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## **GUARDIANSHIPS**

[The NJ Courts Online Website](#) has posted tutorials and reporting forms as well as booklets that are “essential” to understanding the duties associated with guardianship of the person and guardianship of the property here:

<http://www.judiciary.state.nj.us/guardianship/>.

These essential booklets will walk you through some guiding principles; help you locate resources; enlighten you to an incapacitated individual’s rights; inform you on pertinent terminology and concepts such as substituted judgment, inventory, gifting, best interest standard and informed consent.

This website also contains links for guidelines for the application process, accounting and taxes, and a section of important Court Rules/Information and frequently asked questions regarding guardianships that you may wish to familiarize yourself with.

**The following links to *Guardian Reporting Forms* will redirect visitors to the NJ Courts Online Website:**

- [Introductory Instructions](#)
- [Guardianship Terms and Procedures](#)
- [Report of the Guardian Cover Page](#)
- [Report of Well-Being](#)
- [Guardian Inventory](#)
- [EZ-Accounting Form](#)
- [Comprehensive Accounting Form](#)

Below, you may read additional information that the Bergen County Surrogate’s Court, Court Division has provided for your reference.

## **ADULT GUARDIANSHIPS**

Under N.J. Court Rule 1:34-2, The Bergen County Surrogate acts as Deputy Clerk for Superior Court, Chancery Division, Probate Part for the filing of the appropriate pleadings.

Adults are declared incapacitated in Superior Court by way of Order to Show, Verified Complaint and certain required affidavits. The Court will appoint an independent attorney to represent the alleged incapacitated person. A report is generated and a plenary hearing may be required.

Upon adjudication, the Surrogate qualifies the court-appointed Guardian(s) and issues the official letters of Guardianship.

The Surrogate's Court will also be the Base for the soon to be implemented State Guardianship Monitoring Program. Under this program, volunteers will review the annual reports filed by Guardians as well as, in some cases, the ward's residence

## **GUARDIANSHIP ON BEHALF OF A MINOR**

There are several reasons that result in the need for a guardian to be appointed on behalf of a minor (a person under the age of 18 years). The most common, that I address here, is when a minor, who is a Bergen County resident, is to receive assets, usually money, but it also includes real estate, stocks and bonds, in amounts greater than \$5,000 per annum. Among the more usual causes is if a minor is involved in an accident and receives a monetary settlement. The Superior Court of New Jersey enters a judgment for settlement to formalize, in a written document, that settlement. If the settlement is greater than \$5,000 a guardian of the property of the minor has to be appointed. A guardian, similar to any other fiduciary, before entering upon their office is required to obtain and file with the court appointing them, a surety bond. However, if the size of the settlement does not justify the annual cost of a surety bond's premium then there is a statutory provision that allows the qualifying guardian to apply to the Superior Court of New Jersey to not have to secure and file a guardian's surety bond. In addition, that statutory provision includes that the guardian simultaneously petition the Superior Court to order the settlement funds be placed under the custodial care of the Bergen County Surrogate's Court, in the Surrogate's Intermingled Account.

Since September 1981 the Bergen County Surrogate's Court has had an Intermingled Account. Currently it is comprised of more than \$23 million dollars of minors' funds. These funds and the intermingled account are governed by statute, court rules and guidelines approved by the New Jersey Supreme Court. In accordance with the foregoing these funds are all FDIC insured, they earn interest that is accrued and compounded daily, and paid to each minor's account monthly. Pursuant to the guidelines, the interest rate that the intermingled account earns periodically changes as will the banking institution that serves as the depository of and for the Bergen County Surrogate's Court's Intermingled Account. Since its inception (thirty-two years) the Bergen County Surrogate's Court's Intermingled Account has earned an average annualized rate of return of 5.4261%.

Conversely, if the settlement is not greater than \$5,000 there are five (5) statutory options that the court can order regarding the disposition of the settlement funds: i) deliver the settlement funds directly to the person under age 18 if they are married, ii) or deliver the settlement funds to the minor's parent(s), iii) or deliver the settlement funds to the guardian of the person of the minor, iv) or deliver the settlement funds to an adult who has the custody of the minor, v) or deliver the settlement funds to a banking institution on behalf of the minor.