

To: New Jersey Law Revision Commission
From: Samuel M. Silver
Re: New Jersey Guardianship Statutes
Date: March 05, 2018

MEMORANDUM

Executive Summary

On December 07, 2017, Staff was asked by a member of the Legislature to evaluate New Jersey's guardianship statutes to determine whether the State is employing the "best practices" in this area of law.

Staff immediately began the process of reviewing the New Jersey Guardianship Statutes^{1,2}, the New Jersey Administrative Code³, the New Jersey Rules of Court⁴, and the uniform laws in the area of guardianship⁵. In addition, Staff is presently reviewing each state's guardianship statutes and comparing them to the current New Jersey statutes in this area.

The following pages outline Staff's preliminary findings to this point.

Background

In New Jersey, the role of a guardian is to assist the "protected person" in navigating the world around them.⁶ It is the responsibility of the guardian to ensure that the "protected person" handles the tasks that they are capable of handling on their own.⁷ The primary goal of a guardianship is to allow the "protected person" to continue to exercise as much independence as is safely possible.⁸

¹ Guardianship may be of either the estate or of the person. Emphasis, for purposes of this memorandum, has been placed on the guardianships concerning persons. Upon request, Staff is happy to examine those statutes related to the guardianship of the estate.

² N.J.S. 3B:1-1 *et seq.* (General Provisions); N.J.S. 3B:12-1 *et seq.* (Minors and Incapacitated Persons); N.J.S. 3B:12a-1 *et seq.* (Kinship Legal Guardianship); N.J.S. 3B:12b-1 *et seq.* (New Jersey Adult Guardianship and Protective Proceedings Jurisdiction Act); N.J.S. 3B:13-1 *et seq.* (Guardianship of Veterans); N.J.S. 3B:16-8 (Inventories); N.J.S. 3B:18-1 *et seq.*; N.J.S. 3B:21-1 (Removal of Property from the State).

³ N.J.A.C. 10:45-1.1 *et seq.* (Guardianship Services).

⁴ R. 4:86-1 *et seq.*

⁵ <http://www.uniformlaws.org/Acts.aspx?title=guardianship> (Last visited Feb. 22, 2018).

⁶ Administrative Office of the Courts, Guardianship of the Person: Duties & Responsibilities 3 (2017) available at https://www.judiciary.state.nj.us/courts/assets/guardianship/Guardianship_Person_web.pdf.

⁷ *Id.*

⁸ *Id.*

A combination of court rules and statutory provisions govern guardianship proceedings in New Jersey. Unlike some other jurisdictions, the New Jersey Constitution confers upon the courts the power to establish “the rules governing the administration of all courts in the State, and subject to the law, the practice and procedure in all such courts.”⁹ The breadth of this authority is set forth in *Winberry v. Salisbury*,¹⁰ as well as in subsequent Supreme Court decisions such as *Ferriera v. Rancocas Orthopedic Associates*.¹¹ Thus, the substance of guardianship law is set forth in the statutes and the procedural safeguards are located within the New Jersey Rules of Court.

The Statutes and Rules of Court

• *The Complaint*

The New Jersey Court Rules provide a number of important procedural protections for individuals and minors subject to guardianship. The Rules require that a verified complaint contain information concerning the petitioner and the individual who is the subject of the complaint.¹² In addition, the complaint must also contain information concerning the alleged incapacitated person’s interest in real estate¹³, personal estate¹⁴, and any encumbrances on either.¹⁵ The verified complaint must be accompanied by the affidavits, or certifications, of two professionals.¹⁶ The aforementioned documents must be prepared by either two, statutorily qualified physicians¹⁷; or, one such qualified physician and one licensed practicing psychologist.¹⁸ These requirements have been put in place to discourage the initiation of meritless proceedings.

• *Appointment of a Guardian*

The New Jersey statutes set forth what it means to be an “incapacitated individual.”¹⁹ The term “incapacitated individual” is defined as, “... an individual who is impaired by reason of mental illness or intellectual disability to the extent that the individual lacks sufficient capacity to govern himself and manage his affairs.”²⁰ The term is not limited to individuals with cognitive

⁹ N.J. Const. Art VI, sec. 2, para. 3.

¹⁰ 5 N.J. 240, *cert. denied* 340 U.S. 877 (1950) (defining procedural laws within the courts’ authority as those which regulate the means through which rights and duties are enforced).

¹¹ 178 N.J. 144 (2003) (Justice Zazzali, dissenting).

¹² R. 4:86-2(a)(1) - (7).

¹³ R. 4:86(b)(1)(A).

¹⁴ R. 4:86(b)(1)(B).

¹⁵ R. 4:86(b)(1)(C).

¹⁶ R. 4:86-2(b)(2).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ N.J.S. 3B:1-2.

²⁰ *Id.*

deficits. The phrase “incapacitated individual” includes individuals who are impaired, “by reason of physical illness or disability, chronic use of drugs, chronic alcoholism, or other cause (except minority).”²¹

The Court will appoint a general guardian upon finding that the individual, who is the subject of a complaint, without the capacity to govern themselves or manage their affairs.²² The guardian is thereafter responsible for exercising **all** of the rights and powers of the incapacitated person.²³ The Court may, however, find that an individual is incapacitated and lacks the capacity to do some, but not all, of the tasks necessary to care of themselves.²⁴ Upon making such a determination, the court may appoint a limited guardian of the person.²⁵ In addition, the court must make specific findings regarding the individual’s capacity.²⁶ An individual may retain sufficient capacity to manage certain aspects of his life.²⁷ The judgment of limited guardianship may, therefore, specify limitations upon the authority of the guardian or areas of decision-making retained by the protected person.²⁸

Twelve years before the enactment of the limited guardian statute, the New Jersey Supreme Court recognized that general guardianships should not be applied like a stencil to every proceeding. In *In the matter of M.R.*²⁹, the Court noted that an individual’s liberty may be drastically restrained upon a finding of incapacity and the imposition of a general guardianship.³⁰ The Court had the foresight to suggest that under the appropriate circumstances, the trial courts should consider appointing limited, rather than general guardians.³¹ It is noted that an even less restrictive alternative to guardianship has recently been endorsed by several stakeholders involved in this area of law.³²

• *Guardianship Training*

If the court is satisfied with the sufficiency of the complaint and supporting documents, it will enter an order fixing a date for a hearing.³³ The Court Rules require that the order require

²¹ *Id.*

²² N.J.S. 3B:12-24.1(a).

²³ *Id.*

²⁴ N.J.S. 3B:12-24.1(b).

²⁵ *Id.* Under this statute, the court may elect to appoint a limited guardian of the estate, or a limited guardian of both the person and the estate.

²⁶ *Id.*

²⁷ *Id.* The individual may possess sufficient capacity to make decisions concerning residential, educational, medical, legal and/or vocational or financial aspects of their life.

²⁸ *Id.*

²⁹ *In the matter of M.R.*, 135 N.J. 155 (1994).

³⁰ *In the matter of M.R.*, 135 N.J. at 171.

³¹ *Id.*

³² *ABA Urges Supported Decision Making as Less-Restrictive Alternative to Guardianship*, BIFOCAL, Vol. 38, Issue 6 (2017); *see discussion infra*.

³³ R. 4:86-4(a).

that any proposed guardian complete guardianship training.³⁴ A statewide adult guardianship training program does not exist in the State of New Jersey.³⁵ Rather, a potential guardian must review the guardianship training guide³⁶ and view a video entitled, “Guardian Tutorial.”³⁷ Unless “good cause exists,” the potential guardian must complete their review of the training materials prior to the commencement of the first guardianship hearing.³⁸

Neither the Court Rules, nor the statutes, set forth specific qualifications to become a guardian. A New Jersey guardian may be disqualified from becoming a guardian if they have more than five wards who are not all members of the same family.³⁹ The results of a criminal history record background check and domestic violence check may influence a court’s decision in appointing a caregiver as a kinship legal guardian.⁴⁰ A “professional guardian”, however, may be disqualified from serving in such a capacity for a number of reasons.⁴¹ Upon a finding the individual who is the subject of the complaint is incapacitated and the guardian qualified, the court rules impose specific reporting requirements on a guardian.⁴²

• ***Guardianship Monitoring Program***

The New Jersey Rules of Court mandate that each vicinage operate a “Guardianship Monitoring Program” (GMP).⁴³ This program functions with the collaboration of the Superior Court, Chancery Division, and Probate Part: the County Surrogates; and the Administrative Office of the Courts, Civil Practice Division.⁴⁴ The functions of guardianship support and monitoring are established by the Administrative Director of the Courts.⁴⁵ The training of potential guardians, a review of inventories and periodic reports of financial accounting submitted by guardians are among the responsibilities of the GMP.⁴⁶

Through their monitoring efforts the GMP may identify issues with either a pre-adjudicated⁴⁷ or post-adjudicated case.⁴⁸ It is the responsibility of the GMP to forward these

³⁴ R. 4:86-4(a)(6).

³⁵ SHARON RIVENSON MARK, ESQ., 45 N.J. PRACTICE, ELDER LAW, GUARD. & CONSERV. §14:10 (2017).

³⁶ Administrative Office of the Courts, Guardianship of the Person: Duties & Responsibilities 3 (2017) available at https://www.judiciary.state.nj.us/courts/assets/guardianship/Guardianship_Person_web.pdf.

³⁷ Administrative Office of the Courts, Guardianship of an Adult Incapacitated Person: Court-Appointed Guardian Tutorial (2016) available at <https://www.youtube.com/watch?v=S9AowILqHAY&feature=youtu.be>.

³⁸ R. 4:86-5; see also R. 4:86-6(e)(1).

³⁹ N.J.S. 3B:13-8.

⁴⁰ N.J.S. 3B:12A-6(a)(12).

⁴¹ See N.J.S. 52:27G-34 which sets forth 13 reasons that an individual would be ineligible to become a professional guardian.

⁴² R. 4:86-6(e)(4); see discussion *infra*.

⁴³ R. 4:86-1(c).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ R. 4:86-1(c)(1).

⁴⁷ *Id.*

⁴⁸ R. 4:86-1(c)(2).

matters to the Superior Court, Chancery Division, Probate Part.⁴⁹ Once received, the Probate part is required to promptly review the monitoring issues.⁵⁰ Thereafter, the Court has the discretion to take such further action as it deems appropriate.⁵¹

• ***Reporting Requirements of Guardians***

The guardian of a person is required to file reports of the well-being of the incapacitated person, unless expressly exempt from this requirement by the Court.⁵² A guardian's report must be filed annually with the Surrogate's Office.⁵³ A report, prepared by the guardian of a person, is required to contain specific information.⁵⁴ The guardian must convey: the current mental, physical and social condition of the ward⁵⁵; the living arrangements for all addresses of the ward during the reporting period⁵⁶; the medical, educational, vocational and other services provided to the ward and the guardian's opinions as to the adequacy of the ward's care⁵⁷; a summary of the guardian's visits with the ward and the activities on the ward's behalf and the extent to which the ward has participating in decision-making⁵⁸; of the ward is institutionalized, whether or not the guardian considers the current plan for care, treatment or habilitation to be in the ward's best interest⁵⁹; plans for future care⁶⁰; a recommendation as to the need for continued guardianship and any recommended changes in the scope of the guardianship.⁶¹

In addition to the statutory reporting requirements, the court rules also impose a reporting requirement on guardian. A guardian is required to keep the Surrogate reasonably advised of the whereabouts and telephone number of the guardian and the incapacitated person.⁶² Should there be a major change in the ward's status, or health, the guardian must report his change to the Surrogate.⁶³ In the event of the incapacitated person's death, the guardian must notify the Surrogate of the passing within seven days from the date s/he receives the death certificate.⁶⁴ A court may appoint an individual to review a report, interview the parties and undertake any other

⁴⁹ R. 4:86-1(c)(3).

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² R. 4:86-6(e)(4).

⁵³ *Id.* See also N.J.S. 3B:12-42 (a guardian shall report at time intervals ordered by the court, unless otherwise waived by the court).

⁵⁴ N.J.S. 3B:12-42 et seq.

⁵⁵ N.J.S. 3B:12-42(a)(1).

⁵⁶ N.J.S. 3B:12-42(a)(2).

⁵⁷ N.J.S. 3B:12-42(a)(3).

⁵⁸ N.J.S. 3B:12-42(a)(4).

⁵⁹ N.J.S. 3B:12-42(a)(5).

⁶⁰ N.J.S. 3B:12-42(a)(6).

⁶¹ N.J.S. 3B:12-42(a)(7).

⁶² R. 4:86-6(e)(5).

⁶³ *Id.* (such major change includes the death of the incapacitated person).

⁶⁴ *Id.*

investigation that the court directs.⁶⁵ The guardian, therefore, should listen to the incapacitated person and ensure that their preferences are being met providing it does not cause harm.⁶⁶

• *Standard for guardian decision-making*

A guardian will frequently be called upon to make decisions on behalf of the protected person. The decision-making process is often a complicated one and the standard by which decisions are made is less than clear. Historically, courts viewed guardianships as primarily a protective arrangement.⁶⁷ Whether serving as a guardian of an incapacitated adult, or child, the guardian of was expected to do what was “best” for the protected person as if the guardian were a parent.⁶⁸ Just before the end of the twentieth century, new theories of decision making began to reflect a growing emphasis on the rights of incapacitated adults.⁶⁹

Under the Uniform Guardianship and Protective Proceedings Act (“UGPPA”) the concept of “substituted judgment” was introduced to the Uniform Probate Code (“UPC”). This concept encapsulated a growing recognition of an adult’s self-determination interests.⁷⁰ Under this theory, “[a] guardian, in making decisions, shall consider the expressed desires and personal values of the ward to the extent known to the guardian.”⁷¹ Guardians, under this schema, would make the decision that the protected person would have made if they had the capacity to do so.⁷² No longer would the focus of guardianships be restricted to what is best for the protected person.⁷³ A guardian in a state employing this decision-making paradigm would have a dual mandate – to consider the protected individual’s expressed desires and personal values **and** to act at all times in that person’s best interest.⁷⁴ The New Jersey statutes recognize this modality of guardianship decision-making.

In New Jersey a guardian is called upon to utilize both the “substituted judgment” of the protected person and consider their “best interests.”⁷⁵ The standards for decision making are set forth in N.J.S. 3B:12-57(f), which provides:

⁶⁵ N.J.S. 3B:12-42

⁶⁶ Administrative Office of the Courts, Guardianship of the Person: Duties & Responsibilities 4 (2017) available at https://www.judiciary.state.nj.us/courts/assets/guardianship/Guardianship_Person_web.pdf.

⁶⁷ Lawrence A. Frolik and Linda S. Whitton, *The UPC Substituted Judgment/Best Interest Standard for Guardian Decisions: A Proposal for Reform*, 45 U. MICH. J.L. REFORM 739 (2012).

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Administrative Office of the Courts, Guardianship of the Person: Duties & Responsibilities 4 (2017) available at https://www.judiciary.state.nj.us/courts/assets/guardianship/Guardianship_Person_web.pdf.

⁷³ Lawrence A. Frolik and Linda S. Whitton, *The UPC Substituted Judgment/Best Interest Standard for Guardian Decisions: A Proposal for Reform*, 45 U. MICH. J.L. REFORM 739 (2012).

⁷⁴ *Id.* See also N.J.S. 3B:12-50 (setting forth additional powers which may be exercised by the court) and *In re Keri*, 181 N.J. 50 (2004) (the statutory provisions on managing the estates of incompetent persons incorporate and reconcile the best interest standard with the common law equitable doctrine of substituted judgment).

⁷⁵ N.J.S. 3B:12-57.

...a guardian of the person of a ward shall exercise authority of matters relating to the rights and best interest of the ward's personal needs, only to the extent adjudicated by a court of competent jurisdiction.

In addition,

...[t]he guardian shall encourage the ward to participate with the guardian in the decision-making process to the maximum extent of the ward's ability in order to encourage the ward to act on his own behalf whenever he is able to do so, and to develop or retain higher capacity to make decisions in those areas in which he is in need of guardianship services, to the maximum extent possible.⁷⁶

In an attempt to assist guardians in reaching a decision, the statute provides:

...[i]n taking or forbearing from any action affecting the personal needs of a ward, a guardian shall give due regard to the preferences of the ward, if known to the guardian or otherwise ascertainable upon reasonable inquiry....⁷⁷

The phrase "due regard" as set forth in the statute, however, does not indicate what relative weight guardians are to give to substituted judgment and best interest in an attempt to reach a final decision.⁷⁸

*In the Matter of M.R.*⁷⁹, the New Jersey Supreme Court addressed the issue of decision making in the context of a guardianship action. The issue presented to the Supreme Court *In the Matter of M.R.*, was whether a developmentally-disabled woman who is generally incompetent, bears the burden of proof that she has the specific capacity to choose with which of her divorced parents she will live.⁸⁰ The Court expressed concern when it came to, "balancing the right of self-determination of developmentally-disabled people with traditional concerns for their best interest."⁸¹ The Court acknowledged that their decision implicated "policy choices about the rights of developmentally disabled people to make decisions for themselves and the role of courts in the decision-making process."⁸²

⁷⁶ N.J.S. 3B:12-57(g).

⁷⁷ N.J.S. 3B:12-57(f).

⁷⁸ Lawrence A. Frolik and Linda S. Whitton, *The UPC Substituted Judgment/Best Interest Standard for Guardian Decisions: A Proposal for Reform*, 45 U. MICH. J.L. REFORM 739 (2012).

⁷⁹ 135 N.J. 155 (1994).

⁸⁰ *In the matter of M.R.*, 135 N.J. 155, 159 (1994).

⁸¹ *Id.* at 165.

⁸² *Id.*

The Court, *In the Matter of M.R.*, was forced to confront and reconcile both theories of decision-making. The Court held, “[t]he substituted-judgment and the best-interest tests are not dichotomous, but represent points on a continuum of subjective and objective information leading to a reliable decision that gives as much weight as possible to the right of self-determination.”⁸³ The difficulty that the Court faced in addressing this issue is illustrative of the difficulty that guardians must face on a daily basis when they are forced to extrapolate decision-making guidance from vague statutory language.⁸⁴ This area of law would be worthy of additional review in an effort to clarify the weight that guardians must give to “substituted judgment” and the “best interest” of the protected person.

Supported decision making

Rather than relying on a surrogate, people with disabilities are, pursuant to the “supported decision-making” model, able to make their own decisions with the appropriate support structure in place.⁸⁵ Under this process, individuals with disabilities can choose a trusted person to support them in making their own decisions and exercising their legal capacity.⁸⁶ A supporter may be a friend, a family member, a professional, an advocate, a peer, or any other trusted person.⁸⁷ This individual, or individuals, would gather and present relevant information to the individual with the disability and convey this information to others such as health care professionals.⁸⁸ The “support” may assist the protected person in implementing his or her decision.⁸⁹

On August 14, 2017, the American Bar Association’s (ABA) House of Delegates adopted Resolution 113.⁹⁰ The ABA urged legislatures to, “(1) amend their guardianship statutes to require that supported decision-making be identified and full considered as a less-restrictive alternative, before guardianship is imposed, and (2) require that decision-making support that would meet the individual’s needs be identified and fully considered in proceedings for termination of guardianship and restoration of rights.”⁹¹ The concept of “supported decision-making” recognizes that an individual’s right to make decisions about his or her life is one of the cornerstones of American jurisprudence.⁹²

It is the clear public policy of this State, to respect the right of self-determination of all people.⁹³ The New Jersey Constitution states that “[a]ll persons are by nature free and

⁸³ *Id.* at 166-167.

⁸⁴ Lawrence A. Frolik and Linda S. Whitton, *The UPC Substituted Judgment/Best Interest Standard for Guardian Decisions: A Proposal for Reform*, 45 U. MICH. J.L. REFORM 739 (2012).

⁸⁵ *ABA Urges Supported Decision Making as Less-Restrictive Alternative to Guardianship*, BIFOCAL, Vol. 38, Issue 6 (2017).

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *In the matter of M.R.*, 135 N.J. at 166.

independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty... and of pursuing and obtaining safety and happiness.”⁹⁴ In furtherance of this Constitutional imperative, the Legislature has declared,

... the developmentally disabled are entitled to certain fundamental rights as citizens and that these rights shall not be abrogated solely by reason of admission to any facility or receipt of any service for developmentally disabled persons; that services which are offered to the developmentally disabled shall be provided in a manner which respects the dignity, individuality and constitutional, civil and legal rights of each developmentally disabled person....⁹⁵

In construing the Developmentally Disabled Rights Act⁹⁶ the New Jersey Supreme Court has held that, “...the Act require[s] the State to provide services to mentally-retarded persons in a setting and manner which is least restrictive of each person’s personal liberty.”⁹⁷ The Court further noted that, “[t]he paradox with incompetent people is to preserve as much as possible their right to self-determination while discharging the judicial responsibility to protect their best interests.”⁹⁸ Further review and implementation of “supported decision-making” paradigm may offer an opportunity to work toward achieving this worthy goal.⁹⁹

Uniform Guardianship, Conservatorship and Other Protective Arrangements Act

The Uniform Law Commission has revised the uniform law relating to guardianship. The Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGCOPAA) addresses issues that arise in the context of both guardianships and conservatorships proceedings for both minors and adults.¹⁰⁰ In addition, the UGCOPAA sets forth protective arrangement instead of guardianship for adults and protective arrangements instead of conservatorship for both adults and minors.¹⁰¹

The Act has three overarching aims. First, the Act is designed to reflect a “person-centered” philosophy.¹⁰² In an attempt to effectuate this goal, the Act has sought to eliminate pejorative terms from guardianship statutes. The terms “incapacitated person” and “ward” would be replaced with more precise terms such as “adult subject to guardianship” or “minor subject to

⁹⁴ *Id. citing* N.J.Const. art. I, ¶1.

⁹⁵ N.J.S. 30:6D-2

⁹⁶ N.J.S. 30:6D-1 to -22.

⁹⁷ *In the matter of M.R.*, 135 N.J. at 166-167.

⁹⁸ *Id.*

⁹⁹ *See infra.* discussion of Guardianship, Conservatorship and Other Protective Arrangements Act.

¹⁰⁰ *See* Prefatory Note to Uniform Guardianship, Conservatorship and Other Protective Arrangements Act * U.L.A. 1 (2017).

¹⁰¹ *Id.*

¹⁰² *Id.*

guardianship.”¹⁰³ Terms that are deemed demeaning or offensive would be stricken from the statutes. Next, the UGCOPAA has been written in order to ensure that the least restrictive means are used to protect an individual.¹⁰⁴ This would include the use of supported decision-making.¹⁰⁵ Finally, the Act seeks to make it easier for each actor involved in the process to achieve these goals.¹⁰⁶

In order to effectuate these goals, the Act envisions a number of changes to existing statutory scheme. Among the changes contemplated by the Act are: clarification to how appointees are to make decision¹⁰⁷; implementation of supported decision-making¹⁰⁸; and the elimination of obstacles in communicating with individuals subject to guardianship. A detailed review of New Jersey’s statutes in conjunction with the Act is recommended to determine whether the provisions of the Act can enhance the state’s current statutes.

• *Outreach*

On February 21, 2018, Staff had the opportunity to speak with Benjamin Orzeske, the staff liaison from the Uniform Law Commission regarding the Act. According to Mr. Orzeske, New Mexico has passed a partial version of the UGCOPAA during their abbreviated session. The New Mexico Legislature has issued a commitment to review the rest of the Act when they return to their full session. In addition, Mr. Orzeske noted that Maine is presently revising its probate code. In Maine, guardianship will be one Act in the state’s probate code. Six other states are poised, according to Mr. Orzeske, to introduce legislation based upon the Act.

The UGCOPAA contains provisions for monitoring guardianships. This issue arose in New Mexico in conjunction with questions about how the legislature was going to fund this portion of the Act. Unlike New Mexico, New Jersey presently has a “Guardianship Monitoring Program” (GMP) in place.¹⁰⁹ Thus, it is possible that the monitoring requirement may pose no impediment to New Jersey’s review of this Act.

Conclusion

The primary goal of a guardianship is to allow the “protected person” to continue to exercise as much independence as is safely possible. It is the clear public policy of this State to respect the right of self-determination of all people. As this area of law continues to evolve, so

¹⁰³ *Id.*

¹⁰⁴ *See* Prefatory Note to Uniform Guardianship, Conservatorship and Other Protective Arrangements Act * U.L.A. at 2.

¹⁰⁵ *Id. and see* discussion of supported decision making, *supra*.

¹⁰⁶ *Id.* at 2.

¹⁰⁷ *Id.* at 2.

¹⁰⁸ *See* discussion of supported decision making, *supra*.

¹⁰⁹ *See* discussion of Guardianship Monitoring Program, *supra*. *See also* R. 4:86-1(c).

too must the statutes that implement the State's public policy. Continued review of the new uniform act and the law of other states may suggest that New Jersey's guardianship law could benefit from statutory revision in to provide for more in-depth guardianship training and reporting, clearer standards for appointee decision-making, and utilization of the least restrictive alternative before ordering the use of a guardian.

Staff is focusing its review on the laws of other states in the following areas involving guardians: different types of guardians; decision-making standards; the depth of training; reporting requirements; and, terms used to describe persons subject to guardianship.