

## **RULE 4:81. Application To Surrogate's Court For Guardianship Of Minor**

### **4:81-1. Application**

- **(a) Contents.** Unless a complaint is filed with the Superior Court pursuant to R. 4:83, an application for letters of guardianship of a minor shall be filed with the Surrogate's Court stating the minor's age and residence and the names and addresses of the minor's nearest of kin and of all persons who stand in loco parentis and of the persons with whom the minor resides.
- **(b) Affidavits.** The application shall have annexed to it an affidavit made by a person with personal knowledge stating the value of the minor's real and personal estate and the amount of income from any real or personal estate belonging to the minor.
- **(c) Filing.** The application shall be filed in the county where the minor is domiciled at the time or, if at that time the minor has no domicile in this State, then in any county in which the minor has any property.
- **(d) Recording.** The application shall be recorded by the Surrogate's Court.

Note: Source-R.R. 4:101-1; caption of rule and paragraphs (a) and (b) of former R. 4:82-1 amended, former paragraph (c) amended and redesignated as paragraph (d), new caption and text of paragraph (c) adopted, and rule redesignated June 29, 1990 to be effective September 4, 1990.

### **4:81-2. Renunciation or Notice**

If the application is made by the minor's only living parent for letters of guardianship of the minor's estate, no renunciation or notice shall be required; but if made by any other person, there shall be filed either:

- **(a)** A renunciation, made in accordance with R. 4:96-2, by (1) all adult persons whose right to the letters is prior or equal to that of the applicant, (2) the person or persons, if any, in loco parentis to the minor and (3) the persons with whom the minor resides. All such renunciations shall contain a request for the issuance of letters according to the application; or
- **(b)** Proof of notice of the application or affidavit of inquiry as prescribed in R. 4:80-3(b). Such notice shall be given to the persons whose renunciations are required by paragraph (a) and such additional persons as the Surrogate may specify.

Note: Source-R.R. 4:101-2. Amended July 26, 1984 to be effective September 10, 1984; introductory text and paragraphs (a) and (b) of former R. 4:82-2 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.

### **4:81-3. Signature to Application**

If an application is made for letters of guardianship for a minor of the age of 14 years or more whose parent has absconded or has been absent from the State leaving the minor without sufficient provisions for maintenance or education, or for any minor desiring the appointment of a special guardian in order to enlist in the armed forces of the United States, the application shall be signed by the minor in the presence of any Surrogate or Deputy Surrogate. If the minor is outside this State, the application shall be signed by the minor and acknowledged in the manner provided for deeds, either in the presence of a judge of a court of record or, in a foreign country, in the presence of an officer authorized by the law of that country to take acknowledgements.

Note: Source-R.R. 4:101-3; caption and text of former R. 4:82-3 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.

### **4:81-4. Residents Preferred Over Nonresidents**

As between persons equally entitled, the Surrogate's Court in granting letters shall give preference to the resident of this State, unless the best interests of the minor will not thereby be served.

**Note:** Source-R.R. 4:101-4. Amended July 26, 1984 to be effective September 10, 1984; former R. 4:82-4 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.

#### **4:81-5. Acceptance**

Before letters of guardianship shall issue, the guardian shall accept the appointment in accordance with R. 4:96-1.

**Note:** Source-R.R. 4:103-3 (second sentence); former R. 4:82-5 amended and rule redesignated June 29, 1990 to be effective September 4, 1990.