

**ASSEMBLY, No. 5131**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED FEBRUARY 6, 2023

**Sponsored by:**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**Co-Sponsored by:**

**Assemblyman Stanley**

**SYNOPSIS**

Requires court to consider certain factors in appointing guardian and to justify guardianship appointment on record.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/6/2023)**

1 AN ACT concerning guardianship of an adult and supplementing  
2 Title 3B of the New Jersey Statutes.

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

6  
7 1. a. In any proceeding involving the court determining the  
8 need for guardianship services for an individual pursuant to section  
9 12 of P.L.2005, c.304 (C.3B:12-24.1) and N.J.S.3B:12-25, the court  
10 shall consider, but is not limited to, the following factors:

11 (i) the health, safety, and the well-being of the individual;

12 (ii) the ability of the potential guardian to care for the  
13 individual;

14 (iii) any pre-established relationship between the potential  
15 guardian and the individual;

16 (iv) any affidavits or certifications provided by physicians  
17 evidencing the individual's incapacity as defined pursuant to  
18 N.J.S.3B:1-2;

19 (v) any report provided to the court by a court-appointed counsel  
20 for the alleged incapacitated individual in an incapacity hearing;  
21 and

22 (vi) any issue relevant to the care of the alleged incapacitated  
23 individual or the management of the individuals estate.

24 b. After consideration of the factors set forth in subsection a. of  
25 this section, any determination that an individual is in need of  
26 guardianship services pursuant to section 12 of P.L.2005, c.304  
27 (C.3B:12-24.1) and N.J.S.3B:12-25 shall be based on clear and  
28 convincing evidence.

29 c. The court shall specifically place on the record the factors  
30 and evidence which justify the appointment of a guardian for an  
31 individual.

32  
33 2. This act shall take effect immediately.

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36 STATEMENT

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38 This bill establishes factors a court is required to consider when  
39 making a guardianship determination for an individual. This bill  
40 would apply to general and temporary guardianship, guardianship  
41 for the person, guardianship for the estate, or both.

42 Under current law, the court is not required to consider specific  
43 factors when making a guardianship determination or to record the  
44 specific factors which justify making a guardianship determination.

45 Under the bill, the court is required to consider, but is not limited  
46 to, the following factors: (i) the safety and the well-being of the  
47 individual; (ii) the ability of the potential guardian to care for the  
48 individual; (iii) any pre-established relationship between the

1 potential guardian and the individual; (iv) any affidavits or  
2 certifications provided by physicians evidencing the individual's  
3 incapacity; (v) any report provided to the court by a court-appointed  
4 counsel for the alleged incapacitated individual in an incapacity  
5 hearing; and (vi) any issue relevant to the care of the alleged  
6 incapacitated individual or the management of the individual's  
7 estate. The bill requires any determination for guardianship to be  
8 based on clear and convincing evidence.

9 Finally, the court is required to specifically place on the record  
10 the factors and evidence which justify the appointment of a  
11 guardian for an individual.