

**State Provisions Regarding Voting:
Constitutions, Election Laws, and Guardianship Statutes**

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote		G. Specific Finding of Voter Eligibility
				E. Keep Legal Rights Unless Expressly limited	F. Remove Legal Rights only as Necessary	
Alabama	Mentally incompetent not qualified to vote until restored. ALA. CONST. art. VIII, § 177 (amended 1996).		Any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, physical or mental infirmities accompanying advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions. ALA. CODE § 26-2A-20(8)		The court may make orders only as necessary. ALA. CODE §§ 26-2A-105(a), 26-2A-136(a).	

Alaska	"No person may vote who has been judicially determined to be of unsound mind unless the disability has been removed." ALASKA CONST. art. 5, § 2.	Disqualification for unsound mind was repealed in 1996. <i>See</i> former ALASKA STAT. § 15.05.040.	"Incapacitated person" means a person whose ability to receive and evaluate information or to communicate decisions is impaired for reasons other than minority to the extent that the person lacks the ability to provide the essential requirements for the person's physical health or safety without court-ordered assistance. ALASKA STAT. § 13.26.005(5)	Incapacitated person retains all rights except those "expressly limited by court order." ALASKA STAT. § 13.26.090. "Guardian shall assure...that ward enjoys all...civil rights." ALASKA STAT. § 13.26.150(c)(4).		Guardian may not prohibit registering to vote or casting a vote. ALASKA STAT. § 13.26.150(e)(6).
Arizona	"No person who is adjudicated an incapacitated person shall be qualified to vote...unless restored to civil rights." ARIZ. CONST. art. VII, § 2(c) (amended 2000).	Adjudicated an incapacitated person. ARIZ. REV. STAT. § 16-101(A).	Incapacitated person includes any person who "lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person." Some listed disorders include mental illness, deficiency or disorder, physical illness, and chronic use of drugs. ARIZ. REV. STAT. § 14-5101.		As appropriate, guardians will "encourage maximum self-reliance and independence." ARIZ. REV. STAT. § 14-5312(A)(7). The court can appoint a general or limited guardian. ARIZ. REV. STAT. § 14-5304.	Harrison v. Laveen, 196 P.2d 456 (Ariz. 1948) (holding that Indians are not under guardianship).

<p>Arkansas</p>	<p>“No idiot or insane person shall be entitled to the privileges of an elector.” ARK. CONST. art III, § 5.</p>		<p>“Incapacitated person” means a person who is impaired by reason of a disability such as mental illness, mental deficiency, physical illness, chronic use of drugs, or chronic intoxication, to the extent of lacking sufficient understanding or capacity to make or communicate decisions to meet the essential requirements for his or her health or safety or to manage his or her estate. ARK. CODE ANN. § 28-65-101(5)(A)</p>	<p>Incapacitated person “is not presumed to be incompetent and retains all legal and civil rights except those... expressly limited by court order.” ARK. CODE ANN. § 28-65-106.</p>	<p>Guardianship ordered only to extent necessary. ARK. CODE ANN. § 28-65-105.</p>	<p>Guardian must file a petition and receive court approval to authorize an incapacitated person to vote. ARK. CODE ANN. §28-65-302(a)(2)(E).</p>
------------------------	---	--	---	--	---	---

<p>California</p>	<p>“The Legislature shall prohibit improper practices that affect elections and shall provide for the disqualification of electors while mentally incompetent.” CAL. CONST. art. II, § 4 (amended 1974 and 1976).</p>	<p>Cancel registration of person “legally established” as mentally incompetent. CAL. ELEC. CODE § 2201(b).</p> <p>Deemed mentally incompetent if court finds that person is not capable of completing affidavit of voter registration and has a court appointed conservator. CAL. ELEC. CODE § 2208.</p>	<p>Conservator may be appointed for persons unable to manage personal and physical needs or “substantially unable to manage financial resources.” CAL. PROB. CODE § 1801(a)-(b).</p> <p>Limited conservator refers only to developmentally disabled. <i>See</i> CAL. PROBATE CODE § 1801(d).</p>		<p>Court may limit powers and duties of conservator. CAL. PROBATE CODE § 2351(b).</p>	<p>Conservator recommends for or against disqualification from voting. CAL. WELF. & INST. CODE § 5357(c).</p> <p>Court investigator reviews the person’s capability of completing affidavit of voter registration. Must hold a hearing to determine capability. CAL. ELEC. CODE § 2209.</p> <p>The person may contest disqualification (CAL. ELEC. CODE § 2210) or petition to contest voting rights (CAL. WELF. & INST. CODE § 5358.3).</p>
--------------------------	---	--	--	--	---	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Colorado	Silent as to disqualification. <i>See, e.g.,</i> COLO. CONST. art. VII, § 1.	The election code states that the “code shall be liberally construed so that all eligible electors may be permitted to vote and those who are not eligible electors may be kept from voting in order to prevent fraud and corruption in elections.” COLO. REV. STAT. § 1-1-103(1).	"Incapacitated person" means an individual other than a minor, who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance. COLO. REV. STAT. § 15-14-102(5)	Court shall grant guardian only those powers necessitated by ward’s limitations, shall make orders that encourage the development of ward’s maximum self-reliance and independence COLO. REV. STAT. § 15-15-311(2).		

<p>Connecticut</p>	<p>Silent as to disqualification. <i>See, e.g.,</i> CONN. CONST. art. VI, § 1 (amended 1976).</p>	<p>“No mentally incompetent person shall be admitted as an elector.” CONN. GEN. STAT. § 9-12(a).</p>	<p>Plenary or limited guardian of person with mental retardation supervises all or specified aspects of care of a person, “who by reason of the severity of his mental retardation, has been determined to be totally unable to meet essential requirements for his physical health or safety and totally unable to make informed decisions about matters related to his care.” CONN. GEN. STAT. § 45a-669(a), (c).</p> <p>“Conservator of the person” means a person appointed by the probate court “to supervise the personal affairs of a person found to be incapable of caring for himself or herself.” CONN. GEN. STAT. § 45a-644(b).</p>	<p>“‘Legally competent’ means having the legal power to direct one’s personal and financial affairs. All persons in this state eighteen years of age and over are legally competent unless determined otherwise by a court.” CONN. GEN. STAT. § 45a-669(b).</p>	<p>May assign to limited guardian limited duties and powers to assist ward in achieving self-reliance. CONN. GEN. STAT. § 45a-677(d).</p>	<p>“No patient hospitalized or treated in any public or private facility for the treatment of persons with psychiatric disabilities shall be deprived of . . . the right to vote, . . . except in accordance with due process of law, and unless such patient has been declared incapable Any finding of incapability shall specifically state which civil or personal rights the patient is incapable of exercising.” CONN. GEN. STAT. § 17A-541.</p> <p>“The guardian or conservator of an individual may file a petition in probate court to determine such individual’s competency to vote” Shall hold hearing CONN. GEN. STAT. § 45a-703.</p> <p>Mental health: Administrator of institution for mentally retarded shall use best efforts to provide written notice to guardian or conservator of voting opportunity, that resident is entitled to vote or register unless court determines resident is incompetent to vote or unless registrars conclude at supervised voting session that resident declines to vote or are unable to determine how the resident desires to vote CONN. GEN. STAT. § 9-159s.</p>
---------------------------	---	--	---	---	---	---

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Delaware	Persons “adjudged mentally incompetent” may not vote. DEL. CONST. art. V, § 2 (amended 2001).	Adjudged mentally incompetent with specific finding of “a severe cognitive impairment which precludes exercise of basic voting judgment.” DEL. CODE ANN. tit. 15, § 1701.	A disabled person is any person who “[b]y reason of mental or physical incapacity is unable properly to manage or care for their own person or property,” and, as a result may lose the property or become a victim of “designing persons.” DEL. CODE ANN. tit. 12, § 3901(a)(2).		The court shall grant a guardian “such powers, rights and duties which are necessary to protect, manage and care for the disabled person.” DEL. CODE ANN. tit. 12, § 3922.	Need specific finding in guardianship on voting. However, there must be “a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment” before a person is disqualified as a voter. <i>See</i> DEL. CODE ANN. tit. 15, § 1701.

District of Columbia	No constitution.	Adjudged mentally incompetent. D.C. CODE § 1-1001.02(2)(C).	“‘Incapacitated individual’ means an adult whose ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage all or some of his or her financial resources or to meet all or some essential requirements for his or her physical health, safety, habilitation, or therapeutic needs without court-ordered assistance or the appointment of a guardian or conservator.” D.C. CODE § 21-2011(11).	Retains all legal rights and abilities other than those expressly limited or curtailed by court order. D.C. CODE § 21-2004.	The court shall make “orders only to the extent necessitated by the incapacitated individual’s . . . limitations.” D.C. CODE § 21-2044.	
Florida	Persons adjudicated to be mentally incompetent may not vote. FLA. CONST. art. VI, § 4.	Adjudicated to be mentally incapacitated with respect to voting. FLA. STAT. ANN. § 97.041. “‘Persons with disabilities’ means individuals who have a physical or mental impairment that substantially limits one or more major life activities.” FLA. STAT. ANN. § 97.021(24).	“‘Incapacitated person’ means a person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of the person.” FLA. STAT. ANN. § 744.102(12).			Right to vote may be removed. FLA. STAT. ANN. § 744.3215(2)(b).

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Georgia	<p>“No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed.” GA. CONST. art. II, § 1, ¶ 3(b).</p>		<p>“The court may appoint a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety.” GA. CODE ANN. § 29-4-1(a).</p>	<p>Court determines which powers retained by ward. GA. CODE ANN. § 29-4-12(d)(5).</p>	<p>Guardianship shall “encourage the development of maximum self-reliance and independence in the adult and shall be ordered only to the extent necessitated by the adult’s actual and adaptive limitations after a determination that less restrictive alternatives to the guardianship are not available or appropriate.” GA. CODE ANN. § 29-4-1(f).</p> <p>Ward has right to least restrictive form of guardianship. GA. CODE ANN. § 29-4-20(a)(6).</p>	<p>“The appointment of a guardian is not a determination regarding the right of the ward to vote.” GA. CODE ANN. § 29-4-20(b).</p>
Hawaii	<p>“No person who is non compos mentis shall be qualified to vote.” HAW. CONST. art. II, § 2.</p>		<p>“‘Incapacitated person’ means an individual who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.” HAW. REV. STAT. § 560:5-102.</p>		<p>Grant only those powers necessitated and shall make orders that encourage self-reliance and independence. HAW. REV. STAT. § 560:5-311(b).</p>	

<p>Idaho</p>	<p>Legislature may prescribe qualifications. IDAHO CONST. art. VI, § 4.</p> <p>IDAHO CONST. art. VI, § 3 (amended in 1998 to remove provision banning vote for people who are under guardianship). Until 1982 this provision also prohibited idiotic or insane persons from voting.</p>		<p>"Incapacity" means a legal, not a medical disability and shall be measured by function limitations and it shall be construed to mean or refer to any person who has suffered, is suffering, or is likely to suffer, substantial harm due to an inability to provide for his personal needs for food, clothing, shelter, health care, or safety, or an inability to manage his or her property or financial affairs. IDAHO CODE ANN. § 15-5-101(a).</p>		<p>Court shall order "only to the extent necessitated by the incapacitated person's actual mental and adaptive limitations or other conditions warranting the procedure." IDAHO CODE ANN. § 15-5-304(a).</p> <p>Provide guardianship form that least interferes with person's legal capacity. IDAHO CODE ANN. § 15-5-303(a).</p>	<p>Every mentally ill patient in institution shall have the right to "vote unless limited by prior order." IDAHO CODE ANN. § 66-346(a)(6).</p> <p>Every developmentally disabled person has the right to vote unless limited by prior court order. IDAHO CODE ANN. § 66-412(3)(j).</p>
---------------------	---	--	---	--	--	--

Illinois	<p>Silent as to incapacity. Only prohibits felon or those in jail from voting. ILL. CONST. art. III, § 2.</p>		<p>"Disabled person" means a person 18 years or older who (a) because of mental deterioration or physical incapacity is not fully able to manage his person or estate, or (b) is a person with mental illness or a person with a developmental disability and who because of his mental illness or developmental disability is not fully able to manage his person or estate, or (c) because of gambling, idleness, debauchery or excessive use of intoxicants or drugs, so spends or wastes his estate as to expose himself or his family to want or suffering. 755 ILL. COMP. STAT. 5/11a-2.</p>	<p>Order appointing limited guardian removes only that authority specifically conferred by order. 755 ILL. COMP. STAT. 5/11a-14(a).</p>	<p>"Guardianship shall be ordered only to the extent necessitated by the individual's actual mental, physical and adaptive limitations." 755 ILL. COMP. STAT. 5/11a-3(b).</p>	
-----------------	---	--	--	---	---	--

<p>Indiana</p>	<p>Silent as to incapacity. Renders ineligible those "convicted of infamous crimes." IND. CONST. art II, § 8.</p>		<p>"Incapacitated person" means an individual who: (2) is unable: (A) to manage in whole or in part the individual's property; (B) to provide self-care; or (C) both; because of insanity, mental illness, mental deficiency, physical illness, infirmity, habitual drunkenness, excessive use of drugs, incarceration, confinement, detention, duress, fraud, undue influence of others on the individual, or other incapacity; or (3) has a developmental disability. IND. CODE § 29-3-1-7.5</p>		<p>Court may issue order for limited guardianship. IND. CODE § 29-3-5-3(b).</p> <p>Guardian may exercise all powers required to perform duties. IND. CODE § 29-3-8-4.</p>	
-----------------------	---	--	--	--	---	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Iowa	<p>“No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector.”</p> <p>IOWA CONST. art. II, § 5.</p>		<p>Is a person whose decision-making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness might occur.</p> <p>IOWA CODE § 633.552(2)(a).</p>		<p>Count considers if limited guardianship or conservatorship is appropriate.</p> <p>IOWA CODE § 633.551(3).</p>	<p>If the court appoints a guardian, it “shall make a separate determination as to the ward’s competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.”</p> <p>IOWA CODE § 633.556.</p>

Kansas	The legislature may exclude persons from voting because of mental illness. KAN. CONST. art. V, § 2.	Silent. <i>See</i> KAN. STAT. ANN. § 25-2309.	"Adult with an impairment in need of a guardian or a conservator, or both" means a person ... whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired such that the person lacks the capacity to manage such person's estate, or to meet essential needs for physical health, safety or welfare, and who is in need of a guardian or a conservator, or both. KAN. STAT. ANN. § 59-3051(a).		Guardian shall exercise authority only as necessitated by ward's limitations, encourage the ward to participate in decision making, and encourage the ward to act on their own behalf. KAN. STAT. ANN. § 59-3075(a)(2).	
Kentucky	Prohibits "idiots and insane persons" from voting. KY. CONST. § 145.	Removal from rolls if a person is declared incompetent. KY. REV. STAT. ANN. § 116.113(2).	Disabled refers to a person who is "[u]nable to make informed decisions with respect to his personal affairs to such an extent that he lacks the capacity to provide for his physical health and safety, including but not limited to health care, food, shelter, clothing, or personal hygiene" KY. REV. STAT. ANN. § 387.510(8).		"[G]uardianship and conservatorship for disabled persons shall be utilized only as is necessary to promote their well-being" and partial guardianship or partial conservatorship is the preferred form of protection. KY. REV. STAT. ANN. § 387.500.	

<p>Louisiana</p>	<p>Right to vote suspended if “person is interdicted and judicially declared mentally incompetent.” LA. CONST. art. I, § 10(a) (amended 1997).</p>		<p>“A court may order the full interdiction of a natural person of the age of majority, or an emancipated minor, who due to an infirmity, is unable consistently to make reasoned decisions regarding the care of his person and property, or to communicate those decisions, and whose interests cannot be protected by less restrictive means.” LA. CIV. CODE ANN. art. 389.</p>		<p>May order limited interdiction when interests cannot be protected by less restrictive means. LA. CIV. CODE ANN. art. 390.</p>	<p>Policy to encourage full participation in voting: “The Department of Health and Hospitals shall promulgate rules and regulations . . . insure that persons with mental retardation . . . who are not subject to a full interdiction or a limited interdiction in which the right to register and vote has specifically been suspended are permitted to do so” LA. REV. STAT. ANN. § 18:102.1.</p>
-------------------------	--	--	--	--	--	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
<p>Maine</p>	<p>Those “under guardianship for mental illness” are prohibited from voting. ME. CONST. art. II, § 1 (amended 1998). <i>But see Doe v. Rowe</i>, 156 F. Supp. 2d 35 (D. Me. 2001) (holding that Article two, section one of the Maine Constitution violated both the Due Process and Equal Protection Clauses of the Fourteenth Amendment and that “the State’s disenfranchisement of those persons under guardianship by reason of mental illness is unconstitutional”).</p>	<p>Class C crime for person to vote or attempt to vote “knowing that the person is not eligible to do so . . .” ME. REV. STAT. ANN. tit. 21-A, § 674(3)(B).</p>	<p>“‘Incapacitated person’ means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause except minority to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person” ME. REV. STAT. ANN. tit. 18-A, § 5-101(1).</p>	<p>“A person for whom a limited guardian has been appointed retains all legal and civil rights except those which have been suspended by the decree or order.” ME. REV. STAT. ANN. tit. 18-A, § 5-105.</p>	<p>The court shall “encourage the development of maximum self reliance and independence of the incapacitated person and make appointive and other orders only to the extent necessitated by the incapacitated person’s actual mental and adaptive limitations or other conditions warranting the procedure.” Me. Rev. Stat. ANN. tit. 18-A, § 5-304(a).</p>	<p><i>See Doe v. Roe</i>, 156 F. Supp. 2d 35 (D. Me. 2001) (“[T]he State’s disenfranchisement of those persons under guardianship by reason of mental illness is unconstitutional.”).</p>

Maryland	The General Assembly may "prohibit the right to vote of a person...under guardianship for mental disability." MD. CONST. art. I, § 4.	"An individual is not qualified to be a registered voter if the individual . . . is under guardianship for mental disability . . ." MD. CODE ANN. ELEC. LAW § 3-102(b)(2).	"A guardian of the person shall be appointed if the court determines from clear and convincing evidence that a person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form of intervention is available which is consistent with the person's welfare and safety." MD. CODE ANN. EST. & TRUSTS § 13-705.	Appointment of guardian is not evidence of incompetency, does not modify any civil right under the court orders, including rights relating to privilege or benefit under any law MD. CODE ANN. EST. & TRUSTS § 13-706(b).	May grant only those powers necessary. MD. CODE ANN. EST. & TRUSTS § 13-708(a)(1).	
-----------------	---	--	--	---	--	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Massachusetts	Those under guardianship are prohibited from voting. MASS. CONST. amend art. III.	Under guardianship. MASS. GEN. LAWS ch. 51, § 1.	Court may appoint guardian for a person who is mentally ill, mentally retarded, a spendthrift or a person who is unable to make or communicate informed decisions due to physical incapacity or illness. <i>See</i> MASS. GEN. LAWS ch. 201, §§ 6-6B, 8.			Secretary of State opinion: guardianship must specify ineligible to vote
Michigan	Legislature may exclude because of mental incompetence. MICH. CONST. art. II, § 2.	Silent in regards to mental incompetence. <i>See</i> MICH. COMP. LAWS § 168.10.	“‘Incapacitated individual’ means an individual who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.” MICH. COMP. LAWS § 700.1105(a).	Limited ward retains all rights not delegated to the guardian. MICH. COMP. LAWS § 700.5306(2).	Grants guardian only those powers as necessary; order specifies any limitations MICH. COMP. LAWS § 700.5306.	

Minnesota	Under guardianship or insane or not mentally competent MINN. CONST. art. VII, § 1.	"Incapacitated person" means an individual who, for reasons other than being a minor, is impaired to the extent of lacking sufficient understanding or capacity to make or communicate responsible personal decisions, and who has demonstrated deficits in behavior which evidence an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological assistance. MINN. STAT. § 524.5-102(6).		"Any power not specifically granted to the guardian . . . is retained by the ward." MINN. STAT. § 524.5-310(c).	"The court shall grant to a guardian only those powers necessary to provide for the demonstrated needs of the ward." MINN. STAT. § 524.5-313(b).	"[U]nless otherwise ordered by the court, the ward retains the right to vote." MINN. STAT. § 524.5-313(c)(8).
Mississippi	Idiot and insane persons. MISS. CONST. art. XII, § 241 (amended 1968 and 1972).	Idiots and insane persons. MISS. CODE ANN. § 23-15-11.	Persons of unsound mind. MISS. CODE ANN. § 93-13-125.			

<p>Missouri</p>	<p>“[N]o person who has a guardian of his or her estate or person by reason of mental incapacity, appointed by a court of competent jurisdiction and no person who is involuntarily confined in a mental institution pursuant to an adjudication of a court of competent jurisdiction shall be entitled to vote.” MO. CONST. art. VIII, § 2 (amended 1958 and 1974).</p>	<p>Person adjudicated incapacitated may not register to vote. MO. REV. STAT. § 115.133.2.</p>	<p>“‘Incapacitated person,’ one who is unable by reason of any physical or mental condition to receive and evaluate information or to communicate decisions to such an extent that he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care such that serious physical injury, illness, or disease is likely to occur.” MO. REV. STAT. § 475.010(9).</p>	<p>“An adjudication of incapacity or disability does operate to impose upon the ward or protectee all legal disabilities provided by law, except to the extent specified in the order of adjudication” MO. REV. STAT. § 475.078.</p> <p>Persons adjudicated incapacitated are presumed to be incompetent; Persons adjudicated partially incapacitated or partially disabled are presumed competent, and the adjudication imposes no legal disabilities. MO. REV. STAT. § 475.078.</p>	<p>The court shall appoint a limited guardian for a person who is partially incapacitated. The order shall “shall specify the powers and duties of the limited guardian[,]” and “the court shall impose only such legal disabilities and restraints on personal liberty as are necessary to promote and protect the well-being of the individual.” MO. REV. STAT. § 475.080.1.</p>	<p>New v. Corrough, 370 S.W.2d 323, 327 (Mo. 1963) (holding that a resident of nursing home who had been adjudged insane but never had a guardian was not disqualified from voting).</p>
------------------------	--	---	--	---	--	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Montana	Unsound mind as determined by a court. MONT. CONST. art. IV, § 2.	“No person adjudicated to be of unsound mind has the right to vote, unless he has been restored to capacity as provided by law.” MONT. CODE ANN. § 13-1-111(3).	"Incapacitated person" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or which cause has so impaired the person's judgment that he is incapable of realizing and making a rational decision with respect to his need for treatment. MONT. CODE ANN. § 72-5-101(1).	Incapacitated person retains all legal and civil rights except those expressly limited by court order. MONT. CODE ANN. § 72-5-306; MONT. CODE ANN. § 72-5-316(3).	Guardianship order should be used only to extent that person's actual mental and physical limitations require it. MONT. CODE ANN. § 72-5-306.	“No incapacitated person may be limited in the exercise of any civil or political rights except those that are clearly inconsistent with the exercise of the powers granted to the guardian unless the court's order specifically provides for such limitations.” MONT. CODE ANN. § 72-5-316(3).

<p>Nebraska</p>	<p>Non compos mentis. NEB. CONST. art. VI, § 2.</p>	<p>Affirm not been official found to be non compos mentis (mentally incompetent). NEB. REV. STAT. § 32-312.</p> <p>This doesn't appear to be the correct statute. Can you clarify or remove? This is correct cite</p>	<p>“‘Incapacitated person’ means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause (except minority) to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning himself or herself.” NEB. REV. STAT. § 30-2601(1).</p>	<p>The court may appoint a guardian if incapacitation is established by clear and convincing evidence. Will be limited guardianship unless full guardianship is necessary. If limited, the court will specify “specify the authorities and responsibilities which the guardian and ward, acting together or singly.” NEB. REV. STAT. § 30-2620.</p>		
<p>Nevada</p>	<p>Adjudicated incompetent. NEV. CONST. art. II, § 1 (amended 2004).</p>	<p>The clerk will cancel voter registration if insanity or mental incompetence is legally established. NEV. REV. STAT. § 293.540.</p>	<p>“‘Incompetent’ means an adult person who, by reason of mental illness, mental deficiency, disease, weakness of mind or any other cause, is unable, without assistance, properly to manage and take care of himself or his property, or both. The term includes a mentally incapacitated person.” NEV. REV. STAT. § 159.019.</p>		<p>“If court finds the proposed ward to be of limited capacity and in need of a special guardian, court shall enter an order and specify the powers and duties of the special guardian.” NEV. REV. STAT. § 159.054(2).</p>	

<p>New Hampshire</p>	<p>Convicted of treason, bribery, or willful violation of election laws. N.H. CONST. pt. 1, art. 11.</p>	<p>Silent. <i>See</i> N.H. REV. STAT. ANN. § 654:1.</p>	<p>Incapacity means the person is suffering or likely to suffer substantial harm due to an inability to provide for his or her personal needs. N.H. REV. STAT. ANN. § 464-A:2(XI).</p>	<p>A ward shall enjoy “the greatest amount of personal freedom and civil liberties consistent with his or her mental and physical limitations.” N.H. REV. STAT. ANN. § 464-A:2(XIV).</p>	<p>Only those limitations necessary to provide the ward with needed care and rehabilitative services. N.H. REV. STAT. ANN. § 464-A:2(XIV).</p>	<p>No deprivations, “except as provided for by law,” which includes the right to vote. N.H. REV. STAT. ANN. § 135-C:56(I)-(II).</p>
-----------------------------	--	---	--	--	--	---

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
New Jersey	<p>“No idiot or insane person shall enjoy the right of suffrage.” N.J. CONST. art. II, § 1, ¶ 6.</p>		<p>"Incapacitated individual" means an individual who is impaired by reason of mental illness or mental deficiency to the extent that he lacks sufficient capacity to govern himself and manage his affairs. The term incapacitated individual is also used to designate an individual who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism or other cause (except minority) to the extent that he lacks sufficient capacity to govern himself and manage his affairs. N.J. STAT. ANN. § 3b:1-2.</p>	<p>For limited guardianship, the court must make specific findings regarding areas the individual “retains sufficient capacity to manage.” N.J. STAT. ANN. § 3B:12-24.1(b).</p>	<p>The court may appoint limited guardian if it finds the individual lacks capacity to do some tasks “necessary to care for himself.” N.J. STAT. ANN. § 3B:12-24.1(b).</p>	<p>“[N]o patient shall be deprived of any civil right solely by reason of his receiving treatment...including but not limited to right to register for and vote at elections.” N.J. STAT. ANN. § 30:4-24.2(a).</p>

New Mexico	Prohibits idiots and insane persons from voting. N.M. CONST. art. VII, § 1.	County is required to cancel registration based on the "legal insanity of the voter." N.M. STAT. ANN. § 1-4-24(B). Court files certification of legal insanity with [elections] clerk N.M. STAT. ANN. § 1-4-26(A).	"Incapacitated person" means any person who demonstrates over time either partial or complete functional impairment by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he is unable to manage his personal affairs or he is unable to manage his estate or financial affairs or both. N.M. STAT. ANN. § 45-5-101(F).	Incapacitated person retains civil and legal rights except those expressly limited by court order or those that the court specifically grants to the guardian. N.M. STAT. ANN. §§ 45-5-301.1, 45-5-312.	Guardianship "as necessary to promote and protect the well being of the person." N.M. STAT. ANN. § 45-5-301.1.	
New York	Only prohibits those "convicted of bribery or any infamous crime" from voting. N.Y. CONST. art. II, § 3 (amended 2001).	"No person adjudged incompetent by order of a court shall have the right to register for or vote at any election." N.Y. ELEC. LAW § 5.106(6).	"Determination of incapacity based on clear and convincing evidence and a determination that a person is likely to suffer harm" for a variety of reasons. N.Y. MENTAL HYG. LAW § 81.02(b)(1)-(2).		Guardian "shall be granted only those powers which are necessary to provide for personal needs an/ or property management." N.Y. MENTAL HYG. LAW § 81.02.	

<p>North Carolina</p>	<p>Prohibits only felons from voting. N.C. CONST. art. VI, § 2(3).</p>	<p>Prohibits only felons from voting. N.C. GEN. STAT. § 163-55.</p>	<p>"Incompetent adult" means an adult or emancipated minor who lacks sufficient capacity to manage the adult's own affairs or to make or communicate important decisions concerning the adult's person, family, or property whether the lack of capacity is due to mental illness, mental retardation, epilepsy, cerebral palsy, autism, inebriety, senility, disease, injury, or similar cause or condition. N.C. GEN. STAT. § 35A-1101(7).</p>	<p>"If the clerk orders a limited guardianship...the clerk may order that the ward retain certain legal rights and privileges to which the ward was entitled before [being] adjudged incompetent." N.C. GEN. STAT. § 35A-1215(b).</p>		
<p>North Dakota</p>	<p>Persons declared mentally incompetent may not vote. N.D. CONST. art. II, § 2.</p>	<p>Those convicted and sentenced of a felony prohibited from voting. N.D. CENT. CODE § 16.1-01-04(4).</p>	<p>Defines incapacitated person as an adult impaired by illness, deficiency, disability, or chemical dependence, such that "the person lacks capacity to make or communicate responsible decisions." N.D. CENT. CODE § 30.1-26-01(2).</p>	<p>No ward can be denied the right to vote and he or she may retain other rights. N.D. CENT. CODE § 30.1-28-04(3)-(4).</p>	<p>The court may make orders only to extent necessitated by actual mental and adaptive limitations or other conditions. N.D. CENT. CODE § 30.1-28-04(1).</p>	<p>Court is required to make specific findings before depriving a ward of various rights, including the right to vote. N.D. CENT. CODE § 30.1-28-04(3).</p>

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Ohio	“No idiot, or insane person, shall be entitled to the privileges of an elector.” OHIO CONST. art. V, § 6.		Defines incompetent as any person incapable of taking care of self or property due to physical illness or disability, mental illness or disability or mental retardation resulting from substance abuse. OHIO REV. CODE ANN. § 2111.01(D).		The probate court may appoint limited guardian if in best interest of an incompetent. OHIO REV. CODE ANN. § 2111.02(B).	Baker v. Keller, 237 N.E.2d 629 (Ohio Ct. Com. Pl. 1968) (holding in voting context that “insane person” means a person who has “suffered such a deprivation of reason that he is no longer capable of understanding and acting with discretion and judgment in the ordinary affairs of life”).
Oklahoma	“Subject to such exceptions as legislature may prescribe.” OKLA. CONST. art. III, § 1.	Those adjudged incompetent may not register to vote. Those adjudged “partially incompetent” are not prohibited from registering unless the court orders such a restriction. OKLA. STAT. tit. 26 § 4-101.	Defines incapacitated person as one who lacks capacity to “meet essential requirements for physical health or safety or unable to manage his financial resources” due to “mental illness, mental retardation, physical illness or disability, drug or alcohol dependence.” OKLA. STAT. tit. 30 § 1-111(12).		The court should make appointments and orders “only to the extent necessitated by the mental and adaptive limitations.” OKLA. STAT. tit. 30 § 1-103.	Those adjudged “partially incompetent” are not prohibited from registering unless the court orders such a restriction. OKLA. STAT. tit. 26, § 4-101. Limited guardian shall assist ward in fulfilling civic duties. OKLA. STAT. tit. 30, § 3-114.

Oregon	<p>“A person suffering from a mental handicap is entitled to the full rights of an elector...unless the person has been adjudicated incompetent to vote.” OR. CONST. art. II, § 3 (amended 1944 and 1980).</p>		<p>“Incapacitated” means a condition in which a person’s ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person’s physical health or safety. OR. REV. STAT. § 125.005(5).</p>	<p>“A protected person retains all legal and civil rights provided by law except those that have been expressly limited by court order or specifically granted to the guardian by the court.” OR. REV. STAT. § 125.300(3).</p>	<p>Court may order guardianship only to the extent necessitated by the person’s actual mental and physical limitations. OR. REV. STAT. § 125.300(a).</p>	<p>Eligible unless adjudicated incompetent to vote. OR. CONST. art. II, § 3 (amended 1944 and 1980).</p>
Pennsylvania	<p>Every person is entitled to vote, subject to laws requiring and regulating voter registration. PA. CONST. art. VII, § 1 (amended 1967).</p>	<p>Eligible so long as not confined in a penal institution for felony within the last five years. 25 PA. CONS. STAT. § 1301(a).</p>	<p>“Incapacitated person” means an adult whose ability to receive and evaluate information effectively and communicate decisions in any way is impaired to such a significant extent that he is partially or totally unable to manage his financial resources or to meet essential requirements for his physical health and safety. 20 PA. CONS. STAT. § 5501.</p>	<p>“Except in those areas designated by court order...a partially incapacitated person shall retain all legal rights.” 20 PA. CONS. STAT. § 5512.1(g).</p>		

Rhode Island	Prohibits from voting persons adjudged to be “non compos mentis.” R.I. CONST. art. II, § 1.		Incapable of caring for needs. R.I. GEN. LAWS § 33-15-4.	“The appointment of a limited guardian shall not constitute a finding of legal incompetence. An individual for whom a limited guardian is appointed shall retain all legal and civil rights except those which have been specifically suspended by the order.” R.I. GEN. LAWS § 33-15-4(a)(1).	“The court must strike a delicate balance between providing the protection and support necessary to assist the individual and preserving, to the largest degree possible, the liberty, property and privacy interests of the individual.” R.I. GEN. LAWS § 33-15-4(a)(1).	
---------------------	--	--	---	---	--	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
South Carolina	“The General Assembly shall establish disqualifications for voting by reason of mental incompetence” S.C. CONST. art. II, § 7.	A person is disqualified if “mentally incompetent as adjudicated by a court.” S.C. CODE ANN. § 7-5-120(b)(1).	A person is incapacitated if “he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or property” due to “mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except minority).” S.C. CODE ANN. § 62-5-101.		The court may make “orders only to the extent necessitated by the incapacitated person’s mental and adaptive limitations or other conditions.” S.C. CODE ANN. § 62-5-304.	
South Dakota	Those “disqualified by law for mental incompetence” may not vote. S.D. CONST. art. VII, § 2 (amended 1974).	The clerk must deliver to the auditor “the names of persons declared mentally incompetent.” S.D. CODIFIED LAWS § 12-4-18.	Guardian may be appointed to an individual “whose ability to respond to people, events, and environments is impaired to such an extent that the individual lacks the capacity to meet the essential requirements for his health, care, safety, habilitation, or therapeutic needs without the assistance or protection of a guardian.” S.D. CODIFIED LAWS § 29A-5-302.	“The appointment of a guardian or conservator of a protected person does not constitute a general finding of legal incompetence unless the court so orders, and the protected person shall otherwise retain all rights which have not been granted to the guardian or conservator.” S.D. CODIFIED LAWS § 29A-5-118.		

Tennessee	“Laws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.” TENN. CONST. art. IV, § 2.	Judgment of infamy required to disqualify a person from voting. TENN. CODE ANN. § 2-2-102.	“Disabled person” means any person eighteen (18) years of age or older determined by the court to be in need of partial or full supervision, protection and assistance by reason of mental illness, physical illness or injury, developmental disability or other mental or physical incapacity. TENN. CODE ANN. § 34-1-101(7).		“The court has an affirmative duty to ascertain and impose the least restrictive alternatives upon the disabled person.” TENN. CODE ANN. § 34-1-127.	
Texas	Persons determined “mentally incompetent by a court, subject to legislative exceptions” are prohibited from voting. TEX. CONST. art. VI, § 1.	A qualified voter must not have “not been determined mentally incompetent by a final judgment of a court.” TEX. ELEC. CODE § 11.002(3).	"Incapacitated person" means: an adult individual who, because of a physical or mental condition, is substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs. TEX. PROB. CODE Ann. § 602(14)(B).	“Incapacitated person for whom guardian is appointed retains all legal and civil rights and powers except those designated by court orders as legal disabilities by virtue of having been specifically granted to the guardian.” TEX. PROB. CODE ANN. § 675.	The court may appoint a guardian “only as necessary to promote and protect the well-being of the person.” TEX. PROB. CODE ANN. § 602.	

<p>Utah</p>	<p>Mentally incompetent persons are prohibited from voting. UTAH CONST. art. IV, § 6.</p>	<p>Regarding eligibility of registration, refers only to those convicted of a felony. UTAH CODE ANN. § 20A-2-101.</p>	<p>“‘Incapacitated person’ means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, except minority, to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions.” UTAH CODE ANN. § 75-1-201(22).</p>		<p>The court may appoint a guardian for an incapacitated person if “the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person.” UTAH CODE ANN. § 75-5-304(1).</p> <p>“The court shall prefer a limited guardianship and may only grant a full guardianship if no other alternative exists.” UTAH CODE ANN. § 75-5-304(2).</p>	
--------------------	---	---	--	--	---	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Vermont	“Every person of the full age of eighteen years who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior . . .” may vote. VT. CONST. ch. II, § 42.	Any person who is a citizen, a resident, has taken oath, and is eighteen or older may register to vote. VT. STAT. ANN. tit. 43, § 2121.	“Mentally disabled person” means a person who has been found to be: (A) at least 18 years of age; and (B) mentally ill or developmentally disabled; and (C) unable to manage, without the supervision of a guardian, some or all aspects of his or her personal care or financial affairs. VT. STAT. ANN. tit. 14, § 3061(l).	A person with a limited guardian “retains all legal and civil rights except those specifically granted to the limited guardian by the court.” VT. STAT. ANN. tit. 14, § 3070(b).		
Virginia	“[N]o person adjudicated to be mentally incompetent shall be qualified to vote.” VA. CONST. art. II, § 1 (amended 1996 and 1998).	“The general registrar shall cancel the registration of [those] disqualified to vote by...adjudication of incapacity.” VA. CODE ANN. § 24.2-427(b).	“A finding that a person is incapacitated shall be construed as a finding that the person is “mentally incompetent” as that term is used in [the constitution and election laws] unless the court order entered pursuant to this chapter specifically provides otherwise.” VA. CODE ANN. § 37.2-1000.			Incapacitated means mentally incompetent unless court order entered specifically provides otherwise. VA. CODE ANN. § 37.2-1000.

<p>Washington</p>	<p>Persons “judicially declared mentally incompetent are excluded from” voting. WASH. CONST. art. VI, § 3 (amended 1988).</p>		<p>The court must determine that “the individual has a significant risk of personal harm based upon...inability to adequately provide for nutrition, health, housing, or physical safety,” or that “the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.” WASH. REV. CODE § 11.88.010(1)(a)-(b).</p> <p>For purposes of the terms “incompetent,” “disabled,” or “not legally competent,”...shall be interpreted to mean “incapacitated” persons for purposes of this chapter. WASH. REV. CODE § 11.88.010(1)(f).</p>	<p>“A person shall not be presumed to be incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order.” WASH. REV. CODE § 11.88.010(2).</p>	<p>The court may appoint limited guardian as it “finds necessary for such person’s protection and assistance.” WASH. REV. CODE §§ 11.88.005, 11.88.010(2).</p>	<p>Limited guardianship will not result in the loss of the right to vote “unless the court determines that the person is incompetent for purposes of rationally exercising the franchise in that the individual lacks the capacity to understand the nature and effect of voting such that she or he cannot make an individual choice.” The court order must specify the individual’s voting rights, and the court must notify the county auditor. WASH. REV. CODE § 11.88.010(5).</p>
--------------------------	---	--	---	---	--	--

<p>West Virginia</p>	<p>Those declared mentally incompetent are prohibited from voting. W. VA. CONST. art. IV, § 1 (amended 1994).</p>	<p>No person who is “of unsound mind” may vote. W. VA. CODE § 3-1-3.</p>	<p>Protected person is one who “unable to receive and evaluate information effectively or to respond to people, events, and environments to such an extent that the individual lacks the capacity: (A) To meet the essential requirements for his or her health, care, safety, habilitation, or therapeutic needs without the assistance or protection of a guardian; or (B) to manage property or financial affairs or to provide for his or her support or for the support of legal dependents... A finding that the individual displays poor judgment, alone, is not sufficient evidence that the individual is a protected person.” W. VA. CODE § 44A-1-4(13).</p>		<p>“A guardianship or conservatorship appointed under this article shall be the least restrictive possible, and the powers shall not extend beyond what is absolutely necessary for the protection of the individual.” W. VA. CODE § 44A-2-10(c).</p>	
-----------------------------	---	--	--	--	---	--

A. State	B. Constitutional Terms	C. Election Law Terms	D. Guardianship Terms	Possible Implied Right to Vote	G. Specific Finding of Voter Eligibility	A. State
Wisconsin	Persons “[a]djudged by a court to be incompetent or partially incompetent” are prohibited from voting “unless the judgment specifies that the person is capable of understanding the objective of the elective process or the judgment is set aside.” WIS. CONST. art. III, § 2.	To be denied the right to register or vote, the individual must be adjudicated incompetent. If determination of incompetency or limited incompetency without specific finding that individual may vote, then “no determination of incapacity of understanding the objective of the elective process is required.” WIS. STAT. § 6.03(3).	"Incapacity" means the inability of an individual effectively to receive and evaluate information or to make or communicate a decision with respect to the exercise of a right or power. WIS. STAT. § 54.01(15).	Court may declare that individual has incapacity to exercise the right to vote. WIS. STAT. § 54.25(2)(c)(g)	Individual may not register or vote if “if the court finds that the individual is incapable of understanding the objective of the elective process.” WIS. STAT. § 54.25(2)(c)(g).	“[A]ny elector of a municipality may petition the circuit court for a determination that an individual residing in the municipality is incapable of understanding the objective of the elective process and thereby ineligible to register to vote or to vote in an election.” WIS. STAT. § 54.25(2)(c)(g).

<p>Wyoming</p>	<p>Persons adjudicated mentally incompetent are prohibited from voting. WYO. CONST. art. VI, § 6 (amended 1996).</p>	<p>Persons currently adjudicated mentally incompetent may not register to vote. WYO. STAT. ANN. § 22-3-102(a).</p>	<p>“Mentally incompetent person” means an individual who is unable unassisted to properly manage and take care of himself or his property as the result of mental illness, mental deficiency or mental retardation.” WYO. STAT. ANN. § 3-1-101(xii).</p> <p>“Incompetent person’ means an individual who, for reasons other than being a minor, is unable unassisted to properly manage and take care of himself or his property as a result of the infirmities of advanced age, physical disability, disease, the use of alcohol or controlled substances, mental illness, mental deficiency or mental retardation.” WYO. STAT. ANN. § 3-1-101(ix).</p>		<p>A ward under guardianship has the right to least restrictive and most appropriate guardianship suitable to circumstances. WYO. STAT. ANN. § 3-1-206(a)(i).</p>	
-----------------------	--	--	--	--	---	--

© Sally Balch Hurme and Paul S. Appelbaum, Defining and Assessing Capacity to Vote: The Effect of Mental Impairment on the Rights of Voters, McGeorge Law Review, Vol. 28 (2007).