

Guardianship Proceeding Checklist

Person and/or Property

(see Surrogate's Court Form G-2-B, rev. 12/6/00)

This Checklist is provided for your convenience while completing the petition and the checklist should 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

PET ¶ #	DESCRIPTION	YES	NO
	Does the Court have jurisdiction over the subject infant [see SCPA §1702]?		
<p><i>NOTE: The infant 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.</i></p>			
	Is the captioned name the same as the birth certificate and ¶2 of petition?		
1.	<p>Is the petitioner a proper party? [see SCPA §1703]</p> <p>Is the petitioner ...</p> <ul style="list-style-type: none"> the infant, if over fourteen (14) years of age a parent a person with whom the infant resides the public administrator or chief fiscal officer (where no one else is available to act as guardian of the property; would not act as guardian of the person) any other person representing the interest of the infant <p>Has all requested information been provided [name, permanent address, date of birth, telephone # and relationship]?</p> <p>Are all A/K/A's listed?</p>		
2.	<p>Is the name of the infant in ¶2 the same as that listed on the birth certificate?</p> <p>Birth Certificate from official registrar (not hospital) to be filed with petition [see NYCRR §207.15(a)]</p> <p>Has all requested information been provided [name, permanent address, date of birth, marital status]</p> <p>Are all A/K/A's listed?</p>		
3.	<p>Check that names and addresses of <u>both</u> natural parents are listed. If infant is married, has the information been provided regarding the spouse? [see SCPA §1704(2)]</p> <p>If one or both parents are deceased their names must still be shown and date of death noted. (Court may require copy of death certificate)</p>		

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3. cont.	<p>If the name of the father is not shown on petition or birth certificate, determine if a proceeding has been brought to establish paternity. (Court may require copy of filiation order) [see page 5 - Comments & Court Notes]</p> <p><i>NOTE: If it is claimed that the identity of the father is unknown, the Court may require an affidavit showing diligent efforts to identify him.</i></p> <p><i>NOTE: If the natural mother was married at the time of infant's birth, there is a rebuttable presumption that her husband is the father of the infant and is a necessary party unless a filiation order has established otherwise. [see DRL §24(1)]</i></p>		
4.	List names/addresses of adults with whom infant resides if other than parent or name of agency having custody of infant.		
5.	If both parents are deceased, check that names and addresses of adult domiciliary distributees are listed. [see SCPA §1704(2)]		
6.	<p>Have the names and permanent addresses of the infant's grandparents been provided? [see SCPA §1705]</p> <p>If not applicable, so state If deceased, has date of death been added?</p>		
7.	<p>Confirm that box(es) checked reflects relief requested.</p> <p>(a) and (b) must be checked for guardianship of person and property (b) must be checked for guardianship of the infant's property only (a) and/or (b) must list dollar amount of infant's property</p>		
8.	<p>List all personal property, real property, annual income and sources of such property/income as referred to in petition [see SCPA §1704(4)] that will be put into the guardianship account. This will be verified when the guardian files annual accounts. <u>DO NOT INCLUDE ANY MONIES RECEIVED AS SOCIAL SECURITY BENEFITS.</u></p> <p><i>NOTE: This information will be used to compare and verify the guardian's report on the first annual inventory and account.</i></p>		
9a.	Verify that the infant has never had a guardian appointed by will or deed or any acting guardian in socage, or a guardian appointed pursuant to Social Services Law §384 or §384-b. [see SCPA §1704(3)]		
9b.	<p>Verify that custody of the infant has never been surrendered by any person and that no court order has ever awarded custody of the infant. If exceptions list information on petition and see note below.</p> <p><i>NOTE: Check that applicable copies of surrenders, court orders or divorce decrees have been submitted.</i></p>		

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10.	This paragraph is a sworn statement that if the infant is a non-domiciliary married person and the petition relates to property only, that the property is not subject to the control or disposition of the person's spouse by the law of his or her domicile. [see SCPA §1705(5)]		
11.	Verify whether petitioner indicated knowledge of self, infant or nominated guardian being the subject of, or as another person indicated in, a child abuse report; or has been subject of, or a respondent in, a child protective proceeding which resulted in a court order finding that the child is an abused or neglected child. [see SCPA §1704(6)] <i>NOTE: If knowledge of a report is indicated, verify that an affidavit explaining circumstances in detail is attached.</i>		
12.	Has a Request for Information Guardianship Form [OCFS 3909] been submitted with petition which includes all persons over the age of 18 in the household? Have all addresses since 1973 or since age 18 been listed for each person? <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>		
13.	Verify that the petitioner has indicated whether the child is or is not a Native American Child under the Indian Child Welfare Act of 1978 (25 U.S.C. sections 1901-1963).		
14.	This paragraph is a sworn statement that there are no other persons interested in this proceeding other than those already mentioned.		
15.	This paragraph is a sworn statement that no prior application has been made in any court for the relief requested in the petition.		
	Under WHEREFORE Clause: has all relief requested been checked and completed? If petitioner is seeking guardianship of property, list name of financial institution under (b). Is a bond required under SCPA §801(b)? Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary's commission)? Is oath and designation signed by proposed fiduciary? Does it set forth proposed fiduciary's physical(street) address? Is attorney's name, address and phone number listed? (Or if self-represented, add none.)		

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	Has Part 130 Certification been completed? If <u>NOT</u>, has a separate attorney certification as to Part 130 signing requirements been included?		
	Has Joinder and Statement of Preference of Infant Over 14 been included? [see SCPA §1706(1)] Is the joinder dated, signed, verified, properly notarized (including proper jurat and expiration date of notary's commission)?		
If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?			

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

COMMENTS AND COURT NOTES		Form Number	SCPA/EPTL§ or Rule #
When Permitted	Whenever the interests of an infant will be promoted by the appointment of a guardian of the person or of property or both; when infant will receive assets valued over \$10,000.		1701
Forms Always Required	<ul style="list-style-type: none"> •Petition for Guardianship •Birth Certificate •Request for Information Guardianship Form 	G-2-B OCFS-3909	1704 207.15(a) 1706(2)

COMMENTS AND COURT NOTES		Form Number	SCPA/EPTL§ or Rule #
Forms or Documents Sometimes Required	<ul style="list-style-type: none"> •Guardianship Citation •Waiver, Renunciation and Consent •Decree Appointing Guardian (joint control decree) •Decree Appointing Guardian (with Bond required) •Affidavit of Proposed Guardian of the Person •Affidavit of Parent •Guardian’s Annual Account (no bond) •Guardian’s Annual Account (w/bond) •Petition for Withdrawal •Withdrawal Order •Petition to Close Guardianship Account (Infant) •Decree Closing Guardianship Account •Release Settling Account •Petition to Close Guardianship Account •Decree Closing Guardianship Account •Affidavit of Service •Affidavit of Due Diligence •Affidavit of Service (Personal/Mail/Publication) •Bond •Death Certificate of deceased spouse, distributee or parent •Copies of Divorce Decrees, Surrenders, Court Orders •Orders of Filiation •Fingerprint Card 	<ul style="list-style-type: none"> G-1 G-5 G-6A G-6B G-3 G-4 G-7A G-7B G-8 G-9 G-10A G-12A G-11 G-10B G-12B DCJS-6 	<ul style="list-style-type: none"> 1705 1705 1708 1708 1719 1719 1713 1713 1727 1727 1727 1727 1727 801(1)(b)
<p>Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date.</p> <p>Some courts may conduct additional inquiries of Putative Father Registry. (Court submits inquiry form to Registry - NYS OCFS Form LDSS-2725.); some courts may also check if natural father has acknowledged being father in any other manner (possible sources of information may be Family Court, Department of Social Services, hospital of birth, local registrar and/or Department of Health).</p> <p>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.