

## 2007 Emergency Guardianship Statutes

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State & Citation	Standard for Appointment	Petition Details Required	Notice Required	Right to Hearing Pre/Post Order	Right to Counsel at Hearing	Presence at Hearing	Duration of Emergency Guardianship	Standard Of Proof
UGPPA 2007 §312 Emergency Guardian	Substantial harm to respondent's health, safety, or welfare, and no other person appears to have authority and willingness to act	Y	Y Harm exception	Y/Y	Y	NS	60 days	NS
Alabama Code S 26-2A-107 Emergency Orders; Temporary Guardians	An emergency exists, and no other person appears to have authority to act	NS	NS	NS	NS	NS	15 days 6 months if replacing appointed guardian	NS
Alaska §13.26.140 Temporary Guardians	Physical health or safety of respondent will be seriously impaired . . .Protection of respondent from serious injury, illness, or disease	Y	Y	Y/Y	NS	NS	At appointment of permanent guardian or dismissal	Clear and convincing
Arizona Rev. Stat. Ann. §14-5310	An emergency exists . . .that requires immediate action. Immediate and irreparable injury, loss or damage will result before the proposed ward can be heard in opposition.	NS		Y/Y	Y	NS	6 months	NS
Arkansas Code Ann. § 28-65-218 Temporary Appt.	Imminent danger to life or health of incapacitated person or of loss, damage, or waste to property of an incapacitated person requiring immediate appointment of a guardian	Y	NS Notice of order	N/Y	NS	NS	90 days	NS
California Prob. Code § 2250 Petition for Appointment	Any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of: (1) A temporary guardian of the person or estate or both.	Y	Y Harm exception	Y/Y	Y	Y	30 days	NS

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	(2) A temporary conservator of the person or estate or both. [No specific emergency standards listed except as to certain situations such as removal of respondent from residence.]							
Colorado Rev. St. Ann. § 15-14-312 Emergency Guardian	Substantial harm to the respondent's health, safety, or welfare, and no other person appears to have authority and willingness to act	NS	Y Harm exception	Y/Y	Y	Y	6 months	NS
Connecticut Gen. Stat. Ann. § 45a-654. Appt of Temporary Conservator	Immediate and irreparable injury to the mental or physical health or financial or legal affairs of respondent	Y	Y Harm exception	Y/Y	Y	NS	30 days; May extend 30 days additional	Clear & convincing
Delaware Code Ann. 12 §3901(d). Jurisdiction to Appoint	In danger of incurring imminent serious physical harm or substantial economic loss or expense	NS	NS	N/Y	NS	NS	30 days	NS
District of Columbia Stat. § 21-2046. Emergency Orders; Temporary Guardians	A life threatening emergency exists, and no other person appears to have authority to act	Y	Y	N/Y	Y	NS	15 days except 90 days for health care	NS
Florida Stat. Ann. 744.3031. Emergency Temporary Guardianship	Imminent danger that the physical or mental health or safety of the person will be seriously impaired or that the person's property is in	NS	NS	NS	Y	NS	90 days; May extend 90 days additional	NS

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	danger of being wasted, misappropriated, or lost unless immediate action is taken.							
Georgia Code Ann. § 29-4-14, 15 & 16 Emergency Guardians;	An immediate and substantial risk of death or serious physical injury, illness, or disease	Y	Y	Y/Y	Y	NS	60 days	Clear & convincing
Hawaii Rev. Stat. Ann. §560:5-312 Emergency Guardian	Substantial harm to the respondent's health, safety, or welfare, and no other person appears to have authority and willingness to act	NS	Y Harm exception	N/Y	Y Upon appointment	NS	90 days	NS
Idaho Code §15-5-310. Temporary Guardians	Substantial harm to alleged incapacitated person's health, safety, or welfare, and no other person appears to have authority and willingness to act	NS	Y Harm exception	N/Y	N Guardian ad litem	NS	90 days Good cause extension	NS
Illinois Ann. Stat. 755 5/11 a-4 Temporary Guardian	a showing of the necessity for the immediate welfare and protection of the alleged disabled person or his estate	NS	NS	N/N	NS	NS	60 days	Showing of necessity
Indiana Code Ann. 29-3-3-4 Emergencies; Appt. of Temporary Guardian	An emergency exists; the welfare of the incapacitated person requires immediate action; and no other person appears to have authority to act	NS	Y harm exception	N/Y if respondent files for termination or modification after temp appt	NS	NS	60 days	NS
Iowa 633.558 Appointment of Temporary Guardian	A temporary guardian may be appointed, but only after a hearing on such notice, and subject to such conditions, as the court shall prescribe. [No specific	NS	NS	As court prescribes	NS	NS	NS	NS

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	standards listed.]							
Kansas Rev. Stat. Ann. art. 30 Guardians or Conservators 59-3073 Temporary Guardian	Imminent danger to physical health or safety of proposed ward requiring immediate action to protect the proposed ward, or imminent danger that estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect estate, or both	Y	Y Notice of pre-order hearing as court directs. Harm Exception. Copy of ex parte order.	N/Y Post order hearing if requested.	NS	NS	30 days Possible extensions	NS
Kentucky Rev. Stat. Ann. 387.740 Emergency Powers of Court; Petition and Hearing on Emergency Appointment	Danger of serious impairment to health or safety of respondent or damage or dissipation to his property if immediate action is not taken.	Y	Y	Y/NS	Y	NS	NS	Clear & convincing
Louisiana Civ. Code Ann. & Code of Civ. Proc. Article. 4549 Temporary and Preliminary Interdiction	Immediate and irreparable injury, loss, or damage will result to person or property of defendant before a hearing can be held	Y	Y Notice of preliminary interdiction hearing	N/Y	Y	NS	NS	NS
Maine Rev. Stat. Ann. §5-408-A Temporary Conservator	Serious, immediate and irreparable harm to health or financial interests of person alleged to be in need of protection	Y	Y Can be oral. Harm exception.	N/Y	Y Only if contested	NS	6 months	Preponderance of the evidence
Maryland Ann. Code;	Immediate and serious physical injury or death if not immediately placed in a	Y	Y Harm exemption	Y/Y	Y	Y	NS	Clear and convincing

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§13-709 Estates and Trusts; Emergencies [authorizing provision of protective services]	health care facility, and adult is incapable of giving consent,							
Massachusetts Ann. Laws § 14. Appointment of Temporary Guardians	Welfare of [of respondent] requires immediate appointment of a temporary guardian. . . . Order shall indicate nature of the emergency requiring such appointment and particular harm sought to be avoided.	Y	N	NS Special provisions for antipsychotic medication.	Y	N/Y Only for antipsychotic medication.	NS	NS
Michigan Comp. Laws Ann. 700.5312 Court as Guardian or Appointment of Temporary Guardian	An emergency exists, and no other person appears to have authority to act	NS	Y	N/Y	NS	N	6 months For temporary guardian to replace appointed guardian.	NS
Minnesota Stat. Ann 524.5-311 Emergency Guardian	Substantial harm to respondent's health, safety, or welfare, and no other person appears to have authority and willingness to act	NS	Y Harm exception	Y/Y	Y	NS	60 days individual 90 days county	NS
Mississippi Code Ann.	No emergency guardianship statute							
Missouri Ann. Stat.	Substantial risk that serious physical harm will occur to	N	Y	Y/NS	Y	NS	30 days With extensions	NS

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475.075.11 Hearing on Capacity or Dis-ability	person or irreparable damage will occur to his property because of his failure or inability to provide for his essential human needs or to protect his property,							
Montana Code Ann 72-5-317 Temporary Guardians	An emergency exists. . .and the welfare of incapacitated person requires immediate action	NS	NS	NS	NS	NS	6 months	NS
Nebraska Rev. Stat. Temporary Guardians; power of Court. §30-2626	An emergency exists	NS	Y	Expedited hearing if requested	Y Court appointed counsel is discretionary	NS	10 days May be renewed for 90 day periods	Preponderance of the evidence
Nevada Rev. Stat. 159.0523 Physical/Medical 159.0525 Financial	Substantial and immediate risk of physical harm or need for immediate medical attention. . . or substantial and immediate risk of financial loss	Y	Y Good faith exception	N/Y	NS	NS	10 days w/ 30-day extension. Additional 2 extensions of 30-day period.	Clear and convincing
New Hampshire Rev. Stat. Ann. 464-A:12 Temporary Guardian; A:2 Definitions	Regular procedure is not appropriate . . . . “Emergency” means -- a situation such that the allegedly incapacitated person due to his or her incapacity faces a substantial risk of death or immediate serious physical or mental harm to himself or herself, or immediate serious physical harm to	Y	As court deems reasonable	Only if proposed ward opposes	Y	Y	60 days	NS

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	others; or there is a substantial risk that irreparable harm will occur to valuable property owned or controlled by the allegedly incapacitated person.							
New Jersey Stat. Ann 3B:12-24-1( c ) Determination by the Court of Need for Guardianship Services	Critical need or risk of substantial harm, including, but not limited to: (a) the physical or mental health, safety and well-being of the person may be harmed or jeopardized; (b) the property or business affairs of the person may be repossessed, wasted, misappropriated, dissipated, lost, damaged or diminished or not appropriately managed; (c) it is in the best interest of the alleged incapacitated person to have a temporary guardian appointed and such may be dealt with before the hearing to determine incapacity can be held,	Y	NS Notice of ex parte order	N/Y	Y	NS	45 days for appointments without notice; extended for good cause	NS
New Mexico Stat. Ann. §45-5-310. Temporary Guardians	Immediate and irreparable harm to the alleged incapacitated person's physical health	Y	Y Harm exception	Y/Y	Y	NS	60 days Extension for 30 additional days	NS
New York Mental Hygiene Law § 81.23 Provisional Remedies	Danger in reasonably foreseeable future to health and well being of alleged incapacitated person, or danger of waste, misappropriation, or loss of	N	Y	NS	NS	NS	Period not extend beyond appointment of perm guardian	NS

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	property of alleged incapacitated person							
North Carolina Gen. Stat. § 35A-1114 Appointment of Interim Guardian	Imminent or foreseeable risk of harm to physical well-being that requires immediate intervention	Y	Y	Y/Y	NS	NS	45 days Extension up to additional 45 days	NS
North Dakota Cet. Code 30.1-28-10 Temporary Guardians	An emergency exists; or . . . An appointed guardian is not effectively performing duties, and the court finds that the welfare of the ward requires immediate action.	N	N	NS	NS	NS	90 days	NS
Ohio Rev. Code Ann. 2111.02(B)(2) Appointment Of Guardian	Significant injury to person or estate	N	N	N/Y	NS	NS	72 hrs Extension up to 30 days	NS
Oklahoma Adult protective services – Petition for Involuntary Protective Services, Okla. Stat. 43A-10-108	A vulnerable adult is suffering from abuse, neglect, or exploitation presenting substantial risk of death or immediate and serious physical harm to the person or financial exploitation of the estate, and the vulnerable adult lacks mental capacity to consent to receive protective services and no consent can be obtained	43A OS § 10-108 applies for Adult Protective Services Emergency Guardianship.						
Oregon Rev. Stat. Temporary Fiduciaries 125.600 Appointment of Temporary	Immediate and serious danger to life or health of respondent, and welfare of respondent requires immediate action	Y	Y Harm exception; Notice must be given 2 days after appointment	N/Y If objections to appointment hearing within 2 days	NS	NS	30 days Extension up to 30 additional days	Clear and convincing

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Fiduciary								
Pennsylvania Cons. Stat. Ann. 20 § 5513 Emergency Guardian	Irreparable harm to person or estate of alleged incapacitated person	NS	NS	N/N	NS	NS	72 hrs 20 day extension for guardian of person & 30 day for estate	Clear and convincing
Rhode Island Gen. Laws § 33-15-10 Appointment of Temporary Limited Guardian or Guardian	For cause shown . . . [No specific standards listed.]	NS	Y	NS	NS	NS	Pending appointment of permanent guardian	NS
South Carolina Code Ann. § 62-5-310. Temporary Guardians	A delay caused by (1) further attempts to locate a person authorized to make health care decisions or (2) proceedings for appointment of a guardian would present a serious threat to the life, health, or bodily integrity of the incapacitated person.	Y	N	N/Y	NS	NS	6 months	NS
South Dakota Codified Laws Ann. 29A-5-315	An immediate need exists, that adherence to the regular procedures for the appointment of a guardian or conservator may result in significant harm to the person alleged to need protection or the estate, and that no other individual or entity appears to have authority to act on behalf of	NS	Reasonable notice as court orders harm exception	N/Y	NS	NS	90 days Extension for additional 90 days	NS

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	the person or estate, or that the individual or entity with authority to act is unwilling or has ineffectively exercised the authority.							
Tennessee Code Ann. §34-1-121. Powers of Courts	The court has broad discretion to require additional actions not specified in the provisions of this chapter, as it deems in the best interests of person or person's property.	No specific statutory authority but emergency authority is inferred in provision on powers of court.						
Texas Prob. Code. Ann. § 875. Temporary Guardian Procedure	Person or person's estate, or both, requires the immediate appointment of a guardian	Y	Y	Y/Y	Y	NS	60 days	Substantial evidence
Utah Code Ann. § 75-5-310. Temporary Guardian	Welfare of incapacitated person requires immediate action	NS	NS	NS	NS Court may appoint	NS	30 days	NS
Vermont Stat. Ann. Tit. 14 § 3081 Temporary guardian Pending hearing	Serious and irreparable harm to respondent's physical health or financial interests	Y	Y	Y/Y	Y	NS	90 days or when permanent guardian appointed	NS
Virginia Code Ann. § 37.2-1001 thru 1009	No specific statutory authority but emergency authority is inherent in procedures							
Washington Rev. Code Chap. 11.88. 090(9)	Protection of alleged incapacitated person from abuse, neglect, abandonment, or	Washington law does not specifically provide for emergency guardianship. However, it does allow the court-appointed guardian ad litem to act in an emergency situation.						

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Guardian ad Litem	exploitation or to address any other emergency needs of alleged incapacitated person							
West Virginia Code § 44A-2-14 Temporary Guardians and Conservators	Significant harm to person or estate, and no other individual or entity appears to have authority to act or is unwilling, or has ineffectively or improperly exercised authority.	NS	Y	N/Y	Y	NS	45 days Extension for additional 45 days	NS
Wisconsin Stat. Ann. 54.50 Temporary Guardianships	Situation, including the needs of the proposed ward's dependents, requires immediate appointment	Y	Y	Y/Y Rehearing after appointment if requested	Guardian Ad litem	NS	60 days Extension for additional 60 days. No further temp appointment for 90 days	NS
Wyoming § 3-2-106 Appointment of a Temporary or Emergency Guardian	Compliance with the procedures specified in this chapter will likely result in substantial harm to the proposed ward's health, safety or welfare, and that no other person appears to have authority and willingness to act in the circumstances	NS	Y	Y/Y	Guardian Ad litem	NS	90 days Extension for additional 90 days	Preponderance of the evidence for appointment without notice