

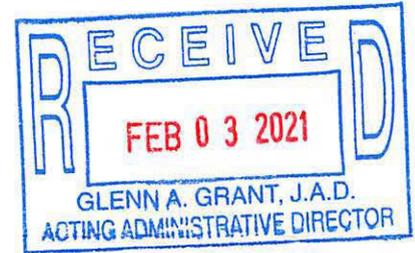
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January 15, 2021

Honorable Glenn A. Grant, J.A.D.
Administrative Director of the New Jersey Courts
Hughes Justice Complex
P.O. Box 981
Trenton, NJ 08625



Re: Court Rule Regarding Background Checks for Proposed Guardians

Dear Judge Grant:

I am extremely pleased to see that the judiciary has promulgated court rules addressing criminal background checks for proposed guardians. I know the Probate Judges Committee has been working on this for some time.

The Notice to the Bar states that certain proposed guardians would be subject to a check of judiciary systems, a computerized fingerprint criminal history check and a potential civil background check.

It is not clear to me who is responsible for conducting the checks. R. 4:86-2 requires a certification as to criminal background and civil judgments. I presume the affiant would be the proposed guardian. Understand I do not have the benefit of the proposed form of certification to be promulgated by the courts. That document may clear up this point, but as the rule presently reads, it appears the proposed guardian would be certifying they had no criminal history. He/she would also certify as to judgment against them. It has certainly been my experience that a judge cannot rely on a self-certification in such a critical area. Perhaps the proposed form of affidavit from the AOC will require the attachment of an actual criminal record search and judgment search. I do not understand how an individual would have access to this information. I know there are computer systems within the court itself for adoptions which would run criminal background checks, etc., but these would have to be run by an employee of the court system or an employee of the Surrogate's Office. I also understand there were some procedural hurdles before additional staff members could access these computer bases. I presume that has been worked out.

While a judgment search can be obtained from a company such as Charles Jones, I am not sure how an indigent or low income proposed guardian would obtain this information.

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The change to R. 4:86-6 refers to the fact that the acceptance of the appointment includes acknowledgement of fingerprinting and disclosure of any change in criminal or judgment history, all of which is fine, but the judge at the time of the oral argument on the application needs to know this information.

In summary, I am not clear as to who will run the background check, who will run the fingerprints, who will check the appropriate computer system within the court and when those checks are going to be made.

I readily admit I am lacking a great deal of information and do not know if additional guidelines have been given to the Surrogates and whether the problem of access to criminal computer systems has been worked out. But I thought I would nonetheless give you the benefit of my thoughts since this change in procedure was brought about by a serendipitous event in Union County where a man was due to be before me on an application to be named as his sister's guardian and at the same time was two floors above facing a criminal trial. We were just lucky we learned this information.

I have certainly learned that the wheels of justice move slowly and, appropriately, to change court rules. I am very happy to see that the court system is on the brink of a cure to this problem. I hope my concerns are as a result of my lack of knowledge of the full picture

Very truly yours,



Kit

