

**SUPERIOR COURT OF NEW JERSEY**  
**MERCER VICINAGE**

Hon. Rodney Thompson, P.J.F.P.  
Presiding Judge, Family Division

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**TO: Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts**

**FROM: Rodney Thompson, P.J.F.P.  
Chair, Conference of Family Presiding Judges**

**RE: Comments on the 2024 Report and Recommendations of the Supreme Court on Civil Practice Committee**

**DATE: March 28, 2024**

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Thank you for the opportunity to provide comments on the 2024 Report of the Supreme Court on Civil Practice Committee (CPC). The Conference of Family Presiding Judges (Conference) would like to comment on the following recommendations:

- (1) Proposed Amendments to Rule 4:3-1(a)(4)(I) “Division of Court; Commencement and Transfer of Actions” and Rule 4:86-7A – “Rights of an Incapacitated Person; Proceedings for Review of Guardianship”

The Conference is not in favor of these proposed amendments to change the responsibility of hearing financial maintenance matters for incapacitated adults 23 years of age or older. The Conference recommends that requests for financial maintenance remain in the Probate Part. The Rule recommendation from the Civil Practice Committee fails to take into account the various scenarios for financial maintenance as described below. The 2020 change in the Termination of Child Support Law, N.J.S.A. 2A:17-56.67 (“Termination Law”) did not modify the process for a financial maintenance application, which is to be filed and heard in the Probate Part. Therefore, the Rules should remain as they are currently adopted.

Child support

Child support is awarded using the Child Support Guidelines (Guidelines). The Guidelines are intended to apply to children who are less than 18 years of age or more than 18 years of age but still attending high school. See Appendix IX-A, para.18. Upon the child reaching 19 years of age, child support may continue if (1) the child is enrolled in high school; (2) child is enrolled in a full-time post-secondary educational program; or (3) the child has a physical or mental disability that existed prior to the child reaching the age of 19 and requires continued support.

Upon reaching the age of 23, child support terminates as a matter of law except in a limited circumstance: a severe mental or physical incapacity that causes the child to be financially dependent upon a parent. The 2020 change in the Termination Law provided that when a case is approved for child support beyond the age of 23, the case continues to be eligible for Title IV-D child support enforcement provided by Probation. The continuation of child support orders as referenced by the 2020 amendment to the Termination Law are called “life of child” orders as coined by the Probation Services Division.

### Financial Maintenance

Financial maintenance is a relief requesting support for an adult child. It is filed and heard in the Probate Part. Financial maintenance matters include but are not limited to the following scenarios:

- there is no prior child or medical support and the child is 18 or older, and not in high school, at the time of the application;
- there is an on-going child support award and the child is over 19, an application to convert to financial maintenance can be filed by either an adult child or a parent/guardian if the child: (1) is not enrolled in high school; (2) is not enrolled in a full-time post-secondary educational program; or (3) does not have a physical or mental disability that existed prior to the child reaching the age of 19 and requires continued support; and
- there is an on-going child support award, a child who is not incapacitated turns 23, the parent or child seeks to convert a child support obligation to financial maintenance.

The Guidelines are not applicable in these situations. These awards are not considered child support and cannot be enforced or monitored by Probation. The Probate judge hears these matters.

### Termination Law

In 2018, following the enactment of the Termination Law, the Supreme Court determined that it was appropriate to require applications for financial maintenance to be filed in the Chancery Division, Probate Part. Accordingly, the Court adopted Rule 4:3-1(a)(4)(I) and Rule 4:86-7A, effective September 1, 2018.

The 2020 amendment to the Termination Law authorized Probation to continue to enforce child support orders for children beyond the age of 23 if they suffered from a severe physical or mental incapacity and remains financially dependent. Other than this limited circumstance, a parent or child seeking support beyond the age of 23 must file for financial maintenance in the Probate Part.

This Conference does not support the CPC recommendation that applications for financial maintenance be heard in the Family Part for the following reasons:

- Supreme Court previously determined that the Probate Part is best equipped to handle applications for financial maintenance. The change in the Termination Law did not require a change in the Supreme Court's decision.
- The Guidelines are not applicable in these situations, and therefore cannot be used to calculate financial maintenance.
- Judges sitting in the Probate Part routinely hear guardianship matters that require a nuanced analysis of the unique needs of each incapacitated adult. As such, they have the expertise to address financial maintenance.
- The CPC Report indicates that continuing to hear financial maintenance requests in Probate is resulting in the disparate treatment of vulnerable populations. This is incorrect. Probation enforces or monitors "life of child" orders only if the case was previously enforced through Probation. Financial maintenance awards, regardless of which court hears them, are not eligible for Title IV-D services.

(2) Proposed Amendments to Rule 1:11-2 “Withdrawal or Substitution”

The Conference is in favor of the proposed amendment to require additional necessary information set forth in R. 1:4-1(b). The Conference suggests that the language be expanded further to include an obligation for the withdrawing attorney to forward the pleadings and advise incoming counsel of the next scheduled court event.

The Conference appreciates the opportunity to submit its comments.

cc: Hon. Jack M. Sabatino P.J.A.D., CPC Chair  
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