3B:13A-1 to 3B:13A-36

LEGISLATIVE HISTORY CHECKLIST

NJSA: 3B:13A-1 to 3B:13A-36 (Conservators - prescribes procedures governing)

LAWS OF: 1983 CHAPTER: 192

Bill No: S1124

Sponsor(s): Feldman

Date Introduced: March 1, 1982

Committee: Assembly: Judiciary, Law, Public Safety and Defense

Senate: Judiciary

Amended during passage: Yes // Substituted for A1281 (not attached since identical to S1124)

Date of Passage: Assembly: Feb. 14, 1983

Senate: Sept. 16, 1982

Date of Approval: May 23, 1983

Following statements are attached if available:

Sponsor statement:		Yes	// Also attached: Assembly amendments, adopted 2-14-83 (with statement)
Committee statement:	Assembly	Yes	//
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		///	No

Following were printed:

Reports:	///	No
Hearings:	///	No

192 83
5-23-83

[OFFICIAL COPY REPRINT]

SENATE, No. 1124

STATE OF NEW JERSEY

INTRODUCED MARCH 1, 1982

By Senator FELDMAN

Referred to Committee on Judiciary

AN ACT concerning conservators, enacting chapter 13A of Title 3B of the New Jersey Statutes, and amending N. J. S. 3B:20-1.

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

1. TITLE 3B

CHAPTER 13A

CONSERVATORS

3B:13A-1. Definitions.
3B:13A-2. Civil action to appoint conservator.
3B:13A-3. Appointment of counsel to represent conservatee.
3B:13A-4. Conservatee to be present at hearing; court ordered investigation if conservatee unable to attend.
3B:13A-5. By whom action for appointment of conservator in behalf of conservatee may be brought.
3B:13A-6. Service of notice to appoint conservator.
3B:13A-7. Right of persons to be heard.
3B:13A-8. Designation of conservator.
3B:13A-9. Acceptance of appointment.
3B:13A-10. Power of attorney; filing; contents.
3B:13A-11. Service of process.
3B:13A-12. "Process" defined.
3B:13A-13. Bond.
3B:13A-14. Conditions of bond.
3B:13A-15. Bond premium.
3B:13A-16. Limitations on appointment of conservator.
3B:13A-17. Inventory.

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 printed in italics *thus* is new matter.
Matter enclosed in asterisks or stars has been adopted as follows:
***—Assembly committee amendment adopted November 29, 1982.**
****—Assembly amendment adopted February 14, 1983.**

3B:13A–1. Definitions.

As used in this chapter:

a. "Conservatee" means a person who has not been judicially declared incompetent but who by reason of advanced age, illness or physical infirmity, is unable to care for or manage his property or has become unable to provide for himself or others dependent upon him for support;

b. "Conservator" means a person appointed by the court to manage the estate of a conservatee.

Source: New.

3B:13A–2. Civil action to appoint conservator. The Superior Court may, in a civil action brought by the conservatee or some other person in his behalf, appoint a conservator to manage the estate of a conservatee, except that if the conservatee objects to the imposition of a conservatorship, a conservator shall not be appointed.

Source: New.

3B:13A–3. Appointment of counsel to represent conservatee. The court shall have the right to appoint counsel for the proposed conservatee if it believes that counsel is necessary to adequately protect the interests of the conservatee.

Source: New.

3B:13A–4. Conservatee to be present at hearing; court ordered investigation if conservatee unable to attend. The conservatee shall be present at the hearing unless he is unable to attend by reason of physical or other inability, and that inability is established to the satisfaction of the court. If the conservatee is found to be unable to attend, the court shall, subject to rules of court, order an investigation to be conducted to assure the conservatee does not object to the conservatorship unless the court believes, in its discretion, that the interests of the conservatee are adequately protected by counsel representing the conservatee.

Source: New.

3B:13A–5. By whom action for appointment of conservator in behalf of conservatee may be brought. An action for the appointment of a conservator may be brought **by the conservatee as provided in section 3B:13A–2 or** in the conservatee's behalf by:

a. His spouse;

b. His adult children or, where there are none, the person or persons closest in degree of kinship to the conservatee;

c. Any person having concern for the financial or personal well-being of the conservatee;

d. A public agency or a social services official of the county in which the conservatee resides regardless of whether or not the conservatee is a recipient of public assistance, or

e. The chief administrator of a State licensed hospital, school or institution in which the conservatee is a patient or from which he receives services.

Source: New.

3B:13A–6. Service of notice to appoint conservator. Notice of the action to appoint a conservator shall be served upon the following persons:

a. The conservatee unless he is the plaintiff;

b. The spouse and adult children of the conservatee or, where there are none, upon the person or persons closest in degree of kinship to the conservatee;

c. The person with whom the conservatee resides, or if the conservatee resides in an institution, upon the chief administrator of that institution.

Source: New.

3B:13A-7. Right of persons to be heard. The persons receiving notice pursuant to N. J. S. 3B:13A-6 may, upon approval of the court and in the interest of the conservatee, appear and be heard concerning all matters relating to the conservatorship.

Source: New.

3B:13A-8. Designation of conservator. The court may appoint a person or a financial institution, qualified under the laws of this State to act as a fiduciary, as the conservator of the conservatee's estate. If the court appoints a conservator, it shall do so in the following order of priority:

a. A person or financial institution nominated or designated by the conservatee;

b. The conservatee's spouse;

c. One or more of the conservatee's adult children, or where there are none, the person or persons closest in degree of kinship to the conservatee, or

d. Some other proper person or financial institution as the court shall determine.

The court may, in its discretion, deviate from this order of priority if a potential conservator is unable or unwilling to serve or for some other good cause.

Source: New.

3B:13A-9. Acceptance of appointment. Before letters of conservatorship are issued, the conservator shall accept the appointment in accordance with the Rules Governing The Courts of the State of New Jersey.

Source: New.

3B:13A-10. Power of attorney; filing; contents. Every conservator, whether or not a resident of this State, who is granted letters of conservatorship within this State shall, at the time of the grant of letters of conservatorship to him, file a power of attorney with the clerk of the court. The power of attorney shall be duly executed in writing, shall set forth the post office address, street and number of the conservator and, by sufficient language, constitute the clerk with whom the power of attorney is filed and his successors in office, his true and lawful attorney to receive process affecting the estate in his charge, or any interest therein, with the same force and effect as if the process were duly served on the conservator within this State.

Source: New.

3B:13A-11. Service of process. Service of process under N. J. S. 3B:13A-10 shall be made by leaving a copy of the process with the clerk of the court together with a fee of $2.00 to be taxed in the costs.

The clerk shall forthwith notify the conservator of the service by mailing a letter, with a copy of the process served enclosed, with full postage prepaid, directed to the conservator at the post office address given in the power of attorney.

Source: New.

3B:13A-12. "Process" defined. The word "process" as used in N. J. S. 3B:13A-10 and N. J. S. 3B:13A-11 shall have the same meaning as set forth in N. J. S. 3B:14-46.

Source: New.

3B:13A-13. Bond. The court may, upon appointing a conservator in order to secure the faithful performance of the duties of his office, require him to furnish bond to the Superior Court in a sum and with proper conditions and sureties having due regard to the value of the estate in his charge and the extent of his authority, as the court shall approve.

Source: New.

3B:13A-14. Conditions of bond. If a bond is required of a conservator, it shall be conditioned substantially as follows:

a. To well and truly take care of the estate of the conservatee and all writings and evidences concerning his real estate and to deliver them to the person or persons who by law are or may be entitled to receive them;

b. To improve the real estate to the best advantage and to commit no waste or destruction thereof or thereon;

c. To make a just and true account of the rents, issues and profits of the real estate and of the proceeds of the sale of any real estate that may be ordered to be sold;

d. To make a just and true account of the expenditures and disbursements of the goods, chattels and personal estate of the conservatee that shall come into his hands; and

e. If required by court, to settle those accounts therein within the time so required.

Source: New.

3B:13A-15. Bond premium. A conservator may include as a part of the lawful expense of executing his trust a reasonable sum, not exceeding 1% per annum on the amount of any bond, paid a company authorized under the laws of this State to become a surety on his bonds, as may be allowed by the court in which he is required to account.

Source: New.

3B:13A-16. Limitations on appointment of conservator. The appointment of a conservator shall not:

a. Be evidence of the competency or incompetency of a conservatee; or

b. Transfer title of the conservatee's real and personal property to the conservator; or

c. Deprive nor modify any civil right of the conservatee, including but not limited to civil service status and appointment or rights relating to the granting, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law.

Source: New.

3B:13A–17. Inventory. A conservator may, and if required by the court shall, file with the clerk of the court an inventory, under oath, of all the real and personal property which has come into his hands or control or into the hands of any other person for him. The court shall not require an inventory and appraisement to be filed until 3 months have elapsed after the grant of letters.

Source: New.

3B:13A–18. Expenditures to be made by conservator out of conservatee's estate. A conservator may expend or distribute so much or all of the income or principal of the conservatee for his support, maintenance, education, general use and benefit and for the support, maintenance, education, general use and benefit of his dependents, in the manner, at the time or times and to the extent that the conservator, in an exercise of a reasonable discretion, deems suitable and proper, with or without court order, with or without regard to the duty or ability of any person to support or provide for the conservatee, and with or without regard to any other funds, income or property which may be available for any of those purposes.

Source: New.

3B:13A–19. Recommendations to be considered by conservator in making expenditures. In making expenditures under N. J. S. 3B:13A–18, a conservator shall consider recommendations relating to the appropriate standard of support, education and benefit for the conservatee made by any party set forth in N. J. S. 3B:13A–6. He may not be surcharged for sums paid to persons or organizations actually furnishing support, education or care to the conservatee pursuant to the recommendations of a parent, spouse or heir of the conservatee unless he knows that the parent, spouse or heir of the conservatee is deriving personal financial benefit therefrom, or unless the recommendations are clearly not in the best interests of the conservatee.

Source: New.

3B:13A–20. Other factors to be considered by conservator in making expenditures. In making expenditures under N. J. S. 3B:13A–19, the conservator shall expend or distribute sums

reasonably necessary for the support, education, care or benefit of the conservatee with due regard to:

a. The size of the conservatee's estate;

b. The probable duration of the conservatorship and the likelihood that the conservatee, at some future time, may be fully able to manage his affairs and the estate which has been conserved for him; and

c. The accustomed standard of living of the conservatee and members of his household.

Source: New.

3B:13A–21. Persons for whose benefit expenditures may be made. The conservator may expend funds of the conservatee's estate for the support of persons legally dependent on the conservatee and others who are members of the conservatee's household who are unable to support themselves, and who are in need of support.

Source: New.

3B:13A–22. Persons to whom funds may be paid. Funds expended under N. J. S. 3B:13A–18 may be paid by the conservator to any person, including the conservatee, to reimburse the conservator for expenditures which he has made, or in advance for services to be rendered to the conservatee when it is reasonable to expect that they will be performed and where advance payments are customary or reasonably necessary under the circumstances.

Source: New.

3B:13A–23. Powers conferred upon conservator. A conservator has all of the powers conferred upon him by law and the terms of this chapter, except that a conservator's powers over the property of the conservatee are limited to the investment of income or the expenditure and distribution of income and principal as set forth in N. J. S. 3B:13A–18 and N. J. S. 3B:13A–21, unless other powers are specifically conferred upon the conservator by the court or by the conservatee in an acknowledged writing.

Source: New.

3B:13A–24. Expansion or limitation of conservator's powers. The court may, at the time of appointment or later, expand or limit the powers of a conservator otherwise conferred by this chapter, or previously conferred by the court, and may at any time relieve him of any expansion or limitation. If the court expands or limits any power conferred on the conservator, the expansion or limitation shall be stated in certificates of letters of conservatorship thereafter issued. The court shall confer powers to the conservator authorizing only that intervention which it finds to be least restrictive of the conservatee's rights while consistent with

11 the conservatee's welfare and safety. The basis for the finding
12 shall be in the record of the court.
13 Source: New.

1 3B:13A–25. Formal accounting. A conservator shall settle his
2 account in the Superior Court at intervals as the court may require,
3 except that a conservator may settle his first account within 1
4 year after his appointment, or as soon thereafter as may be
5 practicable.
6 Source: New.

1 3B:13A–26. Effect of judgment allowing intermediate account.
2 A judgment, made upon notice and hearing, allowing an inter-
3 mediate account of a conservator, shall have the same effect as a
4 judgment allowing an intermediate account of any other fiduciary.
5 Source: New.

1 3B:13A–27. Annual informal report or accounting. The con-
2 servator shall present to the conservatee an annual informal report
3 or accounting setting forth the collection and disposition of income
4 and other assets within the conservator's control. The annual in-
5 formal report or accounting shall be filed with the court and
6 available for inspection by any party set forth in N. J. S. 3B:13A–6.
7 In addition, the court may order, upon a showing of good cause
8 by the conservatee, a full accounting by the conservator of all the
9 conservatee's assets within the conservator's control.
10 Source: New.

1 3B:13A–28. Personal liability of conservator on contracts.
2 Unless otherwise provided in the contract, a conservator is not
3 individually liable on a contract properly entered into in his
4 fiduciary capacity in the course of administration of the estate
5 unless he fails to reveal his representative capacity and identify the
6 estate in the contract.
7 Source: New.

1 3B:13A–29. Personal liability of conservator for obligations
2 arising from control of estate. A conservator is individually liable
3 for obligations arising from control of property of the estate or for
4 any act or omissions committed in the course of administration of
5 the estate only if he is personally at fault.
6 Source: New.

1 3B:13A–30. Asserting claims against estate. Claims based on
2 contracts entered into by a conservator in his fiduciary capacity, on
3 obligations arising from control of the estate, or on any act or
4 omissions committed in the course of administration of the estate
5 may be asserted against the estate by proceeding against the con-

6 servator in his fiduciary capacity, whether or not the conservator
7 is individually liable therefor.
8 Source: New.

1 3B:13A–31. Determining issues of liability between estate and
2 conservator. Any question of liability between the estate and the
3 conservator individually may be determined in a proceeding for
4 accounting, surcharge, or indemnification, or other appropriate
5 proceeding or action.
6 Source: New.

1 3B:13A–32. Liability of conservator for improper exercise of
2 power concerning estate. If the exercise of power concerning the
3 estate is improper, the conservator is liable to the conservatee or
4 interested persons for damage or loss resulting from breach of his
5 fiduciary duty to the same extent as a trustee of an express trust.
6 Source: New.

1 3B:13A–33. Termination of conservatorship by conservatee.
2 Upon application of the conservatee, the court shall terminate the
3 conservatorship, and the conservator, after the allowance of his
4 final account, shall pay over and distribute all funds and property
5 in his hands and under his control to the former conservatee.
6 Source: New.

1 3B:13A–34. Termination of conservatorship upon death or in-
2 competency of conservatee. A conservatorship shall terminate
3 upon the death of the conservatee or upon his having been adjudi-
4 cated to be incompetent as provided by law, but the termination
5 shall not affect the conservator's liability for prior acts nor his
6 obligation to account funds and property of the conservatee.
7 Source: New.

1 3B:13A–35. Substituted conservator. Upon the death of the
2 conservator or his removal by the court for good cause or if he
3 resigns with court approval and after filing his account, the court
4 may appoint another conservator in the manner provided for by
5 this chapter.
6 Source: New.

1 3B:13A–36. Conservator's compensation. A conservator shall be
2 compensated for his services in the same manner as a guardian for
3 a minor or mental incompetent.
4 Source: New.

1 2. N. J. S. 3B:20–1 is amended to read as follows:
2 3B:20–1. Definitions. As used in this chapter:
3 a. "Trust instrument" means and includes a will, deed, agree-
4 ment, court order or other instrument pursuant to which money or
5 other property is entrusted to a fiduciary;

b. "Fiduciary" means an individual or corporation authorized to act as a trustee, personal representative, conservator, guardian, and every other person or corporation charged with the duty of administering a trust estate;

c. "Trust estate" means money or other property entrusted to a fiduciary pursuant to a trust instrument, will, estate of an intestate decedent or the estate of a minor or mentally incompetent person being administered by a guardian;

d. "Investments" means and includes property of every nature, real, personal and mixed, tangible and intangible, which persons of ordinary prudence and reasonable discretion acquire for the purpose of preserving capital and of realizing income; and specifically includes, solely by way of description and not by way of limitation, bonds, debentures and other corporate obligations, capital stocks, common stocks, preferred stocks, common trust funds as defined in and regulated by article 9, "Common Trust Funds," P. L. 1948, c. 67 (C. 17:9A–36 et seq.), and securities of any open-end or closed-end management type investment company or investment trust registered pursuant to the Federal Investment Company Act of 1940, as from time to time amended.

3. This act shall take effect **[May 1, 1982]** ***immediately***.

6 b. "Fiduciary" means an individual or corporation authorized
7 to act as a trustee, personal representative, conservator, guardian,
8 and every other person or corporation charged with the duty of
9 administering a trust estate;
10 c. "Trust estate" means money or other property entrusted to a
11 fiduciary pursuant to a trust instrument, will, estate of an intestate
12 decedent or the estate of a minor or mentally incompetent person
13 being administered by a guardian;
14 d. "Investments" means and includes property of every nature,
15 real, personal and mixed, tangible and intangible, which persons
16 of ordinary prudence and reasonable discretion acquire for the
17 purpose of preserving capital and of realizing income; and specifi-
18 cally includes, solely by way of description and not by way of
19 limitation, bonds, debentures and other corporate obligations,
20 capital stocks, common stocks, preferred stocks, common trust
21 funds as defined in and regulated by article 9, "Common Trust
22 Funds," P. L. 1948, c. 67 (C. 17:9A-36 et seq.), and securities of
23 any open-end or closed-end management type investment company
24 or investment trust registered pursuant to the Federal Investment
25 Company Act of 1940, as from time to time amended.
1 3. This act shall take effect May 1, 1982.

STATEMENT

This bill has been drafted by the Division of Legal Services in furtherance of its duty to consider and make recommendations for the improvement of the general and permanent statute law of this State, and to bring the laws of this State into harmony with modern conceptions and conditions.

The general purpose of this bill is to provide a means whereby persons, who have not been judicially declared incompetent, but who by reason of advanced age or who suffer from certain physical ailments, are incapable from managing their affairs, or someone in their behalf, may apply to the Superior Court to have a conservator judicially appointed to manage that person's affairs.

The bill provides for safeguards upon the appointment of the conservator. He must designate the clerk of the court as his attorney to accept service of process, he may be required to furnish a bond for the faithful performance of his duties, file an inventory under oath of the conservatee's property if required by the court and settle his account at such intervals as the court may direct. A judgment allowing a conservator's intermediate account shall have the same effect as a judgment allowing an intermediate account of any other fiduciary. A conservator is also required to

S1124 (1982)

furnish the conservatee withan annual informal report or accounting.

The bill further provides that the appointment of a conservator shall not be evidence of the conservatee's competency or incompetency nor transfer title of the conservatee's real and personal property to the conservator.

The conservator is empowered to expend so much or all of the conservatee's income or principal for his support, maintenance, education, general use and benefit and that of his dependents as the conservator, in the exercise of reasonable discretion, deems necessary. The distributions are to be made by the conservator in accordance with the following principles: (1) recommendations made by a parent, spouse or heirs of the conservatee, (2) the size of the estate, (3) the probable duration of the conservatorship and (4) the accustomed standard of living of the conservatee and members of his household.

The bill also permits the court to expand or limit any of the powers conferred upon a conservator or it may relieve him of any expanded powers or limitations. In conferring powers upon a conservator, the court shall authorize intervention which will be least restrictive of the conservatee's rights.

The conservator shall be compensated for his services in the same manner as a guardian for a minor or mental incompetent.

TITLE 3B. ADMINISTRATION OF ESTATES—DECEDENTS AND OTHERS

Treatment of Source Material

Revised Section	Source	Treatment of Source
3B:13A–1	New	Defines "conservatee" and "conservator"
3B:13A–2	New	Designates the court in which an action may be brought
3B:13A–3	New	Authorizes court to appoint attorney to protect interests
3B:13A–4	New	Patterned after R. 4:83–4 and R. 4:83–5
3B:13A–5	New	Derived from section 5–404 U. P. C. and R. 4:83–1
3B:13A–6	New	Derived from section 5–405 U. P. C. and R. 4:83–4 (a)
3B:13A–7	New	Permits persons receiving notice to attend hearing

Revised Section	Source	Treatment of Source
3B:13A–8	New	Revised section derived from section 5–410 U. P. C. and N. J. S. 3B:12–25
3B:13A–9	New	Revised section derived from R. 4:82–5
3B:13A–10	New	Revised section derived from N. J. S. 3B:14–47
3B:13A–11	New	Revised section derived from N. J. S. 3B:14–48
3B:13A–12	New	Revised section derived from N. J. S. 3B:14–46
3B:13A–13	New	Revised section derived from N. J. S. 3B:15–1
3B:13A–14	New	Revised section derived from N. J. S. 3B:15–5 and N. J. S. 3B:15–7
3B:13A–15	New	Revised section derived from N. J. S. 3B:15–8
3B:13A–16	New	Revised section derived from the New York Conservator Law
3B:13A–17	New	Revised section derived from N. J. S. 3B:16–8
3B:13A–18	New	Revised section derived from N. J. S. 3B:12–43
3B:13A–19	New	Revised section derived from N. J. S. 3B:12–44
3B:13A–20	New	Revised section derived from N. J. S. 3B:12–45
3B:13A–21	New	Revised section derived from N. J. S. 3B:12–46
3B:13A–22	New	Revised section derived from N. J. S. 3B:12–47
3B:13A–23	New	Revised section derived from N. J. S. 3B:12–48 with additional limitations

Revised Section	Source	Treatment of Source
3B:13A–24	New	Revised section derived from N. J. S. 3B:12–37; limits expansion of powers
3B:13A–25	New	Revised section derived from N. J. S. 3B:17–4
3B:13A–26	New	Revised section derived from N. J. S. 3B:17–8
3B:13A–27	New	Provides for annual informal report or accounting to be made by conservator
3B:13A–28	New	Revised section derived from section 5–429 (a) U. P. C.
3B:13A–29	New	Revised section derived from section 5–429 (b) U. P. C.
3B:13A–30	New	Revised section derived from section 5–429 (c) U. P. C.
3B:13A–31	New	Revised section derived from section 5–429 (d) U. P. C.
3B:13A–32	New	Revised section derived from N. J. S. 3B:14–35
3B:13A–33	New	Revised section derived from section 5–430 U. P. C.
3B:13A–34	New	Revised section derived from N. J. S. 3B:12–64
3B:13A–35	New	Revised section derived from N. J. S. 3B:12–65 and N. J. S. 3B:12–66
3B:13A–36	New	Provides for compensation to be paid to conservator

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND DEFENSE COMMITTEE

STATEMENT TO

SENATE, No. 1124

with Assembly committee amendment

STATE OF NEW JERSEY

DATED: NOVEMBER 24, 1982

The general purpose of this bill is to provide a procedure whereby a conservator can be appointed to manage the affairs of another person who has not been judicially declared an incompetent, but who by reason of advanced age, illness or physical infirmity is incapable of managing his own affairs.

An action for an appointment would be brought in the Superior Court by the person himself or on his behalf by his spouse, child or other family member; a public agency or social services official; the administrator of an institution in which the person is a patient; or any other person having concern for the conservatee's financial or personal well-being.

In no circumstances would a conservator be appointed over the objections of the potential conservatee.

Any person or financial institution qualified to act as a fiduciary could be appointed as a conservator. In appointing a conservator, the court is to give priority in the following order: the person or institution selected by the conservatee; the conservatee's spouse; a child or other family member of the conservatee; some other qualified person or institution.

In order to insure that a conservator performs his duties properly, the bill contains the following safeguards: the conservator must designate the clerk of the court as his attorney to accept service of process; the conservator may be required to furnish a bond for the faithful performance of his duties; the conservator must file an inventory under oath of the conservatee's property if required by the court and the conservator must settle his account at such intervals as the court may direct. A conservator is also required to furnish the conservatee with an annual informal report or accounting.

The bill further provides that the appointment of a conservator shall not be evidence of the conservatee's competency or incompetency nor transfer title of the conservatee's real and personal property to the conservator.

The conservator is empowered to expend as much or all of the conservatee's income or principal for his support, maintenance, education, general use and benefit and that of his dependents as the conservator, in the exercise of reasonable discretion, deems necessary. The distributions are to be made by the conservator in accordance with the following principles: (1) recommendations made by a parent, spouse or heirs of the conservatee, (2) the size of the estate, (3) the probable duration of the conservatorship and (4) the accustomed standard of living of the conservatee and members of his household.

The bill also permits the court to expand or limit any of the powers conferred upon a conservator or it may relieve him of any expended powers or limitations. In conferring powers upon a conservator, the court shall authorize intervention which will be least restrictive of the conservatee's rights.

The conservator shall be compensated for his services in the same manner as a guardian for a minor or mental incompetent.

The nature of the Committee amendment was technical.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1124

STATE OF NEW JERSEY

DATED: JUNE 21, 1982

The general purpose of Senate Bill No. 1124 is to provide a procedure whereby a conservator can be appointed to manage the affairs of a person who has not been judicially declared an incompetent, but who by reason of advanced age, illness or physical infirmity, is incapable of managing his own affairs.

An action for an appointment may be brought in the Superior Court by the person himself or on his behalf by his spouse; child or other family member; a public agency or social services official; the administrator of an institution in which the person is a patient; or any other person having concern for the conservatee's financial or personal well-being.

No conservator may be appointed over the objections of the potential conservatee.

Any person or financial institution qualified to act as a fiduciary may be appointed as a conservator. In appointing a conservator, the court is to give priority in the following order: the person or institution selected by the conservatee; the conservatee's spouse; a child or other family member of the conservatee; some other qualified person or institution.

In order to insure that a conservator performs his duties properly, the bill contains the following safeguards: the conservator must designate the clerk of the court as his attorney to accept service of process; the conservator may be required to furnish a bond for the faithful performance of his duties; the conservator must file an inventory under oath of the conservatee's property if required by the court and the conservator must settle his account at such intervals as the court may direct. A conservator is also required to furnish the conservatee with an annual informal report or accounting.

The bill further provides that the appointment of a conservator shall not be evidence of the conservatee's competency or incompetency nor shall the appointment transfer title of the conservatee's real and personal property to the conservator.

The conservator is empowered to expend so much or all of the conservatee's income or principal for his support, maintenance, education, general use and benefit and that of his dependents as the conservator, in the exercise of reasonable discretion, deems necessary. The distributions are to be made by the conservator in accordance with the following principles: (1) recommendations made by a parent, spouse or heirs of the conservatee, (2) the size of the estate, (3) the probable duration of the conservatorship and (4) the accustomed standard of living of the conservatee and members of his household.

The bill also permits the court to expand or limit any of the powers conferred upon a conservator or it may relieve him of any expanded powers or limitations. In conferring powers upon a conservator, the court shall authorize intervention which will be least restrictive of the conservatee's rights.

The conservator shall be compensated for his services in the same manner as a guardian for a minor or mental incompetent.

Assembly Amendments

to

Senate Bill No. 1124

PROPOSED BY

ASSEMBLYMAN BAER

ADOPTED

FEB 14 1983

Amend:

Page	Sec.	Line	
10	3	1	Delete "May 1, 1982" insert "immediately"

STATEMENT

This amendment changes the effective date of this act from May 1, 1982 to the date when the bill is enacted.