

HOW TO FILE A GUARDIANSHIP ACTION WITH THE COUNTY SURROGATE

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 clearly printed on 8 ½" x 11" white paper only. Forms may not be filed on a different size or color paper. The text must be double spaced

STEPS FOR FILING YOUR COMPLAINT FOR GUARDIANSHIP.

STEP 1: Fill out the VERIFIED COMPLAINT TO APPOINT GUARDIAN. (FORM A) This complaint must be verified either by an affidavit (oath before a notary public) or certification (shown in Form A).

STEP 2: Have a physician or psychologist complete a certification form. (FORM B or C) If you choose to have a physician complete the certification form use FORM B. If you want a psychologist to complete a certification use FORM C. The physician or psychologist who completes these forms must be the person who examined the alleged incapacitated person. Note: The examination of the alleged incapacitated person cannot be more than 30 days prior to the filing of the Complaint.

STEP 3: Obtain a Certification from the New Jersey DDD Official The DDD official will complete a form verifying that the individual is a current client of the Division of Developmental Disabilities (DDD) and is receiving services. This form is not included in this packet. Contact your county Surrogate for information on how to contact the regional DDD office.

STEP 4: Fill out the ORDER FOR HEARING (FORM D) This form will allow the court to insert the date and time of hearing and assign an attorney for the alleged incapacitated person. A copy of this order is served on the alleged incapacitated person, the attorney appointed to represent the alleged incapacitated person and the parties-in-interest (next of kin, county adjuster and regional DDD official).

STEP 5: Complete the top portion of the Judgment Appointing Guardian. (FORM E) If the judge grants your request, this is the document that he or she will sign naming you as guardian.

STEP 6: Check your completed forms and Make Copies. Check your forms to make sure they are complete. Remove all instruction sheets. Make sure you have signed all the forms whenever necessary. Make at least three copies. One set will be your records.

STEP 7: Pay the Filing Fee. The filing fee to file these forms is \$200, payable by check or money order. Make the check payable to the Surrogate of the county in which you are filing.

STEP 8: Deliver or Mail your completed forms (FORMS A, [B or C] and D), along with the Certification of the DDD Official, to the County Surrogate. DO NOT send in Forms F or G at this time. You must wait until you get copies of the SIGNED Order for Hearing (FORM D) from the court before you complete these forms. You can deliver your completed forms in person or you can mail them. If you mail them, we recommend you mail them certified, return receipt requested. This will provide you with proof that you mailed your forms. Your post office can tell you how to send out mail certified, return receipt requested. The county you mail your papers to is the county where the alleged incapacitated person lives. When

you deliver or mail your completed forms to the Surrogate, you must supply the court with a self-addressed stamped envelope so that the court can send you certified copies of the order.

STEP 9: Review copies of the Order for Hearing returned from the court for instructions on how to proceed. The court will return copies of the Order for Hearing to you. Once you receive these copies, you must follow the court's instructions in the Order for Hearing to complete your paperwork properly.
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STEP 10: Fill out the NOTICE OF PENDING HEARING. (FORM F) Once you get the signed Order for Hearing from the court, complete the Notice of Pending Hearing. This will inform the alleged incapacitated person of the time, date and place of the hearing to determine whether they are incapacitated. This form **MUST** be personally delivered to the alleged incapacitated person at least 20 days prior to the date of the hearing.

STEP 11: Arrange to serve the Complaint (FORM A), Physician's or Psychologist's Certification (FORM B or C), DDD Official's affidavit or certification and the signed Order for Hearing (FORM D) on the alleged incapacitated person and on the other interested parties. Once you get back the Order for Hearing signed by the judge, you must personally deliver a copy of the complaint (Form A), physician's or psychologist's certification (FORM B or C), regional director's affidavit or certification and the signed order (Form D) to the alleged incapacitated person. You must deliver copies of the same forms to all other parties by certified mail, return receipt requested, and by regular mail. You must also forward copies of the complaint and order to the court appointed attorney.

STEP 12: Complete the PROOF OF SERVICE Form (FORM G) and the Judgment (FORM E). After service on the parties-in-interest is accomplished, complete the Proof of Service form and the Judgment and mail or deliver both forms to the Surrogate to show that the papers have been properly served. This must be filed at least 5 days prior to the hearing. This document lists all the papers that were served personally on the alleged incapacitated person and all papers that were mailed (certified and regular mail) to the next of kin and to the alleged incapacitated person's attorney. Attach photocopies of the return receipt cards returned by the post office.

STEP 13: Call the Surrogate a few days prior to the date set for the hearing to confirm the hearing will be held. If there has been no opposition to the guardianship application, the judge may not require a hearing. However, if a hearing is scheduled, you must attend the hearing. Call to confirm whether a hearing will be held.

STEP 14: Qualification. If the court declares the alleged incapacitated person to be incapacitated and appoints a guardian, then the appointed person must appear in the Surrogate to qualify. This involves signing acceptance documents and filing a surety bond, if the court requires the same. **STEP 15:** Legal Fee Payment. If the court awards the attorney appointed to represent the incapacitated person a fee, arrange to pay the same from the incapacitated person's assets or income. **DEADLINES YOU NEED TO MEET** Examinations by the physician or psychologist of the alleged incapacitated person must be made no more than 30 days prior to the filing of the complaint. The alleged incapacitated person and all interested parties listed in the complaint must have at least 20 days notice of the hearing date. The Proof of Service (FORM F) must be filed with the court at least 5 days prior to the date scheduled for the hearing. **INTERPRETER OR ACCOMMODATION** If you need an interpreter or an accommodation for a disability for the hearing, please contact the court before the hearing date.