

AN ACT

To provide a procedure for and adequate protection in the administration of the property and personal rights of all incompetents.

BE IT ENACTED BY THE NITIJELA OF THE MARSHALL ISLANDS:

1 Section 1. Short title.

2 This Act may be cited as the "Marshall Islands Guardianship Law  
3 of 1984".

4 Section 2. Definitions.

5 (1) "Guardian" means one to whom the law has entrusted the  
6 custody and control of the person or property, or both, of an incompetent.

7 (2) "Foreign guardian" means one appointed in another country.

8 (3) "Incompetent" means a person who, because of minority,  
9 mental illness, mental retardation, senility, excessive use of drugs or  
10 alcohol, or other physical or mental incapacity, is incapable of either  
11 managing his property or caring for himself, or both.

12 (4) "Infant" or a "minor" means a person under eighteen years  
13 of age whose disabilities have not been removed by marriage or otherwise.

14 (5) "Property" means realty, personality and choses in action  
15 or any interest in them, legal or equitable, and also claims or rights  
16 of action arising in tort.

17 (6) "Ward" means an incompetent for whom a guardian has been  
18 appointed.

19 Section 3. Jurisdiction.

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1 (a) Jurisdiction over all matters pertaining to guardians  
2 and wards and to the management and the administration of the property  
3 of wards, regardless of the origin or cause of the incompetency of the  
4 ward is conferred upon the high court, (the "court").

5 (b) A judge of the high court (the "judge") may appoint a  
6 guardian of the person or of the property, or of both, of an incompetent.  
7 The judge may hear and determine complaints of wards against their guardians,  
8 require of guardians security or additional security when necessary, displace  
9 them, and make such orders as to the said judge may seem equitable and  
10 right relating to the estates of wards. The judge may require such guardians  
11 to post bonds to protect the ward's property and estate and, from time  
12 to time, to file inventories of their wards' estates, and accounts of  
13 receipts and disbursements, all of which shall be kept under seal of the  
14 court to protect the privacy of the individuals involved. He shall make  
15 such orders as to him shall seem just and may enforce his orders in a summary  
16 way by attachment for contempt and by imprisonment.

17 Section 4. Removal of domicile of ward from the Marshall Islands.

18 A ward who has acquired a domicile in the Marshall Islands  
19 within the meaning of the Domicile Act 1954 shall for all purposes continue  
20 to have such domicile in the Marshall Islands during the period of  
21 guardianship unless the guardian of such ward obtains an order from the  
22 high court which authorizes, for good cause shown, the removal of the  
23 domicile of the ward from the Marshall Islands.

24 Section 5. Foreign guardians.

25 (1) Foreign guardians who produce authenticated orders  
26 appointing them guardians, curators, conservator or committees, duly  
27 obtained in any state, territory or country, shall be authorized to

1 maintain action in the courts of the Marshall Islands on behalf of their  
2 wards.

3 (2) Guardians appointed in any state, territory or country  
4 may be sued in the Marshall Islands concerning the property or person  
5 of the ward in the Marshall Islands and may defend any action or proceeding  
6 in the Marshall Islands.

7 Section 6. Petition for appointment of guardian.

8 Every petition for the appointment of a guardian shall be  
9 verified by the petitioner and shall contain statements, to the  
10 best of petitioner's knowledge and belief, showing the name, age, residence  
11 and address of the alleged incompetent; the nature of his incapacity; the  
12 type of guardianship desired; the approximate value and description of  
13 his property; the residence and address of the petitioner; and the names  
14 and addresses of the next of kin of the incompetent, if known to the  
15 petitioner.

17 Section 7. Petition for appointment of guardian for a person  
18 mentally or physically incompetent.

19 No guardian of the person or of the property, or of both, of  
20 a person alleged to be mentally or physically incompetent can be appointed  
21 until after such person has been adjudicated to be incompetent by the  
22 court of the Marshall Islands. After such adjudication, a petition may be  
23 filed for the appointment of a guardian of either the person or of the  
24 property, or of both, of such person, and the general guardianship laws  
25 of the Marshall Islands now existing or which may hereafter be enacted  
26 shall apply of such petition and to all subsequent proceedings thereon.  
27 Any guardian appointed as a result of the filing of such petition shall be

1 subject to the general guardianship laws of the Marshall Islands.

2 Section 8. Order of appointment.

3 At the hearing on the petition for the appointment of a guardian,  
4 the court shall hear the evidence on the question of the competency of the  
5 person who is the subject of the hearing. If such person has been  
6 adjudicated incompetent by a court of a foreign jurisdiction, then upon  
7 presentation to the court of an authenticated copy of such order, such  
8 person shall be presumed incompetent in the absence of clear and convincing  
9 evidence that such order shall not be given effect in the Marshall Islands  
10 or that the competency of such person has been restored. The court may  
11 hear testimony of the question of who is entitled to preference in the  
12 appointment of a guardian. Any person interested may intervene in the  
13 proceedings. If the court finds that the person who is the subject of the  
14 hearing is incompetent, it shall appoint a guardian of the person or of the  
15 property, or both, as it may deem necessary. The order shall state the  
16 specific nature of the incapacity found.

17 Section 9. Preference in appointment.

18 In the appointment of a guardian the judge shall give due  
19 consideration to the appointment of one of the next of kin of said  
20 incompetent who is a fit and proper person and qualified to act, and  
21 likewise to any person designated as guardian in any will in which the  
22 incompetent is a beneficiary. The judge may in his discretion appoint  
23 any person who is qualified to act as guardian, whether related to  
24 the ward or not and whether resident of the Marshall Islands shall designate  
25 some resident of the Marshall Islands as his agent or attorney for the  
26 service of process, whose name and address shall be recorded in the office  
29 of the judge.

1           Section 10. Oath of guardian.

2                     Before exercising his authority as guardian, every guardian  
3 shall take an oath that he will faithfully perform his duties as guardian.

4           Section 11. Duties and powers of guardian of the person.

5                     (1) It is the duty of the guardian of the person to take  
6 care of the person of the ward, to treat him humanely and, if he is a  
7 minor, to see that he is properly educated and that he has the opportunity  
8 to learn a trade, occupation or profession.

9                     (2) The guardian of the person shall be entitled to the  
10 custody of the ward, but shall not have power to bind the ward or his  
11 property or to represent him in any legal proceedings pertaining to his  
12 property.

13           Section 12. Duties of guardian of the property.

14                     It is the duty of the guardian of the property of the ward  
15 to protect and preserve it, to invest it prudently, to account for it  
16 faithfully, to perform all other duties required of him by law, and at  
17 the termination of the guardianship, to deliver the assets of the ward  
18 to the person or person lawfully entitled thereto.

19           Section 13. Resignation of guardian.

20                     A guardian may resign and be relieved of his guardianship  
21 after the notice that the court may require. Before entering an order  
22 relieving the guardian, the court shall require him to file a true and  
23 correct account of his guardianship and to deliver to the successor  
24 guardian all property of the ward, all records concerning the property  
25 of the ward or of the guardianship, and all money due to  
26 the ward from him. Before entering the order, the court shall be satisfied

1 that the interest of the ward will not be placed in jeopardy by the  
2 resignation. The acceptance of the resignation shall not exonerate  
3 the guardian from any liability previously incurred.

4 Section 14. Appointment of successor.

5 A successor guardian must be appointed and duly qualified  
6 before a guardian shall be relieved of his duties and obligations as  
7 provided in the preceding section.

8 Section 15. Termination of guardianship of person or property.

9 When a ward becomes capable of managing his own affairs,  
10 the property of a ward has been lawfully exhausted, a ward dies or is  
11 accordance with Section 4 of this Act, his or her guardian shall file a  
12 final accounting with the court. The court may require proof of competency  
13 or the removal of the need for continuance of the guardianship before the  
14 accepting a final accounting and granting a discharge.

15 Section 16. Effective date.

16 This Act becomes effective on the date on which it becomes law.

17 Certificate

18 I hereby certify:

19 (1) that the above Nitijela Bill No. 4 N.D.-1 has been passed by the  
20 Nitijela of the Marshall Islands on the 5th day of March 1984; and

21 (2) that I am satisfied that Nitijela Bill No. 4 N.D.-1 has been  
22 passed in accordance with the Constitution of the Marshall Islands and the  
23 Rules of the Nitijela.

26 I hereby place my signature before the Clerk of the Nitijela this 15th  
27 day of March 1984.

