

GLENN A. GRANT
Administrative Director of the Courts

Richard J. Hughes Justice Complex • P.O. Box 037 • Trenton, NJ 08625-0037 njcourts.gov • Tel: 609-376-3000 • Fax: 609-376-3002

**TO: Assignment Judges
General Equity Presiding Judges
Probate Judges
Surrogates**

DIRECTIVE #06-23**Supersedes Directive #11-21**[Questions or comments may be
directed to (609) 815-2900, ext. 54900]

FROM: Glenn A. Grant, Administrative Director

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

DATE: April 14, 2023

The Supreme Court has approved revisions to the Background Screening Policy for Proposed Guardians of Incapacitated Adults (the “policy”). This directive supersedes Directive #11-21 (“Guardianships of Incapacitated Adults – Background Screening Policy for Proposed Guardians”), and promulgates the revised policy, amended rule, revised court forms, and guidance for use of the revised policy. The amendments to the court rule are also being separately published by notice to the bar.

Summary

The revised policy (Attachment 1) continues to 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 the care and financial affairs of the incapacitated adult. Certain proposed guardians are 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 search. Proposed guardians are also 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 are 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 revised policy presumptively exempts certain categories of proposed guardians from the background screening process. These now include people appointed by the court as guardian when an incapacitated person was a minor, as well as attorneys appointed in their professional capacity. However, as before, 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. Further, the revised policy establishes that parents, spouses, or appointed guardians who are proposed as guardians must file an affidavit or certification setting forth their criminal and civil judgment history for the prior ten years. It also specifies that special medical guardianships are not within the scope of the policy. Finally, it revises certain operational provisions to refine the screening process.

Rule Amendments and Revised Forms

The revisions to the policy are reflected in the amendments to Rule 4:86-2(b)(3), as adopted by the Court by order dated April 5, 2023 to be effective May 1, 2023 (Attachment 2).

Consistent with the revised policy and the rule amendments, two forms – the Certification of Criminal and Civil Judgment History (CN 12706) (Attachment 3) and the Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (CN 12013) (Attachment 4) – also have been revised.

Guidance on the Screening Policy Process

The screening process involves six steps, as summarized below and detailed in the revised 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 3). Expunged criminal records are deemed not to have occurred and shall not be disclosed in the certification. 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 within five (5) business days of receipt. Personal identifiers provided with the acknowledgment form will be used only for the background screening and not for any other purpose.
2. Fingerprinting and Criminal History Check
 - A. When the Order for Hearing (Attachment 4) is entered, court staff will coordinate with County Sheriff's departments to perform fingerprint checks of proposed guardians who are New Jersey residents. Fingerprinting may be conducted in the county of venue, or in any other New Jersey county if travel or other factors make fingerprinting in the county of venue prohibitive. Fingerprinting must be completed within sixty (60) days of filing the complaint, with failure to do so resulting in automatic disqualification absent exigent circumstances.
 - 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 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 Search
- A. Proposed guardians also will be screened by searching certain Judiciary systems.
 - B. The Probate judge also has discretion to require a certified judgment search based on factors including but not limited to the value of the guardianship estate.
 - C. The results of the Judiciary systems searches and certified judgment search, if applicable, may be confidentially shared with the Probate 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 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 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. The hearing shall be conducted in open court unless the underlying matter was a closed proceeding, and the record of the hearing shall not be sealed unless the record of the underlying matter was sealed. However, the Probate judge may seal the record of the hearing upon request for good cause shown.
 - C. Fingerprint and certain Judiciary systems search results will be destroyed.

5. No later than the time of entry of the Judgment of Incapacity and Appointment of Guardian, 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.
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.

Conclusion

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

Attachments: (1) Revised Background Screening Policy for Proposed Guardians of Incapacitated Adults
 (2) Amendments to Rule 4:86-2, effective May 1, 2023
 (3) Revised form Certification of Criminal and Civil Judgment History (CN 12706)
 (4) Revised form Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (CN 12013)

cc: Chief Justice Stuart Rabner
 Hon. Carmen Messano
 Hon. Thomas W. Sumners, Jr.
 Hon. Mala Sundar
 Steven D. Bonville, Chief of Staff
 AOC Directors and Assistant Directors
 Clerks of Court
 Trial Court Administrators
 Special Assistants to the Administrative Director
 Civil Division Managers
 HR Division Managers
 Kristi Jasberg Robinson, Chief, Civil Practice Liaison

Attachment 1

Revised Background Screening Policy for Proposed Guardians of Incapacitated Adults

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

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, or who were appointed legal guardians of an alleged incapacitated person prior to their reaching majority pursuant to an order of the Superior Court, Chancery Division, Family Part;
- 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;

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

- 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 who are appointed by the court in their professional capacity.
- 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. These do not include special medical guardianships adjudicated in the New Jersey Superior Court, Chancery Division, General Equity.

IV. Policy and Procedures

- A. All proposed guardians will be provided with a copy of the Judiciary's Background Screening Policy for Proposed Guardians of Incapacitated Adults by the Surrogate. The proposed guardians must complete, sign, and return to the Surrogate an acknowledgment of receipt of the policy within five (5) business days of receipt. The acknowledgment form shall be filed as part of the court record.
- B. Personal identifiers provided with the acknowledgment form will be used only for the background screening and not for any other purpose.
- C. All proposed guardians except those who are exempt from the policy pursuant to provisions II.(C) through (H) above must attach a

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

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. Under N.J.S.A. 2C:52-27, expunged criminal records are deemed not to have occurred and shall not be disclosed.

- D. 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. The fingerprint check may be conducted in the county of venue, or in any other New Jersey county if travel or other factors make fingerprinting in the county of venue prohibitive.
- E. The fingerprint check should be conducted within sixty (60) days of the date of filing of the complaint. Failure to do so will result in automatic disqualification of the proposed guardian(s) absent exigent circumstances.
- F. 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.
- G. 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

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

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.

H. 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.

I. 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.

J. All proposed guardians who are subject to the policy will also be screened using 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

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

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 certified judgment search may be conducted for proposed guardians in the discretion of the Probate Part judge based on factors including but not limited to 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 vicinage Human Resources Division Manager or designated staff is responsible for ensuring that all such records are shredded.

K. 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;

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

- 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

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

Promulgated April 14, 2023 by Directive #06-23

Page 6 of 11

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.

- b. A guardian background screening hearing shall be conducted in open court unless the underlying matter identified through the criminal background check or screening was a closed proceeding. The record of the guardian background screening hearing shall not be sealed unless the record of the underlying matter was sealed. However, the Probate Part judge retains discretion to seal the record of the guardian background screening hearing upon request for good cause shown.

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

M. 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 certified judgment search be conducted for proposed guardians based on factors including but not limited to 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.

THE INFORMATION BELOW IS REQUIRED TO PROCESS THE GUARDIANSHIP APPLICATION. YOU MUST COMPLETE AND SIGN THIS PAGE, AND RETURN IT WITHIN FIVE (5) BUSINESS DAYS TO:

COUNTY SURROGATE COURT
ADDRESS
CITY, STATE ZIP

PLEASE KEEP A COPY OF THIS PAGE FOR YOUR RECORDS.

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

I understand that the confidential personal identifiers that I provide below will be used only for the background screening, and not for any other purpose.

County

Docket Number

Name of Proposed Guardian
(Last, First, Middle)

Alias, if any

Date of Birth

Social Security Number

Street Address

City, State ZIP

Telephone Number

Email Address

Signature

Date

Records of guardianship proceedings are excluded from public access pursuant to N.J. Court Rule 1:38-3(e). Confidential personal identifiers may be submitted on this form pursuant to Rule 1:38-7(b). This form shall be maintained as an administrative record excluded from public access pursuant to Rule 1:38-5(a).

New Jersey Judiciary Background Screening Policy
for Proposed Guardians of Incapacitated Adults (Revised) (Corrected)

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. mails 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 Screening Policy for Proposed Guardians of Incapacitated Adults, 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

Amendments to Rule 4:86-2,
Effective May 1, 2023

SUPREME COURT OF NEW JERSEY

It is ORDERED that the attached amendments to Rule 4:86-2 of the Rules Governing the Courts of the State of New Jersey are adopted to be effective May 1, 2023.

For the Court,



Chief Justice

Dated: April 5, 2023

4:86-2. Complaint; Accompanying Documents; Alternative Affidavits or
Certifications

(a) ...no change

(b) Accompanying Documents. The complaint shall have annexed
thereto:

(1) ...no change

(2) ...no change

(3) An affidavit or certification setting forth the criminal and civil
judgment history of each proposed guardian, in such form as promulgated by
the Administrative Director of the Courts. The affidavit or 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 affidavit or certification shall be filed no later than
prior to the entry of the judgment of legal incapacity and appointment of
guardian. The court will consider the relevant history as provided in the
affidavit or certification and through any background screening policy for
proposed guardians of incapacitated adults promulgated by the Administrative
Director of the Courts, including but not limited to fingerprinting.

[Except as specifically ordered by the court pursuant to subparagraph
(H), the] The following shall be exempt from this requirement:

(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, or who were appointed legal guardians of an alleged incapacitated person prior to their reaching majority pursuant to an order of the Family Division of Superior Court;

(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 (N.J.S.A. [C.] 52:27G-20 et seq.), P.L.1985, c. 145 (N.J.S.A. [C.] 30:6D-23 et seq.), P.L.1965, c. 59 (N.J.S.A. [C.] 30:4-165.1 et seq.) and P.L.1970, c. 289 (N.J.S.A. [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.] N.J.S.A. 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 who are appointed by the court in their professional capacity; and

(H) notwithstanding subparagraphs (A) through (G), [the]

(i) Any proposed guardian who is exempt from background screening pursuant to subparagraph (A) or (B) shall file an affidavit or certification setting forth the proposed guardian's criminal and civil judgment history for the prior 10 years; and

(ii) The court may require any proposed guardian to file an affidavit or certification setting forth the proposed guardian's criminal and civil judgment history or 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; and

(4) A Case Information Statement in such form as promulgated by the Administrative Director of the Courts. Said Case Information Statement shall include the date of birth and Social Security number of the alleged incapacitated person.

(c) ...no change.

Note: Source — *R.R.* 4:102-2; former *R.* 4:83-2 amended and rule redesignated June 29, 1990 to be effective September 4, 1990; paragraphs (b) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (b) amended July 13, 1994 to be effective September 1, 1994; paragraphs (a), (b), and (c) amended July 12, 2002 to be effective September 3, 2002; paragraphs (b) and (c) amended July 28, 2004 to be effective September 1, 2004; paragraphs (a), (b) and (c) amended July 9, 2008 to be effective September 1, 2008; caption amended, and paragraphs (a), (b) and (c) amended and captions added August 1, 2016 to be effective September 1, 2016; new subparagraph (b)(3) added and former subparagraph (b)(3) redesignated as (b)(4) March 15, 2021 to be effective May 15, 2021; paragraph (b)(3) revised April 5, 2023 to be effective May 1, 2023.

Attachment 3

Revised Form – 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 _____,

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. (Select **either A or B** and complete that section.)

- ☐ **A. I AM** the alleged incapacitated person’s parent, legal guardian (appointed by a Superior Court, Chancery Division, Family Part order before the alleged incapacitated person turned eighteen (18) years of age), or spouse, civil union or domestic partner.
- ☐ In the last ten (10) years, I have not been convicted of a crime other than a traffic violation, and no civil judgments (including bankruptcy) have been entered against me. (Under N.J.S.A. 2C:52-27, expunged criminal records are deemed not to have occurred and shall not be disclosed.)

OR

- ☐ In the last ten (10) years, 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. _____	_____	_____

☐ **B. I AM NOT** the alleged incapacitated person's parent, legal guardian (appointed by a Superior Court, Chancery Division, Family Part order before the alleged incapacitated person turned eighteen (18) years of age), or spouse, civil union or domestic partner.

☐ 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. (Under N.J.S.A. 2C:52-27, expunged criminal records are deemed not to have occurred and shall not be disclosed.)

OR

☐ At any time in the past, 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 4

Revised Form – 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 _____ ☐ am/☐ pm 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 they desire to oppose the action, they 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, whose office address is:

_____,
telephone number _____ ext. _____, is hereby appointed as attorney for the alleged incapacitated person. The appointed 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, their physical and mental state and their 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. The appointed 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 the appointed attorney 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 an attorney other than the attorney appointed by the above paragraph, that attorney shall notify the court and the appointed attorney 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 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 and provision of personal identifiers to the court.

Select one:

- ☐ Based on factors including but not limited to the value of the guardianship estate, the background screening shall include a certified judgment search, with costs to be paid by the proposed guardian.

OR

- ☐ Based on factors including but not limited to the value of the guardianship estate, a certified judgment search is not required.

J.S.C.