

Honorable Sheila Venable  
Assignment Judge

Honorable Jodi Lee Alper  
Presiding Judge

Edward Wingren  
Trial Court Administrator

495 Dr. Martin Luther King, Jr. Blvd., Chambers 348, Newark, NJ 07102

www.njcourts.gov • Tel: 973-776-9448

May 9, 2024

Acting Administrative Director Glenn A. Grant  
Administrative Office of the Courts  
Attn: Rules Comments  
Hughes Justice Complex, P.O. Box 037  
Trenton, NJ 08625-0037  
[Comments.Mailbox@njcourts.gov](mailto:Comments.Mailbox@njcourts.gov)

Re: Comments on the 2024 Report of the Supreme Court Civil Practice Committee

Dear Judge Grant:

On behalf of the Conference of General Equity Presiding Judges (“the Conference”) and Probate Part Judges Committee (“the Committee”), thank you for the opportunity to provide comments related to proposed amendments to Rule 4:3-1(a)(4)(I) and Rule 4:86-7A as set forth in the 2024 Report of the Supreme Court Civil Practice Committee.

As initially adopted in 2017, the Termination of Obligation to Pay Child Support Law, N.J.S.A. 2A:17-56.67, did not provide a mechanism for continuation of child support for individuals with disabilities who had reached the age of 23. Instead, it required a child support obligation for such individuals to be converted to another form of financial maintenance.

Thus, since the passage of the statute and the subsequent adoption of Rules 4:3-1(a)(4)(I) and 4:86-7A in 2018, applications under the statute for conversion of child support to financial maintenance for an alleged or adjudicated incapacitated person have been heard in the Probate Part. Matters involving financial maintenance applications for adult children who are not alleged or adjudicated incapacitated have presumably been heard in the Family Part pursuant to Rule 5:6-9; these applications are not heard in Probate.

The statute was amended effective December 1, 2020, to allow the court to order the continuation of child support “for a child with a severe physical or mental incapacity that causes the child to be financially dependent upon a parent...”. N.J.S.A. 2A:17-56.67(f)(3). Subsequently, Rule 5:6-9(g) was adopted to establish procedures for such actions in the Family Part, with enforcement through the Probation Division.

The Legislature's 2020 amendment to the statute provided a much-needed correction to New Jersey law to permit child support for incapacitated adults who are financially dependent upon a parent to be continued, rather than requiring child support to be converted to another form of financial maintenance. The statutory amendment and subsequent adoption of Rule 5:6-9(g) eliminates the need for procedures for child support obligations for alleged or adjudicated incapacitated individuals to be converted to financial maintenance.

We agree with the Civil Practice Committee that Family Part judges are better positioned than Probate Part judges to handle applications for continuation of child support, as they are equipped with the technology, specialized training, and staff support to properly calculate support. In particular, members of the Conference and Committee who formerly were assigned to the Family Part and are currently assigned to the Probate Part attest to the difficulty of adjudicating such matters in Probate without the resources available to judges in the Family Part. Specifically, the Probate Part judges do not have access or training on the child support guidelines application. This impedes them from running a fair calculation impacting the family as a whole, including consideration of other children and additional income. In the interest of efficiency, the Family Part judges and their staffs already have the expertise and knowledge of the guidelines application. Further, Family Part judges will have prior knowledge of the families and their dynamics, having presumably adjudicated issues under the respective Family Part dockets. Conversely, the child's status as an alleged or adjudicated incapacitated person does not require specialized knowledge of family circumstances.

Anecdotally, the annual statewide filing volume of these discrete matters is believed to be in single digits. Thus, training the Probate Part judges to run child support guidelines would be inefficient, as it would be duplicative of resources and tools already in place.

For these and the other reasons set forth in the Civil Practice Committee's report, including enforcement through the Probation Department and procedural clarity for litigants and the bar, the Conference and Committee endorse the proposed amendments to Rule 4:3-1(a)(4)(I) and Rule 4:86-7A.

Thank you for your consideration of these comments.

Respectfully submitted,

*/s/ Jodi Lee Alper, P.J.Ch.*

Jodi Lee Alper, P.J.Ch.  
Chair, Conference of General Equity  
Presiding Judges

*/s/ Robert J. Mega, P.J.Ch.*

Hon. Robert J. Mega, P.J.Ch.  
Chair, Probate Part Judges Committee

cc: Conference of General Equity Presiding Judges  
Probate Part Judges Committee  
Steven D. Bonville, Chief of Staff  
Jennifer M. Perez, Director, Trial Court Services  
Taironda E. Phoenix, Assistant Director, Civil Practice  
Jessica Lewis Kelly, Special Assistant  
Kristi Jasberg Robinson, Chief, Civil Practice Liaison  
Bridget Dorney Chater, Esq., Civil Practice Committee Staff  
Suvarna Sampale, Esq., Civil Practice Committee Staff