

State Laws Affecting the Voting Rights of People with Mental Disabilities¹

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
ALABAMA	<p>No person who is mentally incompetent shall be qualified to vote, unless the disability has been removed. ALA. CONST. art. 8, § 177(b).</p> <p>Persons disqualified under the Constitution are not entitled to vote. ALA. CODE § 17-3-9.</p>	<p>In a limited guardianship, the partially incapacitated person retains all legal rights which the court has not seen fit to delegate to the limited guardian. Comment to ALA. CODE § 26-2A-105.</p>	<p>Consumers of mental health services have the same general rights as other citizens of Alabama, including the right to vote and participate in the political process. ALA. CODE § 22-56-4(a)(5).</p>	<p>Persons with developmental disabilities and traumatic brain injury have the right to vote and participate in the political process, subject to applicable laws. ALA CODE § 38-9C-4(7).</p> <p>Persons with developmental disabilities and traumatic brain injury are presumed competent until a court determines otherwise. ALA. CODE § 38-9C-4(5).</p>
ALASKA	<p>No person may vote who has been judicially determined to be of “unsound mind” unless the disability has been removed. ALASKA CONST. art. 5, § 2.</p> <p>The judicial determination of unsoundness of mind necessary to disqualify a mentally impaired individual from voting must be specifically raised in a guardianship hearing or raised in a separate proceeding. 1992 Alaska Op. Atty. Gen. (Inf.) 123, Aug. 28, 1992.</p>	<p>Guardian may not prohibit a ward from registering or voting. ALASKA STAT. §13.26.150(e)(6).</p> <p>An incapacitated person for whom a guardian has been appointed is not presumed to be incompetent and retains all legal and civil rights except those that have been expressly limited by court order or have been specifically granted to the guardian by the court. ALASKA STAT. § 13.26.090.</p>	<p>Persons undergoing mental health evaluation or treatment may not be denied the right to vote. Undergoing court-ordered mental health treatment is not a determination of legal incapacity. ALASKA STAT. § 47.30.835(a)(b).</p>	

¹ This table is based on the table published by Kay Schriener, Lisa Ochs, & Todd Shields, *Democratic Dilemmas: Notes on the ADA & Voting Rights of People with Cognitive and Emotional Impairments*, 21 BERKLEY J. EMP. & LAB. L. 437 (2000). The table was updated by the National Disability Rights Network (NDRN) in June 2004, and by the Bazelon Center for Mental Health Law on a continuous basis since that time.

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ARIZONA	<p>No person who is adjudicated an incapacitated person shall be qualified to vote. ARIZ. CONST. ART. 7, § 2(C).</p> <p>The County Recorder shall cancel a voter's registration if they are adjudicated an incapacitated person under A.R.S. § 14-5101. ARIZ. REV. STAT. § 16-165.</p> <p>Not qualified to register to vote if adjudicated an incapacitated person. ARIZ. REV. STAT. § 16-101(A)(6).</p>	<p>Voter registration cancelled if a person under guardianship is declared an "insane person" in a court proceeding. ARIZ. REV. STAT. § 16-165(C)</p> <p>Incapacitated person defined as any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions regarding his person. A.R.S. § 14-5101(1).</p>	<p>Persons undergoing court-ordered mental health evaluation or treatment are not determined to be legally incompetent. Persons undergoing mental health evaluation or treatment may not be denied the right to vote. ARIZ. REV. STAT. § 36-506(A).</p>	
ARKANSAS	<p>Registration to vote cancelled if a person is adjudged mentally incompetent by a court of competent jurisdiction. ARK. CONST. AMEND. 51, § 11(a)(6).</p>	<p>If guardian appointed prior to Oct. 1, 2001, guardian must obtain express court approval to prohibit voting. ARK. STAT. ANN. § 28-65-302(a)(1)(E).</p> <p>No guardian appointed on or after Oct. 1, 2001 shall authorize an incapacitated person to vote without filing a petition and receiving express court approval. ARK. STAT. ANN. §28-65-302(a)(2)(E).</p>	<p>No person shall be deemed incompetent to vote solely by reason of that person's admission to a mental health system. ARK. STAT. ANN. § 20-47-220(b).</p>	

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		<p>An incapacitated person for whom a guardian has been appointed is not presumed to be incompetent and retains all legal and civil rights except those which have been expressly limited by court order or have been specifically granted by order to the guardian by the court. ARK. STAT. ANN. § 28-65-106.</p>		
<p>CALIFORNIA</p>	<p>The Legislature shall provide for the disqualification of electors while mentally incompetent CAL. CONST. art. 2, § 4.</p> <p>A person shall be deemed mentally incompetent, and therefore disqualified from voting, if, during the course of any of the proceedings set forth below, the court finds that the person is not capable of completing an affidavit of voter registration in accordance with Section 2150 and a conservator is appointed or the person has pled not guilty by reason of insanity. CAL. ELEC. CODE § 2208(a).</p> <p>If the proceeding under the Welfare and Institutions Code is heard by a jury, the jury shall unanimously find that the person is not capable of completing an affidavit of voter registration before the person shall be disqualified from voting.</p>	<p>Person under conservatorship is disqualified from voting if court determines that he or she is not capable of completing voter registration affidavit; must review their capability of completing the affidavit during the yearly or biennial review of conservatorship. CAL. PROB CODE § 1910. CAL. ELEC. CODE § 2208 and § 2209.</p>	<p>Conservatorship report shall include recommendation for or against the disqualification of the person from voting. CAL. WEL. and INST. CODE § 5357(c).</p>	

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	CAL. ELEC. CODE § 2208(b). Conservatee's ability to complete affidavit of voter registration shall be reviewed yearly or biennially. CAL. ELEC. CODE § 2209(a).			
COLORADO	No Constitutional disqualification provision. Right to vote is not lost because of confinement in a state institution for persons with mental illness. COLO. REV. STAT. § 1-2-103(5).		People receiving evaluation, care, or treatment for mental illness shall be given the opportunity to exercise his right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist such persons, upon their request, to obtain voter registration forms, applications for absentee ballots, and absentee ballots and to comply with any other prerequisite for voting. COLO. REV. STAT. § 27-10-119.	All developmentally disabled persons who are eligible to vote under the law have the right to vote and service agencies should assist those receiving services with registration, applications, and voting. COLO. REV. STAT. § 27-10.5-119.
CONN-ECTICUT	No mentally incompetent person shall be admitted as an elector. CONN. GEN. STAT. § 9-12(a).	The guardian or conservator of an individual may file a petition in probate court to determine such individual's competency to vote in a primary, referendum or election. CONN. GEN. STAT. § 45a-703.	Persons under hospitalization or treatment may vote unless a specific finding is made in a guardianship proceeding that they are incapable to vote and put under guardianship. CONN. GEN. STAT. § 17a-541.	

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DELAWARE	<p>No person adjudged mentally incompetent . . . or incapacitated under the provisions of this Constitution from voting, shall enjoy the right of an elector. DEL. CONST. art. 5, § 2.</p> <p>No person adjudged mentally incompetent. . . shall be a qualified voter. For purposes of this chapter, the term "adjudged mentally incompetent" refers to a specific finding in a judicial guardianship or equivalent proceeding, based on clear and convincing evidence that the individual has a severe cognitive impairment which precludes exercise of basic voting judgment. 15 DEL. CODE ANN. § 1701</p>			
DISTRICT OF COLUMBIA	<p>Not a qualified elector if mentally incompetent as determined by a court of competent jurisdiction. NEW COLUMBIA CONST. ART. 5 § 1(c).</p> <p>Not a qualified elector if mentally incompetent as adjudged by a court of competent jurisdiction.</p> <p>DC CODE §1-1001.02.</p>	<p>An incapacitated person is not considered incompetent and retains all legal rights and abilities other than those expressly limited or curtailed in the order of appointment of a guardian or in a protective proceeding, or subsequent order of the court. DC Code §21-2004.</p> <p>Persons under guardianship not entitled to the elective franchise. HISTORY OF D.C. CODE, 2001 ED., ACTS RELATING TO THE ESTABLISHMENT OF THE DISTRICT OF COLUMBIA AND ITS VARIOUS</p>	<p>A person admitted or committed for treatment pursuant to this chapter may not, by reason of the admission or treatment, be denied the right to vote unless the person has been adjudicated incompetent and has not been restored to legal capacity. DC CODE § 21-564(a).</p>	

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		FORMS OF GOVERNMENTAL ORGANIZATION - REGULATION OF ELECTIVE FRANCHISE .		
FLORIDA	<p>Not qualified to vote if adjudicated, in this or any other state, to be mentally incompetent, until the disability has been removed or civil rights have been restored. FLA. CONST. Art. 6 § 4(a).</p> <p>A resident of a residential facility who has reached his eighteenth birthday and is otherwise qualified to vote is eligible to vote, provided such person has not been adjudicated mentally incompetent. Op. Atty. Gen., 074-15, Jan. 9, 1974.</p> <p>Not entitled to vote if adjudicated mentally incapacitated with regard to voting in this or any other state and right not restored. FLA. STAT. § 97.041(2)(a).</p>	<p>Right to vote can be removed if a person is determined to be incapacitated. FLA. STAT. § 744.3215(2)(b).</p> <p>Persons under guardianship must be evaluated for voting disqualification. FLA. STAT. § 744.331(3)(d)(2).</p>	<p>Any patient who is eligible to vote has the right to vote and the department shall establish rules to enable patients to obtain voter registration forms, applications for absentee ballots, and absentee ballots. FLA. STAT. § 394.459(7).</p>	<p>No otherwise qualified person shall, by reason of having a developmental disability, be denied the right to vote in public elections. FLA. STAT. § 393.13(3)(j).</p>
GEORGIA	<p>A person adjudicated mentally incompetent cannot register, remain registered, or vote unless the disability has been removed. GA. art. 2, § 1, ¶ III(b); GA. CODE ANN. § 21-2-216(b).</p> <p>A person must be adjudicated mentally incompetent before the right to vote is removed. 1995 Op. Att'y Gen. No. 95-27.</p>	<p>The appointment of a guardian is not a determination regarding the right of the ward to vote. GA. CODE ANN. § 29-4-20(b)</p>	<p>Patients may vote if otherwise eligible under state law. Facility administrators shall permit and reasonably assist patients with registration, voting prerequisites, and absentee ballots. GA. CODE ANN. § 37-3-144.</p>	<p>Clients may vote if otherwise eligible. Facility administrators shall permit and reasonably assist patients with registration, voting prerequisites, and absentee ballots. GA. CODE ANN. § 37-4-104.</p>

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HAWAII	<p>No person who is “non compos mentis” shall be qualified to vote. HAW. CONST. art. 2, § 2.</p> <p>Whenever the clerk receives from the department of health or any informing agency, information of . . . adjudication as an incapacitated person under the provisions of chapter 560. . . the clerk shall thereupon make such investigation as may be necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation the clerk finds that the person is . . . incapacitated to the extent that the person lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting . . . the clerk shall remove the name of the person from the register. HAW. REV. STAT. § 11-23(a).</p>	<p>Definition of mental incapacity as referenced in electoral statutes: "Incapacitated person" means an individual who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance. HAW. REV. STAT. § 560:5-102.</p>	<p>Admission to psychiatric facility itself does not modify the right to vote. HAW. REV. STAT. § 334-61.</p>	
IDAHO	<p>No disqualification statute.</p>		<p>Mental health facility cannot deny right to vote unless right limited by prior court order. IDAHO CODE § 66-346(a)(6).</p>	<p>Developmentally disabled persons have the right to vote unless limited by prior court order. IDAHO CODE § 66-412(3)(j).</p>

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ILLINOIS	<p>No disqualification statute.</p> <p>Every patient of any hospital or mental institution in this State shall be deemed a resident of the town, city, village or election district or precinct in which he resided next prior to becoming a patient of such hospital or mental institution. However, the term "hospital" does not include skilled nursing facilities. IL ST CH 10 § 5/3-4.</p> <p>Any person who is a resident of a facility licensed or certified pursuant to the Nursing Home Care Act for 30 days or longer, and who is a U.S. citizen and has resided in this State and election district 30 days preceding any election shall be entitled to vote in the election district in which any such home in which he is a resident is located, provided that he shall declare upon oath that it was his bona fide intention at the time he entered said home to become a resident thereof. IL ST CH 10 § 5/3-3.</p>			
INDIANA	<p>No disqualification provision.</p> <p>No disqualification statute.</p>		<p>Detention or commitment does not deprive persons of the right to vote. IND. CODE § 12-26-2-8(a)(1)(F).</p>	

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IOWA	<p>No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector. IOWA CONST. art. 2, § 5.</p> <p>A person who is "incompetent to vote" is disqualified from registering and voting. Certification by the clerk of the district court that a court has found the person no longer incompetent shall qualify such person to vote again if otherwise eligible. IOWA CODE § 48A.6(2).</p>	<p>When a guardian is appointed for a person with mental retardation, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote. I.C.A. § 633.556.</p> <p>When guardianship in which the order determined the right to vote is terminated, person can request reinstatement of voting rights as part of the termination procedure or in a separate determination. I.C.A. § 633.679.</p> <p>The vote of a legal incompetent shall be cast by the guardian along with a written sworn statement. I.C.A. § 468.513.</p>		<p>Being committed does not bar the right to vote unless the court makes a separate determination that the person lacks the mental capacity to comprehend and exercise the right to vote. I.C.A. §222.16.</p> <p>In an order committing a person based on mental retardation, the court shall include a finding as to whether the person has sufficient mental capacity to comprehend and exercise the right to vote. I.C.A. §222.31.</p>
KANSAS	<p>Legislature may exclude persons from voting because of mental illness. KS. CONST. art 5, § 2.</p> <p>No disqualification statute.</p>			
KENTUCKY	<p>"Idiots" and "insane" persons shall not have the right to vote. KY. CONST. § 145(3).</p>	<p>If a court finds that a person is</p>		

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	<p>Anyone disqualified under the Constitution may not vote. KY. REV. STAT. § 116.025(1).</p> <p>Individuals declared incompetent solely for the purpose of appointing a committee to manage their welfare checks would not be disqualified from voting and are prima facie qualified to vote. 1973 KY Attorney General Op. 73-700.</p> <p>Person declared incompetent but not declared "insane" would be entitled to register to vote if otherwise qualified. 1976 KY Attorney General Op. 76-549.</p>	<p>in need of a guardianship or conservatorship, the court must specifically determine whether the person retains the right to vote. KY. REV. STAT. 387-580(3)(c). Ward shall only be deprived of right to vote if the court separately and specifically makes a finding on the record. KY. REV. STAT. 387.590(10)</p>		
LOUISIANA	<p>Right to vote may be suspended while interdicted and judicially declared mentally incompetent. LA. CONST. art. 1, § 10(A).</p> <p>An individual who has been fully Interdicted after being judicially declared to be mentally incompetent may not vote. An individual who is only partially interdicted is allowed to vote unless there has been a specific suspension of the right to vote. LA. REV. STAT. ANN. § 18:102(A)(2).</p>		<p>Patients in treatment facilities shall not be deprived of the right to vote because of status as a patient in a treatment facility. LA. REV. STAT. ANN. § 28:171(A).</p>	<p>Department of Health and Hospitals shall establish rules and regulations to ensure that persons with mental retardation who are competent to vote (have not been interdicted or partially interdicted with a specific suspension of the right to vote) are permitted to vote. LA. REV. STAT. ANN. § 18:102.1(B).</p>

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MAINE	<p>Persons under guardianship for reason of mental illness shall not be electors. ME. CONST. ART. 2 §1.</p> <p>Held unconstitutional by Doe v. Rowe 156 F. Supp.2d 35 (D. Me. 2001).</p> <p>Found that procedures in probate courts did not give adequate due process to Plaintiffs (were not told they would be disenfranchised as a result of the guardianship process). Also found that the provision did not pass strict scrutiny because there was not sufficient correlation between the ends and the means—therefore Art. II §1 violates the Equal Protection Clause.</p> <p>Memorandum from Deputy Secretary of State to All Municipal Clerks and Registrars (Sept. 4, 2001) eliminating the ban on voting by individuals under guardianship by reason of mental illness as of Aug. 9, 2001.</p>		<p>Patients in residential care facilities have the right to vote unless facility determines a need to restrict due to medical welfare, patient is adjudicated incompetent and finding not reversed, or other statute or rule restricts the right, but not solely on admission to a hospital or residential care facility. ME. REV. STAT. ANN. tit. 34-B § 3803(1)(A-C).</p>	<p>Persons with mental retardation or autism may not be denied voting rights because of mental illness, unless under guardianship. ME. REV. STAT. ANN. tit. 34-B § 5605(5).</p>
MARYLAND	<p>State may regulate or prohibit the right to vote of a person under care or guardianship for mental disability. MD. CONST. art 1, § 4;</p> <p>Individual not qualified to be a registered voter if under guardianship for mental disability. MD. CODE ELEC. LAW 3-102(b)(2).</p>		<p>A person may not lose the right to vote solely because of residency in a facility for a mental disorder. MD. HEALTH-GEN. § 10-704.</p>	<p>A person may not lose the right to vote because he or she has or is receiving services for a developmental disability. MD. HEALTH-GEN. § 7-1004.</p>

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MASSACHUSETTS	<p>Every citizen...excepting persons under guardianship... shall have a right to vote in such election. MASS. CONST. amend, art. 3</p> <p>Sec of State opinion interpreting above provision to require a specific finding of incompetence to vote before disenfranchising someone.</p> <p>Every citizen...not being a person under guardianship...may have his name entered on the list of voters in such city or town, and may vote therein in any such election. MASS. ANN. LAWS ch. 51 § 1.</p>		<p>No person shall be deprived of the right to vote solely on the basis of admission or commitment to a mental health facility. 104 CODE MASS. REG. 27-13; Boyd v. Board of Registrars of Voters, 334 N.E.2d 629 (Mass. 1975).</p>	
MICHIGAN	<p>Legislature may exclude persons based on mental incompetence. MICH. CONST. art. 2, § 2.</p> <p>No disqualification electoral statute.</p>			
MINNESOTA	<p>Persons under guardianship, "insane," or not mentally competent are not entitled or permitted to vote. MINN. CONST. art. 7, § 1.</p> <p>Not eligible to vote if under guardianship in which the court order revokes the right to vote or adjudicated legally incompetent. MINN. STAT. § 201.014(2)(b)(c).</p>	<p>Unless otherwise ordered by the court, the ward under guardianship retains the right to vote. MINN. STAT. § 524.5-313(c)(8).</p> <p>Each year, within 30 days after the anniversary date of an appointment, a guardian shall send or deliver to the ward a notice ... of the status of the ward's right to vote. MINN.</p>	<p>Persons may not be deprived of the right to vote because of commitment or treatment. MINN. STAT. § 253B.23(2)(a).</p>	<p>Appointment of the commissioner as conservator shall not constitute a judicial finding that the mentally retarded person is legally incompetent except for the restrictions which the conservatorship places on the conservatee. The appointment of a conservator shall not deprive the conservatee of the right to</p>

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		STAT. § 524.5-310(e).		vote. MINN. STAT. § 252A.12.
MISSISSIPPI	<p>“Idiots” and “insane” persons are not qualified electors. MISS. CONST. art. 12, § 241.</p> <p>“Idiots” and “insane” persons shall not be entitled or permitted to vote. MISS. CODE ANN. § 23-15-11.</p>		Admission, treatment, or commitment does not deprive the right to vote. MISS. CODE ANN. § 41-21-101(b).	Admission, treatment, or commitment does not deprive the right to vote. MISS. CODE ANN. § 41-21-101(b).
MISSOURI	<p>No person under guardianship of estate or person because of mental incapacity nor persons involuntarily confined in a mental institution can vote. MO. CONST. art. VIII, § 2.</p> <p>No person adjudicated incapacitated is entitled to vote. MO. REV. STAT. § 115.133(2).</p> <p>Person who had been committed to mental hospital many years earlier but did not have a guardian was not disqualified under the constitutional provision. <i>New v. Corrough</i>, 370 S.W.2d 323 (Mo. 1963).</p>			
MONTANA	<p>Not a qualified elector if of “unsound mind,” as determined by a court. MONT. CONST. art 4, § 2.</p> <p>No person adjudicated to be of unsound mind has the right to vote, unless he has been restored to capacity as provided by law. MONT. CODE ANN. § 13-1-111(3).</p>			

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NEBRASKA	<p>Not qualified to vote if “non compos mentis,” unless restored to civil rights. NE. CONST. art. 6, § 2.</p> <p>No person is qualified to vote if “non compos mentis,” unless restored to civil rights. NEB. REV. STAT. § 32-313(1).</p> <p>“Non compos mentis” defined as “mentally incompetent” in voter registration materials. NEB. REV. STAT. § 32-312. (“Mentally incompetent” is not synonymous with being under guardianship; the latter is imposed in Nebraska based on “mental incapacity”).</p>			
NEVADA	<p>No person who has been adjudged mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of elector. NV. CONST. art. 2, § 1.</p> <p>The county clerk shall cancel the voter registration if the “insanity” or mental incompetence of the person registered is legally established. NV. REV. STAT. ANN. § 293.540(2).</p>		<p>No person admitted to a public or private mental health facility pursuant to this chapter shall, by reason of such admission, be denied the right to vote, unless specifically adjudicated incompetent and has not been restored to legal capacity. NV. REV. STAT. ANN. § 433A.460(1).</p> <p>Medical director shall evaluate every six months to determine if sufficient cause to remain unable to vote. NV. REV. STAT. ANN. § 433A.480(1).</p>	

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NEW HAMPSHIRE	<p>No Constitutional disqualification provision.</p> <p>No disqualification electoral statute.</p>		<p>No person shall be deemed incompetent to vote or to exercise any other civil right solely by reason of that person's admission to the mental health services system. N.H. REV. STAT. ANN. § 135-C:56(II).</p>	<p>Persons may not be deprived of the right to vote because they have or are receiving services for a developmental disability; department rules shall not restrict voting rights. N.H. REV. STAT. ANN. § 171-A:14(I).</p>
NEW JERSEY	<p>On Nov. 6, 2007, NJ voters approved constitutional amendment. New language states: No person shall have the right of suffrage who has been adjudicated by a court of competent jurisdiction to lack the capacity to understand the act of voting. Previous language stated: No person shall have the right of suffrage who is an "idiot" or "insane" person. N.J. CONST. art 2, § 1, ¶ 6.</p> <p>No person shall have the right of suffrage who is an "idiot" or "insane" person. N.J. STAT. ANN. § 19:4-1(1).</p>		<p>Subject to any other provisions of law and the Constitution of New Jersey and the United States, no patient shall be deprived of the right to vote solely by reason of receiving treatment. N.J. STAT. ANN. § 30:4-24.2(a).</p> <p>Cannot be presumed incompetent because has been examined or treated for mental illness. §30:4-24.2(c)</p> <p>Persons receiving in-patient assessment or treatment may register and vote subject to laws and Constitution. N.J. STAT. ANN. § 30:4-27.11c(a).</p>	<p>Admission or residency at a facility or receipt of services shall not deprive persons of their right to register and vote. N.J. STAT. ANN. § 30:6D-4(a).</p> <p>Determination of eligibility for MR services does not create presumption of incompetency; cannot revoke right to vote based solely on placement at residential facility. Carroll v. Cobb, 354 A.2d 355 (N.J. Super. Ct. 1976).</p>
NEW MEXICO	<p>"Idiots" and "insane" persons not qualified to vote. N.M. CONST. art. 7, § 1.</p>	<p>An incapacitated person for whom a guardian has been appointed retains all legal and</p>		

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	<p>Persons under constitutional disqualification not qualified under state law. N.M. STAT. ANN. § 1-1-4.</p> <p>Registration of a voter shall be cancelled when it is determined that the person is legally insane under the constitutional provision. N.M. STAT. ANN. § 1-4-26(B).</p> <p>Individuals with mental retardation “who can understand the nature of their actions should be allowed to register and vote.” 1974 Op. Att’y Gen. No. 74-35.</p>	<p>civil rights except those which have been expressly limited by court order or have been specifically granted to the guardian by the court. N.M. STAT. ANN. § 45-5-301.1.</p> <p>The same reservation of rights is specified for limited guardianships. N.M. STAT. ANN. § 45-5-312(A).</p>		
NEW YORK	<p>Right of suffrage and registration of voters laws shall be established by law. N.Y. CONST. ART. 2, § 5.</p> <p>No person who has been adjudged incompetent has the right to vote, unless later adjudged competent. N.Y. ELEC. LAW § 5-106(6).</p> <p>Manhattan Citizens Group, Inc. v. Bass, 524 F. Supp. 1270 (SDNY 1981) (unconstitutional to disenfranchise a person based on admission to a hospital; in dicta, assuming but not deciding that someone adjudicated incompetent would presumably be incapable of voting).</p>		<p>Receipt of services for mental disability shall not deprive persons of the right to register and vote if otherwise qualified. N.Y. MENT. HYG. LAW § 33.01.</p>	<p>Receipt of services for mental disability shall not deprive persons of the right to register and vote if otherwise qualified. N.Y. MENT. HYG. LAW § 33.01.</p> <p>The commissioner shall include in rules and regulations promulgated for community residence a statement of the rights of persons living in such residences which shall include, but not be limited to ... the right to vote. N.Y. MENT. HYG. LAW § 41.41.</p>

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NORTH CAROLINA	No Constitutional disqualification provision. No disqualification election statute.		Persons who are adult clients at a facility have the right to register and vote unless that right has been precluded by an unrevoked adjudication of incompetency. N.C. GEN. STAT. § 122C-58.	Persons who are adult clients at a facility have the right to register and vote unless that right has been precluded by an unrevoked adjudication of incompetency. N.C. GEN. STAT. § 122C-58.
NORTH DAKOTA	No person who has been declared mentally incompetent shall be qualified to vote, unless the order has been rescinded. N.D. CONST. art. 2, § 2.	Except upon specific findings of the court, no ward may be deprived of the right to vote. N.D. CENT. CODE § 30.1-28-04(3).	Unless specifically restricted in writing every 14 days by a patient's treating physician, all patients in treatment facilities retain their "civil rights." N.D. CENT. CODE § 25-03.1-40.	Developmentally disabled persons may not be deprived of the right to vote solely because of admission, residency or receipt of services at an institution or facility. N.D. CENT. CODE § 25-01.2-03(1).
OHIO	No "idiot" or "insane person" shall be entitled to the privileges of an elector. OHIO CONST. art 5, § 6. Voter registration is cancelled if the person is adjudicated incompetent for the purpose of voting, OHIO REV. CODE ANN. § 3503.18.		Persons taken into custody either voluntary or involuntarily may vote unless adjudicated incompetent, or unless Revised Code specifically denies the right to vote. OHIO REV. CODE ANN. § 5122.301.	Persons with mental retardation and developmental disabilities have the right to participate in the political process. OHIO REV. CODE ANN. § 5123.62(W).
OKLAHOMA	Legislature may prescribe exceptions for qualification. OKLA. CONST. art. 3, § 1. Ineligible to vote if adjudicated an incapacitated person under Guardianship and Conservatorship Act, unless adjudicated no longer incapacitated; or adjudicated partially incapacitated person and right to vote	Court shall make a specific determination of the voting capacity of a person under guardianship. OKLA. STAT. ANN. TIT. 30 § 3-113(B)(1).		

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>restricted. OKLA. STAT. TIT. 26, § 4-101(2).</p> <p>The registration of any registered voter may be cancelled upon judicial determination of mental incapacitation under Title 30 of the Oklahoma Statutes. OKLA. STAT. ANN. TIT. 26 § 4-120.</p>			
OREGON	<p>A person “suffering from a mental handicap” is entitled to the full rights of an elector, if otherwise qualified, unless the person has been adjudicated incompetent to vote as provided by law. OR. CONST. art. 2, § 3.</p> <p>No disqualification statute.</p>		<p>Patient may vote unless adjudicated incompetent and finding not reversed. OR. Rev. STAT. § 426.385(1)(n).</p> <p>Persons receiving mental health and developmental disability services in connection with alcohol and drug abuse programs retain the rights afforded to all citizens, including the right to vote. OR. REV. STAT. § 430.210(3).</p>	<p>Resident in a facility shall have the right to vote, unless the resident has been adjudicated incompetent and has not been restored to legal capacity. OR. REV. STAT. § 427.031(1).</p>
PENNSYLVANIA	<p>No Constitutional disqualification provision. Subject to state law, anyone who is over twenty one, has been a citizen of the United States for at least one month, and has resided in the state and county for the specified time may vote. PA. CONST. Art. 7, § 1.</p> <p>No disqualification election statute.</p>			

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>A person who is confined to an institution for the mentally ill or mentally retarded can choose to vote either in the district in which the institution is located or where they were registered to vote or resided before they were institutionalized. PENN. CONSOL. STAT. ANN. TIT. 25 § 1302(a)(4).</p> <p>A mentally retarded or mentally ill person cannot be disenfranchised solely because he or she is undergoing treatment for a mental disability or is known to reside in an institution for the treatment of the mentally disabled. 1973 Op.Atty.Gen. No. 48.</p> <p>A person who resides at institution for the mentally ill or mentally retarded in the state cannot lawfully be denied the right to register as a qualified elector in the voting district in which the institution is located. 1973 Op.Atty.Gen. No. 48.</p>			

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
PUERTO RICO	<p>Every person over 18 can vote if he or she fulfills the other conditions determined by law. PR Const. Art. 6, § 4.</p> <p>Each month the court administrator sends the Commonwealth Commission a list of the people who are declared judicially as mentally incompetent. PR ST T. 16 § 3076.</p> <p>Person who has been declared judicially incompetent may be challenged when registered to vote. PR ST T. 16 § 3073.</p> <p>Persons judicially declared unqualified cannot vote. PR ST T. 16 § 3055.</p>			
RHODE ISLAND	<p>No person who has been adjudicated "non compos mentis" shall be allowed to vote. R.I. CONST. art. 2, § 1.</p> <p>Qualified voted defined as someone who is not otherwise disqualified by law. R.I. GEN. LAWS § 17-1-2(13).</p>		<p>Patients admitted to a facility shall not be deprived of the right to vote and participate in political activity. R.I. GEN. LAWS § 40.1-5-5(f)(10).</p>	<p>Community residence resident will not be deprived of right to vote just because of admission and has right to reasonable assistance in registration and voting if desired. RI. ST. § 40.1-24.5-5.</p>
SOUTH CAROLINA	<p>General Assembly shall establish disqualifications for voting by reason of mental incompetence and may provide for the removal of such disqualifications. S.C. CONST. art. 2, § 7.</p>		<p>Patients have the right to vote unless adjudicated incompetent. County boards of voter registration should also reasonably assist clients with obtaining registration materials and ballots,</p>	<p>Residents of facilities have the right to vote unless adjudicated incompetent. County boards of voter registration should also reasonably assist clients with obtaining registration</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	A person is disqualified from registering or voting if adjudicated mentally incompetent. S.C. CODE ANN. § 7-5-120(B)(1).		complying with voting requirements, and voting by absentee ballot. S.C. CODE. ANN. § 44-22-80(7).	materials and ballots, complying with voting requirements, and voting by absentee ballot. S.C. CODE ANN. § 44-26-90(7).
SOUTH DAKOTA	<p>Not entitled to vote if disqualified by law for mental incompetence. S.D. CONST. art. 7, § 2.</p> <p>Names of persons declared mentally incompetent shall be removed from the voter rolls each month. S.D. CODIFIED LAWS § 12-4-18.</p>	The appointment of a guardian or conservator of a protected person does not constitute a general finding of legal incompetence unless the court so orders, and the protected person shall otherwise retain all rights which have not been granted to the guardian or conservator. S.D. CODIFIED LAWS § 29A-5-118.	Notwithstanding any other provision of law, no person may be deemed incompetent to register and vote solely by reason of his detention, admission, or commitment under this title. S.D. CODIFIED LAWS § 27A-12-1.2.	No person is incompetent to register and vote solely by reason of a diagnosis of a developmental disability, or by reason of a commitment by a county review board. S.D. CODIFIED LAWS § 27B-7-44 (replaced old language in 2000 under SL 2000, ch 131, § 76).
TENNESSEE	<p>No Constitutional disqualification provision.</p> <p>No disqualification election statute.</p>	May remove the right to vote if placed under a conservatorship. Petition for appointment of a conservator should include the rights that will be removed. Tenn. Code Ann. §34-3-104(8).	No person with mental illness, serious emotional disturbance, or developmental disability hospitalized or admitted, whether voluntarily or involuntarily, or ordered to participate in non-residential treatment or service under this title shall, solely by reason of such hospitalization, admission, or order be denied the right to vote, unless (1) The service recipient has been adjudicated incompetent by a court of competent	No person with mental illness, serious emotional disturbance, or developmental disability hospitalized or admitted, whether voluntarily or involuntarily, or ordered to participate in non-residential treatment or service under this title shall, solely by reason of such hospitalization, admission, or order be denied the right to vote, unless (1) The service recipient has been adjudicated incompetent by a court of competent

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
			jurisdiction and has not been restored to legal capacity; or (2) The denial is authorized by state or federal statute. TENN. CODE ANN. §33-3-102(a).	jurisdiction and has not been restored to legal capacity; or (2) The denial is authorized by state or federal statute. TENN. CODE ANN. §33-3-102(a).
TEXAS	<p>Persons adjudicated mentally incompetent shall not be allowed to vote, subject to such exceptions as the Legislature may make. TEX. CONST. art. 6, § 1.</p> <p>A person who has been determined mentally incompetent by a final judgment of a court is not a qualified voter. TEX. ELEC. CODE ANN. Tit. 2, § 11.002(3).</p> <p>To be eligible to register as a voter, must not have been determined mentally incompetent by a final judgment of the court. TEX. ELEC. CODE ANN. Tit. 2, § 13.001(a)(3).</p>		Patients have the right to register and vote unless specific law limits rights under a special procedure. TEX. HEALTH & SAFETY CODE ANN. Tit. 7, § 576.001(b)(1).	<p>Persons with mental retardation have the rights, benefits, and privileges guaranteed by the constitution and laws of the United States and this state. TEX. HEALTH & SAFETY CODE ANN. Tit. 7, § 592.011.</p> <p>Persons with mental retardation have the right to a presumption of competency. TEX. HEALTH & SAFETY CODE ANN. Tit. 7, § 592.021.</p>
UTAH	<p>A person who is mentally incompetent may not be permitted to vote, unless right to vote restored as provided by statute. UTAH CONST. art. 4, § 6.</p> <p>No disqualification election statute.</p>		Subject to the general rules of the division, and except to the extent that the director or his designee determines that it is necessary for the welfare of the patient to impose restrictions, every patient is entitled to: . . . exercise . . . the right to . . . vote, unless the patient has been	((Subject to the general rules of the division, and except to the extent that the director or his designee determines that it is necessary for the welfare of the patient to impose restrictions, every patient is entitled to: . . . exercise . . . the right to . . . vote, unless the patient has been

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
			<p>adjudicated to be incompetent and has not been restored to legal capacity. UTAH CODE ANN. § 62A-15-641 (1)(c).</p> <p>When any right of a patient is...denied, the nature, extent, and reason for that...denial shall be entered in the patient's treatment record. Any continuing denial or limitation shall be reviewed every 30 days.... UTAH CODE ANN. § 62A-15-641 (2).</p>	<p>adjudicated to be incompetent and has not been restored to legal capacity. UTAH CODE ANN. § 62A-15-641(1)(c).</p>
VERMONT	<p>To be entitled to the privilege of voting, persons must be of "quiet and peaceable behavior." VT. CONST. ch. II, § 42.</p> <p>No disqualifying election statute. Any person over 18 who is a citizen of the United States and a resident of the state of Vermont and has taken the voter's oath may vote. VT. STAT. ANN. TIT. 17 § 2121.</p>	<p>Proposed Legislation: Vermont 2005 House Bill 424 would add the following section: "A person in need of guardianship retains the same legal and civil rights guaranteed to all Vermont residents under the Vermont and United States Constitutions and all the laws and regulations of Vermont and the United States. These rights include: (3) the right to vote." Proposed 14 V.S.A. § 3060a. Bill has passed House and is now in State Senate.</p>	<p>Patient has the right to vote on his own initiative, unless he has been adjudicated incompetent and has not been restored to legal capacity, or unless facility determines restriction needed for patient's welfare. VT. STAT. ANN. TIT. 18 § 7705(a)(3).</p>	
VIRGINIA	<p>As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his</p>			

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>competency has been reestablished. VA. CONST. art. 2, § 1.</p> <p>No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law. VA. CODE ANN. § 24.2-101.</p> <p>Incompetent and incapacitated are not conflicting standards. Op. Att'y Gen. of Va, 01-102, Dec. 10, 2001.</p>			
WASHINGTON	<p>All persons while they are judicially declared mentally incompetent are excluded from the elective franchise. WA. CONST. art. 6, § 3.</p> <p>"Elector" means any person who possesses all of the qualifications to vote under Article VI of the state Constitution. WASH. REV. CODE ANN. § 29A.04.061.</p> <p>Upon receiving official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter 11.88 RCW, if the person is a registered voter in the county, the county auditor shall cancel the person's voter registration. WASH. REV. CODE ANN. § 29A.08.515.</p>	<p>Imposition of a guardianship for an incapacitated person shall not result in the loss of the right to vote unless the court determines that the person is incompetent for purposes of rationally exercising the franchise in that the individual lacks the capacity to understand the nature and effect of voting such that she or he cannot make an individual choice. The court order establishing guardianship shall specify whether or not the individual retains voting rights. When a court determines that the person is incompetent for the purpose of rationally exercising the right to vote, the court shall notify the appropriate county auditor. RCWA 11.88.010 (5).</p>		<p>The secretary's determination under RCW 71A.16.040 that a person is eligible for services under this title shall not deprive the person of any civil rights or privileges. The secretary's determination alone shall not constitute cause to declare the person to be legally incompetent. WASH. REV. CODE ANN. § 71A.10.030.</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
WEST VIRGINIA	<p>No person who is of "unsound mind" shall be permitted to vote while such disability continues. W. VA. CONST. art. 4, § 1.</p> <p>No person who is of "unsound mind," shall be permitted to vote while such disability continues. W. VA. CODE § 3-1-3.</p> <p>Any person who has been determined to be mentally incompetent by a court of competent jurisdiction is disqualified and shall not be eligible to register or to continue to be registered to vote for as long as that determination remains in effect. W. VA. CODE § 3-2-2(b).</p> <p>If adjudicated incompetent, a person is automatically denied the right to vote. No specific decision regarding capacity for voting is required. 58 W. Va. Op. Atty. Gen. 221, Mar. 28, 1980.</p>		<p>Receipt of services for mental illness or retardation does not by itself deny persons the right to register and vote; must be adjudged incompetent and finding not reversed. W. VA. CODE § 27-5-9(a).</p> <p>W. VA. CODE § 27-5-9(a) does not conflict with the constitutional provision in art. 4, § 1. 58 W. Va. Op. Atty. Gen. 221, Mar. 28, 1980.</p>	<p>Receipt of services for mental illness or retardation does not by itself deny persons the right to register and vote; must be adjudged incompetent and finding not reversed. W. VA. CODE § 27-5-9(a).</p>
WISCONSIN	<p>Persons adjudged incompetent or partially incompetent excluded from the right of suffrage, unless judgment specifies that the person is capable of understanding the objective of the elective process or the judgment is set aside. Wis. CONST. art. 3, § 2(4)(b).</p> <p>Any person who is incapable of understanding the elective process or under guardianship may not vote,</p>	<p>Limited guardianship of the person proceeding includes a voting rights determination. Wis. STAT. ANN. § 880.33(3).</p> <p>All the rights and privileges afforded a proposed incompetent under this section shall be given to any person who is alleged to be ineligible to vote by reason that such person</p>	<p>A person is not deemed incompetent to vote solely based on admission, detainment, or commitment under the developmental disabilities and mental health chapter. Wis. STAT. ANN. § 51.59(1).</p>	<p>A person is not deemed incompetent to vote solely based on admission, detainment, or commitment under the developmental disabilities and mental health chapter. Wis. STAT. ANN. § 51.59(1).</p>

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	<p>unless the court has determined that the person is competent to vote. WIS. STAT. § 6.03(1)(a).</p> <p>Persons may not be denied the right to vote upon the allegation that they are incapable of understanding the objective of the elective process unless they have been so adjudicated by the state. However, any incompetency determination that appoints a guardian or any limited competency determination that does not expressly find that the person is competent for voting will be taken as a determination that the person may not vote. WIS. STAT. § 6.03(3).</p>	<p>is incapable of understanding the objective of the elective process. The determination of the court shall be limited to a finding that the elector is either eligible or ineligible to vote. WIS. STAT. ANN. § 880.33(9).</p>		
WYOMING	<p>All persons adjudicated to be mentally incompetent, unless restored to civil rights, are excluded from the elective franchise. WYO. CONST. art. 6 § 6.</p> <p>No person is a qualified elector who is a currently adjudicated mentally incompetent person. WYO. STAT. ANN. § 22-1-102(a)(xxvi).</p>			