility, or when a physician is acting
24 on the primary physician's behalf, any such physician may act as the
25 attending physician pursuant to this act. When no physician has
26 this responsibility, a physician who is familiar with the petitioner's
27 medical condition may act as the attending physician pursuant to
28 P.L.1995, c.76 (C.3B:12-67 et seq.).

29 **【"Consent" means written consent signed by the parent or legal**
30 **custodian in the presence of two witnesses who shall also sign the**
31 **document. The written consent shall constitute the terms for the**
32 **commencement of the duties of the standby guardian.】**

33 “Criminal proceeding” means any incarceration on criminal
34 charges, including pending charges, or a criminal sentence that
35 separates a parent, custodian, or guardian from a minor child or
36 ward.

37 “Custodian” means a person, other than a parent, who has been
38 granted legal and physical custody of a minor child by a court of
39 competent jurisdiction.

40 **【"Debilitation"】** “Debilitated” means the parent, custodian, or
41 guardian has a chronic and substantial inability, as a result of a
42 physically debilitating illness, disease, or injury, to care for **【one's】**
43 the parent’s, custodian’s, or guardian’s minor child or ward.

44 **【"Designated standby guardian" means a person designated**
45 **pursuant to section 8 of P.L.1995, c.76 (C.3B:12-74) to assume**
46 **temporarily the duties of guardianship over the person and, when**
47 **applicable, the property of a minor child upon the death or a**

1 determination of incapacity or debilitation, and with the consent, of
2 the parent or legal custodian.

3 "Designation" means a written document voluntarily executed by
4 the designator pursuant to P.L.1995, c.76.

5 "Designator" means a competent parent or legal custodian of a
6 minor child who makes a designation pursuant to P.L.1995, c.76.

7 "Determination of debilitation" means a written determination
8 made by the attending physician which contains the physician's
9 opinion to a reasonable degree of medical certainty regarding the
10 nature, cause, extent, and probable duration of the parent's or legal
11 custodian's debilitation.

12 "Determination of incapacity" means a written determination
13 made by the attending physician which contains the physician's
14 opinion to a reasonable degree of medical certainty regarding the
15 nature, cause, extent, and probable duration of the parent's or legal
16 custodian's incapacity.】

17 "Guardian" means a person appointed by a court of competent
18 jurisdiction as a guardian of **1**【the person of】**1** a minor **1**child**1** or an
19 incapacitated person, including **1**,**1** but not limited to **1**,**1** a kinship
20 legal guardian.

21 "Immigration administrative action" means any immigration
22 proceeding, enforcement action, detention, removal, or deportation
23 that separates a parent, custodian, or guardian from a minor child or
24 ward.

25 **【"Incapacity"】** "Incapacitated" means the parent, custodian, or
26 guardian has a chronic and substantial inability, as a result of
27 mental or **【organic】** physical impairment, to understand the nature
28 and consequences of decisions concerning the care of **【one's】** the
29 parent's, custodian's, or guardian's minor child or ward, and a
30 consequent inability to make these decisions.

31 "Military service" means duty by any person in the active
32 military service of the United States or the active military service of
33 the State, including in the National Guard or State Guard, that
34 separates a parent, custodian, or guardian from a minor child or
35 ward.

36 "Minor child" means a child under the age of **1**【eighteen】 **18**¹
37 years but excludes a child residing in a placement funded or
38 approved by the Division of Child Protection and Permanency in
39 the Department of Children and Families pursuant to either a
40 voluntary placement agreement or court order.

41 **1**【"Parent" means the biological or adoptive parent of a minor
42 child.】**1**

43 "Triggering event" means an event stated in the **【designation,】**
44 petition or decree **【which】** that empowers the standby guardian to
45 assume the duties of the office **【,** which event may be the death,
46 incapacity or debilitation, with the consent, of the custodial parent
47 or legal custodian, whichever occurs first**】.** Triggering events

1 include, but are not limited to: ¹**[(1)]**¹ the appointment of a
 2 standby guardian by a court of competent jurisdiction; ¹**[(2)]**¹ the
 3 parent's, custodian's, or guardian's attending physician concludes
 4 that the parent, custodian, or guardian is ¹**["incapacitated"** as
 5 defined in this section] incapacitated¹ ; ¹**[(3)]**¹ the parent's,
 6 custodian's, or guardian's attending physician concludes that the
 7 parent, custodian, or guardian is ¹**["debilitated"** as defined in this
 8 section] debilitated¹ ; ¹**[(4)]**¹ the parent, custodian, or guardian is
 9 subject to ¹**["immigration administrative action"** as defined in this
 10 section] immigration administrative action¹ ; ¹**[(5)]**¹ the parent,
 11 custodian, or guardian is subject to ¹**["criminal proceedings"** as
 12 defined in this section] criminal proceedings¹ ; ¹**[(6) the]**¹ the
 13 parent, custodian, or guardian is in ¹**["military service"** as defined
 14 in this section] military service¹ ; or ¹**[(7)]**¹ the death of the parent,
 15 custodian, or guardian.

16 "Ward" means ¹**[an individual]** a person¹ for whom a guardian
 17 is appointed.

18 (cf: P.L.2012, c.16, s.12)

19

20 4. Section 6 of P.L.1995, c.76 (C.3B:12-72) is amended to read
 21 as follows:

22 6. a. Upon petition of **[the]** a parent, custodian, guardian,
 23 [legal custodian or designated standby guardian] or attorney-in-fact
 24 appointed pursuant to N.J.S.3B:12-39, the court may appoint a
 25 standby guardian of a minor child or ward. The court may also
 26 appoint an alternate standby guardian, if identified by the petitioner,
 27 to act if the appointed standby guardian dies, becomes
 28 incapacitated, or otherwise refuses or is unable to assume the duties
 29 of the standby guardian after the **[death, incapacity or debilitation**
 30 **of the parent or legal custodian of the minor child]** triggering event
 31 stated in the petition.

32 b. A petition for the judicial appointment of a standby guardian
 33 of a minor child or ward shall state:

34 (1) which triggering event or events shall cause the authority of
 35 the appointed standby guardian to become effective;

36 (2) **[that there is a significant risk that the parent or legal**
 37 **custodian will die, become incapacitated, or become debilitated as a**
 38 **result of a progressive chronic condition or a fatal illness; however,**
 39 **a petitioner shall not be required to submit medical documentation**
 40 **of the parent's or legal custodian's terminal status by his attending**
 41 **physician; and**

42 **(3)]** the name**[,] and** address**[,] and qualifications]** of the
 43 proposed standby guardian; and

44 (3) the qualifications of the proposed standby guardian.

45 c. A parent, custodian, or **[legal custodian]** guardian
 46 petitioning the court pursuant to this section shall not be required to

1 appear in court if unable to appear, except upon motion of the court
2 or by any party and for good cause shown.

3 d. The court shall appoint the standby guardian if the court
4 finds that **【there is a significant risk that the parent or legal**
5 **custodian will die, become incapacitated, or become debilitated as a**
6 **result of a progressive chronic condition or a fatal illness,】** the
7 proposed standby guardian is fit and willing to assume the duties of
8 that role, and that the interests of the minor child or ward would be
9 promoted by the appointment of the standby guardian.

10 e. The decree appointing the standby guardian shall specify the
11 triggering event which shall activate the authority of the standby
12 guardian.

13 f. Upon petition for the appointment of a standby guardian by a
14 person as specified in subsection a. of this section, notice shall be
15 served on the minor child's parent **【or legal】**, custodian, guardian,
16 **or 【the designated standby guardian】** attorney-in-fact appointed
17 pursuant to N.J.S.3B:12-39, as appropriate, within 30 days of the
18 filing. **【The】** During the time that the petition is pending, the court
19 shall give preference to maintaining custody with 【either the parent
20 or legal custodian, or the designated standby guardian, during the
21 time that the petition is pending】 whoever had custody of the minor
22 child or ward at the time the petition was filed. Nothing in this
23 section shall be construed to deprive any parent of parental rights. If
24 the petition alleges that after diligent search, the parent **【or legal】**,
25 custodian, or guardian cannot be found, the parent **【or legal】**,
26 custodian, or guardian shall be served by notice delivered pursuant
27 to New Jersey court rules. No notice is necessary to a **【parent】**
28 person who is deceased or to a parent whose parental rights have
29 been previously terminated by court order or consent.

30 (cf: P.L.1995, c.76, s.6)

31

32 5. Section 7 of P.L.1995, c.76 (C.3B:12-73) is amended to read
33 as follows:

34 7. a. Upon the occurrence of a triggering event set forth in a
35 decree appointing a standby guardian, the standby guardian shall be
36 'immediately' empowered to assume '【the】 guardianship' duties
37 '【of his office immediately】'.

38 b. **【If the triggering event is the incapacity or debilitation of**
39 **the parent or legal custodian, the attending physician shall provide a**
40 **copy of his determination to the appointed standby guardian if the**
41 **guardian's identity is known to the attending physician.】** (Deleted
42 by amendment, P.L. , c.) (pending before the Legislature as
43 this bill)

44 c. Within **【60】** 90 days following the assumption of
45 guardianship duties, the appointed standby guardian shall petition
46 the court for confirmation. The confirmation petition shall include

1 a determination **【**of incapacity or debilitation or a death certificate,
2 as appropriate**】** that the triggering event has occurred.

3 d. The court shall confirm an appointed standby guardian
4 named in accordance with this act and otherwise qualified to serve
5 as guardian pursuant to N.J.S.3B:12-1 et seq. unless there is a
6 judicial determination of unfitness with regard to the appointed
7 standby guardian.

8 e. A standby guardian appointed pursuant to section 6 of **【**this
9 act**】** P.L.1995, c.76 (C.3B:12-72) may decline appointment at any
10 time before the assumption of **‘【**his**】** standby guardianship¹ duties
11 by filing a written statement to that effect with the court, with
12 notice to be provided to the petitioner and to the minor child or
13 ward if the **【**latter**】** child or ward is 14 years of age or older.

14 f. Commencement of the duties of the standby guardian shall
15 confer upon the appointed standby guardian shared authority with
16 the **【**custodial**】** parent, custodian, or 【legal custodian】 guardian of
17 the minor child or ward, unless the petition states otherwise.

18 g. A parent, custodian, or guardian 【or legal custodian】 may
19 revoke a standby guardianship by executing a written revocation,
20 filing it with the court where the petition was filed, and promptly
21 notifying the appointed standby guardian of the revocation. An
22 unwritten revocation may be considered by the court if the
23 revocation can be proved by clear and convincing evidence
24 submitted to the court.

25 (cf: P.L.1995, c.76, s.7)

26

27 6. Sections 8 through 12 of P.L.1995, c.76 (C.3B:12-74
28 through C.3B:12-78) are repealed.

29

30 7. This act shall take effect on the 90th day following
31 enactment.