

NOTICE TO THE BAR

GUARDIANSHIP – REVISED BACKGROUND SCREENING POLICY FOR PROPOSED GUARDIANS OF INCAPACITATED ADULTS; AMENDED COURT RULES AND REVISED COURT FORMS

The Supreme Court has approved revisions to the Background Screening Policy for Proposed Guardians of Incapacitated Adults (the “policy”). The Court also has amended Rule 4:86(2)(b)(3) (“Action for Guardianship of an Incapacitated Person or for the Appointment of a Conservator”) effective May 1, 2023. The Certification of Criminal and Civil Judgment History (CN 12706) and Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (CN 12013) forms also have been revised.

The amendments to the Court Rule are attached. Directive #06-23 (“Guardianships of Incapacitated Adults – Revised Background Screening Policy for Proposed Guardians; Amended Court Rules and Revised Court Forms”), which supersedes Directive #11-21 and which will be separately published, promulgates the revised Background Screening Policy for Proposed Guardians, the revised court forms, and guidance for application of the revised policy.

Questions related to Directive #06-23 or the revised policy, amended rules, or revised forms should be directed to the AOC’s Civil Practice Division at (609) 815-2900 ext. 54900 or civilwebsites.mbx@njcourts.gov.



Glenn A. Grant
Administrative Directors of the Courts

Dated: April 14, 2023

SUPREME COURT OF NEW JERSEY

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

For the Court,

A handwritten signature in blue ink, appearing to read "Stuart Rosen", written over a horizontal line.

Chief Justice

Dated: April 5, 2023

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

(a) ...no change

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

(1) ...no change

(2) ...no change

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

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

(A) individuals who are the parents in a parent and child relationship with an alleged incapacitated person, as “parent and child relationship” is defined by the New Jersey Parentage Act, N.J.S.A. 9:17-39, or who were appointed legal guardians of an alleged incapacitated person prior to their reaching majority pursuant to an order of the Family Division of Superior Court;

(B) individuals who are married to an alleged incapacitated person in accordance with N.J.S.A. 37:1-29 et seq., in a civil union with an alleged incapacitated person as defined by N.J.S.A. 37:1-29, or in a domestic partnership with an alleged incapacitated person as defined by N.J.S.A. 26:8A-3;

(C) pendente lite temporary guardians appointed pursuant to N.J.S.A. 3B:12-24.1(c);

(D) agencies authorized to act pursuant to P.L.1985, c. 298 (N.J.S.A. [C.] 52:27G-20 et seq.), P.L.1985, c. 145 (N.J.S.A. [C.] 30:6D-23 et seq.), P.L.1965, c. 59 (N.J.S.A. [C.] 30:4-165.1 et seq.) and P.L.1970, c. 289 (N.J.S.A. [C.] 30:4-165.7 et seq.);

(E) public officials appointed as limited guardians of the person for medical purposes for individuals in psychiatric facilities listed in [R.S.] N.J.S.A. 30:1-7;

(F) banks, trust companies, credit unions, savings and loan associations, or other financial institutions duly licensed or authorized to conduct business under applicable state or federal laws; and

(G) attorneys admitted to practice law and in good standing in the State of New Jersey who are appointed by the court in their professional capacity; and

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

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

(ii) The court may require any proposed guardian to file an affidavit or certification setting forth the proposed guardian's criminal and civil judgment history or to undergo background screening as a prerequisite to appointment based on the individual facts of the case, including but not limited to the value of the guardianship estate; and

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

(c) ...no change.

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