

3B:13A-5

LEGISLATIVE HISTORY CHECKLIST  
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NJSA: 3B:13A-5 and 3B:13A-8

(Conservator--  
permit  
appointment of  
non-charitable  
agent)

LAWS OF: 1989

CHAPTER: 329

Bill No: A2733

Sponsor(s): Singer

Date Introduced: March 14, 1988

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes Amendments denoted by asterisks.

Date of Passage: Assembly: June 13, 1988 Re-enacted 1-8-90

Senate: November 20, 1989 Re-enacted 1-8-90

Date of Approval: January 12, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: Yes

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

P.L.1989, CHAPTER 329, approved January 12, 1990  
1988 Assembly No. 2733 (Second Reprint)

1 AN ACT concerning appointment of a conservator and amending  
2 N.J.S.3B:13A-5 <sup>2</sup>[<sup>1</sup>and N.J.S.3B:13A-8<sup>1</sup>]<sup>2</sup>.

3  
4 BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

6 1. N.J.S.3B:13A-5 is amended to read as follows:

7 3B:13A-5. By whom action for appointment of conservator in  
8 behalf of conservatee may be brought. An action for the  
9 appointment of a conservator may be brought by the conservatee  
10 as provided in section 3B:13A-2 or in the conservatee's behalf by:

11 a. His spouse;

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

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

16 d. A public agency or a social services official<sup>2</sup>of the State  
17 or<sup>2</sup> of the county in which the conservatee resides regardless of  
18 whether or not the conservatee is a recipient of public assistance;  
19 or

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

23 f. The chief administrator of a non-profit charitable  
24 institution in which the conservatee is a patient or from which he  
25 receives services.

26 (cf: N.J.S.3B:13A-5)

27 <sup>2</sup>[<sup>1</sup>2. N.J.S.3B:13A-8 is amended to read as follows:

28 3B:13A-8. Designation of conservator. The court may appoint  
29 a person or a financial institution, qualified under the laws of this  
30 State to act as a fiduciary, as the conservator of the  
31 conservatee's estate. If the court appoints a conservator, it shall  
32 do so in the following order of priority:

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:

<sup>1</sup> Assembly AJU committee amendments adopted May 2, 1988.

<sup>2</sup> Assembly amendments adopted in accordance with Governor's  
recommendations January 4, 1990.

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

3 b. The conservatee's spouse;

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

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

9 e. The chief administrator of a non-profit charitable  
10 institution in which the conservatee is a patient or from which he  
11 receives services.

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

15 (cf: P.L.1983, c.192)<sup>1</sup><sup>2</sup>

16 <sup>1</sup>[2.]<sup>2</sup>[3.1] 2.<sup>2</sup> This act shall take effect immediately.

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CIVIL JUSTICE

20

Property and Estates

21

22 Permits non-profit charitable agency to be appointed conservator.

ASSEMBLY, No. 2733  
STATE OF NEW JERSEY

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INTRODUCED MARCH 14, 1988

By Assemblymen SINGER and BENNETT

1 AN ACT concerning appointment of a conservator and amending  
N.J.S. 3B:13A-5.

3

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

1. N.J.S. 3B:13A-5 is amended to read as follows:

7 3B:13A-5. By whom action for appointment of conservator in  
behalf of conservatee may be brought. An action for the  
9 appointment of a conservator may be brought by the conservatee  
as provided in section 3B:13A-2 or in the conservatee's behalf by:

11 a. His spouse;

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

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

17 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

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

23 f. The chief administrator of a non-profit charitable  
institution in which the conservatee is a patient or from which he  
receives services.

25 (cf: N.J.S. 3B:13A-5)

2. This act shall take effect immediately.

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.

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## STATEMENT

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## CIVIL JUSTICE

## Property and Estates

13

Permits non-profit charitable agency to be appointed conservator.

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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2733**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 2, 1988

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2733.

This bill permits the chief administrator of a non-profit charitable institution to bring an action for the appointment of a conservator to manage the estate of a patient or person who receives the institution's service who is unable to do so for himself because of advanced age, illness or physical infirmity. As amended by committee, the bill permits the chief administrator to be appointed conservator by the court in such an action.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2733

STATE OF NEW JERSEY

DATED: AUGUST 4, 1988

The Senate Judiciary Committee reports favorably Assembly Bill No. 2733.

The bill would permit the chief administrator of a non-profit charitable institution to bring an action for the appointment of a conservator to manage the estate of a patient or person receiving the services of the institution who is unable to care for himself because of advanced age, illness or physical infirmity. The bill would also permit the chief administrator to be appointed conservator by the court in such an action.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

January 4, 1990

ASSEMBLY BILL NO. 2733

(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the Constitution, I am returning Assembly Bill No. 2733 (First Reprint) with my objections for reconsideration.

This bill permits the chief administrator of a nonprofit charitable institution to bring an action for the appointment of a conservator to manage the estate of a patient or person who receives the institution's services, but who is unable to bring such an action for himself because of advanced age, illness, or physical infirmity. The bill also permits the chief administrator to be appointed conservator by the court in such an action.

I support the portion of this bill that adds the chief administrator of a nonprofit charitable institution to the list of persons authorized by N.J.S. 3B:13A-5 to petition the court for appointment of a conservator. There is a need for concerned parties to bring actions for conservatorships. Expanding the list to include chief administrators of nonprofit charitable institutions is a sensible and helpful step to meet that need, as these individuals are in a position to observe difficulties that their patients may be encountering.

However, the provision in this bill that adds the chief administrator of a nonprofit charitable institution to the list of persons authorized by N.J.S. 3B:13A-5 to serve as a conservator does not meet with my approval. There is an inherent conflict of interest in allowing an administrator of an institution, whose very job requires his commitment to the institution's financial interests, to take on the additional responsibility of managing the financial affairs of a patient of that institution and acting in that person's best interest.

Enactment of this provision would reverse the the well-considered trend in New Jersey to appoint neutral third parties to manage the estates of people in need of help when loving and caring family members are absent. The Office of the Public Guardian has been instrumental since its inception in providing for the best possible care for these individuals in need of either a guardian or conservator. Should it not be possible to appoint a conservator of an individual's



STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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own selection or from among his or her family members, it is preferable to have either the Office of the Public Guardian or some other neutral third party appointed as conservator. Moreover, in those exceptional cases where a chief administrator of a nonprofit charitable institution is the most appropriate individual to serve as conservator, a judge can make such an appointment under the authority of current law permitting the appointment of any person that the court deems proper.

In addition, I suggest a technical amendment to this bill to make clear that the Office of the Public Guardian for Elderly Adults is a permissible party to initiate an action for the appointment of a conservator under N.J.S. 3B:13A-5. The Public Guardian currently petitions for the appointment of conservators on a regular basis. This amendment would make perfectly clear the legal propriety of this practice.

Therefore, I herewith return Assembly Bill No. 2733 (First Reprint) and recommend that it be amended as follows:

<u>Page 1, Line 2, Title:</u>	Delete "and N.J.S. 3B:13A-8"
<u>Page 1, Section 1, Line 16:</u>	After "official" insert "of the State or"
<u>Pages 1 and 2, Section 2:</u>	Delete in its entirety
<u>Page 2, Section 3, Line 16:</u>	Delete "3." insert "2."

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Deborah T. Poritz

Chief Counsel

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

December 5, 1988

ASSEMBLY BILL NO. 2827

To The General Assembly:

Pursuant to Article V, Section 1, Paragraph 14 of the New Jersey Constitution, I herewith return Assembly Bill No. 2827 without my signature.

This bill would allow Robert Brisson to obtain permanent civil service status even though his age is greater than the maximum limit for appointment to the Fire Department of the City of Trenton, set forth in N.J.S. 40A:14-12. The Legislature has stated that the maximum age of members or officers of fire departments in any municipality shall be 35. It is important for safety and fitness reasons that this policy decision, previously made by the Legislature, be upheld. Thus, I cannot, in all good conscience, enact this legislation.

While it may be that Mr. Brisson would make a competent fire department employee, granting him permanent civil service status even though he is over the existing age limitation would be unfair to the many other qualified individuals who may be interested in and eligible for the position. Under the circumstances presented by this proposed legislation, I cannot sanction the supplanting of our laws which are designed to ensure that appointments and promotions in civil service jurisdictions are made according to merit and fitness.

Accordingly, I herewith return Assembly Bill No. 2827 without my approval.

Respectfully,

/s/ Thomas H. Kean

GOVERNOR

[seal]

Attest:

/s/ Michael R. Cole

Chief Counsel