

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 37.1-134.6 of the Code of Virginia, relating to guardians and*
3 *conservators.*

4 [H 984]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 37.1-134.6 of the Code of Virginia is amended and reenacted as follows:**

8 § 37.1-134.6. Definitions.

9 As used in this chapter, unless a different meaning is clearly required by the context:

10 "Advance directive" shall have the same meaning as provided in the Health Care Decisions Act
11 (§ 54.1-2981 et seq.).12 "Conservator" means a person appointed by the court who is responsible for managing the estate and
13 financial affairs of an incapacitated person and, where the context plainly indicates, includes a "limited
14 conservator" or a "temporary conservator." The term includes a local or regional program designated by
15 (i) the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.2-711 et seq.) of
16 Chapter 7 of Title 2.2 or (ii) any local or regional tax-exempt charitable organization pursuant to § 501
17 (c) (3) of the Internal Revenue Code established to provide conservatorial services to incapacitated
18 persons. Such tax-exempt charitable organization shall not be a provider of direct services to the
19 incapacitated person.

20 "Estate" includes both real and personal property.

21 "Guardian" means a person appointed by the court who is responsible for the personal affairs of an
22 incapacitated person, including responsibility for making decisions regarding the person's support, care,
23 health, safety, habilitation, education, and therapeutic treatment, and, if not inconsistent with an order of
24 commitment, residence. Where the context plainly indicates, the term includes a "limited guardian" or a
25 "temporary guardian." The term includes a local or regional program designated by (i) the Department
26 for the Aging as a public guardian pursuant to Article 2 (§ 2.2-711 et seq.) of Chapter 7 of Title 2.2 or
27 (ii) any local or regional tax-exempt charitable organization pursuant to § 501 (c) (3) of the Internal
28 Revenue Code established to provide guardian services to incapacitated persons. Such tax-exempt
29 charitable organization shall not be a provider of direct services to the incapacitated person.30 "Incapacitated person" means an adult who has been found by a court to be incapable of receiving
31 and evaluating information effectively or responding to people, events, or environments to such an
32 extent that the individual lacks the capacity to (i) meet the essential requirements for his health, care,
33 safety, or therapeutic needs without the assistance or protection of a guardian or (ii) manage property or
34 financial affairs or provide for his or her support or for the support of his legal dependents without the
35 assistance or protection of a conservator. A finding that the individual displays poor judgment, alone,
36 shall not be considered sufficient evidence that the individual is an incapacitated person within the
37 meaning of this definition. A finding that a person is incapacitated shall be construed as a finding that
38 the person is "mentally incompetent" as that term is used in Article II, Section 1 of the Constitution of
39 Virginia and Title 24.2 unless the court order entered pursuant to this chapter specifically provides
40 otherwise.41 "Limited conservator" means a person appointed by the court who has only those responsibilities for
42 managing the estate and financial affairs of an incapacitated person as specified in the order of
43 appointment.44 "Limited guardian" means a person appointed by the court who has only those responsibilities for the
45 personal affairs of an incapacitated person as specified in the order of appointment.

46 "Property" includes both real and personal property.

47 "Respondent" means an allegedly incapacitated person for whom a petition for guardianship or
48 conservatorship has been filed.