

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 2.1-1.6, 9-6.25:1, 37.1-134.6 and 37.1-134.19 of the Code of Virginia,*  
3 *to amend the Code of Virginia by adding in Chapter 24 of Title 2.1 a designation for Article 1 and*  
4 *an article numbered 2, consisting of sections numbered 2.1-373.10 through 2.1-373.14, and by*  
5 *adding a section numbered 37.1-134.14:1, relating to creation of a public guardian and conservator*  
6 *program.*

[S 394]

Approved

9 Be it enacted by the General Assembly of Virginia:

10 1. That §§ 2.1-1.6, 9-6.25:1, 37.1-134.6 and 37.1-134.19 of the Code of Virginia are amended and  
11 reenacted, that the Code of Virginia is amended by adding in Chapter 24 of Title 2.1 a designation  
12 for article 1 and an article numbered 2, consisting of sections numbered 2.1-373.10 through  
13 2.1-373.14, and by adding a section numbered 37.1-134.14:1 as follows:

14 § 2.1-1.6. State boards.

15 A. There shall be, in addition to such others as may be established by law, the following permanent  
16 collegial bodies affiliated with a state agency within the executive branch:

17 Accountancy, Board for

18 Aging, Advisory Board on the

19 Agriculture and Consumer Services, Board of

20 Air Pollution, State Advisory Board on

21 Alcoholic Beverage Control Board, Virginia

22 Apple Board, Virginia State

23 Appomattox State Scenic River Advisory Board

24 Aquaculture Advisory Board

25 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for

26 Art and Architectural Review Board

27 Athletic Board, Virginia

28 Auctioneers Board

29 Audiology and Speech-Language Pathology, Board of

30 Aviation Board, Virginia

31 Barbers, Board for

32 Branch Pilots, Board for

33 Bright Flue-Cured Tobacco Board, Virginia

34 Building Code Technical Review Board, State

35 Catoctin Creek State Scenic River Advisory Board

36 Cattle Industry Board, Virginia

37 Cave Board

38 Certified Seed Board, State

39 Chesapeake Bay Local Assistance Board

40 Chickahominy State Scenic River Advisory Board

41 Child Abuse and Neglect, Advisory Board on

42 Chippokes Plantation Farm Foundation, Board of Trustees

43 Clinch Scenic River Advisory Board

44 Coal Mining Examiners, Board of

45 Coal Research and Development Advisory Board, Virginia

46 Coal Surface Mining Reclamation Fund Advisory Board

47 Conservation and Development of Public Beaches, Board on

48 Conservation and Recreation, Board of

49 Contractors, Board for

50 Corn Board, Virginia

51 Correctional Education, Board of

52 Corrections, State Board of

53 Cosmetology, Board for

54 Criminal Justice Services Board

55 Dark-Fired Tobacco Board, Virginia

56 Deaf and Hard-of-Hearing, Advisory Board for the Department for the

57	Dentistry, Board of
58	Design-Build/Construction Management Review Board
59	Education, State Board of
60	Egg Board, Virginia
61	Emergency Medical Services Advisory Board, State
62	Farmers Market Board, Virginia
63	Fire Services Board, Virginia
64	Forestry, Board of
65	Funeral Directors and Embalmers, Board of
66	Game and Inland Fisheries, Board of
67	Geology, Board for
68	Goose Creek Scenic River Advisory Board
69	Health Planning Board, Virginia
70	Health Professions, Board of
71	Health, State Board of
72	Hearing Aid Specialists, Board for
73	Hemophilia Advisory Board
74	Historic Resources, Board of
75	Housing and Community Development, Board of
76	Irish Potato Board, Virginia
77	Juvenile Justice, State Board of
78	Litter Control and Recycling Fund Advisory Board
79	Marine Products Board, Virginia
80	Medical Advisory Board, Department of Motor Vehicles
81	Medicare and Medicaid, Advisory Board on
82	Medicine, Board of
83	Mental Health, Mental Retardation and Substance Abuse Services Board, State
84	Migrant and Seasonal Farmworkers Board
85	Military Affairs, Board of
86	Mineral Mining Examiners, Board of
87	Minority Business Enterprise, Interdepartmental Board of the Department of
88	Networking Users Advisory Board, State
89	Neurotrauma Initiative Advisory Board, Commonwealth
90	North Meherrin State Scenic River Advisory Board
91	Nottoway State Scenic River Advisory Board
92	Nursing, Board of
93	Nursing Home Administrators, Board of
94	Occupational Therapy, Advisory Board on
95	Oil and Gas Conservation Board, Virginia
96	Opticians, Board for
97	Optometry, Board of
98	Peanut Board, Virginia
99	Personnel Advisory Board
100	Pesticide Control Board
101	Pharmacy, Board of
102	Physical Therapy to the Board of Medicine, Advisory Board on
103	Plant Pollination Advisory Board
104	Polygraph Examiners Advisory Board
105	Pork Industry Board, Virginia
106	Poultry Products Board, Virginia
107	Private College Advisory Board
108	Private Security Services Advisory Board
109	Professional and Occupational Regulation, Board for
110	Professional Counselors, Board of
111	Professional Soil Scientists, Board for
112	Psychiatric Advisory Board
113	Psychology, Board of
114	Public Broadcasting Board, Virginia
115	Public Buildings Board, Virginia
116	<i>Public Guardian and Conservator Advisory Board</i>
117	Radiation Advisory Board

- 118 Real Estate Appraiser Board
- 119 Real Estate Board
- 120 Reciprocity Board, Department of Motor Vehicles
- 121 Recreation Specialists, Board of
- 122 Recreational Fishing Advisory Board, Virginia
- 123 Reforestation Board
- 124 Rehabilitation Providers, Advisory Board on
- 125 Rehabilitative Services, Board of
- 126 Respiratory Therapy, Advisory Board on
- 127 Rockfish State Scenic River Advisory Board
- 128 Safety and Health Codes Board
- 129 Seed Potato Board
- 130 Sewage Handling and Disposal Appeal Review Board, State Health Department
- 131 Shenandoah State Scenic River Advisory Board
- 132 Small Business Advisory Board
- 133 Small Business Environmental Compliance Advisory Board
- 134 Small Grains Board, Virginia
- 135 Social Services, Board of
- 136 Social Work, Board of
- 137 Soil and Water Conservation Board, Virginia
- 138 Soybean Board, Virginia
- 139 State Air Pollution Control Board
- 140 Substance Abuse Certification Board
- 141 Surface Mining Review, Board of
- 142 Sweet Potato Board, Virginia
- 143 T & M Vehicle Dealers' Advisory Board
- 144 Teacher Education and Licensure, Advisory Board on
- 145 Transportation Board, Commonwealth
- 146 Transportation Safety, Board of
- 147 Treasury Board, The, Department of the Treasury
- 148 Veterans' Affairs, Board on
- 149 Veterinary Medicine, Board of
- 150 Virginia Board for Asbestos and Lead
- 151 Virginia Coal Mine Safety Board
- 152 Virginia Correctional Enterprises Advisory Board
- 153 Virginia Cotton Board
- 154 Virginia Employment Commission, State Advisory Board for the
- 155 Virginia Geographic Information Network Advisory Board
- 156 Virginia Horse Industry Board
- 157 Virginia Manufactured Housing Board
- 158 Virginia Retirement System, Board of Trustees
- 159 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
- 160 Virginia Sheep Industry Board
- 161 Virginia Veterans Cemetery Board
- 162 Virginia Waste Management Board
- 163 Visually Handicapped, Virginia Board for the
- 164 Voluntary Formulary Board, Virginia
- 165 War Memorial Foundation, Virginia, Board of Trustees
- 166 Waste Management Facility Operators, Board for
- 167 Water Resources Research Center Statewide Advisory Board, Virginia
- 168 Waterworks and Wastewater Works Operators, Board for
- 169 Well Review Board, Virginia.
- 170 B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be
- 171 referred to as boards:
- 172 Compensation Board
- 173 State Board of Elections
- 174 State Water Control Board
- 175 Virginia Parole Board
- 176 Virginia Veterans Care Center Board of Trustees.
- 177 CHAPTER 24.
- 178 DEPARTMENT FOR THE AGING.

## Article 1.

General; Long-Term Care Ombudsman.

## Article 2.

## Virginia Public Guardian and Conservator Program.

§ 2.1-373.10. Policy statement; Virginia Public Guardian and Conservator Program established.

The General Assembly declares that it is the policy of the Commonwealth to ensure that persons who cannot adequately care for themselves because of incapacity (in this article, also referred to as "clients") are able to meet essential requirements for physical and emotional health and management of financial resources with the assistance of a guardian or conservator, as appropriate, in circumstances where (i) the incapacitated person's financial resources are insufficient to fully compensate a private guardian or conservator and pay court costs and fees associated with the appointment proceeding and (ii) there is no other proper and suitable person willing and able to serve in such capacity. In order to ensure that the protection and assistance of a guardian or conservator are available to all incapacitated persons in the Commonwealth, there is hereby established the statewide Virginia Public Guardian and Conservator Program (hereinafter, "the Program") within the Department for the Aging to (i) facilitate the creation of local or regional programs to provide services as public guardians or conservators and (ii) fund, coordinate, administer and manage such programs.

§ 2.1-373.11. Definitions.

The definitions found in § 37.1-134.6 shall apply to this article.

§ 2.1-373.12. Powers and duties of the Department.

A. The Department shall fund from appropriations received for such purpose a statewide system of local or regional public guardian and conservator programs.

B. The Department shall:

1. Make and enter into all contracts necessary or incidental to the performance of its duties and in furtherance of the purposes as specified in this article in conformance with the Public Procurement Act (§ 11-35 et seq.).

2. Contract with local or regional public or private entities to provide services as guardians and conservators operating as local or regional Virginia Public Guardian and Conservator Programs in those cases in which a court, pursuant to § 37.1-134.14:1, determines that a person is eligible to have a public guardian or conservator appointed.

3. Promulgate reasonable regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) as appropriate to implement, administer and manage the state and local or regional programs authorized by this article, including, but not limited to: adoption of minimum training and experience requirements for volunteers and professional staff of the local and regional programs; adoption of an ideal range of staff to client ratios for the programs; adoption of procedures to be followed whenever a local or regional program falls below or exceeds the ideal range of staff to client ratios, which shall include, but not be limited to, procedures to ensure that services shall continue to be available to those in need and that appropriate notice is given to the courts, sheriffs, where appropriate, and the Department; and adoption of procedures governing disqualification of any program falling below or exceeding the ideal range of staff to client ratios, which shall include a process for evaluating any program which has exceeded the ratio to assess the effects falling below or exceeding the ideal range of ratios has had or is having upon the program and upon the incapacitated persons served by the program. The regulations shall require that such evaluations occur no less frequently than every six months and shall continue until the staff to client ratio returns to within the ideal range.

4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia Public Guardian and Conservator Programs from any other guardian or conservator program operated by the entity with whom the Department contracts, specifically addressing the need for such separation in programs that may be fee-generating.

5. Establish record-keeping and accounting procedures to ensure that each local or regional program (i) maintains confidential, accurate and up-to-date records of the personal and property matters over which it has control for each incapacitated person for whom it is appointed guardian or conservator and (ii) files with the Department an account of all public and private funds received.

6. Establish criteria for the conduct of and filing with the Department and as otherwise required by law: values history surveys, annual decisional accounting and assessment reports, the care plan designed for the incapacitated person and such other information as the Department may by regulation require.

7. Establish criteria to be used by the local and regional programs in setting priorities with regard to services to be provided.

8. Take such other actions as are necessary to ensure coordinated services and a reasonable review of all local and regional programs.

9. Maintain statistical data on the programs and report to the General Assembly on or before

January 1 of each year as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents regarding the status of the Virginia Public Guardian and Conservator Program and the developing trends with regard to the need for guardians, conservators and other types of surrogate decision-making services.

10. Recommend appropriate legislative or executive actions.

C. Nothing in this article shall prohibit the Department from contracting pursuant to subdivision B 2 of this section with an entity which may also provide privately funded surrogate decision-making services, including guardian and conservator services funded with fees generated by the estates of incapacitated persons, provided such private programs are administered by the contracting entity entirely separately from the local or regional Virginia Public Guardian and Conservator Programs, in conformity with regulations established by the Department in that respect.

D. In accordance with the Public Procurement Act (§ 11-35 et seq.) and recommendations of the Board, the Department may contract with a not-for-profit private entity which does not provide services to incapacitated persons as guardian or conservator to administer the program, and, if it does, the term "Department" when used in this article shall refer to the contract administrator.

§ 2.1-373.13. Public Guardian and Conservator Advisory Board created; duties; membership; terms.

There is hereby created the Public Guardian and Conservator Advisory Board (the "Board") which shall report to and advise the Commissioner on the means for effectuating the purposes of this article and shall assist in the coordination and management of the local and regional programs appointed to act as public guardians and conservators pursuant to Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1. The Board shall provide advice and counsel on the provision of high quality guardianship service and avoidance of conflicts of interest, promote the mobilization of activities and resources of public and private sector entities to effectuate the purposes of this article, and make recommendations regarding appropriate legislative and executive actions, including, but not limited to, recommendations governing alternatives for local programs to follow upon repeal of the authority granted to the courts pursuant to § 37.1-134.19 to appoint the sheriff as guardian or conservator when the maximum staff to client ratio of the local program is met or exceeded.

The Board shall consist of no more than fifteen members who shall be appointed by the Governor as follows: one representative of the Virginia Guardianship Association; one representative of the Virginia Area Agencies on Aging, one representative of the Virginia State Bar, one active or retired circuit court judge upon recommendation of the Chief Justice of the Supreme Court, one representative of the Association of Retarded Citizens, one representative of the Virginia Alliance for the Mentally Ill, one representative of the Virginia League of Social Service Executives, one representative of the Association of Community Service Boards, the Commissioner of the Department of Social Services or his designee, the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services or his designee, the Director of the Virginia Department for the Rights of Virginians with Disabilities or his designee, and one person who is a member of the Governor's Advisory Board for the Department for the Aging and such other individuals who may be qualified to assist in the duties of the Board.

The Commissioners of the Departments of Social Services and Mental Health, Mental Retardation and Substance Abuse Services or their designees, the Director of the Virginia Department for the Rights of Virginians with Disabilities or his designee, and the representative of the Board for the Department for the Aging, shall serve terms coincident with their terms of office or in the case of designees, the term of the Commissioner or Director. Of the other members of the Board, five of the appointees shall serve for four-year terms and the remainder shall serve for three-year terms. No member shall serve more than two successive terms. A vacancy occurring other than by expiration of term shall be filled for the unexpired term. Each year, the Board shall elect a chairman and a vice-chairman from among its members. Five members of the Board shall constitute a quorum. Members shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as members of the Board.

§ 2.1-373.14. Minimum requirements for local programs; authority.

Every local or regional program with which the Department contracts to provide services as a public guardian or conservator shall (i) furnish bond with corporate surety in an amount deemed sufficient by the Department to afford adequate financial protection to the maximum number of incapacitated persons to be served by the program; (ii) have in place a multi-disciplinary panel to (a) screen cases for the purpose of ensuring that appointment of a guardian or conservator is appropriate under the circumstances and is the least restrictive alternative available to assist the incapacitated person and (b) continually review cases being handled by the program as required by the Department; (iii) accept only appointments as guardian or conservator which generate no fee or would generate a minimal fee as defined by regulation payable from a public source of funds and not from the estate of the incapacitated person; (iv) have a direct service staff to client ratio which is consistent with that specified by

regulation of the Department; and (v) develop a plan, in consultation with the local circuit court and sheriffs where appropriate, to provide advance notice to the court when the program falls below or exceeds the ideal range of staff to client ratios in order to assure continuity of services. Volunteers shall not be counted for purposes of ascertaining compliance with the staff to client ratio specified by the Department.

A local or regional program which exceeds the specified staff to client ratio is not disqualified from serving as a guardian or conservator except as provided by regulation or if the court or the Department finds that there is an immediate threat to the person or property of any incapacitated person or that exceeding the specified ratio is having or will have a material and adverse effect on the ability of the program to properly serve all of the incapacitated persons it has been designated to serve.

A local or regional program appointed as a guardian or conservator shall have all the powers and duties specified in Chapter 4 (§ 37.1-128.01 et seq.) of Title 37.1, except as otherwise specifically limited by the court. In addition, a public guardian or conservator shall have a continuing duty to seek a proper and suitable person who is willing and able to serve as guardian or conservator for the incapacitated person. A public guardian shall not have authority to admit an incapacitated person to a psychiatric hospital or mental health facility without a civil commitment proceeding, or to approve or authorize a sterilization procedure except when specific authority has been given pursuant to a proceeding in the circuit court. A public guardian may authorize mental health treatment, including the administration of psychotropic medication, unless the appointing court specifically provides otherwise.

A local or regional program appointed as a guardian or conservator may delegate the powers, duties and responsibilities to individual volunteers or professional staff as authorized in the contract with the Department.

In addition to funds received from the Department, a local or regional program may accept private funds solely for the purposes of providing public education, supplemental services for incapacitated persons and support services for private guardians and conservators, consistent with the purposes of this article.

§ 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

- Advisory Board for the Department for the Deaf and Hard-of-Hearing
- Advisory Board for the Department for the Aging
- Advisory Board on Child Abuse and Neglect
- Advisory Board on Medicare and Medicaid
- Advisory Board on Occupational Therapy
- Advisory Board on Physical Therapy to the Board of Medicine
- Advisory Board on Rehabilitation Providers
- Advisory Board on Respiratory Therapy to the Board of Medicine
- Advisory Board on Teacher Education and Licensure
- Advisory Commission on the Virginia Schools for the Deaf and the Blind
- Advisory Council on Revenue Estimates
- Advisory Council on the Virginia Business-Education Partnership Program
- Appomattox State Scenic River Advisory Board
- Aquaculture Advisory Board
- Art and Architectural Review Board
- Board for the Visually Handicapped
- Board of Directors, Virginia Truck and Ornamentals Research Station
- Board of Forestry
- Board of Military Affairs
- Board of Rehabilitative Services
- Board of Transportation Safety
- Board of Trustees of the Family and Children's Trust Fund
- Board of Visitors, Gunston Hall Plantation
- Board on Veterans' Affairs
- Catoctin Creek State Scenic River Advisory Board
- Cave Board
- Chickahominy State Scenic River Advisory Board
- Clinch Scenic River Advisory Board
- Coal Surface Mining Reclamation Fund Advisory Board
- Coastal Land Management Advisory Council, Virginia
- Commonwealth Competition Council
- Council on Indians

362	Council on the Status of Women
363	Debt Capacity Advisory Committee
364	Emergency Medical Services Advisory Board
365	Falls of the James Committee
366	Goose Creek Scenic River Advisory Board
367	Governor's Council on Alcohol and Drug Abuse Problems
368	Governor's Mined Land Reclamation Advisory Committee
369	Hemophilia Advisory Board
370	Human Services Information and Referral Advisory Council
371	Interagency Coordinating Council on Housing for the Disabled
372	Interdepartmental Board of the State Department of Minority Business Enterprise
373	Litter Control and Recycling Fund Advisory Board
374	Local Advisory Board to the Blue Ridge Community College
375	Local Advisory Board to the Central Virginia Community College
376	Local Advisory Board to the Dabney S. Lancaster Community College
377	Local Advisory Board to the Danville Community College
378	Local Advisory Board to the Eastern Shore Community College
379	Local Advisory Board to the Germanna Community College
380	Local Advisory Board to the J. Sargeant Reynolds Community College
381	Local Advisory Board to the John Tyler Community College
382	Local Advisory Board to the Lord Fairfax Community College
383	Local Advisory Board to the Mountain Empire Community College
384	Local Advisory Board to the New River Community College
385	Local Advisory Board to the Northern Virginia Community College
386	Local Advisory Board to the Patrick Henry Community College
387	Local Advisory Board to the Paul D. Camp Community College
388	Local Advisory Board to the Piedmont Virginia Community College
389	Local Advisory Board to the Rappahannock Community College
390	Local Advisory Board to the Southside Virginia Community College
391	Local Advisory Board to the Southwest Virginia Community College
392	Local Advisory Board to the Thomas Nelson Community College
393	Local Advisory Board to the Tidewater Community College
394	Local Advisory Board to the Virginia Highlands Community College
395	Local Advisory Board to the Virginia Western Community College
396	Local Advisory Board to the Wytheville Community College
397	Maternal and Child Health Council
398	Medical Advisory Board, Department of Motor Vehicles
399	Migrant and Seasonal Farmworkers Board
400	Motor Vehicle Dealer's Advisory Board
401	North Meherrin State Scenic River Advisory Board
402	Nottoway State Scenic River Advisory Board
403	Personnel Advisory Board
404	Plant Pollination Advisory Board
405	Private College Advisory Board
406	Private Enterprise Commission
407	Private Security Services Advisory Board
408	Psychiatric Advisory Board
409	<i>Public Guardian and Conservator Advisory Board</i>
410	Radiation Advisory Board
411	Rappahannock Scenic River Advisory Board
412	Recreational Fishing Advisory Board, Virginia
413	Reforestation Board
414	Rockfish State Scenic River Advisory Board
415	Shenandoah State Scenic River Advisory Board
416	Small Business Advisory Board
417	Small Business Environmental Compliance Advisory Board
418	St. Mary's Scenic River Advisory Committee
419	State Advisory Board for the Virginia Employment Commission
420	State Advisory Board on Air Pollution
421	State Building Code Technical Review Board
422	State Health Benefits Advisory Council

423 State Land Evaluation Advisory Council  
 424 State Networking Users Advisory Board  
 425 State Public Records Advisory Council  
 426 Statewide Independent Living Council  
 427 Statewide Rehabilitation Advisory Council  
 428 Statewide Rehabilitation Advisory Council for the Blind  
 429 Staunton Scenic River Advisory Committee  
 430 Telecommunications Relay Service Advisory Board  
 431 Virginia-Israel Advisory Board  
 432 Virginia Advisory Commission on Intergovernmental Relations  
 433 Virginia Advisory Council for Adult Education and Literacy  
 434 Virginia Coal Mine Safety Board  
 435 Virginia Coal Research and Development Advisory Board  
 436 Virginia Commission for the Arts  
 437 Virginia Commission on the Bicentennial of the United States Constitution  
 438 Virginia Correctional Enterprises Advisory Board  
 439 Virginia Council on Coordinating Prevention  
 440 Virginia Equal Employment Opportunity Council  
 441 Virginia Geographic Information Network Advisory Board  
 442 Virginia Interagency Coordinating Council  
 443 Virginia Military Advisory Council  
 444 Virginia Public Buildings Board  
 445 Virginia Recycling Markets Development Council  
 446 Virginia Technology Council  
 447 Virginia Transplant Council  
 448 Virginia Veterans Cemetery Board  
 449 Virginia Water Resources Research Center, Statewide Advisory Board  
 450 Virginia Winegrowers Advisory Board.  
 451 § 37.1-134.6. Definitions.  
 452 As used in this chapter, unless a different meaning is clearly required by the context:  
 453 "Advance directive" shall have the same meaning as provided in the Health Care Decisions Act  
 454 (§ 54.1-2981 et seq.).  
 455 "Conservator" means a person appointed by the court who is responsible for managing the estate and  
 456 financial affairs of an incapacitated person; and, where the context plainly indicates, includes a "limited  
 457 conservator" or a "temporary conservator." *The term includes a local or regional program designated by*  
 458 *the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.1-373.10 et seq.) of*  
 459 *Chapter 24 of Title 2.1.*  
 460 "Estate" includes both real and personal property.  
 461 "Guardian" means a person appointed by the court who is responsible for the personal affairs of an  
 462 incapacitated person, including responsibility for making decisions regarding the person's support, care,  
 463 health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of  
 464 commitment, regarding the person's residence. Where the context plainly indicates, the term includes a  
 465 "limited guardian" or a "temporary guardian." *The term includes a local or regional program designated*  
 466 *by the Department for the Aging as a public guardian pursuant to Article 2 (§ 2.1-373.10 et seq.) of*  
 467 *Chapter 24 of Title 2.1.*  
 468 "Incapacitated person" means an adult who has been found by a court to be incapable of receiving  
 469 and evaluating information effectively or responding to people, events, or environments to such an  
 470 extent that the individual lacks the capacity to (i) meet the essential requirements for his health, care,  
 471 safety, or therapeutic needs without the assistance or protection of a guardian or (ii) manage property or  
 472 financial affairs or to provide for his or her support or for the support of *his* legal dependents without  
 473 the assistance or protection of a conservator. A finding that the individual displays poor judgment, alone,  
 474 shall not be considered sufficient evidence that the individual is an incapacitated person within the  
 475 meaning of this subsection definition.  
 476 "Limited conservator" means a person appointed by the court who has only those responsibilities for  
 477 managing the estate and financial affairs of an incapacitated person as specified in the order of  
 478 appointment.  
 479 "Limited guardian" means a person appointed by the court who has only those responsibilities for the  
 480 personal affairs of an incapacitated person as specified in the order of appointment.  
 481 "Property" includes both real and personal property.  
 482 "Respondent" means an allegedly incapacitated person for whom a petition for guardianship or  
 483 conservatorship has been filed.



§ 37.1-134.14:1. Eligibility for public guardian or conservator.

The circuit court may appoint a local or regional program authorized by the Department for the Aging pursuant to Article 2 (§ 2.1-373.10 et seq.) of Chapter 24 of Title 2.1 as the guardian or conservator for any resident of the Commonwealth who is found to be incapacitated if the court finds that (i) the incapacitated person's resources are insufficient to fully compensate a private guardian and pay court costs and fees associated with the appointment proceeding and (ii) there is no other proper and suitable person willing and able to serve in such capacity. The guidelines for determining indigency set forth in § 19.2-159 shall be used by the court in determining the sufficiency of the respondent's estate. If the respondent would be eligible for the appointment of counsel pursuant to § 19.2-159, he shall be eligible for the appointment of a public guardian or conservator pursuant to this section.

§ 37.1-134.19. When no guardian or conservator appointed within one month of adjudication.

If a person is not appointed guardian or conservator within one month from the adjudication, the court on motion of any interested person, may appoint a guardian or conservator or, until January 1, 1999 2000, may commit the person and/or the estate of the incapacitated person to the sheriff of the county or city in which the respondent resides. If the estate is committed to the sheriff, he shall be the conservator, and he and the sureties on his official bond shall be bound for the faithful performance of the trust.