

**ASSEMBLY, No. 4496**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JUNE 6, 2024

**Sponsored by:**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex and Hudson)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblyman Atkins and Assemblywoman Bagolie**

**SYNOPSIS**

Revises visitation and reporting rules for professional guardians.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/6/2024)**

A4496 SPEIGHT, WIMBERLY

2

1 AN ACT concerning professional guardians and amending  
2 N.J.S.3B:12-57 and N.J.S.3B:12-42.

3

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

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7 1. N.J.S.3B:12-57 is amended to read as follows:

8 3B:12-57. Powers and duties of a guardian of the person of a  
9 ward.

10 a. (Deleted by amendment, P.L.2005, c.304.)

11 b. (Deleted by amendment, P.L.2005, c.304.)

12 c. (Deleted by amendment, P.L.2005, c.304.)

13 d. (Deleted by amendment, P.L.2005, c.304.)

14 e. (Deleted by amendment, P.L.2005, c.304.)

15 f. In accordance with Section 12 of P.L.2005, c.304 (C.3B:12-  
16 24.1), a guardian of the person of a ward shall exercise authority  
17 over matters relating to the rights and best interest of the ward's  
18 personal needs, only to the extent adjudicated by a court of  
19 competent jurisdiction. In taking or forbearing from any action  
20 affecting the personal needs of a ward, a guardian shall give due  
21 regard to the preferences of the ward, if known to the guardian or  
22 otherwise ascertainable upon reasonable inquiry. To the extent that  
23 it is consistent with the terms of any order by a court of competent  
24 jurisdiction, the guardian shall:

25 (1) take custody of the ward and establish the ward's place of  
26 abode in or outside of this State;

27 (2) personally visit the ward or if a public agency which is  
28 authorized to act pursuant to P.L.1965, c.59 (C.30:4-165.1 et seq.)  
29 and P.L.1970, c.289 (C.30:4-165.7 et seq.) or the Office of the  
30 Public Guardian pursuant to P.L. 1985, c.298 (C.52:27G-20 et seq.)  
31 or their representatives which may include a private or public  
32 agency, visits the ward not less than once every three months, or as  
33 deemed appropriate by the court, and otherwise maintain sufficient  
34 contact with the ward to know ~~his~~the ward's capacities,  
35 limitations, needs, opportunities, and physical and mental health;  
36 except that, if a registered professional guardian, visits the ward not  
37 less than once every three weeks, or as deemed appropriate by the  
38 court, and otherwise maintain sufficient contact with the ward to  
39 know the ward's capacities, limitations, needs, opportunities and  
40 physical and mental health;

41 (3) provide for the care, comfort and maintenance and,  
42 whenever appropriate, the education and training of the ward;

43 (4) subject to the provisions of subsection c. of N.J.S.3B:12-56,  
44 give or withhold any consents or approvals that may be necessary to

**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 enable the ward to receive medical or other professional care,  
2 counsel, treatment or service;

3 (5) take reasonable care of the ward's clothing, furniture,  
4 vehicles and other personal effects and, where appropriate, sell or  
5 dispose of such effects to meet the current needs of the ward;

6 (6) institute an action for the appointment of a guardian of the  
7 property of the ward, if necessary for the protection of the property;

8 (7) develop a plan of supportive services for the needs of the  
9 ward and a plan to obtain the supportive services;

10 (8) if necessary, institute an action against a person having a  
11 duty to support the ward or to pay any sum for the ward's welfare in  
12 order to compel the performance of the duties;

13 (9) receive money, payable from any source for the current  
14 support of the ward, and tangible personal property deliverable to  
15 the ward. Any sums so received shall be applied to the ward's  
16 current needs for support, health care, education and training in the  
17 exercise of the guardian's reasonable discretion, with or without  
18 court order, with or without regard to the duty or ability of any  
19 person to support or provide for the ward and with or without  
20 regard to any other funds, income or property that may be available  
21 for that purpose, unless an application is made to the court to  
22 establish a supplemental needs trust or other trust arrangement.  
23 However, the guardian may not use funds from the ward's estate for  
24 room and board, which the guardian, the guardian's spouse or  
25 domestic partner as defined in section 3 of P.L.2003, c. 246  
26 (C.26:8A-3), parent or child have furnished the ward, unless agreed  
27 to by a guardian of the ward's estate pursuant to N.J.S.3B:12-41, or  
28 unless a charge for the service is approved by order of the court  
29 made upon notice to at least one of the heirs of the ward, if  
30 possible. The guardian shall exercise care to conserve any excess  
31 funds for the ward's needs; **[and]**

32 (10) If necessary, institute an action that could be maintained by  
33 the ward including but not limited to, actions alleging fraud, abuse,  
34 undue influence and exploitation; and

35 (11) Report at time intervals as ordered by the court, the  
36 condition of the ward and the condition of the ward's estate which  
37 has been subject to the guardian's possession or control.

38 g. In the exercise of the foregoing powers, the guardian shall  
39 encourage the ward to participate with the guardian in the decision-  
40 making process to the maximum extent of the ward's ability in order  
41 to encourage the ward to act on **[his]**the ward's own behalf  
42 whenever **[he]**the ward is able to do so, and to develop or regain  
43 higher capacity to make decisions in those areas in which **[he]**the  
44 ward is in need of guardianship services, to the maximum extent  
45 possible.

46 (cf: P.L.2005, c.304, s.39)

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48 2. N.J.S.3B:12-42 is amended to read as follows:

1 3B:12-42. Reporting condition of ward's person and property to  
2 court.

3 A guardian shall report at time intervals as ordered by the court,  
4 unless otherwise waived by the court, the condition of the ward and  
5 the condition of the ward's estate which has been subject to the  
6 guardian's possession or control as ordered by the court.

7 a. A report by the guardian of the person shall state or contain:

8 (1) the current mental, physical and social condition of the  
9 ward;

10 (2) the living arrangements for all addresses of the ward during  
11 the reporting period;

12 (3) the medical, educational, vocational and other services  
13 provided to the ward and the guardian's opinions as to the adequacy  
14 of the ward's care;

15 (4) a summary of the guardian's visits with the ward and  
16 activities on the ward's behalf and the extent to which the ward has  
17 participated in decision-making;

18 (5) if the ward is institutionalized, whether or not the guardian  
19 considers the current plan for care, treatment or habilitation to be in  
20 the ward's best interest;

21 (6) plans for future care; and

22 (7) a recommendation as to the need for continued guardianship  
23 and any recommended changes in the scope of the guardianship.

24 b. The court may appoint an individual to review a report,  
25 interview the ward or guardian and make any other investigation the  
26 court directs.

27 c. Agencies authorized to act pursuant to P.L.1985, c. 298  
28 (C.52:27G-20 et seq.), P.L.1985, c. 145 (C.30:6D-23 et seq.),  
29 P.L.1965, c. 59 (C.30:4-165.1 et seq.) and P.L.1970, c. 289 (C.30:4-  
30 165.7 et seq.) and public officials appointed as limited guardians of  
31 the person for medical purposes for individuals in psychiatric  
32 facilities listed in R.S.30:1-7 shall be exempt from this section.

33 d. A family member may request, upon a motion to the Court, a  
34 report from a registered professional guardian, prepared at time  
35 intervals as ordered by the court, concerning the condition of the  
36 ward and the condition of the ward's estate which has been subject  
37 to the guardian's possession or control.

38 (cf: P.L. 2005, c.304, s.29)

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40 3. This act shall take effect immediately.

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#### STATEMENT

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45 This bill revises the duty of professional guardians to meet with  
46 and report on the status of an incapacitated ward. At present,  
47 persons appointed guardian of the person of a ward, including  
48 persons appointed to serve as registered professional guardians,

1 have an obligation to visit the ward and to maintain sufficient  
2 contact with the ward to know the ward's capacities, limitations,  
3 needs, opportunities and physical and mental health.  
4 N.J.S.A.3B:12-57 provides general rules for guardians, which  
5 include that the guardian personally visit the ward not less than  
6 once every three months, or as deemed appropriate by the court, and  
7 otherwise maintain sufficient contact with the ward to know the  
8 ward's capacities, limitations, needs, opportunities and physical and  
9 mental health. This bill would require a registered professional  
10 guardian, who is compensated for guardianship services, to  
11 personally meet with the ward not less than once every three weeks,  
12 or as deemed appropriate by the court.

13 The bill further provides that a family member of the ward may,  
14 upon motion to the Court, request a report be prepared by a  
15 registered professional guardian concerning the condition of the  
16 ward and the condition of the ward's estate which has been subject  
17 to the guardian's possession or control as ordered by the court.