

Capacity Definition & Initiation of Guardianship Proceedings
(Statutory revisions as of December 31, 2018)

<u>nState</u>	<u>Court</u>	<u>Legal Status</u>	<u>Definition of Incapacity</u>				<u>Notable Petition Elements</u>	<u>Initiator</u>
			<u>Functionality</u>	<u>Cognition</u>	<u>Necessity Risk/Harm</u>	<u>Conditions</u>		
UGPPA		102(5) Incapacitated	102(5) Lacks ability to meet essential requirement for physical health, safety, or self care even with appropriate technological assistance	102(5) Unable to receive and evaluate information or make or communicate decisions			304(b)(8) If unlimited guardianship is requested, reason why limited is inappropriate; if limited requested, powers to be granted 403(c)(3) If unlimited conservatorship is request, reason why limited is inappropriate; if limited is requested, the property to be placed under conservatorship and limits on powers and duties	304(a) Respondent or person interested in respondent's well being 403(a) Person to be protected, interested in person's estate or welfare, or would be adversely affected by lack of effective management
Alabama: Code	26-2A-20(3) Probate	26-2A-20(8) incapacitated	<i>Not stated</i>	26-2A-20(8) lacking sufficient understanding or capacity to make or communicate responsible decisions	26-2A-105 appointment necessary to provide continuing care and supervisions	26-2A-20(8) mental illness, mental deficiency, physical illness or disability, physical or mental infirmities accompanying advanced age, alcoholism, drug addiction, or other cause	<i>Not stated</i>	26-2A-102(a) incapacitated person or any person

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Alaska: Statute	13.06.050(7) Superior	13.26.113(c) incapacitated	13.26.005 (4) person lacks ability to provide essential requirements for physical health or safety	13.26.005(4) ability to receive and evaluate information or communicate decisions impaired	13.26.005(4) need for court ordered assistance	<i>Not stated</i>	13.26.105 existence of any other restrictions on capacity; respondent nomination of guardian	13.26.105 (a) Any person, alleged incapacitated person
Arizona: Rev. Stat. Ann.	14-1201(9) Superior	14-5304 incapacitated	<i>Not stated</i>	14-51-1(1) lacks sufficient understanding or capacity to make or communicate responsible decisions about person	14-5304 appointment necessary to provide for needs	14-5101(1) mental illness, mental deficiency, mental disorder, physical disability or illness, alcoholism, drug addiction	14-5303(B) if general guardianship requested, that other alternatives explored & why limited is not appropriate; if limited requested, state specific powers	14-5303(A) interested person; alleged incapacitated person
Arkansas: Code Ann.	28-65-107 Probate	28-65-105 incapacitated	28-65-101(1) lacks capacity to meet essential requirements for health or safety	28-65-101(1) lacks sufficient understanding or capacity to make or communicate responsible decisions	28-65-105 ordered only to extent necessitated by limitations	28-65-101(1) mental illness, mental deficiency, physical illness, chronic use of drugs or alcohol	28-65-205(b) any agency from which respondent receives services notified	28-65-205(a) any person

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California: Prob. Code	2200 Superior court	<i>Not stated</i>	1801(a) unable to provide properly for personal needs for physical health, food, clothing, shelter	See 1811 on decision-making capacity generally	<i>Not stated</i>	<i>Not stated</i>	1821 separate form includes ability to live in residence, alternatives considered, proposed residence, services provided during prior year 1821(d) If proposed conservator is not petitioner, must have statement of due diligence of efforts to locate family, preference of proposed conservatee 1821(f) State if patient in state mental health institution 1821(g) If receiving VA benefits 1821(i) Statement if proposed conservatee does not want to attend, contest, or no objection to proposed conservatee	1820(a)(1), (5) spouse, relative, interested person or friend; alleged incompetent

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Colorado: Rev. Stat. Ann.	15-14-102(3) District; Probate in Denver	15-14-102(5) incapacitated	25-14-102(5) lacks ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance	15-14-102(5) unable to effectively receive or evaluate information or both or make or communicate decisions	15-14-311(1)(a) needs cannot be met by less restrictive means	<i>Not stated</i>	15-14-304(2) if plenary sought, reasons limited guardianship inappropriate	15-14-304(1) Individual or person interested in individual's welfare
Connecticut: Gen. Stat. Ann.	45a-646 45a- 64 8 Probate	<i>Not stated</i>	45a-644(c) Even with appropriate assistance, unable to meet essential requirements for personal needs 45a-644(d) Even with appropriate assistance, unable to perform functions inherent in managing affairs	45a-644(c) Unable to receive and evaluate information or make or communicate decisions	45a-650(d) Property be wasted unless properly managed 45a-650(c) Receive evidence of ability to meet needs without appointment of conservator	45a-644(c) Mental, emotional or physical condition	45a-648(a)	45a-646 45a-648 any person

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Delaware: Code Ann. tit.12	132 3901 (a) Chancery	12 3901(a) disabled person	12 3901(a) (2) unable properly to manage or care for their own person or property	<i>Not stated</i>	12 3901 (a)(2) in danger of dissipating property or becoming victim of designing persons, or substantially endangering health, or becoming subject to abuse	12 3901 (a)(2) mental and physical incapacity	<i>Not stated</i>	R101 any person
District of Columbia: Code Ann.	21-2011 (2) Superior	21-2011 (11) incapacitated	21-2011(11) & (16) lacks capacity to meet essential requirements for physical health, safety, habilitation, therapeutic needs	21-2011 (11) ability to receive & evaluate info. effectively or communicate decisions impaired	21-2011 court ordered assistance or appointment of guardian needed 21-2044(b) necessary to provide court supervision	<i>Not stated</i>	21-2041(b)	21-2041(a) incapacitated individual or any person
Florida: Stat. Ann.	744.102 (4) Circuit	744.331(6) incapacitated	744.102(12) lacks capacity to meet at least some of essential health and safety requirements	<i>Not stated</i>	744.102 (12)(b) serious and imminent physical injury or illness more likely than not to occur	<i>Not stated</i>	744.334 state if petitioner is professional guardian	744.3201(1) adult 415.1051(1) Dep't of Children & Family Services

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Georgia: Code Ann.	29-1-1-(4) Probate	29-1-1(27) Adult for whom guardian or conservator appointed	<i>Not stated</i>	29-4-4(a) lacks sufficient capacity to make or communicate significant responsible decisions concerning health or safety 20-5-1 lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of property	<i>Not stated</i>	<i>Not stated</i>	294-10 any living will, HCPOA, whether emergency guardian, any conflict of interest, additional powers requested, if appt. in other state, prior guardianship	29-4-10(a) interested person; proposed ward
Hawaii: Rev. Stat.	560:5-102 Family or circuit	560:5-102 incapacitated	560:5-102 lacks ability to meet essential requirements for health and safety	560:5-101(2) unable to receive and evaluate information or make or communicate decisions	<i>Not stated</i>	<i>Not stated</i>	560:5-304(b)(9) type g'ship requested, why limited inappropriate, limits on powers or duties	560:5-304 interested person; alleged incapacitated person

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Idaho: Code	15-1-201(6) District	15-5-101(a) incapacitated 66-4025 person with developmental disability	15-5-101(a) (1) inability to provide for personal needs for food, clothing, shelter, health care or safety; measured by functional limitations 15-5-101(a)(2) acts or occurrences within 12 months of filing	15-5-101(a) lacks sufficient understanding or capacity of make or communicated responsible decisions	15-5-101(a)(1) suffer substantial harm 15-5-101(a)(3) isolated instances of negligence not evidence of inability	15-5-101(a) mental illness, mental deficiency, physical disability or illness, alcoholism and drug addiction.	<i>Not stated</i>	15-5-303 (a) interested person; alleged incapacitated person
Illinois: 75/5 Ill. Comp Stat.	5/11a-3 (note 11) Probate, County	5/11a-2 disabled	5/11a-2 not fully able to manage person or estate	5/11a-3(a) (1) lacks sufficient understanding or capacity to make or communicate responsible decisions	11a-2(c) so spends or wastes estate as to expose self or family to want or suffering	5/11a-2(a)-(c) mental deterioration, physical incapacity, mental illness, developmental disability, gambling, idleness, debauchery, excessive use of intoxicants or drugs	<i>Not stated</i>	5/11a-3(a) reputable person; alleged incompetent

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Indiana: Code Ann.	29-3-1-3 Probate	29-3-2-3 incapacitated	29-3-1-7.5 unable to provide self-care	<i>Not stated</i>	29-3-5-3 (a)(2) appointment of guardian necessary as means of providing care and supervision	29-3-1-7.5(1)-(2) mental illness or insanity, mental deficiency, physical illness, infirmity, habitual drunkenness, excessive use of drugs, confinement, detention, duress, fraud, undue influence, other incapacity; developmental disability	29-3-5-1(a) particular limitations requested, whether guardian appointed in any state, other incapacitated persons for whom proposed guardian acts	29-3-5-1(a) any person
Iowa: Code Ann.	633.3 (9) District	633.552(2), 633.566(2) incapacitated	633.552 unable to care for personal safety or provide for necessities such as food, shelter, clothing or medical	633.552 decision making capacity so impaired that unable to make, communicate or carry out important decisions concerning financial affairs	633.552 without appointment, physical injury or illness might occur	<i>Not stated</i>	633.552	633.522, 633.566, 633.557, 633.572 any person; alleged incompetent

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Kansas: Rev. Stat. Ann.	59-3058 District court	59-3051(a) adult with an impairment in need of a guardian or conservator or both	59-3051(a) lacks capacity to manage estate or meet essential needs for physical health, safety or welfare	59-3051(a) ability to receive and evaluate info effectively or to communicate decisions is impaired, even with use of assistive technologies	59-3051(i) without appointment, serious illness or injury likely to occur	<i>Not stated</i>	59-3058(b) Contact information of any power of attorney, trust, or other fiduciary relationship; where last lived and with home lived for past 5 years	59-3058 (a)(i) any person

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Kentucky: Rev. Stat. Ann.	387. 520 District	387.590 disabled	387.510(8) measured by functional inabilities with acts or occurrences within 6 months prior 387.510(8)(a) lacks capacity to provide for physical health, safety, health care, food, shelter, clothing, hygiene	387.510(8) unable to make informed decisions	<i>Not stated</i>	<i>Not stated</i>	387.530(1)	387.530 interested person; alleged incompetent

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Louisiana: Civ. Code Ann.; Code of Civ. Pro.	CCP Art. 10(A)(3) District	392 interdict	389 unable to care for person and property	389 unable consistently to make reasoned decisions or communicate decisions	389 interests cannot be protected by less restrictive means	389 infirmity	CCP 4541 reasons interdiction are necessary; reasons limited interdiction inappropriate	CCP 4541 any person

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Maine Me. Rev. Stat. Ann. tit. 18	18-A 1-201(5) Probate	18-A 5-304(a) incapacitated	<i>Not stated</i>	<i>Not stated</i>	18-A 5-304(b) necessary or desirable to provide continuing care and supervision	18-A 5-101(1) mental illness, mental deficiency, physical disability or illness, alcoholism and drug addiction	18A 5-303(a) proposed guardian must file plan	18-A 5-303 (a) incapacitated person or any person
Maryland: Code Ann., Est. & Trusts; MD Rules	13-105(b) 13-101(c) Circuit	<i>Not stated</i>	13-705(b) unable to provide for health care, food, clothing, shelter	13-705 lacks sufficient understanding or capacity to make or communicate responsible decisions	<i>Not stated</i>	13-201(c)(1) 13-705(b) physical or mental disability, disease, habitual drunkenness, drug addiction	<i>Not stated</i>	R71(a)(2) interested person; alleged disabled
Massachusetts: Gen. Laws ch. 190B	201(1) Probate	5-101(22) Incapacitated person and protected person	5-101(9) Lacks ability to meet essential requirements for physical health, safety or self care	5-101(9) unable to receive and evaluate information and make or communicate informed decisions	<i>Not stated</i>	5-101(9) Clinically diagnosed condition	5-303(b) Where will reside; nature of incapacity; if G wants authority to consent to treatment, admit to nursing facility; any other fiduciary; why necessary; type requested; why limited is inappropriate, what powers requesting	5-303(a) alleged incapacitated or any person interested in person's welfare

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Michigan: Comp. Laws Ann.	700.3 Probate	700.444(1) incapacitated	<i>Not stated</i>	700.1105(a) lacks sufficient understanding or capacity to make or communicate informed decisions	700.5306(1) appointment necessary to provide continuing care and supervision	700.1105 mental illness, mental deficiency, physical disability or illness, alcoholism and drug addiction	<i>Not stated</i>	700.5303(1) individual in own behalf, any person
Minnesota: Stat. Ann.	524.5-102(4) District	524.5-102(6) incapacitated	524.5-102(6) Deficits in behavior which evidence inability to meet personal needs for medical care, nutrition, clothing, shelter, safety without technological assistance	524.5-102(6) lacks sufficient understanding or capacity to make or communicate responsible personal decisions	<i>Not stated</i>	<i>Not stated</i>	524.5-303(b)(7) name of health care agent or proxy 524.5-303(c) If proposed guardian ever been removed; if professional guardian education and experience 524.5-303(b)(9) why necessary, why limited inappropriate; if limited, powers to be granted	524.5-303(a) interested person
Mississippi: Code Ann.	93-13-251 Chancery	93-13-121 incompetent	93-13-111 incapable of taking care of person and property	<i>Not stated</i>	<i>Not stated</i>	93-13-251 incapable of managing estate by reason of advanced age, physical incapacity, mental weakness	<i>Not stated</i>	93-13-125, -111 interested party 93-13-121 incompetent or guardian 93-13-125, -131, -111 relative or friend

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Missouri: Ann. Stat.	Const. 1945, art. 5, 16 Probate	475.010(11) Incapacitated	475.075(11) capacity to meet essential requirements food, clothing, shelter, safety, care	475.075(11) unable to receive or evaluate information or communicate decisions	475.075(11) serious physical injury, illness or disease likely to occur	475.010(11) impaired to such an extent	475.060(2)(5) Addresses last 3 years; value of real and personal property; location and value of out of state property; closest known relatives; adults living with; agent with power of attorney; trustee; factual basis why guardianship is sought and common, specific behaviors	475.060 any person
Montana: Code Ann.	72-1-103(7) District	72-5-101 incapacitated	72-5-316(1) meet essential requirements for physical health or safety	72-5-101(1) lacks sufficient understanding or capacity to make or communicate responsible decisions; incapable of realizing and making rational decision about treatment need	72-5-316 judicial intervention necessary	72-5-101 mental illness, mental deficiency, physical illness or disability, chronic drug or alcohol use, or any other cause	72-5-319(1) whether existing guardian in any state; specific areas of protection, limitation, powers requested, duration 72-5-402(3) Must attaché mental health power of attorney or affirm none exists	72-5-315(1) any person

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Nebraska: Rev. Stat.	302209 County	30-2601 incapacitated	<i>Not stated</i>	30-2601(1) lacks sufficient understanding or capacity to make or communicate responsible decisions	30-2620 appointment necessary or desirable to provide for continuing care or supervision	30-2601 mental illness, mental deficiency, physical illness or disability, chronic drug/alcohol use, or any other cause	30-2619(a) shall be verified and contain specific allegations	30-2619(a) alleged incapacitated; any interested person
Nevada: Rev. Stat.	159.015 any court with jurisdiction	159.027 Protected person; 159.022 limited capacity	159.019 To receive and evaluate information or make or communicated decisions 159.022 able to make independently some but not all decisions necessary for care & management	<i>Not stated</i>	159.019 Lacks the ability to meet essential requirements for physical health, safety or self-care without appropriate assistance	159.019 mental illness, mental deficiency, disease, weakness of mind, or any other cause	159.044(2) if guardian been convicted of felony; summary of reasons needed; if general or special guardian sought; if proposed ward party to pending litigation; if petition sought to initiate litigation	159.044(1) proposed ward, government agency, nonprofit corporation, or any interested person

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New Hampshire: Rev. Stat. Ann.	464-A:3 Probate	464-A:2 incapacity	464-A:2(VII) impaired ability to participate in and perform ADLs to secure and maintain proper food, clothing, shelter, health care or safety 464-A:2(XI) functional limitations; evidenced by acts or occurrences within 6 mon. before filing; 1 within 20 days; no isolated instances of negligence	<i>Not stated</i>	464-A:2(XI) suffering or likely to suffer substantial harm 464-A:9(III) necessary to provide continuing care, supervisions, rehabilitation	<i>Not stated</i>	464-A:4(II) length of time appointment of guardian is requested	464-A:4(I) any relative, public official, or interested person, or any individual in own behalf
New Jersey: Stat. Ann.	3B:12-25 Superior	3B: 1-2 Incapacitated individual	3B:1-2 lacks sufficient capacity to govern self or manage affairs	<i>Not stated</i>	<i>Not stated</i>	3B:1-2 mental illness, intellectual disability, physical illness or disability, chronic use of drugs, alcoholism, other cause	<i>Not stated</i>	<i>Not stated</i>

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New Mexico: Stat. Ann.	45-5-101 District	45-5-101(F) incapacitated person	45-5-101(C) inability to manage his personal care, estate or financial affairs; evidenced by recent behavior	<i>Not stated</i>	45-5-301.1 only as necessary to promote and protect well being	45-5-101(F) mental illness, mental deficiency, physical illness or disability, chronic drug/alcohol use	45-5-303 particular limitations sought, whether guardian appointed in any state, due diligence to locate other surrogate, other incapacitated persons proposed guardian serves, steps taken to find less restrictive alternatives, qualifications of guardian, if felony	45-5-303 any person
New York: Mental Hyg. Law	81.04 Supreme; County court outside of NYC	81.02 incapacitated	81.02(b) unable to provide for personal needs or property management	81.02(b) cannot adequately understand and appreciate nature, consequences of inability	81.02(b) court must determine person is likely to suffer harm; appointment is necessary	<i>Not stated</i>	81.08 functional level, particular powers sought & relationship to functional level, duration	81.06(a)(1-7)
North Carolina: Gen. Stat.	35A-1203 Superior	35A-1101 incompetent	35A-1101 lacks sufficient capacity to manage own affairs	35A-1101 lacks sufficient capacity of make or communicate important decisions	<i>Not stated</i>	35A-1101 mentally ill, mentally retarded, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury	35A-1210	35A-1210 any individual, corporation, or disinterested public agent

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North Dakota: Cent. Code	30.1-02-02 District	30.1-28-01 incapacitated	<i>Not stated</i>	30.1-28-01 lacks capacity to make, communicate responsible decisions re: residence, education, medical treatment, legal affairs, vocation, finance	30.1.28-01 incapacity endangers health or safety	30.1-28-01(2) mental illness, mental deficiency, physical illness, disability, chemical dependence	30.1-28-03(2) Extent of guardianship authority sought in residential, educational, medical, legal, vocational & financial decision-making. Qualifications of proposed guardian; specific facts establishing need; health care & financial agent, representative payee; less intrusive alternatives considered.	30.1-28-03(1) any person
Ohio: Rev. Code Ann.	2111.01 Probate	2111.01(D) incompetent	2111.01(D) incapable of taking proper care of self or property or family	<i>Not stated</i>	<i>Not stated</i>	2111.01 mental or physical illness or disability, mental retardation, chronic substance abuse	2111.03(D)	2111.02 court or any interested party

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Oklahoma: Stat. Ann. tit.	30 1-111(2) Probate	30 1-111(5) incapacitated	30 1-111(12)(b) lacks capacity to meet essential requirements for physical health, safety, manage resources	30 1-111(12)(b) ability to receive evaluate information effectively, make and communicate responsible decisions	30 1-111(18) serious physical injury is more likely than not to occur	30 1-111(12) mental illness, mentally retarded, developmentally disabled, physical illness, disability, or drug or alcohol dependency	30 3-101(B)	30 3-101(A) any person
Oregon: Rev. Stat.	125.015 Probate	125.005(5) incapacitated	125.005 lacks capacity to meet essential requirements for physical health or safety, includes health care, food, shelter, clothing, personal hygiene, other	125.005 ability to receive and evaluate information effectively or communicate decisions	125.005(5) serious physical injury or illness is likely to occur 125.300 appoint only as necessary to promote and protect well being	125.005(3) mental illness, mental deficiency, physical illness or disability, chronic drug use or intoxication	125.055(2) whether proposed fiduciary convicted of crime, was bankrupt or professional license revoked; whether intend to place in facility; whether proposed fiduciary is public or private agency	125.010 any person
Pennsylvania Cons. Stat. Ann.	20-711 Common Pleas	20-5501 incapacitated	20-5501 unable to meet essential requirements for physical health, safety	20-5501 impaired ability to receive and evaluate information effectively and communicate decisions to significant extent	20-5512.1 specific finding re: need in light of availability of family, friends, other supports and existence of advance directives	<i>Not stated</i>	20-5511(e) in plain language, statement that proposed guardian has no adverse interests, steps to find less restrictive alternative	20-5511(a) any person

Capacity Definition & Initiation of Guardianship Proceedings
(Statutory revisions as of December 31, 2018)

<u>nState</u>	<u>Court</u>	<u>Legal Status</u>	<u>Definition of Incapacity</u>				<u>Notable Petition Elements</u>	<u>Initiator</u>
			<u>Functionality</u>	<u>Cognition</u>	<u>Necessity Risk/Harm</u>	<u>Conditions</u>		
Rhode Island: Gen. Laws	33-15-3 Probate	33-15-4 Total or partial incapacity	33-15-47 Areas listed in petition include health care, financial matters, residence, association	33-15-4(a)(1) lacks decision making ability	33-15-4(a)(1) Needs cannot be met by least restrictive alternative	<i>Not stated</i>	33-15-2 Based on decision making assessment tool whether needs limited or full guardian; powers requested, steps take to use less restrictive alternatives, guardian qualification 33-15-47 Form in statute	33-15-2 any person
South Carolina: Code Ann.	62-5-102 Probate	62-5-101 incapacitated	62-5-101(13) unable to effectively receive, evaluate, respond to information, even with appropriate, reasonably available support and assistance		62-5-101(13) Cannot meet essential requirements for physical health, safety, or self-care, necessitating the need for a guardian	62-5-101(i) mental illness, mental deficiency, physical illness or disability, advanced age, drug or alcohol abuse	62-5-303) Reason appointment is necessary, agent, rights to be removed; restrictions to be imposed	62-5-303 any person interested in the person's welfare
South Dakota: Codified Laws Ann.	29A-5-108 County	29A-5-102 incapacitated	29A-5-302 lacks capacity to meet essential requirements for health, safety, habilitation, therapeutics; manage property, provide support	29A-5-302 ability to respond to people, events environments is impaired	29A-5-302 needs assistance or protection of guardian	<i>Not stated</i>	29A-5-305 whether incapacity will prevent attendance at hearing & reasons; any guardian appointed in any state	29A-5-305 relative, responsible entity, any interested person

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Tennessee: Code Ann.	34-3-101 Probate or any court of record	34-1-101(13) Person with a disability	<i>Not stated</i>	<i>Not stated</i>	34-1-126 court must find respondent is fully or partially disabled and in need of assistance from the court	34-1-101(13) mental illness, physical illness, injury, developmental disability, mental or physical incapacity	34-3-104(3) Relationship between petitioner and respondent, statement of felony or misdemeanor by nominated guardian, sworn medical examination report or statement concerning examination; rights that may be removed; proposed plan for property	34-3-102 Any person
Texas: Estate Code Ann.	1022.001 Court exercising original probate jurisdiction – statutory probate court or county court	1002.017 Incapacitated person 1002.030 Ward – person for whom guardian appointed	1002.017 substantially unable to provide food, clothing shelter for self or family, care for physical health, manage financial affairs	<i>Not stated</i>	1101.101 only as necessary to protect rights or property	1002.017 physical or mental condition	1101.001 specific areas of protection & assistance & limitation of rights; whether any guardian appointed in any state; duration; if private professional guardian has complied with requirements	1101.001 any person 1102.001 Court initiated investigation

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Utah: Code Ann.	75-1-201(5) any court of record with probate jurisdiction	75-1-201(22) incapacitated person	75-5-401(2)(a) unable to manage property and affairs effectively	<i>Not stated</i>	75-5-304 finding that appointment is necessary or desirable as means of providing continuing care and supervision	75-1-201(22) Mental illness, mental deficiency, physical illness/disability, drug/alcohol abuse	<i>Not stated</i>	75-5-303 Any person.
Vermont: Stat. Ann. tit. 14	14-3062 Probate	14-3061(1) Person in need of guardianship	14-3061(2) Unable to manage personal care means inability, as evidenced by recent behavior, to meet one's needs for medical care, nutrition, clothing, shelter, hygiene, or safety 14-3061(3) Gross mismanagement, as evidenced by recent behavior, or one's income and resources which has led or is likely in the near future to lead to financial vulnerability	14-3061(B)(ii) Significantly impaired cognitive functioning which grossly impairs judgment, behavior, or the capacity to recognize reality	14-3061(B) unable to manage without supervision of guardian 14-3061(2) Physical injury, illness, or disease has occurred or is likely to occur in the near future 14-3061(3) Gross mismanagement, ... which has led or is likely in the near future to lead to financial vulnerability	14-3061(B)(i), (ii) Significantly sub-average intellectual functioning; physical or mental condition	14-3063 specific areas for which supervision & protection requested; interest in respondent; specific reasons and supporting facts	14-3063 Any interested person

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			<u>Functionality</u>	<u>Cognition</u>	<u>Necessity Risk/Harm</u>	<u>Conditions</u>		
Virginia: Code Ann.	64.2-2001 Circuit	64.2-2000 incapacitated	64.2-2000 lacks capacity to meet essential requirements for health, care, safety, therapeutic needs, manage property or financial affairs, provide for support of self or dependents	64.2-2000 incapable of receiving and evaluating information effectively or responding to people, events or environments	64.2-2000 Needs the assistance or protection of a guardian. Poor judgment alone not sufficient evidence	<i>Not stated</i>	64.2-2002(B) where appropriate, recommend as to living arrangement & treatment plan; specific areas of protection & assistance; guardian nominated by respondent; native language & alternative communication; whether attendance at hearing would be detrimental	64.2-2002(A) Any person
Washington: Rev. Code Ann.	11.080.010 Superior	11.88.010(b) incapacitated person	11.88.010(1) demonstrated inability to adequately provide for nutrition, health, housing, safety, finances, property	<i>Not stated</i>	11.88.010(1) sufficient risk of personal, financial harm	11.88.010(c) Legal not medical decision. Age, eccentricity, poverty, medical diagnosis alone not sufficient to justify finding of incapacity	11.88.030(1) whether guardian or pending action in any state; any alternative arrangements previously made; specific areas of protection & assistance; duration	11.88.030(1) Any person.

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West Virginia: Code	44-10-3 County Commission	44-1-4 protected person	44A-1-4(3) lack capacity to meet essential requirements for health, care, safety, habilitation, therapeutic needs, manage property or financial affairs, provide support for self or dependents	44A-1-4(3) unable to receive and evaluate information effectively or respond to people, events and environments	44A-1-4(3) needs assistance or protection of guardian or conservator	44A-1-4(3) Mental impairment. Poor judgment alone will not be considered sufficient evidences	44A-2-2(b) whether incapacity will prevent attendance at hearing & reasons; specific areas of protection & assistance requested	44A-2-2(a) self or responsible party, facility providing care, person nominated, person acting as de facto guardian; any person, including dep't health & human resources
Wisconsin: Stat. Ann.	54.01(4) Circuit	54.01(16) incompetent person	54.01(15) ability to make or communicate a decisions as to a right or power	54.01(15) Ability effectively to receive and evaluate information	54.10(3)(a) (4) Need for decisional assistance is unable to be meet less restrictively through training, support services, assistive devices, or other means	54.01(14) Developmental disability, serious or persistent mental illness, degenerative brain disorder, other like incapacities; 56.01(31) spendthrift	<i>Not stated</i>	54.01(17)(a) interested person
Wyoming: Stat.	3-1-101 District, Probate	3-1-101 incompetent	3-1-101(a)(ix) unable unassisted to properly manage and take care of self or property	<i>Not stated</i>	3-2-104 necessity for appointment proved by preponderance	3-1-101(a)(ix), (xii) infirmities of advanced age, physical disability, disease, alcohol or drug use, mental illness, deficiency, retardation	3-2-101(a) interests of petitioner	3-2-101 any person