



How to Apply for Guardianship of the Person and Estate (Property) of an Individual Eligible for Services from the Division of Developmental Disabilities (DDD)

(Title 30 Guardianship)

(Superior Court of New Jersey - Chancery Division - Probate Part)

Who Should Use This Packet?

You may use this packet if you are seeking appointment of a guardian of the person and estate (property) for an individual with a developmental disability who has been determined eligible for services from the Division of Developmental Disabilities (DDD).

You should **only** use this packet if **ALL** of the following statements are true:

- The person alleged to be incapacitated is eligible for and/or receiving services from the DDD;

AND

- You are requesting that the court appoint a guardian of the person and the estate (property), not a guardian of the person only.

You should **NOT** use this packet if you are seeking appointment of a guardian of the person only. If you wish to be guardian of the person only, you should use the packet entitled “[How to Apply for Guardianship of the Person of an Individual Eligible for Services from the Division of Developmental Disabilities \(DDD\)](#).”

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](#) will be available at the county Surrogate’s Office or at [njcourts.gov](#). However, you are ultimately responsible for the content of your court papers.

Completed forms are to be submitted to the Surrogate’s Office in the county where you are filing your case. A list of Surrogates’ Offices is provided at [njcourts.gov/guardianship](#).

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. The law, the proofs necessary to present your case, and the procedural rules governing cases in the Chancery Division, Probate Part are complex. Since the civil rights, well-being or financial security of an alleged or adjudicated incapacitated person may be at stake, many litigants appearing in the Chancery Division, Probate Part have a lawyer. It is recommended that you make every effort to obtain the assistance of a lawyer. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online or in your local yellow pages under “Legal Aid” or “Legal Services.”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. That number can also be found in your local yellow pages. Most county bar associations have a [Lawyer Referral Service](#). The County Bar Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and will sometimes consult with you at a reduced fee.

There are also organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of Lawyer Referral Services that include these organizations.

If you decide to proceed without an attorney, these materials explain the procedures that must be followed to have your papers properly filed and considered by the court. These materials do not provide information nor other procedural and evidentiary rules governing guardianship matters.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect special treatment, help or attention from the court. The following is a list of some things court staff can and cannot do for you. Please read it carefully before asking court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep copies of all completed forms and documents related to your case.

Definitions of Words Used in This Packet

Alleged Incapacitated Person (AIP) - The *alleged incapacitated person* (or AIP) is the individual over whom the plaintiff(s) is/are seeking guardianship.

Certification - A *certification* is a statement that certain facts are true to the best of the knowledge of the person making the statement. It is like an affidavit, but it is not sworn before a notary or other authorized person.

County of Settlement - The *county of settlement* is the county responsible for a share of the charge incurred for services provided to persons unable to pay. Typically, this is the AIP's county of residence at the time of application for DDD services. However, it is possible that the county of residence and county of settlement may be different depending on the residential history of the AIP.

County Surrogate – The *county surrogate* is an elected Constitutional Officer who serves as judge of the Surrogate's Court for uncontested probate and estate matters. A Surrogate also serves as Deputy Clerk to the Superior Court for the Probate Part, including guardianships of incapacitated adults, as well as adoptions in the Family Part.

Docket Number - A *docket number* is the number the court assigns to your case so that it may be identified and located easily. Once you have a docket number, you must include it on all your communications with the court.

File - To *file* means to give the appropriate forms and fee to the court to begin the court's handling of your case.

General Guardianship - *general guardianship* is a "complete in every respect" type of guardianship in which the guardian is able to exercise all rights and powers of the incapacitated person in terms of the area of responsibility he or she is granted. Also known as full or plenary guardianship.

Guardian – a *guardian* is an individual appointed by the court with authority over the person and/or the estate of an adjudicated incapacitated person. A guardian may have general or limited authority.

Guardian of the Estate – An individual appointed by the court to handle the financial affairs of another person who has been adjudicated incapacitated. Unlike a guardian of the person, a *guardian of the estate* is not responsible for decisions regarding the personal well-being of the protected person. Rather, the guardian of the estate handles assets, income, expenses and liabilities.

Guardian of the Person - An individual appointed by the court to handle the personal affairs of another person who has been adjudicated incapacitated. Unlike a guardian of the estate, a *guardian of the person* does not manage the financial affairs of the incapacitated person, except that a guardian of the person may serve as representative payee for Social Security benefits.

Guardianship Monitoring Program (GMP) - In New Jersey, the *Guardianship Monitoring Program* is a statewide monitoring program implemented in all 21 counties as of 2014. Through the GMP, trained volunteers review the reports filed by guardians of incapacitated persons and flag issues that require further attention.

Incapacity - Inability to govern oneself and/or to manage one's affairs. *Incapacity* may be general (as to all areas) or limited (as to specific areas only).

Incapacitated Person - An individual adjudicated by the court as unable to govern himself or herself and/or unable to manage his or her affairs. Also known as a protected person or ward. Formerly referred to as an incompetent.

Interested Parties - A person or agency that has an involvement with the incapacitated person who is the subject of the guardianship. *Interested parties* (or parties in interest) are typically the same individuals entitled to notice of the initial application for guardianship – i.e., the incapacitated person's spouse, parent, adult child, county of settlement, DDD.

Judgment - The official decision of a court in a case. For purposes of guardianship, *Judgment* refers to the Judgment of Incapacity and Guardian Appointment, also known as the Judgment of Incapacity and Order Appointing Guardian.

Definitions of Words Used in This Packet (continued)

Letters of Guardianship - *Letters of Guardianship* are documents issued by the County Surrogate upon an individual's qualification as guardian, after the entry of a Judgment by the Superior Court.

Limited Guardianship - A less intrusive, more individualized, type of guardianship in which a guardian is appointed with authority as to some – but not all – areas. A *limited guardianship* is established based upon a court's finding that the person alleged to be incapacitated lacks the capacity to do some, but not all, of the tasks necessary to care for himself or herself.

Proof of Service - *Proof of Service* is documentation showing that parties actually received the papers that you sent to them. Service is established for all parties other than the alleged incapacitated person by a certification that the documents were sent by regular mail and certified mail, and the regular mail was not returned to you. If the signed return receipt (green cards) are received, these may be attached to the certification of service. As to the alleged incapacitated person, you must file a certification stating that he or she was personally served.

Qualification - A process conducted before the County Surrogate, or Surrogate's staff, following entry of a Judgment of Incapacity and Guardian Appointment. As part of *qualification*, the person appointed as guardian affirms his or her willingness to fulfill the duties of a guardian. If a bond is required, the bond must be posted in order for the guardian to qualify and obtain Letters of Guardianship.

Restricted Assets - Assets over which a guardian of the estate does not exercise full control. The most common *restricted asset* is real property. The restriction can be found in the Judgment and sometimes the Letters of Guardianship. It typically provides that the guardian of the estate "cannot sell, transfer, mortgage, or otherwise encumber the real property of the incapacitated person absent court approval."

Service - Delivery of papers in a legally appropriate way. For example, notice of an application for appointment of a guardian is served upon the alleged incapacitated person by *personal service*, meaning that copies of the papers are personally delivered.

Short Certificates - Short forms of the Letters of Guardianship, stating that by judgment of a particular date, the guardian was appointed with authority of the person and/or estate of the named incapacitated person. A *short certificate* will state that as of the date it was issued, the guardianship remains in effect. Additional short certificates may be purchased by a guardian, from the Surrogate, for \$5.00 each as long as the guardianship remains in effect. Unlike the original Letters of Guardianship, short certificates should be provided to doctors, care facilities, and other institutions that require proof of a guardian's authority.

Superior Court Judge - For purposes of guardianships, the judge of the Superior Court, Probate Part, who decides if the alleged incapacitated person is in fact incapacitated and in need of a guardian. The *Superior Court judge* makes the substantive decisions about the guardianship, including the determination of capacity and the choice of guardian. The Superior Court judge conducts any hearing(s) and signs the Judgment of Incapacity and Guardian Appointment.

Surety Bond - A contract between at least three parties: the obligee (the party who is the recipient of an obligation), the principal (the primary party who will perform the contractual obligation) and the *surety* (who assures the obligee that the principal can perform the task). A *bond* functions much like an insurance policy so that if the guardian of the estate steals or misuses the money, or makes some other mistake, the incapacitated person will be protected. The price of that insurance policy (the bond premium) can be paid from the guardianship estate.

Surrogate's Court - A county office headed by the County Surrogate that may be in the same location as the Superior Court or may be in a different location. The *Surrogate's Court* is the filing court for Probate Part actions, including actions to appoint a guardian. It is also where the guardian goes to qualify after entry of the Judgment.

Verified Complaint - A *verified complaint* is a sworn document in which the plaintiff tells the court the facts of the case and states what relief is sought.

Important Information about Guardianship Actions

To apply for guardianship, you must submit several forms to the Superior Court. The forms provided in this packet are for guardianships of persons eligible for and/or receiving services from the Division of Developmental Disabilities (DDD). These actions are typically referred to as Title 30 guardianships because they arise under Title 30 of the New Jersey Statutes Annotated, specifically *N.J.S.A. 30:4-165.1 et seq.*

You will fill out some of the forms, including the Verified Complaint. Other forms must be completed by other people.

Under Title 30, an application for guardianship must be supported by an affidavit or certification of a physician or psychologist who has personally examined the alleged incapacitated person within six (6) months prior to filing. A second document must also be attached to the verified complaint. This second attachment must be one (1) of the following:

- (a) an affidavit from the chief executive officer, medical director or other officer having administrative control over the program from which the alleged incapacitated person is receiving functional or other services provided by the DDD;
- (b) an affidavit from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person;
- (c) a second affidavit from a physician or psychologist;
- (d) a copy of the Individualized Education Program, including any medical or other reports, for the alleged incapacitated person, which shall have been prepared no more than two (2) years prior to the filing of the verified complaint; or
- (e) an affidavit from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.

In preparing your application, you should provide the supporting documents – including the certification of physician or psychologist and, if applicable, second supporting certification – to the individuals who will complete them. If you choose to submit an Individualized Education Program (IEP) in support of your application, you should obtain a copy of this document.

Type and Scope of Guardianship

There are different types of guardianships, specifically, guardianship of the person; guardianship of the estate (property); or guardianship of both the person and the estate (property). The type of guardianship that is appropriate in a particular case depends on the needs of the incapacitated person. If an incapacitated person has no assets or income other than Social Security benefits or funds held in trust, then guardianship of the estate is not necessary. However, if an incapacitated person has assets such as a house or car, or receives income, such as wages or a pension, then guardianship of the estate may be necessary.

It is important to determine whether it is actually necessary to seek guardianship of the estate of a developmentally disabled person. This is in part because the court will appoint an attorney to represent the alleged incapacitated person and, if guardianship of the person only is requested, then the court can appoint the Office of the Public Defender - Division of Mental Health and Guardianship Advocacy, free of charge.

If an application seeks guardianship of the estate, then the court will appoint a private attorney who is entitled to charge a fee for services. Although that fee can be paid from the assets of the alleged incapacitated person, when the alleged incapacitated person has no assets the fee is often paid by the individuals seeking guardianship.

In addition to the distinction between guardianship of the person and guardianship of the estate (property), applicants for guardianship must consider whether a full or general guardianship is appropriate, or whether the developmentally disabled person is suitable for a limited guardianship. In a limited guardianship, the incapacitated person retains rights to handle certain areas of their life, depending upon their ability to handle such matters independently.

Procedure

Once the verified complaint and supporting documents are filed with the Surrogate, the documents will be reviewed. If everything is satisfactory, the Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person will be entered. This Order schedules the hearing date and appoints counsel for the alleged incapacitated person. You must serve the Order and other papers on the alleged incapacitated person, personally, and on the other interested parties, by regular and certified mail. A separate notice must be served on the alleged incapacitated person stating that the alleged incapacitated person may oppose the guardianship.

The court-appointed attorney will conduct an investigation including a meeting with the alleged incapacitated person and the proposed guardian. The attorney will then make a recommendation to the court as to the need for guardianship (including whether a full or limited guardianship is necessary) and the choice of guardian(s). If the court-appointed attorney does not dispute the need for guardianship or the fitness of the proposed guardian, the attorney may recommend that the guardian be appointed without any court hearing. If a court hearing is required, then the alleged incapacitated person, his or her court-appointed attorney, and the individual(s) seeking guardianship must generally participate. Such participation may be in person, meaning that everyone appears in the courtroom in front of a judge, or by another method approved by the court, such as by phone. If the alleged incapacitated person is unable to attend the court hearing, and the court-appointed attorney agrees, then the hearing may proceed without the alleged incapacitated person in attendance.

Judgment and Letters

Entry of the Judgment by the Superior Court judge establishes the guardianship. Until the guardian(s) qualify before the County Surrogate, however, he or she cannot act as guardian. For example, a guardian who has not yet qualified cannot make medical decisions on behalf of the incapacitated person. To qualify, the guardian must sign certain documents reflecting acceptance of the guardianship. Modest fees must be paid to the Surrogate for issuance of Letters of Guardianship. Letters should be kept in a secure location and must not be turned over to any other person or facility. Qualification may occur immediately following the guardianship hearing and must occur as soon thereafter as possible, but not later than 30 days after entry of the Judgment.

At the time of qualification, or at any time during the guardianship, the guardian(s) may apply to the Surrogate for up-to-date short certificates. Short certificates contain the basic information set forth in the Letters of Guardianship, stating that by Judgment of a particular date, the guardian was appointed as guardian of a named incapacitated person. A short certificate will also state that as of the date it was issued, the guardianship remains in effect. A guardian of the person may purchase additional up-to-date short certificates to provide to doctors, care facilities, and other institutions as proof of his or her continuing authority.

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½ “x 11” white paper only. Forms may not be filed on a different size or color paper.

Steps to Apply for Guardianship of the Person and Estate of an Individual Eligible for Services from the Division of Developmental Disabilities (DDD)

STEP 1: Complete the *Adult Guardianship Case Information Form (CIS) (Form A)*.

The *Adult Guardianship Case Information Statement (CIS)* is a one-page form that provides certain basic information about your application. Complete the CIS by following the instructions for Form A found on page 10.

Note: Failure to file this required document will result in the return of your Verified Complaint.

STEP 2: Complete the *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Property) (Form B)*.

The *Verified Complaint to Appoint Guardian(s) of the Person and Estate* is the document you must file to request that the court appoint a guardian for another person who you believe is incapacitated and unable to govern himself or herself or to manage his or her affairs. Complete the *Verified Complaint to Appoint Guardian(s) of the Person and Estate* by following the instructions for Form B starting on page 12.

STEP 3: Complete the *Certification of Assets (Form C)*.

The *Certification of Assets* describes the assets and income, if any, of the alleged incapacitated person. Complete the *Certification of Assets* by following the instructions for Form C found on page 19.

STEP 4: Have the *Certification of Physician or Psychologist (Form D)* completed by a licensed physician or psychologist.

The *Certification of Physician or Psychologist* is completed by a physician or psychologist who has evaluated the alleged incapacitated person within the past six (6) months. Arrange for a licensed physician or psychologist to examine and evaluate the alleged incapacitated person and complete the form. Follow the instructions for Form D found on page 22.

STEP 5: Complete the *Cover Page - Individualized Education Program (IEP) (Form E-1) OR the Certification in Support of Guardianship (Form E-2)*.

A second document which must be filed in addition to Form D (*Certification of Physician or Psychologist*) regarding the functional capacity of the alleged incapacitated person. There are several options which will satisfy this requirement including:

1. A copy of the Individualized Education Program (IEP) for the alleged incapacitated person; (instructions can be found on page 25) **OR**
2. An affidavit or certification from the chief executive officer (CEO), medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; **OR**
3. An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person; **OR**
4. A second affidavit or certification of a physician or psychologist; **OR**
5. An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.

If submitting an **IEP**, fill out the *Cover Page (Form E-1)*. If submitting one of the **other documents**, provide the form *Certification in Support of Guardianship (Form E-2)* to the appropriate person for them to complete. Instructions for Forms E-1 and E-2 are found on page 25.

STEP 6: Complete the *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*.

The *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person* is used by the judge to schedule a hearing and to appoint an attorney for the subject of the guardianship action. The judge handling the case will usually schedule a hearing to evaluate the need for the proposed guardianship. Please complete the information at the top of the form.

Note that there are places on the *Order Fixing Hearing Date* that the court will complete. Instructions for Form F can found on page 29.

STEP 7: Complete the *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate (Form G)*.

The *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate* is the official document that will be completed and signed by the judge if it is determined that the alleged incapacitated person requires a guardian. Enter the information on the top of the form.

Note that there are places on the *Judgment* that the court will complete. Instructions for Form G are found on page 32.

STEP 8: Attach the Filing Fee.

Make a check or money order payable to the **Surrogate of the county** in which the application is filed in the amount of **\$200**. This is the fee for filing your papers.

STEP 9: Check your completed forms and make copies.

Check your forms and make sure they are complete. Remove all instruction sheets. Make sure you have signed all the forms wherever necessary. All forms must have an **original, ink signature**. You also need to make **several** copies of each form. The original and one (1) copy will be sent to the court. Copies will also need to be provided to anyone who requires notice of the action. Please also retain a copy for your records.

Checklist - In Step 10, you will be directed to mail your documents to the court. The following checklist will help insure your package is complete:

- The original of each of the forms you filled out: *Adult Guardianship Case Information Statement (Form A)*; *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Form B)*; *Certification of Assets (Form C)*; *Certification of Physician or Psychologist (Form D)*; *Cover Page Individualized Education Program OR Certification in Support of Guardianship (Form E-1 or E-2)*; *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*; *Judgment of Incapacity and Appointment of Guardian(s) of the Person and Estate (Form G)*.
- one (1) copy of each of the completed forms.
- The filing fee in the amount of \$200.00. It must be a check or money order payable to the **Surrogate** in the county in which the application is filed.
- A self-addressed stamped envelope so that the court will be able to return the filed forms to you. Be sure to include adequate postage.

STEP 10: Mail or deliver the forms to the court.

You may mail or deliver to the court the original and one copy of all the forms: *Adult Guardianship Case Information Statement (Form A)*; *Verified Complaint to Appoint Guardian(s) of the Person and Estate (Form B)*; *Certification of Assets (Form C)*; *Certification of Physician or Psychologist (Form D)*; *Cover Page Individualized Education Program OR Certification in Support of Guardianship (Form E-1 or E-2)*; *Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person (Form F)*; *Judgment of Incapacity and Appointment of Guardian(s) of the Person and*

Estate (Form G) along with a self-addressed stamped envelope and the filing fee.

The addresses of the Surrogates' office for each county can be found on the Judiciary's website, njcourts.gov/guardianship.

If you mail the papers, we recommend that you use certified mail, return receipt requested.

STEP 11: Appear in court on the date set by the judge for your hearing.

Keep copies of all papers you provide to the court or any other party. Make and keep for yourself copies of all completed forms and any canceled checks, money orders, receipts, bills, contract estimates, letters, leases, photographs and other important papers that relate to your case.

Instructions for Completing the Adult Guardianship Case Information Statement - Form A

The Adult Guardianship Case Information Statement (CIS) is a one-page form that provides certain basic information about your application. You must complete all of this form except for the area in the upper right corner labeled “For Chambers or Surrogate’s Office Use Only.” Please leave that field blank.

Follow these instructions to complete the CIS:

1. In the boxes under *Plaintiff*, fill in your information as the plaintiff, that is, the party applying to have a guardian appointed. Include your full name, street address, city, state, zip, age, telephone number (including area code), and relationship to the individual for whom guardianship is being sought.
2. In the boxes under *Alleged Incapacitated Person*, fill in **all** information about the person alleged to be incapacitated and in need of a guardian, which includes their full name, street address, city, state, zip, date of birth and social security number.
3. Under *Case Type*, select the check box to indicate the type of guardianship application that is being brought. A Title 30 (DDD) application is one where the alleged incapacitated person is eligible for, or receiving services from, the Division of Developmental Disabilities (“DDD”). This application type is brought under *N.J.S.A. 30:4-165.1, et. seq.* A Title 3B (DD) application is one where the alleged incapacitated person is developmentally disabled, but is not eligible for or receiving services from DDD. This application type is brought under *N.J.S.A. 3B:12-1, et. seq.* For all other applications, select Title 3B (all other).
4. Select the appropriate checkbox as to whether or not you are seeking to be appointed as guardian.
5. Select the appropriate checkbox to indicate if anyone else is proposed to serve as guardian(s).
6. In the section marked *All person(s) proposed as guardian(s)*, print the full name, street address, city, state, zip, age, phone number (including area code), and relationship to the alleged incapacitated person for each person, or entity, who is a proposed guardian of the alleged incapacitated person; including yourself. If necessary, attach additional sheets listing the individuals or entities you seek to have appointed as guardian(s).
7. In the section marked *Other person(s) or entities to be noticed*, fill in all information for any person(s) or entity(ies) to be notified of the guardianship application. This must include the County Adjuster in the county where the alleged incapacitated person has legal settlement. It should also include other relatives of the alleged incapacitated person including spouse, parents, adult children, and persons of the same relationship to the alleged incapacitated person as the plaintiff. For example, if you are a sibling of the alleged incapacitated person, then you should list any other sibling(s). If the application type is Title 30 (DDD), this section must also include the Regional Administrator for the DDD.
8. If either you, any proposed guardian, or the alleged incapacitated person require an interpreter, check “Yes”, otherwise, check “No.” If you check “Yes”, indicate for whom the interpreter is needed, and specify the language.
9. If either you, any proposed guardian, or the alleged incapacitated person are requesting any accommodation for a disability, check “Yes”, otherwise, check “No.” If you check “Yes”, indicate what is needed and by whom.
10. The Adult Guardianship Case Information Statement is not a public document and all information on the form will be kept confidential. Therefore, all requested information, including any requested personal identifying information, such as a Social Security number, must be filled out, if known. However, other documents filed with the court may be public and any confidential personal identifiers should be redacted. The final box of this document contains the statement by which you certify that you will remove any confidential personal identifiers in future court submissions, unless such confidential personal identifiers are required by statute, court rule or court order. It also contains a statement by which you certify that you have completed this form to the best of your knowledge and ability, and that you will supplement the form as may be necessary should additional information become available. Sign below the statement.

Form A



New Jersey Judiciary Adult Guardianship Case Information Statement

Use for initial Chancery Division Probate Part Pleadings under *Rule 4:5-1*
Pleading will be rejected for filing, under *Rule 1:5-6(c)*, if information is not
completed or signature is not affixed

For Chambers or Surrogate's Office Use Only

Date Filed:
Docket Number:
Chambers:
Surrogate's Office:

Plaintiff

Name (last, first, middle initial)

Address: Street

City State Zip

Age Telephone Relationship to AIP

Alleged Incapacitated Person (AIP):

Name (last, first, middle initial)

Address: Street

City State Zip

Date of Birth Social Security Number

Case Type

Title 30 (DDD) Title 3B (DD) Title 3B (All Others)

Is the Plaintiff the proposed guardian? Yes No

Are any other person(s) proposed guardian(s)? Yes No

All person(s) proposed as guardian(s): (Attach additional sheets if necessary to list all proposed guardian(s))

Name (last, first, middle initial)

Address: Street

City State Zip

Age Telephone Relationship to AIP

Name (last, first, middle initial)

Address: Street

City State Zip

Age Telephone Relationship to AIP

Other person(s) or entities to be noticed: (Attach additional sheets if necessary to list all parties to be noticed, including DDD Administrator and County Adjuster, if applicable)

Name (last, first, middle initial)

Address: Street

City State Zip

Age Telephone Relationship to AIP

Name (last, first, middle initial)

Address: Street

City State Zip

Age Telephone Relationship to AIP

Does any party need an interpreter? If yes, for whom and for what language?

Yes No

Does any party need an accommodation for a disability? If yes, please identify the party and requested accommodation

Yes No

I certify that I have completed this form to the best of my knowledge and ability, and will supplement this form as may be necessary should additional information become available. I further certify that, except as required on this page, confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*.

_____ Date

_____ Attorney/Plaintiff Signature

Instructions for Verified Complaint to Appoint Guardian(s) of the Person and Estate (Property) - Form B

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill in the blank spaces in the first paragraph indicating your full legal name, age, residence, county, state, domicile (this may be the same as your residence), and relationship to the alleged incapacitated person.
6. Select the appropriate checkbox indicating whether you are the only person bringing this action **or** whether it is being brought by multiple people. If multiple people are bringing the action, fill in their name, age, and present residence and permanent/legal residence in the space provided.
7. Item #1: Fill in the information for the alleged incapacitated person and their spouse (if applicable).
8. Item #2: If the alleged incapacitated person has been determined eligible for services from the New Jersey Division of Developmental Disabilities (DDD), fill in the alleged incapacitated person's name. If not applicable, check the box for *Not Applicable*. If applicable, indicate when the alleged incapacitated person began receiving services from the New Jersey Division of Developmental Disabilities (DDD) and describe what services the alleged incapacitated person receives. If not applicable, check the box for *Not Applicable*.
9. Item #3: Fill in the requested information. **Reminder:** include a copy of the *Certification of Physician or Psychologist* completed by a licensed physician or psychologist (Form D) with your Verified Complaint.
10. Item #4: Check the appropriate response as to which document will be used to further support your application for the appointment of a guardianship of the person. **Reminder:** include a copy of the chosen document (Form E-1 or Form E-2) with your Verified Complaint.
11. Item #5: This section identifies people who may have an interest in the guardianship proceeding and should receive Notice of the action. Fill in the name, address, relationship to the alleged incapacitated person, and age for all those that should receive notice of this action. List all known persons closely related to the alleged incapacitated person (i.e. parents, children, siblings).

If another individual or institution currently has care and custody of the alleged incapacitated person, please provide their name and address in the appropriate section. If not applicable, check the box for *Not Applicable*.

If the alleged incapacitated person previously lived in an institution, please provide the name of the institution, dates of residency, and identify the authority which permitted or required the commitment. If not applicable, check the box for *Not Applicable*.

If any person has been named as an attorney-in fact in any power of attorney document, health care representative in any health care directive, and/or a trustee in a trust for the benefit of the alleged incapacitated person, please provide the requested information. If not applicable, check the box for *Not Applicable*.

12. Item #6: Provide the name(s), address(es), relationship(s), age(s) and telephone number(s) for the person(s) proposed as guardian(s).
13. Item #7: Include a copy of the *Certification of Assets* (Form C).
14. Item #8: The interests of the alleged incapacitated person must be represented at the guardianship hearing. Select the appropriate option whether you are requesting that the court appoint an attorney from the Office of the Public Defender Division of Mental Health Advocacy for no charge, **or** whether you are requesting that the court appoint a private attorney.

Please note that your hearing date may be delayed if you request an attorney from the Public Defender's office. Please also note that if you are requesting the court appoint a private attorney, the Court may order that the attorney's fees come out of the assets of the incapacitated person. Should the incapacitated person not have available funds to cover these fees, the Court may order that you pay them.

15. Item #9: A guardianship of the person is appropriate where the alleged incapacitated person is unable to make decisions about their personal well-being, such as their residence and/or medical care. A **full guardianship of the person** is appropriate where the alleged incapacitated person is impaired to the point where they are unable to govern themselves in all areas related to their personal well-being. A **limited guardianship of the person** is appropriate where the alleged incapacitated person is able to govern themselves in some areas, but lacks the capacity to make decisions in other areas. (For example, the alleged incapacitated person is able to make decisions regarding their residence, but unable to make decisions regarding their health care.)

- Select *Option 1* if you are seeking a **full guardianship** of the person, and enter the alleged incapacitated person's full name in the two blank areas. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.
- Select *Option 2* if you are seeking a **limited guardianship** of the person, and enter the alleged incapacitated person's full name in the three blank areas. **Note:** If selecting this option, check the boxes to show areas where the alleged incapacitated person is able to make their own decisions. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.

16. Item #10: A guardianship of the estate is appropriate where the alleged incapacitated person is unable to make decisions about their financial affairs. A **full guardianship of the estate** is appropriate where the alleged incapacitated person is impaired to the point where they are unable to govern themselves in all areas related to their finances. A **limited guardianship of the estate** is appropriate where the alleged incapacitated person is able to govern themselves in some areas, but lacks the capacity to make decisions in other areas. (For example, the alleged incapacitated person is able to make decisions regarding making small monetary gifts to relatives, but unable to make decisions regarding the management of their investment accounts.)

- Select *Option 1* if you are seeking a **full guardianship** of the estate, and enter the alleged incapacitated person's full name in the two blank areas. Complete the "Wherefore" paragraph by entering the full legal name of the alleged incapacitated person in the first blank space, the full legal name(s) of the proposed guardian(s) in the second blank space, and the full legal name of the alleged incapacitated person in the final blank space.
- Select *Option 2* if you are seeking a **limited guardianship** of the estate, and enter the alleged incapacitated person's full name in the three blank areas. **Note:** If selecting this option, describe the areas where the alleged incapacitated person is able to make their own decisions.

Note: For **both** 9 and 10, you must select **either** *Option 1* (General/Full Guardianship) or *Option 2* (Limited Guardianship). However, you do not have to select the same option for both paragraphs. You should select the type of guardianship, Full or Limited, most appropriate for the alleged incapacitated person for both their person (paragraph 9) and their estate (paragraph 10). For example, you may select Option 2 for Paragraph 9 to seek a limited guardianship of the person, but Option 1 for Paragraph 10 to seek a full guardianship of the estate.

Verification: Fill out and sign the verification.

IMPORTANT NOTE: If the complaint or any of the copies of papers that you attach to the complaint contain a Social Security number, driver's license number, vehicle plate number, insurance policy number, active financial account number or active credit card number, you must redact (black out) this information so that it cannot be seen, unless any such personal identifier is required to be included by statute, rule, administrative directive or court order. If an active financial account is the subject of your case and cannot otherwise be identified, you may use the last four digits of the account to identify it. Do not redact (black out) this information in the original papers that you are keeping since you may have to show them to the court at some point.

FORM B

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
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
Verified Complaint to Appoint
Guardian(s) of the Person and Estate
(Property)

I, _____, by way of verified complaint, say:

I am _____ years of age. I reside at _____, County of _____, and State of _____. I have domicile (permanent/legal residence) at _____. My relationship to the alleged incapacitated person (AIP) is _____. My interest in this action is the welfare of the alleged incapacitated person.

I am (check one)

- the only individual bringing this action for guardianship; **OR**
- one of two or more individuals bringing this action for guardianship. Below is the name, age, present residence, and permanent/legal residence (domicile) of the other applicant(s).

1. The name, age, present address, permanent/legal residence (domicile), and marital status of the alleged incapacitated person are as follows:

Name _____ Age _____
Present Address _____
How long at this address? _____ Marital Status _____
Permanent/Legal Residence (Domicile) _____

Spouse's information, if married:

Name _____ Age _____
Present Address _____
Permanent/Legal Residence (Domicile) _____

If applicable:

Not Applicable

The alleged incapacitated person _____, has been determined eligible for services from the New Jersey Division of Developmental Disabilities (DDD).

If applicable:

Not Applicable

The alleged incapacitated person has been receiving services from the DDD since _____. Currently, these services consist of:

3. The alleged incapacitated person, _____, has been diagnosed as having _____, as set forth by the attached affidavit or certification of _____, (Physician or Psychologist). Because of this condition, _____ lacks sufficient capacity to govern him/herself to the extent set forth below.
4. The functional capacity of the alleged incapacitated person is further detailed by **one** of the following documents, attached to this complaint: (check one)
- A copy of the Individualized Education Program (IEP) for the alleged incapacitated person; **OR**
 - An affidavit or certification from the chief executive officer, medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; **OR**
 - An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the AIP; **OR**
 - A second affidavit or certification of a physician or psychologist; **OR**
 - An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.
5. The names, addresses, relationships and ages of the persons most closely related to the alleged incapacitated person (parents, children, siblings) are as follows:

Name	Address	Relationship to AIP	Age
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

If applicable:

Not Applicable

The name and address of the person or institution having the care and custody of the alleged incapacitated person is as follows:

If applicable:

Not Applicable

If the alleged incapacitated person has lived in an institution, the date(s) of any commitment or confinement and by what authority committed or confined, are as follows:

Institution

Period(s) of Residence

_____	_____
_____	_____
_____	_____

If applicable:

Not Applicable

The name(s) and address(es) of any person(s) named as an attorney-in-fact in any power of attorney, and/or any person named as health care representative in any health care directive, and/or any person acting as trustee under a trust for the benefit of the alleged incapacitated person, are as follows:

Name

Role (Attorney-In-Fact, Health Care Representative, Trustee)

_____	_____
_____	_____
_____	_____
_____	_____

6. The name(s), address(es), relationship to the alleged incapacitated person, age and telephone number of the proposed guardian(s) are as follows: (attach additional pages as necessary).

Name _____

Address _____

Relationship _____ Age _____ Telephone No. _____

Name _____

Address _____

Relationship _____ Age _____ Telephone No. _____

Name _____

Address _____

Relationship _____ Age _____ Telephone No. _____

7. Information about the real and personal property and income of the alleged incapacitated person is set forth in the attached Certification of Assets.

8. Guardianship of the person and estate is requested at this time. (check one)

I request that the court appoint the Office of the Public Defender Division of Mental Health Advocacy, *pro bono* (without cost), to represent the alleged incapacitated person. I understand that the guardianship hearing may be scheduled on a later date if the Office of the Public Defender Division of Mental Health Advocacy is appointed as counsel.

OR

I request that the court appoint a private attorney, potentially for cost, to represent the alleged incapacitated person. I understand that if the assets of the alleged incapacitated person are insufficient to cover the fee charged by the court-appointed attorney, then the court may order that I pay that fee.

9. Request for Guardianship of the Person (check one)

Option 1:

Request for General (Full) Guardianship of the Person

The condition of _____ renders him/her without the necessary cognitive capacity to govern himself/herself in **all** areas (including medical, legal, residential, educational, and vocational). _____ requires a general (full) guardian of the person.

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of governing himself/herself in all areas, and appointing _____ as **general (full) guardian(s) of the person** of _____.

OR

Option 2:

Request for Limited Guardianship of the Person

The condition of _____ renders him/her without the necessary cognitive capacity to govern himself/herself in **some** areas. However, _____ retains the necessary cognitive capacity to make some decisions regarding his/her person and requires a limited guardian.

Specifically, _____ retains the capacity to make decisions regarding the following areas: (check all that apply)

- medical decision making legal decision making vocational decision making
- residential decision making educational decision making
- other (voting, driving, etc.) _____

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of governing himself/herself in some areas, and appointing _____ as **limited guardian(s) of the person** of _____.

Date

Signature

Print Name

10. Request for Guardianship of the Estate (check one)

Option 1:

Request for General (Full) Guardianship of the Estate (Property)

The condition of _____ renders him/her without the necessary cognitive capacity to manage his/her affairs in **all** areas. _____ requires a general (full) guardian of the estate.

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of managing his/her affairs in all areas, and appointing _____ as **general (full) guardian(s) of the estate** of _____.

OR

Option 2:

Request for Limited Guardianship of the Estate (Property)

The condition of _____ renders him/her without the necessary cognitive capacity to manage his/her affairs in **some** areas. However,

_____ retains the necessary cognitive capacity to make some decisions regarding his/her estate and requires a limited guardian of the estate.

Specifically, _____ retains the capacity to make decisions regarding the following areas: (describe)

WHEREFORE, the plaintiff(s) demand(s) judgment pursuant to *N.J.S.A. 30:4-165.7*, declaring _____ to be suffering from a chronic functional impairment that renders him/her incapable of managing his/her affairs in some areas, and appointing _____ as **limited guardian(s) of the estate** of _____.

Date

Signature

Print Name

Verification

I/We _____ hereby certify and say:

1. I/We am/are the plaintiff(s).
2. The contents of the Verified Complaint for Guardianship are true to the best of my/our knowledge.

Date

Signature

Print Name

Date

Signature

Print Name

Instructions for Completing the Certification of Assets - Form C

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill in the blank spaces in the first paragraph indicating your full legal name and the full legal name of the alleged incapacitated person.
6. Select the appropriate checkbox as to whether or not the alleged incapacitated person possesses property.
 - If you select the first option (the alleged incapacitated person possesses no property, or possesses only Social Security benefits, etc.), enter the alleged incapacitated person's full legal name on the line. **Note:** If you select this option, be sure to check "None" in Schedules A through G.
 - If you select the second option (the alleged incapacitated person possesses property, or possesses money other than Social Security benefits, a State-funded Personal Needs Allowance, and/or funds held in trust for their benefit), you must provide a complete and accurate statement and valuation of all real and personal property and income of the alleged incapacitated person.
 - A diligent inquiry must be performed to identify the requested information. All Schedules (A through G) must be completed to the best of your ability. The proper entry for any schedule without assets is "None." If you are unsure whether a particular type of asset exists, the proper entry is "Unknown." Should additional information regarding the alleged incapacitated person's assets be discovered, this form should be supplemented.
7. Schedule A: Identify the incapacitated person's interests in real property (i.e. homes or land). This includes land held jointly or in common with other individuals. Provide the most recent municipal tax assessed value and market value for the property. The market value may be estimated rather than based upon a new appraisal.
8. Schedule B: Identify the incapacitated person's interest in stocks, bonds, mutual funds, securities and investment accounts. This includes any interest held jointly or in common with other individuals, or in trust. For Schedule B, you are asked to provide face value, if applicable, and market value. Some assets, like bonds, will have both a face value and a market value. For those assets, list both the face value and market value. Other assets will only have a market value.
9. Schedule C: Identify any checking accounts, savings accounts, certificates of deposit in banks, notes or other indebtedness due the alleged incapacitated person.
10. Schedule D: List any pension or retirement accounts.
11. Schedule E: List any other personal property including, but not limited to, any motor vehicles, recreation vehicles, collections, interests in partnerships/ unincorporated businesses, etc.
12. Schedule F: List any secured debts or encumbrances on the above assets (i.e. mortgage on a home, car loan).
13. Schedule G: List all sources of monthly income.
14. Complete the Certification at the bottom.

Form C

Filing Attorney Information or Pro Se Litigant:

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

I, _____, of full age, hereby certify as follows:

This certification is made by me in support of an application for a declaration of incapacity for _____ (Check one)

The alleged incapacitated person, _____, possesses no property, or possesses only Social Security benefits, a **State-funded Personal Needs Allowance**, and/or funds held in trust for his/her benefit. (**Note:** If you select this option, check "None" in the following schedules)

OR

The following schedules contain a complete and accurate statement and valuation of all real and personal property and income of _____, based upon my diligent inquiry.

Schedule A: Real Property

None Unknown

All interests in real property including real property held in common or jointly with other(s) and, if held jointly, describe the interest.

#	Description: Address (include county and state)	Municipal Tax Assessed Value	Market Value
1.		\$	\$
2.		\$	\$
Total Schedule A			\$

Schedule B: Stocks, Bonds, Mutual Funds, Securities and Investment Accounts

None Unknown

Include all interests in stocks, bonds, mutual funds, securities and investment accounts including interests held in common or jointly with other(s) or in trust, and, if held jointly, describe the interest.

#	Description (include name of financial institution, account type, number of shares or last four digits of account and date value fixed)	Face Value	Market Value
1.		\$	\$
2.		\$	\$
Total Schedule B			\$

Schedule C: Money on Hand None Unknown

Checking and savings accounts and certificates of deposit in banks and notes or other indebtedness due the alleged incapacitated person.

#	Description (include name of financial institution, account type, last four digits of account and date value fixed)	Value
1.		\$
2.		\$
Total Schedule C		\$

Schedule D: Pensions, retirement accounts None Unknown

IRA's, 401(k), annuities, profit sharing plans, etc. Include last four digits of account.

#	Description (include name of financial institution, account type, last four digits of account and date value fixed)	Value
1.		\$
2.		\$
Total Schedule D		\$

Schedule E: Miscellaneous Personal Property None Unknown

Tangible personal property, motor vehicles, recreation vehicles, employment bonus or award, interest in a partnership or unincorporated business, articles or collections have either artistic or intrinsic value, etc.

#	Description	Value
1.		\$
2.		\$
Total Schedule E		\$

Schedule F: Liabilities/Encumbrances None Unknown

If any asset listed in this certification has a secured associated debt, such as a mortgage or a car loan, indicate below. List all other debts.

#	Description	Encumbrance Amount
1.		\$
2.		\$
Total Schedule F		\$

Schedule G: Sources of Monthly Income None Unknown

#	Description	Value
1.		\$
2.		\$
Total Schedule G		\$

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

Instructions for Completing the Certification of Physician or Psychologist - Form D

This is a form certification which should be provided to the physician or psychologist who will be supporting your application for declaration of incapacity. Provide this certification to the physician or psychologist to be filled out. Should additional room be needed, the physician or psychologist may attach a separate report. Remember to include this certification with your Verified Complaint.

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. The remainder of the form is to be filled out by the certifying physician or psychologist.

Form D

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
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
Physician or Psychologist

I, _____, (check one) M.D., D.O., Ph.D., Psy.D., of full age,
hereby certify as follows:

1. This certification is made by me in support of an application for a declaration of incapacity for
_____, an alleged incapacitated person.

2. _____ was born on _____. S/He is ___ years old. S/He
weighs _____ pounds and is approximately _____ in height. S/He has _____ hair and
_____ eyes.

3. Select one:

I am a (check one) physician psychologist licensed to practice in the State of _____. I
currently maintain an office at _____. I
am, and have been, in the actual practice of _____ for ___ years.

OR

I am an employee of the Division of Developmental Disabilities authorized to conduct
psychological evaluations as part of my duties.

4. I earned a degree in _____, from _____.
in _____. I received my license to practice in the State of _____ in _____. My area of specialty is
_____.

5. I examined the alleged incapacitated person on _____. This examination took place at
_____.

6. Select one:

I have been treating the alleged incapacitated person for _____,
since _____.

OR

I am not treating the alleged incapacitated person for _____, but have
merely examined her/him for the purpose of evaluating her/his mental capacity.

7. During my examination, I observed that s/he was (describe findings or attach report)

8. As a result of my examination and a review of her/his history, my diagnosis is _____ . The prognosis for recovery is _____ .

9. In my opinion, the alleged incapacitated person is:

unfit and unable to govern herself/himself and to manage her/his affairs in all areas.

OR

unfit and unable to govern herself/himself and to manage her/his affairs in **some** areas but **does have capacity** in the areas listed below (select all that apply):

medical decision making legal decision making residential decision making

educational decision making vocational decision making financial decision making

other (please describe) _____

10. My opinion is based upon the examination of the alleged incapacitated person, and the history of her/his condition. The factual basis for my diagnosis and prognosis, and my opinion as to any areas in which the individual retains capacity, is: (describe or attach report)

11. It is my opinion that the alleged incapacitated person (check one) is is not capable of attending the court hearing in this matter. If the alleged incapacitated person is not capable of attending the court hearing the following are the reasons for the individual's inability:

12. I am not related either through blood or marriage, to the alleged incapacitated person, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the alleged incapacitated person is living or in which it is proposed to place her/him; nor am I professionally employed by the management thereof as a resident physician or psychologist; nor am I financially interested therein.

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

Form D

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
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
Physician or Psychologist

I, _____, (check one) M.D., D.O., Ph.D., Psy.D., of full age,
hereby certify as follows:

1. This certification is made by me in support of an application for a declaration of incapacity for
_____, an alleged incapacitated person.

2. _____ was born on _____. S/He is ___ years old. S/He
weighs _____ pounds and is approximately _____ in height. S/He has _____ hair and
_____ eyes.

3. Select one:

I am a (check one) physician psychologist licensed to practice in the State of _____. I
currently maintain an office at _____. I
am, and have been, in the actual practice of _____ for ___ years.

OR

I am an employee of the Division of Developmental Disabilities authorized to conduct
psychological evaluations as part of my duties.

4. I earned a degree in _____, from _____.
in _____. I received my license to practice in the State of _____ in _____. My area of specialty is
_____.

5. I examined the alleged incapacitated person on _____. This examination took place at
_____.

6. Select one:

I have been treating the alleged incapacitated person for _____,
since _____.

OR

I am not treating the alleged incapacitated person for _____, but have
merely examined her/him for the purpose of evaluating her/his mental capacity.

7. During my examination, I observed that s/he was (describe findings or attach report)

8. As a result of my examination and a review of her/his history, my diagnosis is _____ . The prognosis for recovery is _____ .

9. In my opinion, the alleged incapacitated person is:

unfit and unable to govern herself/himself and to manage her/his affairs in all areas.

OR

unfit and unable to govern herself/himself and to manage her/his affairs in **some** areas but **does have capacity** in the areas listed below (select all that apply):

medical decision making legal decision making residential decision making

educational decision making vocational decision making financial decision making

other (please describe) _____

10. My opinion is based upon the examination of the alleged incapacitated person, and the history of her/his condition. The factual basis for my diagnosis and prognosis, and my opinion as to any areas in which the individual retains capacity, is: (describe or attach report)

11. It is my opinion that the alleged incapacitated person (check one) is is not capable of attending the court hearing in this matter. If the alleged incapacitated person is not capable of attending the court hearing the following are the reasons for the individual's inability:

12. I am not related either through blood or marriage, to the alleged incapacitated person, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the alleged incapacitated person is living or in which it is proposed to place her/him; nor am I professionally employed by the management thereof as a resident physician or psychologist; nor am I financially interested therein.

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

Instructions for Completing the Cover Page - Individualized Education Program (IEP) - Form E-1

Use this form **only** if providing an Individualized Education Program as a supporting document:

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Fill out the requested information including the academic year for which the IEP was developed. Attach a copy of the IEP including all medical and other reports.

Instructions for Completing the Certification in Support of Guardianship - Form E-2

Form E-2 is a form certification which can be provided to the person making the certification or affidavit supporting your application for declaration of incapacity. You may provide this certification to the appropriate person to be filled out, or they may provide their own certification including the same information. Remember to include the original certification or affidavit with your Verified Complaint.

If not providing an Individualized Education Program as a supporting document to your application, one of the following affidavits or certifications must be provided:

- An affidavit or certification from the chief executive officer (CEO), medical director, or other officer having administrative control over the DDD program from which the alleged incapacitated person is receiving services; *OR*
 - An affidavit or certification from a designee of the DDD having personal knowledge of the functional capacity of the alleged incapacitated person; *OR*
 - A second affidavit or certification of a physician or psychologist; *OR*
 - An affidavit or certification from a licensed care professional having personal knowledge of the functional capacity of the alleged incapacitated person.
1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
 2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
 3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
 4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
 5. The remainder of the form is to be filled out by the certifying person.

Form E-1

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
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
Cover Page
Individualized Education Program
(IEP)

Attached is a copy of the Individualized Education Program (IEP) for _____.
This IEP was prepared for the 20___/20___ Academic Year.

All medical and other reports included in this IEP are attached.

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

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
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 in Support of
Guardianship

I, _____, of full age, hereby certify as follows:

I am (check one)

- the chief executive officer, medical director, or other officer having administrative control over the program from which _____ is receiving functional or other services provided by the Division of Developmental Disabilities; **OR**
- a designee of the Division of Developmental Disabilities having personal knowledge of the functional capacity of _____; **OR**
- a licensed physician or psychologist; **OR**
- a licensed care professional having personal knowledge of the functional capacity of _____.

1. This certification is made by me in support of an application for a declaration of incapacity for _____, an alleged incapacitated person.

2. I am personally familiar with the functional capacity of the alleged incapacitated person. My knowledge of his/her functional capacity is based upon:

3. In my opinion, the alleged incapacitated person is:

- unfit and unable to govern herself/himself and to manage her/his affairs in **all** areas.

OR

- unfit and unable to govern herself/himself and to manage her/his affairs in **some** areas but **does have capacity** in the areas listed below (select all that apply):

- medical decision making legal decision making financial decision making
- residential decision making educational decision making vocational decision making
- other (please describe) _____

4. My opinion is based upon:

5. It is my opinion that the alleged incapacitated person (check one) is is not capable of attending the court hearing in this matter. If the alleged incapacitated person is not capable of attending the court hearing the following are the reasons for the individual's inability:

6. I am not related either through blood or marriage, to the alleged incapacitated person, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the alleged incapacitated person is living or in which it is proposed to place her/him; nor am I professionally employed by the management thereof as a resident physician or psychologist; nor am I financially interested therein.

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

Instructions for Completing the Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person - Form F

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. In the first paragraph, fill in your full legal name as the plaintiff. Fill in the alleged incapacitated person's full legal name on the second blank line.
6. Leave the remainder of the document blank. The court will use this document to schedule and order a hearing on the guardianship application as well as appoint an attorney to represent the interests of the alleged incapacitated person.

**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)

Promulgated April 14, 2023 by Directive #06-23

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- 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)

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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.

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

**Instructions for Judgment of Incapacity and Appointment of Guardian(s)
of the Person and Estate - Form G**

1. At the top left of the form, enter your name, address, and daytime phone number. If you are not an attorney, leave the *Attorney ID and Law Firm/Agency Name* fields blank.
2. On the line above *Name of Alleged Incapacitated Person (AIP)*, fill in the full legal name of the alleged incapacitated person for whom you are seeking a guardianship.
3. On the line labeled *County*, enter the county in which the alleged incapacitated person resides. This will be the county where the action is filed.
4. Leave *Docket Number* blank. It will be assigned and filled in by the Court upon filing.
5. Leave the remainder of the document blank. The court will use this document if your application for a guardianship is granted. This document will set the terms for the guardianship.

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.

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.