

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
UGPPA			311(b), 409(b) Shall grant only those powers necessitated by ward's limitations 314(a), 418(b) Shall exercise authority only as necessitated by ward's limitation and shall encourage ward to participate in decisions, act on own behalf, develop or retain capacity to manage personal affairs			311(b), 409(b) Make appointive and other orders that encourage maximum self reliance and independence
Alabama Ala. Code	26-2A-105(a) Court shall encourage development of maximum self-reliance and independence	26-2A-20(7)	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	26-2A-105(c)
Alaska Alaska Stat.	13.26.090 Guardianship should be designed to encourage development of maximum self-reliance and independence	13.26.005(6) Limited guardian called "partial guardian"	13.26.150(a) Guardian carries out specific duties assigned by court: should encourage ward to participate in decision-making and regain capacity	13.26.090 Incapacitated person retains all rights except those limited by court order or specifically granted to guardian	13.26.113(e) If incapacitated person is able to perform some functions but requires guardian, shall be partial and not full guardian.	13.26.150(b)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Arizona Ariz. Rev. Stat.	14-5304(A) Court shall encourage development of maximum self-reliance and independence	<i>Not stated</i>	14-5312(A)(7) Guardian shall encourage ward's self-reliance and actively work towards terminating guardianship	<i>Not stated</i>	14-5303(B) If general guardianship is requested, must state why limited is not appropriate	14-5304(B)
Arkansas Ark. Code Ann.	28-65-105(2) Guardianship should encourage development of maximum self-reliance and independence	28-65-101	<i>Not stated</i>	28-65-106 Incapacitated person retains all rights except those limited by court or granted to guardian	<i>Not stated</i>	28-65-214; 28-65-217(b)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
<p>California Cal. Prob. Code</p> <p>“Limited conservatorship” is for developmentally disabled conservatees.</p>	<p>1801(c) Intent of Legislature is that developmentally disabled citizens receive services resulting in more independent, productive, and normal lives.</p>	<p>2351(b) Court may limit powers and duties of conservator.</p>	<p>2351.5 Limited conservator has care, custody, and control of limited conservatee. Limited conservator shall secure habilitation or treatment, training, education, medical and psychological services, and social and vocational opportunity as appropriate and as will assist in development of maximum self-reliance and independence.</p>	<p>1801 (c) Conservatee of limited conservatorship shall retain all legal and civil rights except those designated in order as legal disabilities and specifically granted to limited conservator. 2351.5 Limited conservator not have following powers unless specifically requested in petition & granted by court: fix residence; access to confidential records; consent or withhold consent for marriage/ domestic partnership; contract; give/ withhold medical consent; control social & sexual contacts; make decisions concerning education</p>	<p>1821(a)(3) Petition shall include alternatives to conservatorship considered by petitioner and reasons why those alternatives are not available.</p>	<p>2351(b) & (c) Order may state specific powers that conservator does not have, reserving powers to conservatee; or specific powers and duties conservator has, reserving to conservatee all other rights.</p>

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Colorado Colo. Rev. Stat.	15-14-311 Court shall encourage development of maximum self-reliance and independence	15-14-102(4)	15-14-314 Guardian shall exercise authority only as necessary and shall encourage the ward to participate in decisions	<i>Not stated</i>	15-14-304(2)(h) If seeking unlimited partnership, must indicate why limited is not appropriate	15-14-110(3)
Connecticut Conn. Gen. Stat.	<i>Not stated</i>	<i>Not stated</i>	45a-656(b) Shall carry out duties and authority in least restrictive manner; assist in achieve self reliance and independence, ascertain views, make decisions in conformance with preferences, efforts to ascertain health care wishes, opportunity to meaningfully participate in decision making	45a-650(k) Shall retain all rights not expressly assigned to the conservator	<i>Not stated</i>	45a-650(1) Court shall assign only duties and authority that are least restrictive means of intervention. Must find clear and convincing evidence for each duty and authority assigned
Delaware Del. Code Ann. tit. 12	<i>Not stated</i>	<i>Not stated</i>	3921 Guardian has either care or possession and management of all property, or both, except as court directs 3922 (a) Guardian powers and duties necessary to protect, manage, care. Court may at anytime change powers	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
District of Columbia D.C. Code	21-2044(a) Court shall encourage development of maximum self-reliance and independence	<i>Not stated</i>	21-2047(b)(6) Guardian may delegate to ward certain responsibilities	21-2004 Ward shall retain all rights and abilities except those limited in order	<i>Not stated</i>	21-2044(c)
Florida Fl. Stat.	744.1012 Court shall encourage development of maximum self-reliance and independence	744.102(9)(a)	744.361.(1) Guardian may exercise only those rights delegated to him	744.44(6) Incapacitated person retains all legal rights except those specifically granted to guardian 744.3215	<i>Not stated</i>	744.344; 744.345
Georgia Ga. Code Ann.	29-4-1(f) Guardianships shall encourage maximum self-reliance and independence and be ordered only to the extent necessitated	<i>Not stated</i>	29-4-22(a) Guardian shall encourage ward to participate in decision-making and to develop or retain capacities 29-4-20(a)(6)(7) parallel provision	29-4-12(d)(5) Court determines ward's retained rights.	<i>Not stated</i>	29-4-13(a)(3)
Hawaii Haw. Rev. Stat	560:5-311 Court shall make orders that Encourage self-reliance and independence	5600:5-102	560:5-314(a) Guardian exercises only authority that is necessitated, encourages ward to participate in decision-making, act on own behalf, and regain capacity 560:5-315(a)(6) guardian may delegate authority to ward	<i>Not stated</i>	560:5-403(c)(3) If unlimited guardianship requested, must indicate why limited one is inappropriate	560:5-409(b)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Idaho Idaho Code Ann	15-5-303(a) Court must encourage incapacitated person to participate as fully as possible in decisions. 15-5-408(a) encourage self-reliance and independence	15-1-207(7)	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	15-5-408(c)
Illinois 755/5 Ill. Comp. Stat.	5/11a-3(b) Guardianship ordered only to the extent necessitated	<i>Not stated</i>	5/11a-3(b) Guardianship ordered only to the extent necessitated	5/11a-14(a) Guardianship order removes only authority specifically conferred	5/11a-12(b) Court must first consider a limited guardianship	5/11a-12(c)
Indiana Ind. Code	29-3-5-3(b) Court should encourage self-improvement, self-reliance and independence of incapacitated person 29-3-4-3	29-3-1-6	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	29-3-8-8
Iowa Iowa Code	<i>Not stated</i>	<i>Not stated</i>	633.635(1) Court may grant guardian the duty of assisting ward in developing maximum self-reliance and independence	633.635 All other responsibilities not stated in order are retained by ward	633.551(1) 633.556(2) Court shall consider if limited guardianship is appropriate	<i>Not stated</i>

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Michigan Mich. Comp. Laws	700.5306(1) Court designs guardianship to encourage maximum self-reliance and independence	700.1104(1)	700.5314 Guardian shall consult with legally incapacitated individual before making major decisions	<i>Not stated</i>		700.5306(2)
Minnesota Minn. Stat.	524.5-310(c) Court shall make orders that encourage ward's maximum self-reliance and independence	524.5-102(5)	524.5-310(c) Guardian granted only those powers necessitated by ward's limits and needs	524.5-310(c) Ward retains any power not granted to the guardian	524.5-303(b)(9) Unlimited guardianship petition must state why limited guardianship is inappropriate	524.5-110
Mississippi Miss. Code Ann.	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>
Missouri Mo. Rev. Stat.	475.080(1) Court shall design guardianship to encourage development of maximum self-reliance and independence	475.010(6)	475.120(2) Limited guardian shall act in the best interest of the ward	<i>Not stated</i>	<i>Not stated</i>	475.080(1); 475.0075(10)
Montana Mont. Code Ann.	72-5-306 Guardianship should encourage development of maximum self-reliance and independence	72-5-305(3)	72-5-321(1) Powers and duties of limited guardian are specified in order. The limited guardian is required to report the condition of the incapacitated person	72-5-306 Incapacitated person retains all rights except those limited by the court	<i>Not stated</i>	72-5-316(2)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Nebraska Neb. Rev. Stat.	30-2601.02 Intent is to encourage least restrictive alternative and use of limited guardianships	30-2601(6)	30-2620 Court shall specify guardian's authorities and responsibilities	30-2620 Court shall specify ward's authorities and responsibilities	30-2620 Guardianship shall be limited unless court finds full guardianship is necessary	30-2620
Nevada Nev. Rev. Stat.	<i>Not stated</i>	159.026 "Special guardian" is a guardian of a person of limited capacity.	159.0795 Special guardian shall operate in least restrictive manner and has powers set out in order and any other necessary emergency powers	<i>Not stated</i>	<i>Not stated</i>	159.055(2)(a) Order must specify type of guardian appointed
New Hampshire N.H. Rev. Stat. Ann.	464-1:1 Purpose of law is to encourage maximum self-reliance	<i>Not stated</i>	464-A:25(h) Guardian shall safeguard rights of ward and restrict freedom only to extent necessary	<i>Not stated</i>	<i>Not stated</i>	464-A:11(II)(d)
New Jersey N.J. Stat. Ann.	<i>Not stated</i>	<i>Not stated</i>	3B:12-48 Guardian has powers conferred by law except as limited by judgment	<i>Not stated</i>	<i>Not stated</i>	3B:12-37
New Mexico N.M. Stat.	45-5-301.1 Guardianship designed to encourage maximum self-reliance and independence	45-4-101(N)	45-5-312 Court specifies limited guardian's powers	45-5-301.1	<i>Not stated</i>	45-5-308(C)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
New York N.Y. Mental Hyg. Law	81.01 Persons with incapacities should have available least restrictive form of guardianship 81.16	<i>Not stated</i>	81.20(7) Guardian shall afford incapacitated person greatest amount of independence. 81.22(a)	81.29(a) Incapacitated person retains all powers and rights except those granted to guardian	<i>Not stated</i>	81.15; 81.20(a)(1)
North Carolina N.C. Gen. Stat.	35A-1201(5) Guardianship should allow incompetent person to exercise rights and participate in decisions to extent possible	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	35A-1215(b) Guardianship order may state ward's retained rights and privileges; Order of limited guardianship includes findings regarding ward's incompetence and need for a guardian
North Dakota N.D. Cent. Code	30.1-28-04 Guardianship shall be consistent with maximum self-reliance and independence of incapacitated person 30.1-29-08	30.1-01-06	30.1-28-12 Guardian shall safeguard ward's rights and autonomy to fullest extent possible	30.1-28-04 Court may find that ward retains other specific rights	<i>Not stated</i>	30.1-28-04 & 30.1-28-05(3)
Ohio Ohio Rev. Code Ann.	<i>Not stated</i>	2111.01(A)	<i>Not stated</i>	2111.02(B)(1) Incompetent retains all rights in areas not subject to order	<i>Not stated</i>	2111.02(B)(1)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Oklahoma Okla. Stat. tit. 30	30-1-103(B) Court shall encourage development of maximum self-reliance and independence	30-1-111(16)(a)	30-1-103(B) Guardian shall encourage ward to participate in decision-making and regain capacity 30-3-114	<i>Not stated</i>	<i>Not stated</i>	30-1-120(B); 30-3-113(B)
Oregon Or. Rev. Stat.	125.300(1) Guardianship must be designed to encourage development of maximum self-reliance and independence 125.305(2)	<i>Not stated</i>	125.315(a) Guardian has custody of protected person except to extent limited by order	125.300(3) Protected person retains all rights except those expressly limited by order	<i>Not stated</i>	<i>Not stated</i>
Pennsylvania Pa. Con. Stat.	5502 Intent to establish system permitting incapacitated persons to participate as fully as possible, develop abilities, through least restrictive alternative	<i>Not stated</i>	5521(a) Guardian shall encourage person to participate in decisions, to act on own behalf, and to develop or regain capacity to manage affairs	5512.1(g) Except in areas designated in order, partially incapacitated person shall retain all legal rights	5512.1(a) Court shall prefer limited guardianship	5512.1(b)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Rhode Island R.I. Gen. Laws	33-15-1 Intent to make available least restrictive form of guardianship and allow incapacitated persons to participate in decision-making. Court must strike delicate balance between protection and preserving liberty, property, privacy interests	<i>Not stated</i>	33-15-4(a)(1) and 33-15-29 Court shall limit guardian's scope to terms best suited to allow incapacitated person to participate in decision-making and guardian operates only in areas where needed	33-15-4(a)(1) Individual for whom guardian is appointed shall retain all rights except those specifically suspended by the order	33-15-4(a)(1) Must be limited unless court finds totally incapacitated	33-15-4(a)(1); 33-15-8 Shall clearly state that is limited guardianship
South Carolina S.C. Code Ann.	62-5-204(A) Court shall encourage development of maximum self-reliance and independence	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	62-5-304(C)
South Dakota S.D. Codified Laws	29A-5-312 Court shall consider the development of person's maximum self-reliance and independence	29A-5-102(7)	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	29A-5-314
Tennessee Tenn. Code Ann.	34-1-127 Court has affirmative duty to impose least restrictive alternatives	<i>Not stated</i>	<i>Not stated</i>	34-3-107(2) Disabled person retains all powers not specifically removed	34-3-107(2) To extent not specifically removed, person retains powers	34-3-107(2), 34-1-129

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Texas Tex. Prob. Code Ann.	602 Court shall design guardianship to encourage development of maximum self-reliance and independence	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	693(b)
Utah Utah Code Ann.	<i>Not stated</i>	<i>Not stated</i>	75-5-312(1) Guardian only has powers, rights and duties granted in the order of appointment	<i>Not stated</i>	75-5-304(2) Court shall prefer a limited guardianship	75-5-312(1)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Vermont Vt. Stat. Ann. tit. 14	3060 Used only as necessary to protect from violations of civil rights. Designed to encourage development of maximum self reliance and independence; only the least restrictive form of guardianship ordered, and only to extent required by actual mental and adaptive limitations 3061 Limited guardianship available only for adults who are "mentally disabled" (either mentally ill or developmentally disabled)	3069(d) Guardian has been granted some but not all guardianship powers	3069(c) Court shall specify which of following powers guardian shall have: (1) exercise general supervision over person; (2) give or withhold consent to medical or dental treatment (with limitations); (3) exercise general financial supervision; (4) approve or withhold approval of contracts; (5) approve or withhold approval of sale of real property; (6) obtain legal advice and commence or defend against court actions.	3068a Retains legal and civil rights guaranteed under VT and U.S. constitutions and laws; right to participate in decisions made by guardian and have personal preferences followed; right to retain attorney and to communicate with counsel, court, ombudsmen, advocates. 3069(f) Person for whom guardianship granted retains all powers listed in 3068(c) except those specifically granted to limited guardian	3069(c) Court shall grant powers to guardian in least restrictive manner appropriate to circumstances; guardianship ordered only to extent required by respondent's limitations.	3069 (c) Court shall specify which powers guardian shall have and may further restrict each power.

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Virginia Va. Code Ann.	<i>Not stated</i>	37.2-1000	37.2-1000 Has only those responsibilities for personal affairs as specified in order	<i>Not stated</i>	<i>Not stated</i>	37.2-1009 Specify if limited to length of time, any legal disabilities, include any appropriate limitations. May appoint limited guardian to address some essential requirements for care, medical decision making, residence, or specific personal affairs
Washington Wash. Rev. Code	11.88.005 Intent to protect liberty and autonomy of incapacitated persons and should be restricted to the minimum extent necessary	<i>Not stated</i>	<i>Not stated</i>	11.88.010(2) Incapacitated person should not be presumed to lose any rights except those listed in order	<i>Not stated</i>	11.88.095
West Virginia W. Va. Code	44A-2-10 Court shall consider the development of maximum self-reliance and independence and shall choose least restrictive guardianship	44A-1-4(a)	44A-3-1 Guardian shall exercise authority only to extent necessary, encourage protected person to participate in decision-making, and shall consider his values/desires	<i>Not stated</i>	<i>Not stated</i>	44A-2-13(b)

Limited Guardianship of the Person
(As of statutory revisions December 31, 2008)
AARP Public Policy Institute

<u>State</u>	<u>Policy Statement</u>	<u>Limited Guardianship Defined</u>	<u>Guardian's Powers/Limits</u>	<u>Personal Rights Retained</u>	<u>Preference for Limited Guardianship</u>	<u>Order Specifies Limits</u>
Wisconsin Wis. Stat.	54.10(d) Court shall authorize guardian to exercise only necessary powers in least restrictive form	<i>Not stated</i>	54.25(2)(d)(3) Guardian shall place least possible restriction on ward's liberty and promote integration of ward into society 54.18(1)	54.18(1) Ward retains all rights not assigned to guardian	<i>Not stated</i>	54.25(2)
Wyoming Wyo. Stat. Ann.	<i>Not stated</i>	3-1-101(xi)	<i>Not stated</i>	3-1-206(a)(i) Ward shall have right to least restrictive guardianship	<i>Not stated</i>	3-2-104(b)(iv)