

# 17-A Guardianship Proceeding Checklist

## Appointment/Confirmation of Standby Guardian [SCPA 1757]

(Person and/or Property)

(see Surrogate's Court Form CSMD-1, rev. 9/2006)

*This Checklist is provided for your convenience while completing the petition and the checklist need not be returned to the Court.*

**Fill in All Areas On All Pages - Also Mark When Not Applicable When Necessary**  
**Check All Forms To Make Sure Venue Is Correct - Appropriate County Is Listed**

<b>PET</b>	<b>DESCRIPTION</b>	<b>YES</b>	<b>NO</b>
¶ #			
	Does the Court have jurisdiction over the subject MR/DDP, hereinafter referred to as <u>respondent</u> [see SCPA §1702]?		
<p><i><b>NOTE: The respondent must be domiciled in the county, have sojourned in the county immediately preceding the application for guardianship, or if a non-domiciliary of the state, must have property situate in the county. The domicile of the respondent's parent(s) or spouse if respondent is married, or custodial parent in the case of an infant respondent is the domicile of the respondent.</b></i></p>			
	Is the captioned name the same as the birth certificate and ¶2(a) of petition? 22NYCRR 207.15(a) and SCPA §1752(1)		
<b>1.</b>	<p><b>Is the petitioner a proper party?</b> [see SCPA §1757]</p> <p><b>Is the petitioner ...</b>    the guardian,  standby guardian,  alternate standby guardian,  second alternate standby guardian,  third alternate standby guardian,  mentally retarded/respondent,  developmentally disabled/respondent</p> <p style="text-align: center;">Are all A/K/A's listed?</p>		
<b>2a.</b>	<p><b>Is the name and date of birth of the respondent in ¶2 the same as that listed on the Birth Certificate?</b> [see SCPA §1752(1)]</p> <p style="text-align: center;">Attach Birth Certificate from official registrar (not hospital) to be filed with petition [see NYCRR §207.15(a)] - if not already on file with the court</p> <p><b>Complete all required information.</b></p>		
<b>2b.</b>	<p><b>Check whether respondent is admitted to a group home or facility.</b> [see MHL §1.03 and/or Article 15]</p> <p><b>If admitted, complete required information.</b></p>		
<b>3.</b>	<p><b>Indicate previous types of appointments and date of decree and to whom original letters were issued.</b></p>		
<b>4.</b>	<p><b>Choose the box that reflects the relief requested and attach required proof.</b></p>		

PET ¶ #	DESCRIPTION	YES	NO
5.	<p><b>Complete ¶5 only if new or different standby guardian(s) is/are to be designated in this proceeding.</b></p> <p>If applicable enter required information in (a) through (d).</p>		
6.	<p><b>Complete ¶6 only if seeking confirmation of standby guardian or alternate standby guardian.</b></p> <p>If applicable enter required information.</p>		
7.	<p><b>Complete ¶7 only if seeking confirmation of standby guardian or alternate standby guardian.</b></p> <p>If applicable check appropriate box.</p>		
8.	<p><b>Check appropriate box.</b> [see SCPA §1704(6) and §1761].</p> <p><i>NOTE: If knowledge of a report is indicated, verify that an affidavit explaining circumstances in detail is included.</i></p>		
9.	<p><b>Confirm that Request for Information Guardianship form has been submitted.</b></p> <p><i>NOTE: Some Courts may require submission of form DCJS-6, Fingerprint Card, for each proposed guardian in order to conduct a criminal record search.</i></p>		
10.	<p><b>List names and addresses of all interested parties.</b> [see SCPA §1753 and 304(3)]</p>		
11.	<p><b>This paragraph states that there are no other persons interested in this proceeding other than those already mentioned.</b></p> <p><b>If new or different standby guardian(s) is/are to be designated furnish any necessary waivers/renunciations/consents. (Form GMD-3)</b></p> <p><i>NOTE: SCPA §1753(1) requires that process shall issue to:</i></p> <ol style="list-style-type: none"> <li>1. Parent or Parents (if other than petitioner)</li> <li>2. Adult children, adult siblings (if petitioner is other than a parent)</li> <li>3. Spouse (if respondent is married);</li> <li>4. Person having care and custody or with whom respondent resides (if other than parent or spouse);</li> <li>5. The respondent (if fourteen (14) years of age or older).</li> </ol> <p><i>NOTE: SCPA §1753(2) requires that a Notice of Petition be served by certified mail to:</i></p> <ol style="list-style-type: none"> <li>1. Adult siblings (if petitioner is a parent)</li> <li>2. Mental Hygiene Legal Services</li> <li>3. Director of any State Facility where respondent resides</li> <li>4. Adult children (if petitioner is a parent)</li> <li>5. Any other person Court deems proper</li> <li>6. Any person designated in writing by respondent</li> </ol> <p><i>NOTE: No process or notice is necessary to any person above who has been declared by the court as incompetent or who has, as appears to the Court's satisfaction, abandoned the respondent or to a spouse who is divorced from the respondent. [see SCPA §1754(2)]</i></p>		

PET #	DESCRIPTION	YES	NO
	<p><b>Under WHEREFORE Clause: has all relief requested for sections (a) through (k) been checked and completed?</b></p> <p><b>Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary's commission)?</b></p> <p><b>Is attorney's name, address and phone number listed?</b></p> <p><b>Is oath and designation signed?</b></p> <p><b>does it set forth proposed guardian's physical address?</b></p> <p><b>Is proposed guardian a Bank?</b></p> <p><b>has corporate consent and designation been submitted? [see SCPA §708(4)]</b></p> <p><b>Has Part 130 Certification been completed?</b></p> <p><b>if <u>NOT</u>, has a separate attorney certification as to Part 130 signing requirements been included?</b></p>		
<b>If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?</b>			

FEE SCHEDULE	SCPA/EPTL§ or Rule #
<p><b>Have the proper fees been included with petition?</b></p> <p>\$20.00 for filing petition</p> <p>\$6.00 for each Certificate of Appointment.</p>	2402

COMMENTS AND COURT NOTES		Form Number	SCPA/EPTL§ or Rule #
When Permitted	Whenever the interests of a respondent will be promoted by the confirmation or designation of a standby guardian of the person or of the property or of both person and property.		1750, 1750-a 1750-b

<b>COMMENTS AND COURT NOTES</b>		<b>Form Number</b>	<b>SCPA/EPTL§ or Rule #</b>
Forms Always Required	<ul style="list-style-type: none"> <li>•Petition for Appointment/Confirmation of Standby Guardian</li> <li>•Affidavit of Proposed Guardian</li> <li>•Birth Certificate (if not already filed with court)</li> <li>•Request for Information Guardianship Form</li> <li>•Affidavit (Certification) of Examining Physician or Licensed Psychologist (if not already filed or required by court)</li> <li>•Affirmation (Certification) of Examining Physician (if not already filed or required by court)</li> <li>•Citation</li> <li>•Notice of Petition</li> </ul>	CSMD-1 CSMD-5  OCFS-3909 GMD-2A  GMD-2B  CSMD-4 CSMD-3	1757  207.15(a) 1706(2) 1750,1750-a, 1750-b 1750,1750-a 1750-b 1757 1753(2)
Forms or Documents Sometimes Required	<ul style="list-style-type: none"> <li>•Waiver, Renunciation and Consent</li> <li>•Consent, Oath and Designation of Guardian/Standby Guardian</li> <li>•Guardian's Annual Account</li> <li>•Affidavit of Due Diligence</li> <li>•Affidavit of Service (Personal/Mail/Publication)</li> <li>•Bond</li> <li>•Death Certificate of deceased spouse, distributee or parent</li> <li>•Birth Certificate of spouse or distributees who are under the age of 18</li> <li>•Copies of Divorce Decrees, Surrenders, Court Orders</li> <li>•Orders of Filiation</li> <li>•Fingerprint Card</li> </ul>	CSMD-2 CSMD-6  G-7       DCJS-6	1753(1)  1719, 1761  801, 1708, 1761 207.15(b) 207.15(a)
<p>Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date in compliance with Uniform Rule 207.7(c).</p> <p>Guardian Ad Litem will be appointed when respondent is not a resident of a state facility. Guardian ad litem will be appointed on or before the return day of process for all unknowns and persons under disability (SCPA §403).</p> <p>Documents signed by Power of Attorney (Provide certified copy of POA and comply with Section 13-2.3 EPTL and 207.48 Uniform Rules).</p> <p>Check to be certain all documents are properly acknowledged.</p>			

**THIS MATERIAL IS PROVIDED FOR INFORMATIONAL/TRAINING PURPOSES ONLY.** – It is intended for use in conjunction with review of the applicable statutes and rules of the Surrogate's Court and the Surrogate's Court Operations Manual.