

1998 SESSION

INTRODUCED

982901661

SENATE BILL NO. 394

Offered January 23, 1998

A BILL 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 and to amend the Code of Virginia by adding in Chapter 24 of Title 2.1 a designation for article 1 and an article numbered 2, consisting of sections numbered 2.1-373.10 through 2.1-373.14, and by adding a section numbered 37.1-134.14:1, relating to creation of a public guardian and conservator program.

Patrons—Gartlan, Barry, Howell, Martin, Mims, Saslaw, Stolle, Ticer, Whipple and Woods; Delegates: Almand, Brink, Callahan, Darner, Devolites, Dillard, Hull, Keating, Moran, Morgan, Puller, Rust, Scott, Thomas, Watts and Woodrum

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

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 reenacted and that the Code of Virginia is amended by adding in Chapter 24 of Title 2.1 a designation for article 1 and an article numbered 2, consisting of sections numbered 2.1-373.10 through 2.1-373.14, and by adding a section numbered 37.1-134.14:1 as follows:

§ 2.1-1.6. State boards.

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

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catoctin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Certified Seed Board, State
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for

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

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

CHAPTER 24.
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 or 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 a maximum staff to client ratio for the programs; adoption of procedures to be followed whenever a local or regional program approaches the maximum staff to client ratio, 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 exceeding the maximum staff to client ratio, which shall include a process for evaluating any program which has exceeded the ratio to assess the effects exceeding the ratio 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 maximum limits.

4. Establish procedures and administrative guidelines to ensure the separation of local or regional Virginia Public Guardian or 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 B2 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 or 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

306 regulation of the Department; and (v) develop a plan, in consultation with the local circuit court and
307 sheriffs where appropriate, to provide advance notice to the court when the program approaches its
308 maximum staff to client ratio in order to assure continuity of services. Volunteers shall not be counted
309 for purposes of ascertaining compliance with the staff to client ratio specified by the Department.

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

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

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

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

331 § 9-6.25:1. Advisory boards, commissions and councils.

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

334 Advisory Board for the Department for the Deaf and Hard-of-Hearing
335 Advisory Board for the Department for the Aging
336 Advisory Board on Child Abuse and Neglect
337 Advisory Board on Medicare and Medicaid
338 Advisory Board on Occupational Therapy
339 Advisory Board on Physical Therapy to the Board of Medicine
340 Advisory Board on Rehabilitation Providers
341 Advisory Board on Respiratory Therapy to the Board of Medicine
342 Advisory Board on Teacher Education and Licensure
343 Advisory Commission on the Virginia Schools for the Deaf and the Blind
344 Advisory Council on Revenue Estimates
345 Advisory Council on the Virginia Business-Education Partnership Program
346 Appomattox State Scenic River Advisory Board
347 Aquaculture Advisory Board
348 Art and Architectural Review Board
349 Board for the Visually Handicapped
350 Board of Directors, Virginia Truck and Ornamentals Research Station
351 Board of Forestry
352 Board of Military Affairs
353 Board of Rehabilitative Services
354 Board of Transportation Safety
355 Board of Trustees of the Family and Children's Trust Fund
356 Board of Visitors, Gunston Hall Plantation
357 Board on Veterans' Affairs
358 Catoctin Creek State Scenic River Advisory Board
359 Cave Board
360 Chickahominy State Scenic River Advisory Board
361 Clinch Scenic River Advisory Board
362 Coal Surface Mining Reclamation Fund Advisory Board
363 Coastal Land Management Advisory Council, Virginia
364 Commonwealth Competition Council
365 Council on Indians
366 Council on the Status of Women
367 Debt Capacity Advisory Committee

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

429 State Public Records Advisory Council
430 Statewide Independent Living Council
431 Statewide Rehabilitation Advisory Council
432 Statewide Rehabilitation Advisory Council for the Blind
433 Staunton Scenic River Advisory Committee
434 Telecommunications Relay Service Advisory Board
435 Virginia-Israel Advisory Board
436 Virginia Advisory Commission on Intergovernmental Relations
437 Virginia Advisory Council for Adult Education and Literacy
438 Virginia Coal Mine Safety Board
439 Virginia Coal Research and Development Advisory Board
440 Virginia Commission for the Arts
441 Virginia Commission on the Bicentennial of the United States Constitution
442 Virginia Correctional Enterprises Advisory Board
443 Virginia Council on Coordinating Prevention
444 Virginia Equal Employment Opportunity Council
445 Virginia Geographic Information Network Advisory Board
446 Virginia Interagency Coordinating Council
447 Virginia Military Advisory Council
448 Virginia Public Buildings Board
449 Virginia Recycling Markets Development Council
450 Virginia Technology Council
451 Virginia Transplant Council
452 Virginia Veterans Cemetery Board
453 Virginia Water Resources Research Center, Statewide Advisory Board
454 Virginia Winegrowers Advisory Board.

455 § 37.1-134.6. Definitions.

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

457 "Advance directive" shall have the same meaning as provided in the Health Care Decisions Act
458 (§ 54.1-2981 et seq.).

459 "Conservator" means a person appointed by the court who is responsible for managing the estate and
460 financial affairs of an incapacitated person; and, where the context plainly indicates, includes a "limited
461 conservator" or a "temporary conservator." *The term includes a local or regional program designated by*
462 *the Department for the Aging as a public conservator pursuant to Article 2 (§ 2.1-373.10 et seq.) of*
463 *Chapter 24 of Title 2.1.*

464 "Estate" includes both real and personal property.

465 "Guardian" means a person appointed by the court who is responsible for the personal affairs of an
466 incapacitated person, including responsibility for making decisions regarding the person's support, care,
467 health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of
468 commitment, regarding the person's residence. Where the context plainly indicates, the term includes a
469 "limited guardian" or a "temporary guardian." *The term includes a local or regional program designated*
470 *by the Department for the Aging as a public guardian pursuant to Article 2 (§ 2.1-373.10 et seq.) of*
471 *Chapter 24 of Title 2.1.*

472 "Incapacitated person" means an adult who has been found by a court to be incapable of receiving
473 and evaluating information effectively or responding to people, events, or environments to such an
474 extent that the individual lacks the capacity to (i) meet the essential requirements for his health, care,
475 safety, or therapeutic needs without the assistance or protection of a guardian or (ii) manage property or
476 financial affairs or to provide for his or her support or for the support of *his* legal dependents without
477 the assistance or protection of a conservator. A finding that the individual displays poor judgment, alone,
478 shall not be considered sufficient evidence that the individual is an incapacitated person within the
479 meaning of this subsection definition.

480 "Limited conservator" means a person appointed by the court who has only those responsibilities for
481 managing the estate and financial affairs of an incapacitated person as specified in the order of
482 appointment.

483 "Limited guardian" means a person appointed by the court who has only those responsibilities for the
484 personal affairs of an incapacitated person as specified in the order of appointment.

485 "Property" includes both real and personal property.

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

488 § 37.1-134.14:1. Eligibility for public guardian or conservator.

489 *The circuit court may appoint a local or regional program authorized by the Department for the*
490 *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, 19992000, 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.