

30:4-165.7 ET AL.

LEGISLATIVE HISTORY CHECKLIST

NJSA 30:4-165.7 et al. (Guardianship for incompetents)

Laws of 1976 Chapter 76

Bill No. S1037

Sponsor(s) Greenberg

Date Introduced February 3, 1976

Committee: Assembly Institutions, Health & Welfare

Senate Institutions, Health & Welfare

Amended during passage Yes No

Date of passage: Assembly July 22, 1976

Senate April 26, 1976

Date of approval August 31, 1976

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

Checked for hearings and reports under:
N.J.-Guardian and ward

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CHAPTER ⁷⁶ LAWS OF N. J. 19⁷⁶
APPROVED 8-31-76

SENATE, No. 1037

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 3, 1976

By Senator GREENBERG

Referred to Committee on Institutions, Health and Welfare

AN ACT to amend "An act concerning mentally-ill, mentally-deficient and mentally-retarded adults and supplementing chapter 4 of Title 30 of the Revised Statutes," approved December 14, 1970 (P. L. 1970, c. 289).

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

1 1. Section 1 of P. L. 1970, c. 289 (C. 30:4-165.7) is amended to
2 read as follows:

3 1. Any parent of a mentally-ill, mentally-deficient or mentally-
4 retarded individual, as the case may be, who is receiving State or
5 county [residential] functional services and is over [21] 18 years
6 of age may at any time move in Superior Court or in the County
7 Court in the county *furnishing the services* or in which such parent
8 resides for a judgment designating him as the legal guardian of
9 the person of such an individual. The county adjuster of the county
10 [in which the parent resides] *furnishing the services* shall be
11 served with a copy of the moving papers and made a party to the
12 action; *provided, however, that the county adjuster may waive*
13 *service of the moving papers if he has no reason to oppose the*
14 *action.*

1 2. Section 2 of P. L. 1970, c. 289 (C. 30:4-165.8) is amended to
2 read as follows:

3 2. The moving papers shall include a verified complaint, a medi-
4 cal affidavit from the attending physician stating the nature of the
5 mental illness, mental deficiency or mental retardation, as the case
6 may be, of the individual, and an affidavit from the chief executive
7 officer [or], medical director *or other officer having the general*
8 *supervisory or administrative control* of the institution at which
9 the individual is receiving [residential] functional services stating

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

10 the length of the individual's commitment *or period of treatment*
11 and the necessity of continuing the **[residential]** functional ser-
12 vices.

1 3. Section 3 of P. L. 1970, c. 289 (C. 30:4-165.9) is amended to
2 read as follows:

3 3. **[The]** *If the* county adjuster **[may]** *elects to* oppose the
4 motion, *he shall do so* within 30 days after its submission to the
5 court either at a hearing before that court or before a jury, in
6 which latter case the action will proceed under the provisions of
7 Title 3A of the Revised Statutes. The court may, after hearing
8 arguments on the motion, enter an order granting a judgment of
9 legal guardianship of the person of the individual to the petitioning
10 parent.

1 4. Section 5 of P. L. 1970, c. 289 (C. 30:4-165.11) is amended to
2 read as follows:

3 5. The term "parent" as used in this act shall mean the natural
4 parent or parents **[or]**, prior guardian, *or other person standing*
5 *in loco parentis* of the individual. All other terms used in this
6 act shall have the same meaning as defined in chapter 4 of Title 30
7 of the Revised Statutes to which this act is supplementary.

1 5. This act shall take effect immediately.

ASSEMBLY INSTITUTIONS, HEALTH AND
WELFARE COMMITTEE

STATEMENT TO
SENATE, No. 1037

STATE OF NEW JERSEY

DATED: JUNE 14, 1976

The committee agreed with the intent of this bill, which would permit a larger number of parents of mentally ill, mentally deficient or mentally retarded individuals to file for guardianship of such individuals and to permit filing for guardianship in the courts of the county furnishing services to such individuals, and released the bill without amendment.

The major provisions of the bill provide that:

1. Whereas now only parents of individuals over 21 years of age may move for guardianship in Superior or County Court; this bill permits such an action for parents of individuals over 18 years;
2. Whereas now only parents of individuals receiving *residential* functional services may file for guardianship; this bill permits an action for guardianship of individuals receiving *any* kind of functional services;
3. Whereas now if parents move for guardianship in County Court it must be in the court of the county in which the parents reside, this bill permits parents to also initiate such an action in the court of the county furnishing services to their children or wards; and,
4. The meaning of the term "parent" as used in the act of 1970 be expanded to include a person standing *in loco parentis* of an individual.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO
SENATE, No. 1037

—◆—
STATE OF NEW JERSEY
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DATED: APRIL 12, 1976

The simplified form of guardianship for incompetents which was enacted in 1970 has proved to be greatly advantageous and a tremendous improvement over the complicated procedure that was formerly necessary. In the past year alone several hundred parents have taken advantage of this statute. The amendments proposed by this legislation are intended to increase the number of families who will benefit therefrom, and which experience has shown might very well have been included in the first place. These changes will answer the objections that have been raised about the exclusion of certain classes of people by the 1970 act and are the result of a request by the committee of the New Jersey State Bar Association set up to handle incompetency guardianships. Specifically, by eliminating the "residential" requirement, the change would extend the benefit to the many children in day care or who are receiving services in their own homes.

The designation of the "county furnishing the services" will correct an oversight in the present law which limited the venue to the county of residence at the commencement of the action (which may have undergone several arbitrary changes) rather than the more realistic designation of the county which is actually involved with the incompetent.