

NOTICE TO THE BAR

ASSIGNMENT OF PRO BONO COUNSEL PURSUANT TO MADDEN V. DELRAN – UPDATE ON THE RECOMMENDATIONS OF THE JUDICIARY WORKING GROUP ON ATTORNEY PRO BONO ASSIGNMENTS; NEW APPLICATION FOR APPOINTMENT OF MADDEN COUNSEL

This notice provides an update on the Supreme Court's consideration of the Report of the Judiciary Working Group on Attorney Pro Bono Assignments.

Background

In 2022, the Administrative Director of the Courts established the Working Group to take a fresh look at the longstanding approach to fulfillment of the professional responsibilities recognized by the Supreme Court in Madden v. Delran, 126 N.J. 591 (1992). As requested, the broad-based Working Group examined various issues associated with attorney representation of indigent defendants without pay where the Legislature has made no provision for the Public Defender to represent defendants who are entitled to counsel.

The Working Group's report and recommendations were published for public comment by [May 8, 2023](#) notice to the bar. Six comments were submitted in response to the notice.

Recent Developments and Pending Proposals

On September 12, 2023, then Acting Governor Way signed S3772 into law as L. 2023, c. 157, establishing a unit within the Office of the Public Defender to provide legal representation for any person on parole who is charged with a violation of that parole or who is under consideration for revocation of parole. This new law resolved certain key issues highlighted in the Working Group's report. Further, other bills currently pending before the Legislature would allocate to the Office of the Public Defender responsibility to handle domestic violence contempt matters, which would address many of the other recommendations offered by the Working Group.

Limited Areas for Supreme Court Consideration

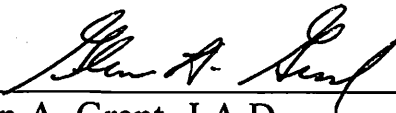
In light of these enacted and potential changes to the types and volume of cases handled by the Office of the Public Defender, as contrasted to those cases potentially requiring court assignment of Madden counsel, the Court has considered only certain portions of the Working Group's report and recommendations. This notice provides an update on those areas, as follows:

- The current county-based system of pro bono assignments will continue and will not be replaced by a regional or statewide model for assignment of Madden counsel;
- The Judiciary will continue to refine data collection practices and statistical analysis regarding Madden assignments;
- The Judiciary will continue to explore future enhancements to the Attorney Online Registration System so as to collect information that could be used to improve pro bono appointments; and
- In collaboration with stakeholders, the Judiciary will continue to update and improve resources for attorneys appointed to provide pro bono Madden representation to indigent defendants.

New Statewide Application for Appointment of Madden Counsel

To support consistency, this notice promulgates the attached form to be used by defendants in applying for the appointment of Madden pro bono counsel. In addition to the form, applicants seeking pro bono counsel also will receive up-to-date information regarding the types of cases in which such appointments may be available.

Questions regarding this notice should be directed to Superior Court Clerk Michelle M. Smith at (609) 815-2900 ext. 54200.



Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Dated: April 16, 2024



New Jersey Judiciary
**How to Apply for a
Court Appointed Attorney (Pro Bono)**

This kit includes:

- **Form A** – *Certification/Petition/Application in Support of Application*
- **Form B** – *Order Approving Appointing Pro Bono Attorney*
- Instructions (starting on page 6)
 - **What Is a Case of Magnitude**
 - **Who Should Use This Kit**
 - Step-by-step instructions to apply for a court appointed attorney (pro bono)
 - How to complete each form
- Additional Information
 - **Things to Think About Before You Represent Yourself in Court**
 - **Definitions of Words Used in This Packet**

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the forms will be available at the county courthouse or on the Judiciary’s Internet site njcourts.gov. However, you are ultimately responsible for the content of your court papers.

Completed forms for the Superior Court are to be submitted to the courthouse in the county where you are going to file your case or where the case is already filed. A listing of the courthouses is available at njcourts.gov.

For questions related to where the application should be filed, please contact the Superior Court Clerk’s Office at (609) 421-6100.

How to Apply for a Court Appointed Attorney (Pro Bono)
Form A - Certification/Petition/Application in Support of a Court Appointed Pro Bono Attorney

NOTICE: This is a public document. Do not enter personal identifying information on it, such as your full Social Security number, driver's license number, insurance policy number, vehicle plate number, active financial account, credit card number or military status. This document as submitted will be available to the public upon request.

Filer or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Telephone Number _____
Email Address _____

Plaintiff(s)/Appellant(s),
v.

Defendant(s)/Respondent(s),

_____ Court of New Jersey
_____ County (if applicable)
Docket Number _____

**Certification/Petition/Application
in Support of a
Court Appointed Attorney (Pro Bono)**

I, _____, am the defendant/appellant in the above-captioned matter and I/we make this certification in support of my/our request for a court appointed attorney, pursuant to *Madden v. Delran*, 126 NJ 591 (1992).

1. I/We am requesting this relief because I/we do not have sufficient funds or assets with which to pay for a private attorney.
2. I am / I am not an inmate in State Prison or County Jail.
3. I have been determined to be eligible for one or more of the following: (Check applicable boxes)
 Public Assistance
 Social Security Disability
4. Below is an accurate and full disclosure of my financial situation. I financially support ____ dependents, not including myself. (A dependent is an individual who is a child or relative who resides in the home and relies on you for more than half of his/her support for any given calendar year.)
5. I am / I am not claimed as a dependent on someone else's tax return.
6. I understand that the court may request additional information or documentation regarding my financial situation.
7. I understand that I am under a continuing obligation to notify the court of a change in my financial situation.

How to Apply for a Court Appointed Attorney (Pro Bono)
Form A - Certification/Petition/Application in Support of a Court Appointed Pro Bono Attorney

Defendant's Financial Situation:

Defendant's Name: Last	First	Middle
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Employment

Current Employer's Name

Current Employer's Address: Street

City	State	Zip Code
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Occupation	Years / Months	Work Phone Number
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Skills	Salary	If, Unemployed: How Long?	How Supported?
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Previous Employer's Name

Current Employer's Address: Street

City	State	Zip Code
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Employment Verification and Work History
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Financial Status

Monthly Income	Assets
Net Monthly Income \$	House(s) / Land Market Value \$
Spousal / Cohabitant Contribution \$	Value of All Motor Vehicles \$
Unemployment / Disability \$	Cash \$
Social Security \$	Current Balance Checking Accounts \$
Veterans Administration \$	Current Balance Savings Accounts \$
Pension \$	Civil Judgment Awards / Pending \$
Public Assistance / Subsidies \$	Current Value of Stocks / Bonds \$
Child Support / Alimony \$	Face Value of CDs / IRAs / 401Ks \$
Food Stamps \$	Money Market Accounts \$
Housing Subsidies \$	Retrievable Bail Amount & Location \$
Trust Fund Income \$	\$
Institutional Wages \$	Other Assets \$
Income From Rental Properties \$	Other Assets \$
Total Monthly Income: \$	Total Assets: \$

How to Apply for a Court Appointed Attorney (Pro Bono)
Form A - Certification/Petition/Application in Support of a Court Appointed Pro Bono Attorney

Monthly Payments		Other Owed Balances	
Rent	\$	Mortgage Loan Balances	\$
Mortgage	\$	Vehicle Loan Balances	\$
Property Taxes	\$	Support Arrearage	\$
Child Support / Alimony	\$	Medical / Dental / Hospital Debts	\$
Paid Through Probation Dept.	<input type="checkbox"/> Yes <input type="checkbox"/> No	Attorney Fees	\$
Vehicle Loans & Insurance	\$	Fines Owed to Other Courts	\$
Household Utilities	\$	Credit Card Balances	\$
Other Household Expenses	\$	Civil Judgments Owed	\$
Other Loans & Expenses	\$	Other Debts and Expenses	\$
Total Monthly Payments: \$		Total Debts: \$	

Certification

I certify that the foregoing statements made by me/us are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

I further certify that in accordance with Court *Rule* 1:38-7(b) all confidential personal identifiers have been redacted and that subsequent papers submitted to the court will not contain confidential personal identifiers.

Date

Signature

Print Name

Date

Signature

Print Name

How to Apply for a Court Appointed Attorney (Pro Bono)
Form B- Order Approving Court Appointed Attorney (Pro Bono)

NOTICE: This is a public document. Do not enter personal identifying information on it, such as your full Social Security number, driver's license number, insurance policy number, vehicle plate number, active financial account, credit card number or military status. This document as submitted will be available to the public upon request.

Filer or Filing Attorney Information:

Name _____
NJ Attorney ID Number _____
Address _____

Telephone Number _____
Email Address _____

Plaintiff(s)/Respondent(s),
v.

Defendant(s)/Appellant(s),

_____ Court of New Jersey
_____ County (if applicable)
Docket Number _____

**Certification/Petition/Application
in Support of a
Court Appointed Attorney (Pro Bono)**

This matter having been brought before the Court on application of _____, (defendant/appellant) for an *Order Approving Court Appointed Pro Bono Attorney* pursuant to *Madden v. Delran, 126 N.J. 591 (1992)*, and the Court having considered the moving party's financial information, the matter and for good cause appearing:

DO NOT write below this line, For Court Use Only

It is on this ____ day of _____, ____ **Ordered** that the application for a court appointed attorney is

Granted **Denied**

Date _____ s/ _____, J.S.C.



New Jersey Judiciary
**How to Apply for a
Court Appointed Attorney (Pro Bono) - Instructions**

What is a case of magnitude? *Madden v. Delran, 126 N.J. 591 (1992)*

In New Jersey, every defendant charged with an indictable (felony) offense, or an offense of magnitude, is entitled to be represented by an attorney, whether or not he or she can afford one. If a person cannot afford an attorney, the court may appoint representation if the defendant qualifies.

To qualify for a court appointed attorney the charges must be of magnitude to entitle representation and the defendant must show they are unable to afford to hire their own attorney.

In determining if an offense constitutes a consequence of magnitude courts consider if the case involves the following:

1. An indictable (felony) offense; or
2. Any sentence of imprisonment; or
3. Any period of (a) driver's license suspension, (b) suspension of the defendant's non-resident reciprocity privileges or (c) driver's license ineligibility; or
4. Any monetary sanction imposed by the court of \$800 or greater in the aggregate, except for any public defender application fee or any costs imposed by the court. A monetary sanction is defined as the aggregate of any type of court imposed financial obligation, including fines, restitution, penalties and/or assessments.

It should be noted that if a defendant is alleged to have a mental disease or defect, and the judge, after examination of the defendant on the record, agrees that the defendant may have a mental disease or defect, the judge shall appoint the municipal public defender to represent that defendant, if indigent, regardless of whether the defendant is facing a consequence of magnitude, if convicted.

Please note what constitutes a case of magnitude is subject to change and it is recommended that you contact the local court where the case is being heard to determine if your case qualifies for court appointed representation.

Who Should Use This Packet?

You should use this packet if you believe that you cannot afford to pay for private attorney and are presently involved in a case that may result in imprisonment or other consequence of magnitude.

This form may be used when applying for court appointed representation in the Superior Court. This request is based upon your financial need. Upon review, if the court deems it necessary, you may be required to submit additional financial records/documents in order for the judge to determine if you qualify for court appointed representation.

Please note an individual must be deemed indigent to qualify for court appointed pro bono attorney and not all cases qualify for court appointed attorney.

Please follow the instructions included in this packet and make sure that all documents in support of this request are attached. You will be required to complete the following:

How to Apply for a Court Appointed Attorney (Pro Bono) - Instructions

- **Form A** – *Certification/Petition/Application in Support of Application*
- **Form B** – *Order Approving Appointing Pro Bono Attorney*

Upon review, the Court may request additional income verification, including but not limited to, state and federal tax returns and other sources of income. Your application may not be granted if you do not provide requested income documentation. Keep a copy of whatever you file with the Court for your own records.

Note: This kit is to request a court appointed attorney (pro bono). Do not use this kit to request a public defender.

Steps to Apply for a Court Appointed Attorney (Pro Bono)

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 printed clearly on 8.5” x 11” white paper only. Forms may not be filed on a different size or color paper.

Step 1 Complete the Certification/Petition/Application in Support of a Court Appointed Attorney (Form A).

The *Certification/Petition/Application in Support of a Court Appointed Attorney* tells the court the reasons why the Court should grant your request. In the Certification/Petition/ Application you will make a disclosure of your financial and employment situation. This information should match the information provided on the 5A application.

All applications must be filed at the courthouse where your case is being heard. A complete list of courthouses can be found at the Judiciary’s website: njcourts.gov.

Step 2 Complete the proposed form of Order (Form B)

Fill in the information at the top of the page up to where you identify yourself as the defendant. Leave the line for the date of the Order and the rest of the form blank. The terms of the Order will be completed by the judge when the application is decided.

Step 3 Check Your Completed Forms and Make Copies

Check your forms and make sure they are complete. Remove all instruction sheets. Make sure you have signed the forms where you are asked to sign them.

Step 4 Deliver Form A (Certification/Petition/Application in Support of a Court Appointed Attorney), Form B (Proposed Form of Order) and all documentation to the Court.

You are required to provide a copy of Forms A and B to the court. Please black out all personal and confidential information, such as Social Security numbers, driver’s license numbers, vehicle plate numbers, insurance policy numbers, active financial account numbers or active credit card numbers.

A complete list of Clerk’s Offices and courthouses can be found at the Judiciary’s site njcourts.gov.

How to Apply for a Court Appointed Attorney (Pro Bono) - Instructions

Instructions for Completing Form A
Certification/Petition/Application in Support of a Court Appointed Attorney

- A. At the top left of the form enter your name(s), address(es) and phone number(s). If you have an e-mail address(es), include that as well.
- B. On the line labeled *Plaintiff/Appellant*, type or print the plaintiff's name. The plaintiff is the person or state entity who files the complaint to bring charges. An appellant is the person requesting the appeal.
- C. On the line labeled *Defendant/Respondent*, enter your name, as it is listed on the complaint/charging documents.
- D. On the line labeled *County*, enter the county where the case is filed.
- E. On the line labeled *Docket Number*, enter the docket number, if one has been assigned. This information can be found if a complaint/notice was served on you or if an appeal has been filed.
- F. Enter your name on the line that says "*I, _____, am the*" and then select the appropriate box where it says "*defendant/appellant in the above-captioned matter.*"
- G. In item 2, select the appropriate box as to whether or not you are an inmate on the line that says "*I (am/am not/are/are not) an inmate in State prison or County Jail.*"
- H. For item 3, select the appropriate box(es) if you have been determined eligible for *Public Assistance* and/or *Social Security Disability*.
- I. **You may be required** to provide copies of requested information as indicated on this form. You must include the last three digits or numbers of any documents referenced below. However, you **must** also certify that you have removed or blacked out the remaining numbers or digits (confidential personal identifiers) from any of the following documents filed with the court:
- Social Security numbers,
 - driver's license numbers,
 - vehicle plate numbers,
 - insurance policy numbers,
 - active financial account numbers
 - active credit card numbers or
 - military status.
- J. **Do not redact (black out) any information in the original papers that you are keeping** (such as a bank statement) since you may have to show them to the court at some point.
- K. For item 4, enter the number of dependents you support, if applicable. Do **not** include yourself.
- L. In item 5, select the box where it says "*I/we am/am not/are/are not claimed as a dependent...*".

How to Apply for a Court Appointed Attorney (Pro Bono) - Instructions

- M. On the *Uniform Defendant* Intake form section:
- a. Enter your employer's name and information in the box that says, "*Employer's Name, Address and Telephone Number.*"
 - b. fill in the financial information requested. **If any income item/box is not applicable write NA or put a dash in the box**, to avoid potential delays in processing application. The judge requires your asset information and how much money you receive monthly from all sources.
- N. Date, print and sign your name. **Note:** When you sign this form, you are certifying that the statements made on the form are true. If you willfully make false statements, you may be subject to punishment.

Instructions for Completing Form B *Order Approving Court Appointed Pro Bono Attorney*

- A. At the top left of the form enter your name(s), address(es) and phone number(s). If you have an e-mail address(es), include that as well.
- B. On the line labeled *Plaintiff/Respondent*, type or print the plaintiff's name. The plaintiff is the person or agency who brings the charges against an individual in a criminal or quasi-criminal case. A respondent is the person defending the appeal.
- C. On the line labeled *Defendant/Appellant* enter the name of the defendant listed on the complaint. The defendant is the person being accused of a crime. An appellant is the person requesting the appeal.
- D. On the line labeled *County*, enter the county where the case is filed (only in the Superior Court.)
- E. On the line labeled *Docket Number*, enter the docket number, if one has been assigned. This information can be found if a complaint was served on you or if an appeal has been filed.
- F. Enter your name on the line that says: "*application of defendant/appellant.*"
- G. **DO NOT** fill out anything that appears under the text "**For Court Use Only.**" The judge will complete the remaining information.

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing, and it is a good idea to get a lawyer if you can. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online under “Legal Aid” or “[Legal Services](#).”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. Most county bar associations have a [Lawyer Referral Service](#). The Lawyer Referral Service can supply you with the names of attorneys in your area willing to handle your particular type of case and sometimes consult with you at a reduced fee.

There are also organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of Lawyer Referral Services that include these organizations.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect any special treatment, help, or attention from the court. You must still comply with the Rules of the Court, even if you are not familiar with them. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.

- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

How to Apply for a Court Appointed Attorney (Pro Bono) - Instructions

Keep Copies of All Papers

If you do not hire an attorney but represent yourself, be sure to make and keep for yourself copies of all completed forms and any canceled checks, money orders, sales receipts, bills, contract estimates, letters, leases, photographs and other important documents that relate to your case.

Definitions of Words Used in This Packet

Appeal and Appellant - An *appeal* is a written request asking a higher court to look at the decision of the judge and change that judge's decision. An *appellant* is the person who files an appeal.

Caption - A *caption* is the name of the case; it lists the name of each party. For example, John Jones, Plaintiff v. Mary Smith, Defendant.

Case of magnitude - A *case of magnitude* is a case where one or more defendants are charged with at least one indictable (felony) offense, or an offense of magnitude.

Certification - A certification is a written statement made to the court when you file papers, swearing that the information contained in the filed papers is true.

File - To file means to give the appropriate forms to the court to begin the court's consideration of your request.

Order - An *order* is a signed paper from the judge telling someone they must do something.

Party - A *party* is a person, business or governmental agency involved in a court action.

Plaintiff - The *plaintiff* is the person who filed the original court action.

Respondent - The *respondent* refers to a party who did not file a Notice of Appeal. The respondent responds to an appeal.