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NEW JERSEY LEGISLATURE ADVANCES BILL ADDRESSING CRUCIAL GAP IN THE LAW FOR GUARDIANSHIPS OF YOUNG ADULTS TO GOVERNOR

By: Thomas R. Lahey, Esq.

The New Jersey State Legislature overwhelmingly passed legislation, which amends existing law to permit parents, relatives, or other interested parties to initiate a guardianship action for a minor who is an alleged incapacitated person up to 180 days prior to the minor attaining the age of eighteen (18). A Judgment of Incapacity and Appointing Guardian entered before then would not take effect until the minor turns eighteen (18).

The current law set forth at P.L.1970, c.289, and codified as N.J.S.A. § 3B:12-24.1 does not address the ability of a parent, relative, or other interested person to bring a guardianship action for a minor prior to his or her 18th birthday. At present, there is a gap in the existing law which often results in applications for guardianship being filed only *after* the alleged incapacitated person reached the age of majority, which means that no person(s) would be authorized to act on behalf of the alleged incapacitated person for a period of time before the guardianship application is adjudicated by the Court.

The proposed legislation cleared the New Jersey State Senate with a vote of 37-0 and the General Assembly with a vote of 76-0. On October 20, 2025, Governor Murphy issued a conditional veto of the proposed law based on the legislation's proposal to amend the existing law to prohibit withdrawal of a guardianship complaint absent a showing of capacity that can act to shift the burden to the AIP to demonstrate capacity.

If this legislation returns to Governor Murphy's desk after incorporating the Governor's proposed revisions and it is thereafter enacted, parents, relatives, or other interested persons will be able to better plan for their minor's future, including submitting applications for public benefits and establishing Special Needs Trusts to protect the minor's resources in anticipation of the minor reaching the age of majority and needed a guardian.

Florham Park

220 Park Avenue
Florham Park, NJ 07932
973-539-1000

Paramus

115 West Century Road
Suite 100
Paramus, NJ 07652
201-262-1600

Sparta

351 Sparta Avenue
Sparta, NJ 07871
973-295-3670

New York

9 East 40th Street
New York, NY 10016
646-652-7775

For more information about this Alert, please contact Thomas Lahey at llahey@spsk.com or 201-225-2730.

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