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**TO: Assignment Judges
General Equity Presiding Judges
Probate Judges
Surrogates
Trial Court Administrators**

DIRECTIVE #11-21

[Questions or comments may be
directed to (609) 815-2900, ext. 54900]

FROM: Glenn A. Grant, J.A.D. 

**SUBJ: Guardianships of Incapacitated Adults – Background Screening Policy
for Proposed Guardians; New and Revised Court Forms**

DATE: April 29, 2021

The Supreme Court has approved a Background Screening Policy for Proposed Guardians of Incapacitated Adults (the “policy”). This directive promulgates that new policy and related new and revised court forms. It also provides guidance for use of the new policy, which will apply to guardians in matters filed on or after May 15, 2021.

Summary:

The policy (Attachment 1) is intended to further safeguard the vulnerable population of incapacitated adults against risks of potential abuse, neglect, and financial exploitation by guardians appointed by the court to make decisions related to their care and financial affairs. Certain proposed guardians will be subject to a check of Judiciary systems, a fingerprint or computerized criminal history check, and, at the discretion of the Probate Part judge, a certified judgment (Charles Jones) search. Proposed guardians also will be required to self-disclose and certify to any criminal and civil judgment history, acknowledge receipt of and compliance with the policy, and provide periodic reports to the court of any changes to their criminal and civil judgment history. Individuals with any relevant negative history will be provided with notice and an opportunity to be heard by the court as to whether the information discovered would affect the individual’s ability to perform the duties of a guardian.

The policy presumptively exempts certain categories of proposed guardians from the background screening process. However, the court may require any proposed guardian to undergo background screening as a prerequisite to appointment based on the individual facts of the case, including but not limited to the value of the guardianship estate.

Rule Amendments and New and Revised Forms:

To implement the approved policy, the Supreme Court amended Rule 4:86-2 (“Complaint; Accompanying Documents; Alternative Affidavits or Certifications”); Rule 4:86-4 (“Order for Hearing”); and Rule 4:86-6 (“Hearing; Judgment”).

Consistent with the policy, a new Certification of Criminal and Civil Judgment History (CN 12706) (Attachment 2) will be introduced. The following existing court forms also will be revised: Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (CN 12013) (Attachment 3); Judgment of Incapacity and Appointment of Guardian of the Person and Estate (CN 11802) (Attachment 4); Judgment of Incapacity and Appointment of Guardian of the Person (CN 11988) (Attachment 5); Acceptance of Guardianship and Acknowledgment of Guardian Background Screening and Training (Attachment 6); and Report of Guardian Cover Page (CN 11797) (Attachment 7).

Screening Policy Process:

The screening process involves six steps, as summarized below and detailed in the attached policy:

1. Certification of Criminal and Civil Judgment History
 - A. When a guardianship complaint is filed, the proposed guardian will file a Certification of Criminal and Civil Judgment History (Attachment 2). If no proposed guardian is identified at the time of filing of the complaint, the certification must be filed as soon as a proposed guardian is identified, or before entry of the Judgment of Incapacity and Appointment of Guardian.
 - B. The certification may be supplemented up to the time of qualification and acceptance of appointment.
 - C. Proposed guardians who are subject to the policy will receive a copy of the policy with the Order for Hearing and must acknowledge receipt. (See Step 5, below.)
2. Fingerprinting and Criminal History Check
 - A. When the Order for Hearing (Attachment 3) is entered, court staff will coordinate with County Sheriff’s departments to perform fingerprint checks of proposed guardians who are New Jersey residents.
 - B. Proposed guardians residing out of state will undergo a Computerized Criminal History (CCH) check.

- C. The fingerprint or CCH check results may be confidentially shared with the Probate Part judge, the County Surrogate and/or their designees, as well as with counsel for the alleged incapacitated person.
- 3. Judiciary Systems Check and Certified Judgment (Charles Jones) Search
 - A. Proposed guardians also will be screened by searching certain Judiciary systems.
 - B. The Probate Part judge also has discretion to require a Charles Jones search based on the value of the guardianship estate.
 - C. The results of the Judiciary systems searches and Charles Jones search, if applicable, may be confidentially shared with the Probate Part judge, the County Surrogate and/or their designees, as well as with counsel for the alleged incapacitated person.
- 4. After receipt of the screening results, the Probate Part judge will review the information to determine whether it contains any relevant adverse or negative history.
 - A. The policy sets forth nine factors to be evaluated by the Probate Part judge in determining whether the proposed guardian's relevant screening results may adversely relate to their ability to perform the duties and responsibilities of guardianship.
 - B. Proposed guardians whose relevant negative history may preclude them from appointment will be entitled to notice and an opportunity to be heard on the record as to why the check results would not adversely impact their ability to perform the duties and responsibilities of guardianship.
 - C. Fingerprint and Judiciary systems search results will be destroyed.
- 5. No later than the time of entry of the Judgment of Incapacity and Appointment of Guardian (Attachment 4 or 5), the appointed guardian must execute an acknowledgment of compliance with the policy. At qualification, the appointed guardian must sign the Acceptance of Guardianship and Acknowledgment of Guardian Background Screening and Training (Attachment 6).
- 6. The appointed guardian has an ongoing duty to comply with the policy and to disclose any changes to criminal or civil judgment history in periodic reports required pursuant to N.J.S.A. 3B:12-42. (Attachment 7).

Any questions related to this directive or the attached policy, amended rules, or new and revised forms should be directed to the Civil Practice Division at (609) 815-2900 ext. 54900 or civilwebsites.mbx@njcourts.gov.

Attached: (1) Background Screening Policy for Proposed Guardians of Incapacitated Adults

- (2) New form Certification of Criminal and Civil Judgment History (CN 12706)
- (3) Revised form Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (CN 12013)
- (4) Revised form Judgment of Incapacity and Appointment of Guardian of the Person and Estate (CN 11802)
- (5) Revised form Judgment of Incapacity and Appointment of Guardian of the Person (CN 11988)
- (6) Revised form Acceptance of Guardianship and Acknowledgment of Guardian Background Screening and Training
- (7) Revised form Report of Guardian Cover Page (CN 11797)

cc: Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
Civil Division Managers
Kristi Jasberg Robinson, Chief, Civil Practice Liaison

Attachment 1

Background Screening Policy for Proposed Guardians of Incapacitated Adults

**New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults**

I. Authority

N.J.S.A. 3B:12-25; R. 4:86; National Probate Court Standard 3.3.12;
N.J.A.C. 13:59-1.1 et seq.; 28 C.F.R. part 20

II. Applicability

This policy is applicable to all proposed guardians of incapacitated adults in matters adjudicated in the New Jersey Superior Court, Chancery Division, Probate Part, except the following:

- A. Individuals who are the parents in a parent and child relationship with an alleged incapacitated person, as “parent and child relationship” is defined by the New Jersey Parentage Act, N.J.S.A. 9:17-39;
- B. Individuals who are married to an alleged incapacitated person in accordance with N.J.S.A. 37:1-29 et seq., in a civil union with an alleged incapacitated person as defined by N.J.S.A. 37:1-29, or in a domestic partnership with an alleged incapacitated person as defined by N.J.S.A. 26:8A-3;
- C. Pendente lite temporary guardians appointed pursuant to N.J.S.A. 3B:12-24.1(c);
- D. Agencies authorized to act pursuant to P.L.1985, c. 298 (C.52:27G-20 et seq.), P.L.1985, c. 145 (C.30:6D-23 et seq.), P.L.1965, c. 59 (C.30:4-165.1 et seq.) and P.L.1970, c. 289 (C.30:4-165.7 et seq.);
- E. Public officials appointed as limited guardians of the person for medical purposes for individuals in psychiatric facilities listed in R.S.30:1-7;
- F. Banks, trust companies, credit unions, savings and loan associations, or other financial institutions duly licensed or authorized to conduct business under applicable state or federal laws; and

G. Attorneys admitted to practice law and in good standing in the State of New Jersey.

H. Notwithstanding the above provisions (A) through (G), the court may require any proposed guardian to undergo background screening as a prerequisite to appointment based on the individual facts of the case, including but not limited to the value of the guardianship estate.

III. Scope

These procedures establish guidelines governing screening of proposed permanent guardians, substitute guardians, and successor guardians of incapacitated adults in matters adjudicated in the New Jersey Superior Court, Chancery Division, Probate Part. These include proposed general and limited guardians of the person; of the estate; and of the person and estate.

IV. Policy and Procedures

A. All proposed guardians who are subject to the policy will be provided with a copy of the Judiciary's Screening Policy for Proposed Guardians of Incapacitated Adults by the Surrogate. The proposed guardians must sign an acknowledgment of receipt of the policy no later than prior to the entry of the judgment of incapacity and appointment of guardian. This acknowledgment form shall be filed as part of the court record.

B. All proposed guardians must attach a Certification of Criminal and Civil Judgment History to their complaint. The Certification of Criminal and Civil Judgment History shall be in such form as promulgated by the Administrative Director of the Courts. The certification may be supplemented at any time up to the time of qualification and acceptance of appointment. If no proposed guardian has been identified at the time of the filing of the complaint, the certification shall be filed no later than prior to the entry of judgment of legal incapacity and appointment of guardian.

C. A criminal history background screening check will be performed upon all proposed guardians who are subject to the policy prior to qualification and acceptance of the appointment. The background

check will be in the form of a fingerprint check performed by the county sheriff's department for the vicinages.

- D. The fingerprint check should be conducted prior to the proposed guardian's qualification and acceptance of the appointment.
- E. In the event that a proposed guardian is not available to submit to a fingerprint in New Jersey because he/she resides outside of the State, a Computerized Criminal History (CCH) check will be used as a screening tool.
- F. Electronic Reception of the Fingerprint Reports
 - 1. The vicinage Human Resources Division Manager or his/her designee may receive the electronically transmitted copy of the fingerprint reports.
 - 2. Hard copies of the fingerprint reports may be made and confidentially shared with the Probate Part judge, the Surrogate, and/or his/her designee, as well as with counsel for the alleged incapacitated person.
 - 3. Hard copies of the fingerprint reports may also be made and confidentially shared with Counsel to the Administrative Director at the Administrative Office of the Courts and/or his/her designee.
 - 4. No electronic copies of fingerprint reports may be made and/or distributed.
 - 5. Pursuant to federal regulations, the Judiciary may **not** share the results of an individual's fingerprint report with that individual.
- G. Any questions or concerns regarding an item that appears on a fingerprint report or a CCH check shall be directed to Counsel to the Administrative Director at the Administrative Office of the Courts.

H. Destruction of the Fingerprint Reports

1. All copies and the original of the fingerprint reports must be destroyed immediately upon decision-making.
2. Destruction of fingerprint reports shall be in the form of shredding.
3. The vicinage Human Resources Division Manager is responsible for ensuring that all such records are shredded.

I. All proposed guardians who are subject to the policy will also be screened using of the following Judiciary systems: (1) the Automated Traffic System (ATS), (2) Promis-Gavel, (3) the Judiciary's Children-in-Court (CIC) Documents Application, which will access limited areas of the Domestic Violence Central Registry through the Family Automated Case Tracking System (FACTS), Promis-Gavel, and the Automated Complaint System (ACS), and (4) the Civil Judgment and Order Docket (CJOD). No other internal Judiciary program may be searched. The Probate Part judge or his/her designee will conduct this prior court history search. If any adverse information is obtained by such search, the Probate Part judge or his/her designee will consult with the relevant Family/Criminal/Municipal Division Manager to ensure appropriate interpretation of the data. In addition, a Charles Jones search may be conducted for proposed guardians in the discretion of the Probate Part judge based on the value of the guardianship estate, with costs to be paid by the proposed guardian. Results of these database searches may be confidentially shared with counsel for the alleged incapacitated person.

1. If the proposed guardian's name appears on one of these database searches, the information will be reviewed by the Probate Part judge for a determination as to whether the person should be precluded from appointment as guardian.
2. Records from the CIC Document Search must be destroyed immediately upon decision-making. Destruction of the records shall be in the form of shredding. The Probate Part judge or his/her designee is responsible for ensuring that all such records are shredded.

J. Evaluating Criminal History Background and Screening Information

1. The following factors may be considered in determining whether the criminal history background information and/or the screening information discovered through the search of Judiciary systems adversely relates to the proposed guardian's ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate:
 - a. The nature and seriousness of the offense or misconduct;
 - b. The circumstances under which the offense or misconduct occurred;
 - c. The date of the offense or misconduct and the age of the proposed guardian when the offense or misconduct was committed;
 - d. The disposition of the offense or misconduct;
 - e. Whether the offense or misconduct was an isolated event;
 - f. Evidence of rehabilitation;
 - g. Whether the offense or misconduct is relevant to the responsibilities of a guardian;
 - h. The vulnerability of the incapacitated person; and
 - i. Whether appointing the proposed guardian diminishes the public trust in the Judiciary.
2. All Probate Part judges and designees who review criminal history background and screening information need to be mindful of the presumption of innocence with respect to pending criminal charges. Review of pending criminal charges is a fact-sensitive exercise and will depend on the seriousness of the offense charged and the extent to which it touches upon the proposed guardian's prospective duties.
3. Review of data from criminal background checks and searches of Judiciary systems will be strictly limited to the Probate Part judge and/or his/her designee.
4. The decision to appoint or preclude appointment of a guardian based on criminal background check or screening data lies with the Probate Part judge.

5. A proposed guardian whose appointment may be precluded based on the results of a criminal background check or screening must be provided notice and an opportunity to be heard on the record as to why the conviction or search result would not adversely affect the proposed guardian's ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate before the court decides to appoint or preclude appointment of the guardian.
 - a. Proposed guardians who may be precluded from appointment based on data contained in a fingerprint report or screening data will be afforded an opportunity to challenge any alleged inaccuracy or incompleteness of the information within the report. Proposed guardians will be provided with an appropriate "Notice of Rights" in such form as attached to this policy. Pursuant to 28 C.F.R. 16.30-34, the "Notice of Rights (Fingerprinting)" sets forth the procedures that must be followed to challenge any alleged inaccuracies or incompleteness with a proposed guardian's fingerprint report. The proposed guardian shall be afforded a reasonable period of time to correct or complete any information contained in their fingerprint report.
- K. At qualification and acceptance of the appointment of guardianship, the guardian's acceptance shall include an acknowledgment of compliance with this policy.
- L. Guardians ordered to file periodic reports pursuant to N.J.S.A. 3B:12-42 shall have an ongoing duty to comply with this policy by disclosing any changes to their criminal or civil judgment history in such reports.

New Jersey Judiciary Background Screening Policy for Proposed Guardians of Incapacitated Adults Acknowledgment Form

As part of the process of appointing a guardian of an incapacitated adult, the New Jersey Judiciary requires background checks for certain proposed guardians prior to qualification and acceptance of the appointment. The background check is one way that the court obtains information that is relevant to determining whether a person should be appointed as guardian. The process is designed to help the court in doing what is best for the person who is subject to the guardianship.

The Judiciary recognizes that good people make mistakes, or can be subject to unfortunate circumstances outside of their control. These facts will not disqualify them from being considered as a guardian. Rather, the court will take that information into consideration – along with information provided by the person who is offering to serve as guardian – and will make a decision based on all of the facts available, including the expressed preference of the alleged incapacitated person.

Proposed guardians must file a Certification of Criminal and Civil Judgment History with the complaint. The certification may be supplemented at any time up to the time of qualification and acceptance of appointment. If no proposed guardian has been identified when the complaint is filed, the certification must be filed no later than prior to the entry of judgment of legal incapacity and appointment of guardian. The proposed guardians will be fingerprinted and a criminal history check will be performed. These background checks access the National Crime Information Center's (NCIC) database of criminal arrests, criminal convictions, disorderly persons convictions, as well as any convictions that have been expunged.

The Judiciary also screens proposed guardians through a search of the following Judiciary systems: (1) the Automated Traffic System (ATS), (2) Promis-Gavel, (3) the Judiciary's Children-in-Court (CIC) Documents Application, which will access limited areas of the Domestic Violence Central Registry through the Family Automated Case Tracking System (FACTS), Promis-Gavel, and the Automated Complaint System (ACS), and (4) the Civil Judgment and Order Docket (CJOD). No other internal Judiciary program may be searched. In addition, the court may require that a Charles Jones search be conducted for proposed guardians based on the value of the guardianship estate, with costs to be paid by the proposed guardian.

If a conviction is revealed, or if a proposed guardian's name appears on any of these database searches, the information will be reviewed for a determination as to

whether the proposed guardian should be precluded from appointment as a guardian. Again, a conviction or an appearance in the search results will not automatically disqualify a proposed guardian from appointment. Rather, the court will consider whether the conviction or search result adversely affects the proposed guardian's ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate.

A proposed guardian whose appointment may be precluded based on criminal background check or screening data shall be provided notice and an opportunity to be heard on the record as to why the data would not adversely affect the proposed guardian's ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate before a decision on appointment is made. The proposed guardian will be given a "Notice of Rights," which sets forth procedures to challenge any alleged inaccuracies or incompleteness with a proposed guardian's fingerprint report, and an opportunity to challenge any alleged inaccuracy or incompleteness of the data. The proposed guardian shall also be afforded a reasonable period of time to correct or complete any information contained in their fingerprint report.

At qualification and acceptance of the appointment of guardianship, the guardian's acceptance shall include an acknowledgment of compliance with this policy.

Guardians ordered to file periodic reports pursuant to N.J.S.A. 3B:12-42 shall have an ongoing duty to comply with this policy by disclosing any changes to their criminal or civil judgment history in such reports.

I acknowledge that I have received a copy of New Jersey Judiciary Background Screening Policy for Proposed Guardians of Incapacitated Adults.

County

Docket Number

Name of Proposed Guardian

Signature

Date

Notice of Rights (Fingerprinting)

Please be advised that information in your background check may preclude you from being appointed as guardian of an incapacitated adult. You have the right to challenge this information and to present corrected or additional information to the court. You may obtain a copy of your identification record by submitting a written request via the U.S. mail directly to the F.B.I., Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. Such a request must be accompanied by satisfactory proof of identity. Your request must also be accompanied by the applicable fee in the form of a certified check or money order, payable to the Treasury of the United States.

If, after reviewing your identification record, you believe that it is incorrect or incomplete in any respect, you may make application directly to the agency that contributed the questioned information or direct your challenge to the F.B.I., Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306. The F.B.I. will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry.

Notice of Rights (Judiciary System Check)

Please be advised that information in your background check may preclude you from being appointed as guardian of an incapacitated adult. You have the right to challenge this information and to present corrected or additional information to the court. Pursuant to the current Background Check Policy for Proposed Guardians, candidates are also screened using Judiciary computer systems. Please note that your presumptive preclusion was based upon information revealed after a check of these Judiciary computer systems.

Attachment 2

Certification of Criminal and Civil Judgment
History (CN 12706)

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Email Address _____
Telephone Number _____

In the Matter of,

_____,
Name of Alleged Incapacitated Person (AIP)
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action**Certification of Criminal and
Civil Judgment History**

I, _____, date of birth _____, hereby certify as follows:

This certification is made by me in support of an application for a declaration of incapacity and appointment of guardian for _____ ("the alleged incapacitated person"). I am seeking appointment by the court as guardian for the alleged incapacitated person. (Check one)

- ☐ I have never been convicted of a crime other than a traffic violation, and no civil judgments (including bankruptcy) have ever been entered against me.

OR

- ☐ I have been convicted of a crime other than a traffic violation, and/or have criminal charges pending against me, and/or a civil judgment (including bankruptcy) has been entered against me, as listed below (use extra pages if needed).

	Charge/Conviction/Civil Judgment	Date	Location
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

I understand that a criminal charge/conviction or civil judgment will not automatically disqualify me from appointment as guardian of the alleged incapacitated person. Rather, the court will consider whether the charge/conviction or judgment adversely affects my ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate.

The history listed above does not adversely affect my ability to perform the duties and responsibilities of guardianship in the best interests of the incapacitated person or estate because (use extra pages if needed):

I hereby certify and say that the foregoing statements made by me are true to the best of my knowledge, and that I will supplement this form as may be necessary should additional information become available. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date

Signature

Print Name

Attachment 3

Order Fixing Guardianship Hearing Date and
Appointing Attorney for Alleged Incapacitated
Person (CN 12013)

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Email Address _____
Telephone Number _____

In the Matter of,

_____,
an Alleged Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
County _____
Docket Number _____

Civil Action

**Order Fixing Guardianship Hearing Date
and Appointing Attorney for Alleged
Incapacitated Person**

THIS MATTER having been opened to the court by _____, plaintiff(s), for a judgment declaring _____, an incapacitated person and appointing a guardian of the person and/or estate (property) pursuant to applicable New Jersey statutes and Rules of Court, and for such other relief as the court may deem just, and the court having read and considered the verified complaint, the supporting certifications or affidavits, and all other papers and pleadings filed in this matter, and for good cause shown:

IT IS on this ____ day of _____, 20__, **ORDERED** that:

1. This matter be set down for hearing before this court at the _____ County Courthouse, _____, New Jersey on the ____ day of _____, 20__, at _____ ☐ a.m. ☐ p.m. or as soon thereafter as plaintiff may be heard, to determine the issues of incapacity of _____ and the appointment of a guardian.
2. A copy of the verified complaint, supporting affidavits or certifications and this Order, shall be served on the alleged incapacitated person, by personally serving the same at least 20 days prior to the date scheduled for the hearing.
3. A separate notice shall be personally served on the alleged incapacitated person stating that if he/she desires to oppose the action he/she may appear either in person or by attorney and may demand a trial by jury.
4. A copy of the verified complaint, supporting affidavits or certifications and this Order shall also be served on all the next-of-kin and other parties-in-interest identified in the verified complaint by certified mail, return receipt requested at least 20 days prior to the date scheduled for the hearing. If applicable, a copy of the verified complaint, supporting affidavits or certifications and this Order shall be served on the County Adjuster and the Regional Administrator for the Division of Developmental Disabilities.
5. _____, Esquire office address _____, telephone number _____, be and hereby is appointed as attorney for the alleged incapacitated person. Said attorney shall personally interview the alleged incapacitated person, examine the medical records, make inquiry of persons having knowledge of the alleged incapacitated person's circumstances, his/her physical and mental state and his/her property, make reasonable inquiries to locate any Will or other testamentary substitutes, powers of attorney or health care directives previously executed by the alleged incapacitated person, or to discover any interests the alleged incapacitated person may have as a beneficiary of a will or trust. Said attorney shall prepare a written report of findings and recommendations (and, if applicable, an affidavit of services) to be filed with the Court and with the plaintiff(s) and other parties who have filed a written response at least ten (10) days prior to the hearing.

SELECT ONE:

☐ The attorney appointed to represent the alleged incapacitated person is appointed *pro bono* (without cost).

OR

☐ The attorney appointed to represent the alleged incapacitated person is to be paid. Pursuant to R. 4:86-4(d), the court may direct that counsel be paid from the assets of the alleged incapacitated person, or if such assets are insufficient, then from the party seeking guardianship or otherwise.

6. If the alleged incapacitated person obtains counsel other than that appointed by the above paragraph, such counsel shall notify the court and appointed counsel at least ten (10) days prior to the hearing date.
7. A copy of the verified complaint, supporting affidavits or certifications and this Order shall be immediately served on the attorney for the alleged incapacitated person by personal service, certified mail, return receipt requested. If acceptable to the court-appointed attorney, service may be via facsimile, by regular mail, and/or by email.
8. The attorney above appointed to represent the alleged incapacitated person is hereby regarded as a HIPAA (Health Insurance Portability and Accountability Act) representative for the alleged incapacitated person and shall have the right and power to examine complete medical records, including medical and psychiatric records and written charts, pertaining to the alleged incapacitated person, and to visit and confer with the alleged incapacitated person.
9. The attorney above appointed to represent the alleged incapacitated person shall have the right and power to examine financial and legal documents and records pertaining to the alleged incapacitated person.
10. The plaintiff shall file with the County Surrogate a proof of service of the pleadings required by this order to be served on the alleged incapacitated person and the parties in interest no later than ten (10) days before the date this matter is scheduled to be heard.
11. Any next-of-kin and other party-in-interest who wishes to be heard with respect to any of the relief requested in the verified complaint shall file with the Surrogate of _____ County at the following location:
_____, together with the applicable filing fee and serve upon the attorney for the plaintiff and the attorney for the alleged incapacitated person at the address set forth above, a written answer, an answering affidavit, a motion returnable on the date this matter is scheduled to be heard or other written response ten (10) days before the date this matter is scheduled to be heard.
12. If applicable, any proposed guardian shall complete guardianship training as promulgated by the Administrative Director of the Courts, by viewing or otherwise reviewing the Court Appointed Guardian Tutorial posted on the Judiciary's website at njcourts.gov/courts/civil/guardianship.html and receiving copies of the relevant guardianship training guide(s).
13. If applicable, any proposed guardian shall comply with any background screening policy for proposed guardians of incapacitated adults promulgated by the Administrative Director of the Courts and provided with this Order, including but not limited to fingerprinting.

SELECT ONE:

☐ Based on the value of the guardianship estate, the background screening shall include a Charles Jones search, with costs to be paid by the proposed guardian.

OR

☐ Based on the value of the guardianship estate, a Charles Jones search is not required.

J.S.C.

Attachment 4

Judgment of Incapacity and Appointment of
Guardian of the Person and Estate (CN 11802)

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Email Address _____
Telephone Number _____

In the Matter of:

_____,
an Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
_____ County

Docket No. _____

Civil Action**Judgment of Incapacity and
Appointment of Guardian(s) of the
Person and Estate**

THIS MATTER being opened to the Court by _____, plaintiff(s), by and through his/her attorney, _____ in the presence of _____, the then alleged incapacitated person, and _____, attorney for the then alleged incapacitated person, and no demand having been made for a jury trial, and the Court sitting without a jury having found from the report of counsel together with the report of the examining physician or psychologist and other supporting document and proofs given that the then alleged incapacitated person is an incapacitated person who lacks sufficient capacity to govern himself/herself or to manage his/her affairs, and it further appearing that _____, consents to serve as Guardian(s) of the Person and Estate (Property) of the then alleged incapacitated person, and for good cause shown:

IT IS on this _____ day of _____, 20 __, *ORDERED AND ADJUDGED* that:

1. GUARDIANSHIP TYPE: _____ is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs. This is a guardianship:

As to the Person ☐ General ☐ Limited
As to the Estate ☐ General ☐ Limited

Limited Guardianship: The incapacitated person is able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas:

Check if applicable:

☐ The subject of this guardianship is incapacitated as a result of developmental disability.

Firearms: Pursuant to 18 U.S.C. 922(g)(4), the incapacitated person does not retain the right to possess firearms.

2. GUARDIAN APPOINTMENT:

Name _____
Address _____

Phone _____
E-mail _____

Name _____
Address _____

Phone _____
E-mail _____

be and hereby is/are appointed Guardian(s) of the Person and Estate of the incapacitated person and that Letters of Guardianship of the Person and Estate be issued upon his/her/their (a) qualifying according to law not later than

30 days after the date of this judgment, (b) acknowledging to the Surrogate completion of guardianship training and receipt of the guardianship training guides, (c) acknowledging compliance with any background screening policy for proposed guardians promulgated by the Administrative Director of the Courts, and (d) unless waived for extraordinary reasons, entering into a surety bond unto the Superior Court of New Jersey in the amount of \$ _____, which bond shall contain the conditions set forth in *N.J.S.A. 3B:15-7* and *R. 1:13-3*. The court shall approve the bond as to form and sufficiency.

3. Upon qualifying, the Surrogate shall issue Letters of Guardianship of the Person and Estate to the guardian(s), and thereupon the guardian(s) be and hereby is/are authorized to perform all the functions and duties of a Guardian of the Person and Estate as allowed by law, except as limited herein or in areas where the incapacitated person retains decision making rights.
4. In exercising the authority conferred by this Judgment, the guardian(s) shall:
 - Ascertain and consider those characteristics of the incapacitated person which define his/her uniqueness and individuality, including but not limited to likes, dislikes, hopes, aspirations, and fears;
 - Encourage the incapacitated person to express preferences and participate in decision-making;
 - Give appropriate deference to the expressed wishes of the incapacitated person;
 - Protect the incapacitated person from injury, exploitation, undue influence, and abuse;
 - Promote the incapacitated person's right to privacy, dignity, respect, and self-determination; and
 - Make reasonable efforts to maximize opportunities and individual skills to enhance self-direction.
5. **GUARDIAN LIMITATIONS: If applicable**, the authority of the guardian(s) is limited as follows, and all limitations shall be stated in the Letters of Guardianship.
 - ☐ The Guardian(s) of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval.
 - ☐ The Guardian(s) of the Estate may not exercise authority over any property or income of the incapacitated person in excess of \$ _____ without court approval.
 - ☐ _____
6. The guardian(s) appointed hereunder shall be considered the personal representatives under the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and shall have full and complete access to all records of the incapacitated person.
7. The Guardian(s) shall have an ongoing duty to comply with any background screening policy promulgated by the Administrative Director of the Courts by disclosing any changes to their criminal or civil judgment history on the Report of Guardian Cover Page filed with the report(s) required in paragraphs 8-10 below.
8. **INVENTORY:** The Guardian(s) shall file with the Court an inventory of all of the incapacitated person's property and income, along with a Report of Guardian Cover Page, within 90 days. Said inventory shall be available for inspection by any party in interest in this guardianship action, upon request to the Surrogate's Court to review the inventory.
9. **REPORTING AS TO PERSON:**
 - ☐ The Guardian(s) of the Person shall file annually a report of the well-being of the incapacitated person, along with a Report of Guardian Cover Page.

OR

 - ☐ The filing of a report of well-being is hereby waived for the reasons stated on the record.

10. REPORTING AS TO ESTATE (PROPERTY):

- ☐ The Guardian(s) of the Estate shall file annually, along with a Report of Guardian Cover Page:
- ☐ Formal accounting (presumptive if guardianship estate valued over \$5,000,000);
 - ☐ Comprehensive accounting (presumptive if guardianship estate valued \$1,000,000 - \$5,000,000);
 - ☐ EZ accounting (presumptive if guardianship estate valued under \$1,000,000); or
 - ☐ Copy of the Social Security Representative Payee Report (presumptive if guardian is also representative payee for Social Security benefits and incapacitated person has no other assets or income, except where guardian is exempt from filing pursuant to 42 U.S.C. 405(j)(3)(D));

OR

- ☐ The filing of a Periodic Accounting is hereby waived for the reasons stated on the record.

If an informal accounting is ordered, said Periodic Accounting does not replace or satisfy the duty to file and bring on for approval a formal accounting as required by law or as ordered by the court.

11. The report(s) indicated in paragraphs 9 and/or 10 above is/are to be filed with the County Surrogate not later than fourteen (14) days after the anniversary date of this judgment. The report(s) shall be made available to any party in interest entitled to review pursuant to *R. 1:38-3(e)*, as well as to the following parties or persons: _____, and the reference in this Judgment shall constitute a showing of a special interest as required by *R. 1:38-3(e)* for the purpose of reviewing such reports.
12. The Guardian(s) of the Person and Estate is/are hereby directed to advise the County Surrogate within ten (10) days of any changes in the address or telephone number of himself or herself or the incapacitated person or within thirty (30) days of the incapacitated person's death or of any major change in status or health. If the incapacitated person dies during the guardianship, the Guardian(s) will notify the Surrogate in writing and forward a copy of the death certificate upon receipt.
13. The Guardian(s) of the Person and Estate is/are agent(s) of the court and shall cooperate fully with any court staff, Surrogate staff, or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the Guardian's death, removal or discharge.
14. COUNSEL FOR INCAPACITATED PERSON:
- ☐ The court-appointed attorney for the incapacitated person, having reported to the court and advocated on behalf of the incapacitated person, is hereby discharged with the appreciation of the court for his or her *pro bono* services, with no further obligation to act as attorney for the incapacitated person.
- OR**
- ☐ The court having reviewed the affidavit or certification of services of the court-appointed attorney for the incapacitated person, previously filed with the court, the Guardian of the Estate shall, within ____ days of the date of this Judgment, pay the court-appointed attorney for the incapacitated person, a fee of \$_____ for professional services rendered and \$_____ for expenses incurred, which disbursements from the funds of the incapacitated person's estate are hereby approved. Court-appointed counsel, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged with no further obligation to act as attorney for the incapacitated person.
15. Any power of attorney previously executed by the incapacitated person be and hereby is revoked. Any advance directive for healthcare previously executed by the incapacitated person is voided as to proxy designation, but the guardian(s) shall consider the preferences expressed in such advance directive.
16. Plaintiff(s) shall serve a Judgment upon the Guardian(s) and all interested parties and attorneys of record within seven (7) days of receipt.

J.S.C.

Attachment 5

Judgment of Incapacity and Appointment of
Guardian of the Person (CN 11988)

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Email Address _____
Telephone Number _____

In the Matter of:

_____,
an Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
_____ County

Docket No. _____

Civil Action**Judgment of Incapacity and
Appointment of Guardian(s)
of the Person**

THIS MATTER being opened to the Court by _____, plaintiff(s), by and through his/her attorney, _____, in the presence of _____, attorney for the then alleged incapacitated person, and the then alleged incapacitated person, and no demand having been made for a jury trial, and the Court sitting without a jury having found from the report of counsel together with the report of the examining physician or psychologist and other supporting document and proofs given that the then alleged incapacitated person is an incapacitated person who lacks sufficient capacity to govern himself/herself, and it further appearing that _____ consents to serve as Guardian(s) of the Person of the incapacitated person, and for good cause shown:

IT IS on this _____ day of _____, 20____, *ORDERED AND ADJUDGED* that:

1. ☐ **GENERAL (FULL) GUARDIANSHIP:** _____, is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs in all areas relating to his/her person.

OR

- ☐ **LIMITED GUARDIANSHIP:** _____, is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs in all areas relating to his/her person except that is fully able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas:

Check if applicable:

- ☐ The subject of this guardianship is incapacitated as a result of developmental disability.

Firearms: Pursuant to 18 U.S.C. 922(g)(4), the incapacitated person **does not** retain the right to possess firearms.

2. GUARDIAN APPOINTMENT:

Name _____
Address _____

Phone _____
E-mail _____

Name _____
Address _____

Phone _____
E-mail _____

be and hereby is/are appointed Guardian(s) of the Person of the incapacitated person and that Letters of Guardianship of the Person be issued upon his/her/their (a) qualifying according to law not later than 30 days after the date of this judgment, (b) acknowledging to the Surrogate completion of guardianship training and receipt of the guardianship training guides, and (c) acknowledging compliance with any background screening policy for proposed guardians promulgated by the Administrative Director of the Courts.

3. Upon qualifying, the Surrogate shall issue Letters of Guardianship of the Person to the guardian(s) and thereupon the guardian(s) be and hereby is/are authorized to perform all the functions and duties of a Guardian of the Person as allowed by law, except as limited herein or in areas where the incapacitated person retains decision making rights.
 4. In exercising the authority conferred by this Judgment, the guardian(s) shall:
 - Ascertain and consider those characteristics of the incapacitated person which define his/her uniqueness and individuality, including but not limited to likes, dislikes, hopes, aspirations, and fears;
 - Encourage the incapacitated person to express preferences and participate in decision-making;
 - Give appropriate deference to the expressed wishes of the incapacitated person;
 - Protect the incapacitated person from injury, exploitation, undue influence, and abuse;
 - Promote the incapacitated person's right to privacy, dignity, respect, and self-determination; and
 - Make reasonable efforts to maximize opportunities and individual skills to enhance self-direction.
 5. **GUARDIAN LIMITATIONS: If applicable:** the authority of the guardian(s) is limited as follows, and all limitations shall be stated in the Letters of Guardianship.
-
-

6. The guardian(s) appointed hereunder shall be considered the personal representatives under the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and shall have full and complete access to all records of the incapacitated person.
7. The Guardian(s) shall have an ongoing duty to comply with any background screening policy promulgated by the Administrative Director of the Courts by disclosing any changes to their criminal or civil judgment history on the Report of Guardian Cover Page filed with the report(s) required in paragraph 8 below.

8. **REPORTING:**

- ☐ The Guardian(s) of the Person, is/are hereby directed to file annually a report of the well-being of the incapacitated person, along with a Report of Guardian Cover Page.

OR

- ☐ The filing of a report of well-being is hereby waived for the reasons stated on the record.

9. The report indicated in paragraph 8 above is to be filed not later than fourteen (14) days after the anniversary date of this judgment with the County Surrogate. The report to be filed by the guardian(s) shall be filed by the Surrogate and shall be made available by the Surrogate to any party in interest entitled to review pursuant to *R. 1:38-3(e)*, as well as to the following parties or persons: _____, and the reference in this Judgment shall constitute a showing of a special interest as required by *R. 1:38-3(e)* for the purpose of reviewing such reports.
10. The Guardian(s) of the Person is/are hereby directed to advise the County Surrogate within ten (10) days of any changes in the address or telephone number of himself or herself or the incapacitated person or within thirty (30) days of the incapacitated person's death or of any major change in status or health. If the incapacitated person dies during the guardianship, the Guardian(s) will notify the Surrogate in writing and forward a copy of the death certificate upon receipt.

11. The Guardian(s) of the Person is/are agent(s) of the court and shall cooperate fully with any court staff, Surrogate staff, or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the Guardian's death, removal or discharge.

12. COUNSEL FOR INCAPACITATED PERSON:

- ☐ The court-appointed attorney for the then alleged incapacitated person, having reported to the court and advocated on behalf of the incapacitated person, is hereby discharged with the appreciation of the court for his or her *pro bono* services, with no further obligation to act as attorney for the incapacitated person.

OR

- ☐ The court having reviewed the affidavit or certification of services of the court-appointed attorney for the then alleged incapacitated person, previously filed with the court, the Guardian of the Person shall, within ____ days of the date of date of this Judgment, pay the court-appointed attorney for the then alleged incapacitated person, a fee of \$_____ for professional services rendered and \$_____ for expenses incurred, which disbursements from the funds of the incapacitated person's estate are hereby approved. Court-appointed counsel, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged with no further obligation to act as attorney for the incapacitated person.

13. Any power of attorney previously executed by the incapacitated person, other than a power of attorney relating to the financial affairs of the incapacitated person, be and hereby is revoked. Any advance directive for healthcare previously executed by the incapacitated person is voided as to proxy designation, but the guardian(s) shall consider the preferences expressed in such advance directive.

14. Plaintiff(s) shall serve a Judgment upon the Guardian(s) and all interested parties and attorneys of record within seven (7) days of receipt.

J.S.C.

Attachment 6

Acceptance of Guardianship and
Acknowledgment of Guardian Background
Screening and Training

____ County
Surrogate's Court

In the Matter of _____,
an Alleged Incapacitated Person

Docket No. _____

Civil Action

ACCEPTANCE OF GUARDIANSHIP AND
ACKNOWLEDGMENT OF GUARDIAN BACKGROUND
SCREENING AND TRAINING

I, _____, having been appointed by a Judgment of the Superior Court of New Jersey,
Chancery Division, Probate Part, entered _____,

- ☐ Guardian of Person
- ☐ Guardian of Estate
- ☐ Guardian of Person and Estate

do hereby declare my acceptance of said guardianship. I acknowledge that I have complied with the background screening policy for proposed guardians of incapacitated adults promulgated by the Administrative Director of the Courts. I also acknowledge that I have completed guardianship training as required by the *New Jersey Rules of Court* by viewing the Introduction to Guardianship Training Video and receiving copies of the relevant guardianship training guide(s). I understand the authority conferred upon me as guardian of an incapacitated person. I also understand my responsibilities, including but not limited to the duty to file periodic reports and disclose any changes to my criminal or civil judgment history if directed by the court. I will well and truly perform the duties of guardianship according to law.

Signature of Guardian

Printed Name of Guardian

Subscribed and sworn to this _____
day of _____, _____
before me

Surrogate or Surrogate Staff

Attachment 7

Report of Guardian Cover Page (CN 11797)

Instructions: Report of Guardian Cover Page

All guardians required to file periodic reports must complete the Report of Guardian Cover Page. This is a one-page document to which the appropriate report(s) will be attached.

The date of appointment should be filled in prior to the first numbered paragraph, even if the reporting period does not correspond with that date. The start date and end date of the reporting period must be stated in the caption. Make sure to select appropriately as to the nature of your guardianship: Guardian of Person, Guardian of Estate, or Guardian of Both Person and Estate. This selection will guide you in choosing the appropriate reporting form(s) to attach to the Cover Page.

You must file the original report with the Surrogate. Check the judgment to see if you need to send copies of the report to anyone else. In most cases, this is not required because other individuals considered interested in the guardianship will be authorized to review the report at the Surrogate's Court. Remember that there is a fee of \$5/page for all documents filed with the Surrogate, including the Cover Page.

In a co-guardianship, all co-guardians must report as required by the judgment. Co-guardians may file a single Cover Page with all required information, but if the co-guardians reside in different places, it may be necessary to attach a separate page with the address and contact information for the additional co-guardian(s).

Report of Guardian Cover Page

In the Matter of the Report of

_____, Guardian(s) for
_____, an Incapacitated Person.

Superior Court of New Jersey
Chancery Division - Probate Part

County of _____

Docket No. _____

Civil Action Guardian's Report for the Period

_____ to _____

This report must be filed by every Guardian within fourteen (14) days of the anniversary date of your appointment, which is _____, unless the Judge otherwise specifies. File the original with the Surrogate.

1. Guardian's Current Information*

Street address: _____

City: _____ State: _____ Zip: _____

Include mailing address, if different

Mailing address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email Address: _____

Select one: ☐ Guardian of Person ☐ Guardian of Estate ☐ Guardian of Both Person and Estate

Guardian's relationship to the Incapacitated Person? _____

State any changes to the guardian's criminal or civil judgment history, including bankruptcies:

*If needed: attach a separate page with additional information, including for any co-guardian(s).

2. Incapacitated Person's Current Information: does he/she reside with the guardian? ☐ Yes ☐ No

If No, complete the incapacitated person's residency information below. **If Yes**, continue to #3.

A. Incapacitated Person's address: If the incapacitated person lives in a residential facility, include the name of the Director or person responsible for the incapacitated person's care.

Address: _____

City: _____ State: _____ Zip: _____

Telephone Number: _____

Contact Name: _____ Telephone Number: _____

B. State the average number of visits you or your designee made to the Incapacitated Person during the period: _____.

3. Identify all Guardianship responsibilities (check all that apply):

- | | | | |
|---|--|--------------------------------|--|
| ☐ Manage financial affairs | ☐ Provide necessities | ☐ Feed | ☐ Take on outings |
| ☐ Provide transportation | ☐ Housekeeping | ☐ Bathe | ☐ Provide continuous care |
| ☐ Social Security Representative Payee | | | |

List all other responsibilities assumed:

4. State if you believe the guardianship should continue? State reason: ☐ Yes ☐ No

5. Is there any change to the guardianship estate? **If Yes**, describe: ☐ Yes ☐ No

6. Are any modifications or adjustments needed in the guardianship? **If Yes**, describe: ☐ Yes ☐ No