

**Representation and Investigation in Guardianship Proceedings**  
**(as of statutory revisions December 31, 2008)**

<u>State</u>	<u>Right to Counsel</u>	<u>Counsel Role</u>	<u>Guardian Ad Litem</u>	<u>Visitor</u>	<u>Medical Documentation/ Evaluation</u>
<b>UGPPA</b>	<b>305(b), 406(b)</b> Alt 1: If requested by respondent, recommended by visitor, or court determines need for representation Alt. 2: Shall appoint		<b>115</b> If representation is otherwise inadequate	<b>305(a), 406(a)</b> Shall appoint a visitor , training and experience in alleged incapacity <b>305(c), 406(e)</b> Visit, interview in person; explain petition, proceeding, rights, powers of guardian, determine views, inform of right to counsel, cost paid from estate; visit dwelling; obtain info from physician; investigate; file a report to court	<b>306</b> May order professional evaluation and shall if respondent demands; must be examine by physician, psychologist or other qualified person, file written report
<b>Alabama:</b> Code	<b>26-2A-135(b)</b> shall appoint attorney	<b>26-2A-135(b), 26-2A-102(b)</b> may be GAL	<b>26-2A-52 26-2A-102(b)</b> court representative	<b>26-2A-102(b)</b> court representative interviews ward and petitioner, visits present and proposed abode	<b>26-2A-102(b)</b> must be examined by a physician or other qualified person and submit a written report
<b>Alaska:</b> Statute	<b>13.26.106(b)</b> entitled, shall appoint Office of Public Advocacy if no funds	<b>13.26.111</b> represent zealously, determine interest, personally interview, explain rights	<b>13.26.112</b> upon request, may appoint GAL	<b>13.26.106(c)</b> visitor arranges evaluations, interviews respondent & proposed guardian <b>13.26.108</b> visitor's report includes affidavit on process	<b>13.26.106(c)</b> expert has expertise in alleged incapacity
<b>Arizona:</b> Rev. Stat. Ann.	<b>14-5303(C)</b> Shall appoint. May discharge after guardian appointed if no longer necessary based on specific findings	<i>Not stated</i>	<b>14-5303(C)</b> investigator	<b>14-5303</b> investigator interviews respondent, proposed guardian, visits present, proposed residence, caregiver	<b>14-5303(C)</b> functional assessment by physician, psychologist or RN

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<b>Arkansas:</b> Code Ann.	<b>28-65-213(a)(1)</b> entitled	<i>Not stated</i>	<b>28-65-207(c)(3)</b> GAL not necessary in each case	<i>Not stated</i>	<b>28-65-211(b)(1)</b> sworn statement by 1 or more qualified medical witnesses with expertise in alleged incapacity <b>28-65-212</b> professional evaluation
<b>California:</b> Prob. Code	<b>1823(b)(6)</b> entitled; right to	<i>Not stated</i>	<b>1833</b> <b>1826</b> court investigator	<b>1826</b> interview respondent, inform of rights; determine attendance at hearing, if contests or objects, wants counsel; review allegations in petition	<b>1801(e)</b> medical evidence & specific impairments
<b>Colorado:</b> Rev. Stat. Ann.	<b>15-14-305(2)</b> appoint if request <b>15-14-305(3)(c)</b> Right to lawyer; right to request court-appointed lawyer	<i>Not stated</i>	<b>15-14-115</b>	<b>15-14-305 (1) &amp; (3)</b> meet respondent, explain rights, interview proposed guardian, visit new/old abode, interview dr. or care provider	<b>15-14-306</b> Court may order evaluation by physician, psychologist, other qualified individual
<b>Connecticut:</b> Gen. Stat. Ann.	<b>45a-649a(a)</b> Right to be represented <b>45a-649a(b)</b> if indigent shall appoint	<b>45a-649a(c)</b> Represent, consult on bringing appeal, not obligated to represent on appeal <b>45a-649a(f)</b> not accept appointment as guardian ad litem or conservator	<i>Not stated</i>	<i>Not stated</i>	<b>45a-650(c)</b> statement by 1 or more physicians who have examined respondent; may also consider summary of functioning, availability of support services, evaluations from other professionals
<b>Delaware:</b> Code Ann. tit. 12	<b>12 3901(c)</b> entitled to representation	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>

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<b>District of Columbia:</b> Code Ann.	<b>21-2041(h)</b> shall appoint	<b>21-2033(b)</b> Zealously represent interests of individual	<b>21-2033(a)</b> May appoint to assist respondent in determining interest. Not fact finder, investigator or ombudsman	<b>21-2033(c)</b> before hearing	<b>21-2041(d)</b>
<b>Florida:</b> Stat. Ann.	<b>744.331(2)(a), 744.3215(1)</b> shall appoint	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<b>744.331(3)(a)</b> 3-member examining committee; attending dr. may not be member, each shall examine
<b>Georgia:</b> Code Ann.	<b>29-4-11(c)</b> right to court appointment unless retained	<i>Not stated</i>	<b>29-4-11</b> upon motion by any interested party or court's own motion	<i>Not stated</i>	<b>29-4-11(d)</b> physician, psychologist or licensed clinical social worker
<b>Hawaii:</b> Rev. Stat.	<b>560:5-305(b)</b> if request, recommended by kokua kanawai, or court determines is needed	<i>Not stated</i>	<b>560:5-115</b> at any stage if interests inadequately represented	<b>560:5-102, -305(c), -406(c)</b> may appoint kokua kanawai officer to explain, determine views, costs, interview petitioner and proposed guardian, visit dwelling, get information from physician	<b>560:5-306, -406</b> may request by physician, psychologist & other qualified, shall if demanded by respondent
<b>Idaho:</b> Code	<b>15-5-303(b)</b> shall appoint attorney	<b>15-5-303(b)</b> attorney with GAL duties	<b>15-5-315</b> GAL conducts independent investigation, reports results, makes recommendation, acts as advocate, general representation of ward, negotiates, monitors <b>15-5-308(3)</b> GAL and visitor must be separate and independent	<b>15-5-303(b)</b> visitor shall interview petitioner, respondent, proposed guardian, visit both abodes	<b>15-5-303(b)</b> physician & visitor, mental health professional

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<b>Illinois:</b> 75/5 Ill. Comp Stat.	<b>5/11a-10(b)</b> appointed if requested or respondent adverse to GAL <b>5/11a-11(a)</b> entitled to representation	<i>Not stated</i>	<b>5/11a-10(a)</b> shall appoint, report on best interests, observe, inform of rights		<b>5/11a-11(c)</b> 1 or more independent experts
<b>Indiana:</b> Code Ann.	<b>29-3-5-1(c)</b> may appoint	<i>Not stated</i>	<b>29-3-2-3(a)</b> shall appoint if not represented	<i>Not stated</i>	<i>Not stated</i>
<b>Iowa:</b> Code Ann.	<b>633.561(1)(a);</b> <b>633.575(1)(a)</b> court shall appoint attorney	<i>Not stated</i>	<b>Iowa R. Civ. Pro. 14</b>	<i>Not stated</i>	<i>Not stated</i>
<b>Kansas:</b> Rev. Stat. Ann.	<b>59-3063(3)</b> shall appoint	<i>Not stated</i>	<i>Not stated</i>	<b>59-3065</b> may order investigation and report on family relationships, past conduct, nature & extent of property or income, if likely to injure self or others, other matters	<b>59-3064</b> shall order exam and evaluation at hospital, psychiatric hospital, community mental health, community DD, private physician, psychiatrist, psychologist, other qualified professional
<b>Kentucky:</b> Rev. Stat. Ann.	<b>387.560(1)</b> shall appoint	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<b>387.540(1)</b> interdisciplinary evaluation by physician, psychologist & social worker
<b>Louisiana</b> Civ. Code Ann.; Code of Civ. Pro.; Rev. Stat. Ann.	<b>CCP Art. 4544</b> shall appoint	<b>CCP 4544(B)</b> Personally visit respondent; discuss allegations, relevant facts, law, rights & options	<i>Not stated</i>	<i>Not stated</i>	<b>CCP 4545</b> may appoint examiner with training & experience in type of infirmity alleged

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<b>Maine:</b> Me. Rev. Stat. Ann. tit. 18	<b>18-A 5-303(b)</b> shall appoint 1 or more: attorney, GAL or visitor; must appoint attorney if respondent wishes to object	<i>Not stated</i>	<b>18-A 5-303(b)</b> appointment when necessary	<b>18-A 5-303(b)</b> shall interview respondent, proposed guardian; explain petition/proceeding, indicate need for counsel	<b>18-A 5-303(b)</b> physician or licensed psychologist
<b>Maryland:</b> Code Ann., Est. & Trusts; MD Rules	<b>13-705(d)</b> shall appoint	MD Rules Attorney is advocate	<i>Not stated</i>	MD Rules Independent investigator, not an attorney, may be appointed if necessary	<b>R73(b)(1)</b> 2 physicians, or physician and psychologist
<b>Massachusetts:</b> Gen. Laws ch.	<i>Not stated</i>	<i>Not stated</i>	<b>201 34</b>	<i>Not stated</i>	<b>201 6</b> physician, psychologist , certified psychiatric nurse clinical specialist
<b>Michigan:</b> Comp. Laws Ann.	<b>700.5304(5)</b> entitled to counsel <b>700.5305(3) &amp; (4)</b> shall appoint if contests petition or proposed guardian, seeks limits on order; or if guardian ad litem recommends	<i>Not stated</i>	<b>700.5303(2)</b> <b>700.5305</b> shall appoint	<i>Not stated</i>	<b>700.5304(1)</b> physician or mental health professional
<b>Minnesota:</b> Stat. Ann.	<b>524.5-304(b) &amp; 406(b)</b> shall appoint immediately if not provided unless respondent waives right via visitor	<b>524.5-304(b) &amp; 406(b)</b> consult; have time to prepare; representation continues until appeal expires	<b>524.5-115</b> may appoint at any stage if other representation inadequate	<b>524.5-304(a) &amp; 406(a)</b> may appoint; <b>404(c) &amp; 406(c)</b> personally serve notice; offer to read petition; interview in person; explain substance, rights; obtain view on guardian, duties, scope; explain right to attorney & that costs come from estate	<b>524.5-304(f)</b> co. social service agency may create screening committee to determine if less restrictive alternative
<b>Mississippi:</b> Code Ann.	<i>Not stated</i>	<i>Not stated</i>	<b>93-13-255</b> may appoint, shall be present, present interest of respondent	<b>93-13-255</b> before hearing	<b>93-13-255</b> 2 physicians, personal exam

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<b>Missouri:</b> Ann. Stat.	<b>475.075(3)</b> court shall appoint	<b>475.075(3)</b>	<i>Not stated</i>	<i>Not stated</i>	<b>475.075(4)</b> court may direct that respondent be examined
<b>Montana:</b> Code Ann.	<b>72-5-315(2)</b> may have counsel of own choice or appointed counsel; or court may order Public Defender to assign counsel	<b>72-5-315(2)</b> has duties of GAL	<b>72-5-314(2)</b> representation by GAL not necessary	<b>72-5-315(3)</b> special court appointee shall interview respondent, petitioner, proposed guardian, visit present and proposed abode	<b>72-5-315(3)</b> shall be examined by court appointed physician
<b>Nebraska:</b> Rev. Stat.	<b>30-2619(b)</b> court may appoint if person indicates a desire for an attorney	<i>Not stated</i>	<b>30-2619(b)</b> court may appoint, advocates for best interest	<b>30-2619.01</b> visitor evaluates incapacity, shall interview proposed guardian, service agencies, respondent, visit present and proposed abode	<b>30-2619(c)</b> may be examined by court appointed physician
<b>Nevada:</b> Rev. Stat.	<b>159.0485</b> court shall appoint legal aid or private attorney if unable to retain & requests	<i>Not stated</i>	<b>159.0455</b> may appoint, order sets duties	<b>159.046</b> may appoint investigator to locate needed services & resources available, competing interests, allegations or claims	<b>159.044(2)(j)</b> certificate by physician
<b>New Hampshire:</b> Rev. Stat. Ann.	<b>464-A:6</b> absolute, unconditional right	<i>Not stated</i>	<b>464-A:41</b> may appoint if rights are not fully represented; shall appoint if requested	<i>Not stated</i>	<i>Not stated</i>
<b>New Jersey:</b> Stat. Ann.	<b>3B:12-24.1( c )(5)</b> attorney appointed by court for temporary guardianship	<i>Not stated</i>	<i>Not stated</i>	<i>Not stated</i>	<b>3B:12-24.1(d)</b> Physicians & psychologists
<b>New Mexico:</b> Stat. Ann.	<b>45-5-303(C)</b> <b>45-5-309(c)</b> court shall appoint if not represented	<i>Not stated</i>	<b>45-5-303.1</b> shall interview respondents; review medical and visitor reports	<b>45-5-303(E)</b> shall appoint a visitor to interview respondent, proposed guardian, present and proposed abode, evaluate needs	<b>45-5-303(D)</b> shall be examined by qualified health care professional appointed by the court

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<b>New York:</b> Mental Hyg. Law	<b>81.10</b> shall have right to chose counsel if choice is freely and independently made; court appoints counsel if requested, contested, need major medical decision, temporary power requested, conflict of interest, if helpful	<i>Not stated</i>	<i>Not stated</i>	<b>81.09</b> shall appoint court evaluator, interview respondent & petitioner, explain rights, proceeding, evaluate need for counsel, if understands English	<b>81.09</b> court evaluator, including mental hygiene legal service in the judicial department where the person resides, a not-for-profit corporation, an attorney-at-law, physician, psychologist, accountant, social worker, or nurse
<b>North Carolina:</b> Gen. Stat.	<b>35A-1107</b> entitled to counsel of own choice; an attorney shall be appointed unless respondent retains own counsel	<b>35A-1107</b> has duties of GAL	<b>35A-1107</b> shall personally visit, make every reasonable effort to determine respondent's wishes; present respondent's express wishes; may make recommendations as to best interest if differ from express wishes; shall consider limited guardianship; shall recommend rights, powers, privileges to be retained	<i>Not stated</i>	<b>35A-1111</b> multi-disciplinary evaluation
<b>North Dakota:</b> Cent. Code	<b>30.1-28-03</b> shall appoint attorney to act as GAL	<b>30.1-28-03</b> Act as guardian ad litem, interview, explain rights and proceeding.	<i>Not stated</i>	<b>30.1-28-03(3)</b> shall appoint, Interview proposed guardian and ward, ascertain views, visit present abode, prepare alternative resource plan	<b>30.1-28-03(3)</b> ct appointed physicians or psychologist

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<b>Ohio:</b> Rev. Code Ann.	<b>2111.02(C)(7)(a)</b> right to be represented by counsel of choice <b>2111.02( C )(7)(d)</b> right to have counsel appointed at court expense if indigent	<i>Not stated</i>	<i>Not stated</i>	<b>2111.041</b> shall require a probate court investigator; investigate circumstances of alleged incapacity, communicate with alleged incapacitated	<b>2111.031</b> physicians or other qualified persons
<b>Oklahoma:</b> Stat. Ann. tit. 30	<b>30-3-107</b> court may appoint attorney; may be public defender; if respondent present & after explanation requests attorney or if court determines in best interest, court shall appoint attorney	<i>Not stated</i>	<b>30- 1-117(B)</b> any person or court on own may file for appointment of GAL <b>30 3-106.1</b> ct. may appoint volunteer advocate or GAL who advocates objectively for best interest	<i>Not stated</i>	<b>30 3-108</b> Court on its own motion or at request of any party where capacity of person is material issue. Physician, psychologist, or social worker.
<b>Oregon:</b> Rev. Stat.	<b>125.070(2)(e)(A)</b> right to be represented by attorney	<i>Not stated</i>	<i>Not stated</i>	<b>125.150</b> court shall appoint officer of court or special appointee; shall exercise powers of guardian; shall interview proposed guardian, respondent where located; may interview caregiver, physician; must be present at hearing	<i>Not stated</i>
<b>Pennsylvania:</b> Cons. Stat. Ann.	<b>20-5511(a)</b> shall be appointed in appropriate cases	<i>Not stated</i>	<b>20-5511(a)(2)</b> shall not be necessary	<b>20-5511(d)</b> shall on good cause shown have independent evaluation	<b>20-5518</b> individuals qualified by training & experience in evaluating incapacity

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<b>Rhode Island:</b> Gen. Laws	<b>33-15-7(d), (e)</b> Court shall appoint if wishes to contest, limit powers, object to person nominated as guardian, if requests, if GAL determines in best interest	<i>Not stated</i>	<b>33-15-7(c)</b> shall be appointed, personally visit, explain purpose and effect, explain procedure and rights, name of petitioner, review decision making assessment tool, petition and notice; interview proposed guardian; make determinations on wishes as to presence, object, limits, and counsel.	<i>Not stated</i>	<b>33-15-4</b> physician must complete decision making assessment tool found in 33-15-47
<b>South Carolina:</b> Code Ann.	<b>62-5-303(6)</b> court shall appoint unless has own counsel	<b>62-5-303(b)</b> has duties of guardian ad litem	<i>Not stated</i>	<b>62-5-303(b)</b> court shall send visitor to observe conditions <b>62-5-308</b>	<b>62-5-303(b)</b> shall be examined by 2 examiners; one of which shall be a physician
<b>South Dakota:</b> Codified Laws Ann.	<b>29A-5-309</b> court shall appoint if requested, contested, needed	<i>Not stated</i>	<i>Not stated</i>	<b>29A-5-309</b> If no counsel, shall appoint court representative to investigate and make recommendation on or order person to attend. <b>29A-5-310</b> shall interview petitioner, proposed guardian, respondent; explain notice and make report to court on need for protection	<b>29A-5-306</b> evaluation of mental and physical condition

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<b>Tennessee:</b> Code Ann.	<b>34-1-125</b> shall appoint attorney ad litem on recommendation of GAL, or if necessary to protect rights or interests <b>34-3-106</b> right to have attorney ad litem appointed	<b>34-1-125</b> advocate in resisting requested relief	<b>34-1-107</b> court shall appoint unless represented by adversary counsel, waive if best interest, verify notice, consult in person, explain rights, determine if proposed guardian is appropriate, investigate capability, if property guardianship investigate nature of property, fiduciary, and management plan	<i>Not stated</i>	<b>34-1-105</b> physician or psychologist
<b>Texas:</b> Prob. Code Ann.	<b>646</b> shall appoint attorney ad litem	<b>647</b> interview proposed ward, discuss laws and options	<b>645</b> may be appointed by judge	<b>648</b> shall operate visitor program	<b>686</b> medical, psychological, intellectual records <b>687</b> physician; if mental retardation, physician or psychologist
<b>Utah:</b> Code Ann.	<b>75-5-303(4)</b> court shall appoint if none	<b>75-5-303(4)</b> has powers of GAL	<i>Not stated</i>	<b>75-5-303(3)</b> may appoint, may be GAL; visit current and proposed residence; interview petitioner and incapacitated person	<b>75-5-303(3)</b> may be examined by court doctor

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<b>Vermont:</b> Stat. Ann. tit. 14	<b>14-3065(a)</b> shall appoint; may appoint in any subsequent proceeding	<b>14-3065(b)</b> consult and explain meaning of proceeding; act as advocate; may not substitute own judgment for that of respondent; distinct from role of GAL; endeavor that wishes of respondent are heard; show that no least restrictive alternative; make sure proper due process is followed, no rights waived without consent	<b>14-3066</b> on motion by counsel or court may on its own motion	<i>Not stated</i>	<b>14-3067(b)</b> Shall order assessment by person with specific training and demonstrated competence <b>14-3067(c)</b> Specific content of assessment
<b>Virginia:</b> Code Ann.	<b>37.2-1006</b> right to representation, may appoint on request of GAL, respondent or if court determines is needed	<i>Not stated</i>	<b>37.2-1003</b> shall appoint, personally visit, advise of rights, investigate petition	<i>Not stated</i>	<b>37.2-1005</b> physician or psychologist; professionals skilled in assessment & treatment of alleged conditions
<b>Washington:</b> Rev. Code Ann.	<b>11.88.045(1)(a)</b> right to be represented by willing counsel of choice, shall appoint when cannot afford	<b>11.88.045(1)(b)</b> advocate; shall act of distinct from GAL	<b>11.88.090(2)</b> expected to promote best interests	<i>Not stated</i>	<b>11.88.045(4)</b> physician or psychologist
<b>West Virginia:</b> Code	<b>44A-2-7(a)</b> shall appoint	<b>44A-2-7(b)</b> extensive list of duties	<i>Not stated</i>	<i>Not stated</i>	<b>44A-2-3</b> Physician or psychologist

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<b>Wisconsin:</b> Stat. Ann.	<b>54.42(1)(c)</b> Shall appoint if proposed ward requests, ward opposes petition or court determines required	<b>54.42(1)(b)</b> advocate for expressed wishes of proposed ward	<b>54.40(i)</b> court shall appoint GAL	<i>Not stated</i>	<b>54.36</b> licensed physician or psychologist
<b>Wyoming:</b> Stat.	<b>3-1-205(a)(iv)</b> if ordered by court	<i>Not stated</i>	<b>3-1-205(a)(iv)</b> right to GAL	<i>Not stated</i>	<i>Not stated</i>

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