

# Emergency Guardianship Statutes

**SUMMARY:** This document summarizes emergency guardianship laws in each state. For courts to order an emergency guardianship, the majority of the states require that a person's lack of decision-making ability causes their life or health be at imminent risk. However, there are also circumstances when an individual's lack of ability to manage their finances causes them to be at significant risk. To date, 24 states have adopted laws regarding emergency conservatorship (guardianship of the estate). This chart references whether a state has adopted such a mechanism and provides the statutory citation if it has. Additionally, the length of emergency guardianships varies by state. Most commonly, statutes (if there are any- nine states don't specify any particular timeframe) contemplate these appointments lasting sixty to ninety days although they can range from three days to six months.

As with many of COLA's charts, the text in these charts is an excerpt or summary of the law in each state. For further details, please review the full text of the law. Citations to the statute are sections current at the time this document was last updated (July 2023). Special thanks to Brice Boyd, a JD candidate at Georgetown University Law Center for updating and reformatting this chart.

State & Citation	<b>UGCOPAA</b> Section 312
Standard for Appointment	(a) On its own after a petition has been filed under Section 302, or on petition by a person interested in an adult's welfare, the court may appoint an emergency guardian for the adult if the court finds: (1) appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare; (2) no other person appears to have authority and willingness to act in the circumstances; and (3) there is reason to believe that a basis for appointment of a guardian under Section 301 exists.
Notice Required	Yes, except if the court receives a sworn affidavit stating that notice may substantially harm adult subject to guardian's health, safety, or welfare.
Right to Hearing on Emergency Petition?	Yes Must hold a hearing no later than 5 days after the appointment if an emergency guardian is appointed without notice.
Respondent's presence at Hearing Required?	Likely not, since a hearing may be held without notice in some situations.
Duration of Emergency Guardianship Appointment?	60 days that may be extended for another 60 days.
Standard of Proof	Clear and convincing evidence that the adult subject to guardianship "lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making; and (B) the [adult subject to guardianship]'s identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative).
Emergency Conservatorships?	Yes- Sec. 413

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State & Citation	<b>Alabama</b> § 26-2A-107
Standard for Appointment	If an incapacitated person has no guardian, an emergency exists, and no other person appears to have authority to act in the circumstances, on appropriate petition the court.
Notice Required	No
Right to Hearing on Emergency Petition?	Not specified
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	May not extend beyond 30 days
Standard of Proof	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Alaska § 13.26.301</b>
Standard for Appointment:	If during the pendency of an initial petition for guardianship it appears that the respondent is in need of immediate services to protect the respondent against serious injury, illness, or disease and the respondent is not capable of procuring the necessary services.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	No
Duration of Emergency Guardianship Appointment?	Guardianship expires when a full or partial guardian is appointed, or when the petition for guardianship is dismissed.
Standard of Proof?	Clear and convincing evidence is upon the petitioner
Emergency Conservatorships?	Yes- § 13.26.345

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State & Citation:	<b>Arizona § 14-5310</b>
Standard for Appointment:	If an alleged incapacitated person has no guardian and an emergency exists or if an appointed guardian is not effectively performing the duties of a guardian and the welfare of the ward is found to require immediate action.
Notice Required?	In most cases, yes but some exceptions exist.
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	No more than six months, unless there is good cause shown
Standard of Proof	Not specified
Emergency Conservatorships?	Yes- § 14-5401.01

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State & Citation:	<b>Arkansas § 28-65-218</b>
Standard for Appointment:	If upon presentation of an emergency ex-parte motion accompanied by an affidavit or verified petition giving rise to specific facts in appropriate detail the court finds that there is imminent danger to the life or health of an incapacitated person or of loss, damage, or waste to the property of an incapacitated person and that this requires the immediate appointment of a guardian of his or her person or estate, or both, the court shall issue an order appointing an emergency temporary guardian.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not to exceed 90 days for adults
Standard of Proof?	Clear and convincing evidence
Emergency Conservatorships?	No

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State & Citation:	<b>California § 2250</b>
Standard for Appointment:	On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of: A temporary guardian of the person or estate, or both.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Within 30 days
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes- § 2250.2

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State & Citation:	<b>Colorado</b> § 15-14-312
Standard for Appointment:	If the court finds that compliance with the procedures of this part 3 will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare, may appoint an emergency guardian whose authority may not exceed sixty days and who may exercise only the powers specified in the order. Immediately upon appointment of an emergency guardian, the court shall appoint a lawyer to represent the respondent throughout the emergency guardian.
Notice Required?	Yes, unless there is good reason to not delay
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	No
Duration of Emergency Guardianship Appointment?	Not to exceed 60 days
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Connecticut</b> § 45a-682
Standard for Appointment:	A petition for a temporary limited guardian may be filed by any interested party alleging that the respondent is in need of elective surgical, medical or dental procedures or treatment involving the use of general anesthesia, and that by reason of the severity of intellectual disability, he or she is unable to give informed consent to such treatment.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	No more than 60 days
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes- § 45a-654



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State & Citation:	<b>Delaware</b> § 3908; § 3909
Standard for Appointment:	(1) The person is impaired or incapacitated, as defined in § 3902(2) or (19) of this title; (2) An emergency exists, as defined in § 3902 of this title; (3) The person lacks the capacity to consent to receive protective services; (4) No person authorized by law or Court order to give consent for the person is available and willing to consent to emergency services; and (5) There are compelling reasons for ordering services.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	No
Duration of Emergency Guardianship Appointment?	A maximum of 90 days
Standard of Proof?	Preponderance of the evidence
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Florida</b> 744.3031
Standard for Appointment:	The court must specifically find that there appears to be 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 danger of being wasted, misappropriated, or lost unless immediate action is taken.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	90 days or whenever a regular guardian is appointed, whichever happens first
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Georgia</b> § 29-4-14; § 29-4-15; § 29-4-16
Standard for Appointment:	The proposed ward was determined to lack sufficient capacity to make or communicate significant, responsible decisions concerning the proposed ward's health or safety and that there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed.
Notice Required?	Yes
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	The emergency guardianship ends when the first of the following happens: a regular guardian is appointed, the court dismisses the petition, the petition's suggested end date is reached, 60 days (if the adult subject to guardianship is a Georgia resident) or 90 days if the state has jurisdiction for a different manner.
Standard of Proof?	Clear and convincing evidence
Emergency Conservatorships?	Yes- § 29-5-14

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State & Citation:	<b>Hawaii</b> § 560:5-312
Standard for Appointment:	If the court finds that compliance with the procedures of this part will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstance.
Notice Required?	Not if notice would substantially harm the adult subject to guardianship
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not Specified
Duration of Emergency Guardianship Appointment?	Not to exceed 90 days
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Idaho § 15-5-310</b>
Standard for Appointment:	<p>(a) The court may appoint a temporary guardian if it finds:</p> <ul style="list-style-type: none"><li>(1) A petition for guardianship under section 15-5-303, Idaho Code, has been filed, but a guardian has not yet been appointed;</li><li>(2) Substantial evidence of incapacity;</li><li>(3) By a preponderance of the evidence an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare; and</li><li>(4) No other person appears to have the ability, authority and willingness to act.</li></ul> <p>OR</p> <p>(b) When a person is under guardianship, the court may appoint a temporary guardian if it finds:</p> <ul style="list-style-type: none"><li>(1) Substantial evidence that the guardian is not performing the guardian's duties; and</li><li>(2) By a preponderance of the evidence, an emergency exists that will likely result in immediate and substantial harm to the person's health, safety or welfare.</li></ul>
Notice Required?	<p>Notice of the hearing is not necessary if waiting would immediately and substantially harm the adult subject to guardianship.</p> <p>If no notice or hearing is held, notice must be delivered within 72 hours of the appointment of the guardian.</p>
Right to Hearing on Emergency Petition?	Not specified
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not to exceed 90 days, but may be extended for good cause
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Illinois</b> 5/11a-4
Standard for Appointment:	Upon a showing of the necessity therefor for the immediate welfare and protection of the alleged person with a disability or his or her estate.
Notice Required?	Most often yes, but the court may waive the notice requirement with good cause.
Right to Hearing on Emergency Petition?	Yes
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	60 days or whenever a regular guardian is appointed, whichever happens first.
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Indiana 29-3-3-4</b>
Standard for Appointment:	29-3-3-4(a): “(1) a guardian has not been appointed for an incapacitated person or minor; (2) an emergency exists; (3) the welfare of the incapacitated person or minor requires immediate action; and (4) no other person appears to have authority to act in the circumstances”
Notice Required?	Notice must be given unless the court finds that immediate and irreparable injury to the person or property would occur 29-3-3-4(a)
Right to Hearing on Emergency Petition?	A hearing must be held unless the court finds that immediate and irreparable injury to the person or property would occur 29-3-3-4(a)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not to exceed 90 days, but the court can extend the emergency guardianship for another 90 days if good cause is present 29-3-3-4(a)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Iowa</b> § 633.569
Standard for Appointment:	§ 633.569: “A person authorized to file a petition under section 633.552, 633.553, or 633.554 may file an application for the emergency appointment of a temporary guardian or conservator”
Notice Required?	No § 633.569(3)
Right to Hearing on Emergency Petition?	No § 633.569(3)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Within 30 days § 633.569(7)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 633.569



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State & Citation:	<b>Kansas 59-3073</b>
Standard for Appointment:	59-3073(a): “if it appears that there may be an imminent danger to the physical health or safety of the proposed ward requiring immediate action to be taken to protect the proposed ward, or that there may be an imminent danger that the estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect the estate, or both”
Notice Required?	Notice doesn’t have to be given if the court finds that waiting would put the person or property in danger 59-3073(d)
Right to Hearing on Emergency Petition?	A hearing doesn’t have to be held if the court finds that waiting would put the person or property in danger 59-3073(d)
Respondent’s presence at Hearing Required?	No 59-3073(d)
Duration of Emergency Guardianship Appointment?	30 days, but may be extended by the court after a petition and a hearing 59-3073(b)(3)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes 59-3073

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State & Citation:	<b>Kentucky § 387.740</b>
Standard for Appointment:	§ 387.740(1): “if it appears that there is danger of serious impairment to the health or safety of the respondent or damage or dissipation to his property if immediate action is not taken”
Notice Required?	Yes § 387.740(3)(b)
Right to Hearing on Emergency Petition?	Yes § 387.740(3)(a)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Until a hearing on a regular guardian can be held § 387.740(1)
Standard of Proof?	Clear and convincing evidence § 387.740(5)
Emergency Conservatorships?	No

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State & Citation:	<b>Louisiana</b> Art. 4549
Standard for Appointment:	Art. 4549(A)(1): “immediate and irreparable injury, loss, or damage will result to the person or property of the defendant before a hearing can be held”
Notice Required?	No Art. 4549(A)(1)
Right to Hearing on Emergency Petition?	Not initially, but a hearing must be held within 10 days of the first court order Art. 4549(A)(1)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Up to 10 days before a hearing, then the court may extend the emergency guardianship for up to another 10 days Art. 4549(A)(1)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Maine § 5-312</b>
Standard for Appointment:	<p>§ 5-312(1):</p> <p>“A. Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety or welfare.</p> <p>For purposes of this paragraph, the delay of discharge of a patient in a hospital until the appointment of a guardian constitutes substantial harm;</p> <p>B. No other person appears to have authority and willingness to act in the circumstances; and</p> <p>C. There is reason to believe that a basis for appointment of a guardian under section 5-301 may exist.”</p>
Notice Required?	<p>Notice is required unless it would place the adult subject to guardianship at risk of abuse, neglect, or exploitation; notice would be ineffective; or other good cause to forgo notice</p> <p>§ 5-312(3)(D)(1-3)</p>
Right to Hearing on Emergency Petition?	<p>A hearing isn't required if the court finds that the adult subject to guardianship would be substantially harmed by waiting</p> <p>§ 5-312(4)</p>
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	<p>60 days, but the court can extend the duration once for up to 120 days</p> <p>§ 5-312(2)</p>
Standard of Proof?	Not specified
Emergency Conservatorships?	<p>Yes</p> <p>§ 5-314</p>

# Emergency Guardianship Statutes



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State & Citation:	<b>Maryland</b> § 13-709
Standard for Appointment:	§ 13-709(a)(1): “it appears probable that: (i) The adult will suffer immediate and serious physical injury or death if not immediately placed in a health care facility; (ii) The adult is incapable of giving consent; and (iii) It is not possible to follow the procedures of this section.”
Notice Required?	Normally yes, but the court may waive this if waiting could harm the adult subject to guardianship § 13-709(e)(3)
Right to Hearing on Emergency Petition?	Yes § 13-709(f)(1)
Respondent’s presence at Hearing Required?	No § 13-709(f)(1)(i)
Duration of Emergency Guardianship Appointment?	6 days, but may be extended until a regular guardian is appointed § 13-709(c)(3-4)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Massachusetts § 5-308</b>
Standard for Appointment:	§ 5-308(a): “following the procedures of this article will likely result in immediate and substantial harm to the health, safety or welfare of the person alleged to be incapacitated occurring prior to the return date, and no other person appears to have authority to act in the circumstances” § 5-308(b): “If an appointed guardian is not effectively performing duties and the court further finds that the welfare of the incapacitated person requires immediate action”
Notice Required?	No § 5-308(d)
Right to Hearing on Emergency Petition?	No § 5-308(a)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Up to 90 days unless the court allows an extension for good cause § 5-308(a)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 5-412A

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State & Citation:	<b>Michigan</b> 330.1607
Standard for Appointment:	330.1607(1): “A court, upon filing of a petition for guardianship under this chapter and before the appointment of a plenary or partial guardian, or pending an appeal or action in relation to the appointment, under emergency circumstances and if necessary for the welfare or protection of an individual with a developmental disability”
Notice Required?	Not specified
Right to Hearing on Emergency Petition?	Yes 330.1607(2)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Until a plenary or partial guardian is appointed 330.1607(1)
Standard of Proof?	Clear and convincing evidence 330.1607(3)
Emergency Conservatorships?	No

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State & Citation:	<b>Minnesota</b> § 524.5-311
Standard for Appointment:	§ 524.5-311(a): “If the court finds that compliance with the procedures of this article will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances, the court, on petition by a person interested in the respondent's welfare”
Notice Required?	No § 524.5-311(b)
Right to Hearing on Emergency Petition?	No § 524.5-311(b)
Respondent’s presence at Hearing Required?	No § 524.5-311(b)
Duration of Emergency Guardianship Appointment?	Normally 60 days, but certain counties may be able to appoint an emergency guardian for 90 days. The appointment may be extended once for up to 60 more days § 524.5-311(a)
Standard of Proof?	Not specified
Emergency Conservatorships?	No



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State & Citation:	<b>Mississippi § 93-20-311</b>
Standard for Appointment:	§ 93-20-311(1): “(a)Appointment of an emergency guardian is likely to prevent substantial harm to the adult's physical health, safety, or welfare; (b) No other person appears to have authority and willingness to act in the circumstances; and (c) There is reason to believe that a basis for appointment of a guardian under Section 93-20-301 exists.”
Notice Required?	No, not if waiting would put the adult subject to guardianship in danger § 93-20-311(4)(a)
Right to Hearing on Emergency Petition?	No, not if waiting would put the adult subject to guardianship in danger § 93-20-311(4)(a)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	60 days, but the court may extend the guardianship for another 60 days if the conditions haven’t changed § 93-20-311(2)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 93-20-413

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State & Citation:	<b>Missouri</b> 475.075(15)
Standard for Appointment:	475.075(15): “If it is alleged in a petition that an alleged incapacitated or disabled respondent has no guardian or conservator and an emergency exists that presents a substantial risk that serious physical harm will occur to the respondent's person or irreparable damage will occur to the respondent's property because of the respondent's failure or inability to provide for the respondent's essential human needs or to protect the respondent's property”
Notice Required?	No 475.075(15)
Right to Hearing on Emergency Petition?	Yes 475.075(15)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not to exceed 90 days 475.075(15)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes 475.075(15)

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State & Citation:	<b>Montana</b> 72-5-317
Standard for Appointment:	72-5-317(1): “If an incapacitated person has no guardian and an emergency exists, the court may exercise the power of a guardian pending notice and hearing”
Notice Required?	No 72-5-317(2)
Right to Hearing on Emergency Petition?	No 72-5-317(2)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	6 months 72-5-317(2)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>Nebraska § 30–2626</b>
Standard for Appointment:	§ 30–2626(a)(1): “If a person alleged to be incapacitated has no guardian and an emergency exists”
Notice Required?	No § 30–2626(b) Notice is required if a hearing is requested § 30–2626(c)
Right to Hearing on Emergency Petition?	No, but may be requested § 30–2626(b)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	90 days, but the court may extend it with good cause § 30–2626(d)
Standard of Proof?	Preponderance of evidence if a hearing is requested § 30–2626b
Emergency Conservatorships?	Yes § 30-2630.01

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State & Citation:	<b>Nevada</b> 159.0523
Standard for Appointment:	159.0523(1): “A petitioner may request the court to appoint a temporary guardian for a proposed protected person who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention.
Notice Required?	No 159.0523(4)
Right to Hearing on Emergency Petition?	Not specified
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	10 days, but it may be extended 159.0523(2); 159.0523(7)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes 159.0525

# Emergency Guardianship Statutes



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State & Citation:	<b>New Hampshire § 464-A:12</b>
Standard for Appointment:	§ 464-A:12(I): “Any relative, public official, or interested person may file a verified petition for a temporary guardian of the person and estate, or the person, or the estate”
Notice Required?	No § 464-A:12(II)
Right to Hearing on Emergency Petition?	No § 464-A:12(II)
Respondent’s presence at Hearing Required?	Yes, if a hearing is requested § 464-A:12(IV)
Duration of Emergency Guardianship Appointment?	60 days, unless the court determines that there is good cause to extend the guardianship § 464-A:12(II)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>New Jersey</b> 3B:12-24.1
Standard for Appointment:	3B:12-24.1(c)(2): “for good cause shown and upon a finding that there is a critical need or risk of substantial harm”
Notice Required?	Not for good cause 3B:12-24.1(c)(2)
Right to Hearing on Emergency Petition?	Not for good cause 3B:12-24.1(c)(2)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not more than 45 days 3B:12-24.1(c)(8)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

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State & Citation:	<b>New Mexico § 45-5-310</b>
Standard for Appointment:	§ 45-5-310(A): “When a petition for guardianship has been filed, but adherence to the procedures set out in Section 45-5-303 NMSA 1978 would cause serious, immediate and irreparable harm to the alleged incapacitated person's health, safety or welfare”
Notice Required?	Not if waiting would harm the adult subject to guardianship § 45-5-310(A) If a hearing is held after a request, notice is required (§ 45-5-310(B))
Right to Hearing on Emergency Petition?	No § 45-5-310(A) motion may be filed to request a hearing (§ 45-5-310(B)), and if a guardian is appointed without notice, a hearing must be held within 10 days § 45-5-310(D)
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	30 days, the court may extend the emergency guardianship up to 60 days if good cause exists § 45-5-310(C)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 45-5-408



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State & Citation:	<b>New York § 81.23</b>
Standard for Appointment:	§ 81.23(a)(1): “upon showing of danger in the reasonably foreseeable future to the health and well being of the alleged incapacitated person, or danger of waste, misappropriation, or loss of the property of the alleged incapacitated person”
Notice Required?	Yes § 81.23(a)(2)
Right to Hearing on Emergency Petition?	Not specified
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Until a regular guardian can be appointed § 81.23(a)(1)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 901; § 902; § 903

# Emergency Guardianship Statutes



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Commission on  
Law and Aging

State & Citation:	<b>North Carolina § 35A-1114</b>
Standard for Appointment:	§ 35A-1114(b): “(1) That there is reasonable cause to believe that the respondent is incompetent, and (2) One or both of the following: a. That the respondent is in a condition that constitutes or reasonably appears to constitute an imminent or foreseeable risk of harm to his physical well-being and that requires immediate intervention; b. That there is or reasonably appears to be an imminent or foreseeable risk of harm to the respondent's estate that requires immediate intervention in order to protect the respondent's interest, and (3) That the respondent needs an interim guardian to be appointed immediately to intervene on his behalf prior to the adjudication hearing.”
Notice Required?	Yes § 35A-1114(c1)
Right to Hearing on Emergency Petition?	Yes § 35A-1114(c)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	45 days, but the duration can be extended by the court another 45 days if there is good cause § 35A-1114(e)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>North Dakota § 30.1-28-10.1</b>
Standard for Appointment:	§ 30.1-28-10.1(1): “if the court finds that compliance with the procedures of this chapter likely will result in substantial harm to the alleged incapacitated individual's health, safety, or welfare, and that no other person appears to have authority and willingness to act in the circumstances”
Notice Required?	No § 30.1-28-10.1(2)
Right to Hearing on Emergency Petition?	Not specified
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	90 days § 30.1-28-10.1(1)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 30.1-28-10.1

# Emergency Guardianship Statutes



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State & Citation:	<b>Ohio</b>
Standard for Appointment:	§2111.02(B)(3): “If an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent...”
Notice Required?	No
Right to Hearing on Emergency Petition?	Yes
Respondent’s presence at Hearing Required?	No
Duration of Emergency Guardianship Appointment?	72 hours w/o notice, can be extended to 30 additional days.
Standard of Proof?	Clear and Convincing Evidence
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Oklahoma § 3-115</b>
Standard for Appointment:	§ 3-115(A): “1. There is imminent danger that the health or safety of said person will be seriously impaired or that the financial resources of said person will be seriously damaged or dissipated unless immediate action is taken; and 2. No other person appears to have authority to act in the circumstances or the guardian previously appointed is unable to or refuses to take action.”
Notice Required?	No § 3-115(D)
Right to Hearing on Emergency Petition?	No § 3-115(D)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	30 days § 3-115(F)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Oregon</b> § 125.060; § 125.080; § 125.300
Standard for Appointment:	§ 125.300(1)(a): “only as is necessary to promote and protect the well-being of the protected person”
Notice Required?	Yes § 125.060(2)
Right to Hearing on Emergency Petition?	No § 125.080(1)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not specified
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 125.600

# Emergency Guardianship Statutes



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State & Citation:	<b>Pennsylvania</b> § 5511; § 5513
Standard for Appointment:	§ 5513: “when it appears that the person lacks capacity, is in need of a guardian and a failure to make such appointment will result in irreparable harm to the person or estate of the alleged incapacitated person.”
Notice Required?	Yes § 5511(a) Unless the court determines that waiting would hurt the adult subject to guardianship § 5513
Right to Hearing on Emergency Petition?	Yes § 5511(a) Unless the court determines that waiting would hurt the adult subject to guardianship § 5513
Respondent’s presence at Hearing Required?	Yes, unless it is impossible or would harm the adult subject to guardianship § 5511(a)(1 & 2)
Duration of Emergency Guardianship Appointment?	72 hours initially, but the court can extend the guardianship up to 30 days § 5513
Standard of Proof?	Clear and convincing evidence § 5511(a)
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Rhode Island</b> § 33-15-2; § 33-15-5
Standard for Appointment:	§ 33-15-2(2): “That, based on a decision making assessment tool which reflects the proposed ward's current level of decision making ability: (i) The proposed ward needs a limited guardian to provide assistance with decision making in the areas of financial, health care, residential and/or relationship matters; or (ii) The proposed ward needs a full guardian to provide assistance with decision making in all areas”
Notice Required?	Not specified
Right to Hearing on Emergency Petition?	Yes § 33-15-5
Respondent’s presence at Hearing Required?	No § 33-15-5(1)
Duration of Emergency Guardianship Appointment?	Not specified
Standard of Proof?	Clear and convincing evidence § 33-15-5(3)
Emergency Conservatorships?	No



# Emergency Guardianship Statutes



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State & Citation:	<b>South Carolina § 62-5-108</b>
Standard for Appointment:	§ 62-5-108(B)(2): “a petition or other appropriate pleading setting forth specific facts supporting the allegation that immediate relief is needed during the pendency of the action”
Notice Required?	No § 62-5-108(A)
Right to Hearing on Emergency Petition?	Yes § 62-5-108(A)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Not specified
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



AMERICANBARASSOCIATION

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State & Citation:	<b>South Dakota § 29A-5-315</b>
Standard for Appointment:	§ 29A-5-315: “upon a showing that 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 the person or estate, or that the individual or entity with authority to act is unwilling or has ineffectively exercised the authority.”
Notice Required?	Yes, unless waiting would cause harm to the adult subject to guardianship or their estate § 29A-5-315
Right to Hearing on Emergency Petition?	Yes, unless waiting would cause harm to the adult subject to guardianship or their estate § 29A-5-315
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Within 90 days, but the court can extend the period another 90 days for good cause § 29A-5-315
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 29A-5-315

# Emergency Guardianship Statutes



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Law and Aging

State & Citation:	<b>Tennessee § 34-1-132</b>
Standard for Appointment:	§ 34-1-132(a): “If the court finds that compliance with the procedures of this title will likely result in substantial harm to the respondent's health, safety, or welfare, and that no other person... appears to have authority to act, willingness to act, and is acting in the best interests of the respondent in the circumstances”
Notice Required?	Yes, unless the adult subject to guardianship would be harmed by waiting § 34-1-132(b)
Right to Hearing on Emergency Petition?	Yes, unless the adult subject to guardianship would be harmed by waiting § 34-1-132(b)
Respondent's presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	May not exceed 60 days § 34-1-132(a)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 34-1-132

# Emergency Guardianship Statutes



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State & Citation:	<b>Texas</b> § 1251.001; § 1251.005; § 1251.006; § 1251.008; § 1251.010; § 1251.151
Standard for Appointment:	§ 1251.001(a): “if the court: (1) is presented with substantial evidence that a person may be an incapacitated person; and (2) has probable cause to believe that the person, the person's estate, or both require the immediate appointment of a guardian.”
Notice Required?	Yes § 1251.005
Right to Hearing on Emergency Petition?	Yes § 1251.006
Respondent's presence at Hearing Required?	No § 1251.008
Duration of Emergency Guardianship Appointment?	60 days § 1251.151
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Utah</b> § 75-5-310
Standard for Appointment:	§ 75-5-310(1): “the welfare of the incapacitated person requires immediate action”
Notice Required?	No § 75-5-310(1)
Right to Hearing on Emergency Petition?	A hearing will be held within 14 days if it is requested, no hearing if there is no request § 75-5-310(2)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	30 days § 75-5-310(1)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Vermont</b> § 3081
Standard for Appointment:	§ 3081(a): “When a petition for guardianship has been filed, but adherence to the procedures set out in this subchapter would cause serious and irreparable harm to the respondent's physical health or financial interests”
Notice Required?	No, if waiting will cause harm to the adult subject to guardianship § 3081(c)
Right to Hearing on Emergency Petition?	No, if waiting will cause harm to the adult subject to guardianship § 3081(c)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	Without notice and a hearing: 14 days § 3081(c) With notice: When the court decides on the guardianship petition; An emergency guardianship can’t last more than 90 days § 3081(c)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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Law and Aging

State & Citation:	<b>Virginia § 63.1-55.6</b>
Standard for Appointment:	§ 63.1-55.6(A): “Upon petition by the local department to the circuit court, the court may issue an order authorizing the provision of adult protective services on an emergency basis to an adult after finding on the record, based on a preponderance of the evidence, that: 1. The adult is incapacitated; 2. An emergency exists; 3. The adult lacks the capacity to consent to receive adult protective services; and 4. The proposed order is substantially supported by the findings of the local department that has investigated the case, or if not so supported, there are compelling reasons for ordering services.”
Notice Required?	Yes § 63.1-55.6(D)
Right to Hearing on Emergency Petition?	Yes § 63.1-55.6(E)
Respondent’s presence at Hearing Required?	No § 63.1-55.6(E)
Duration of Emergency Guardianship Appointment?	15 days § 63.1-55.6(B)(3)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 63.1-55.6

# Emergency Guardianship Statutes



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State & Citation:	<b>Washington</b> 11.130.320
Standard for Appointment:	11.130.320(2)(d)(iii): “The substantial and irreparable harm to the respondent's health, safety, welfare, or rights that is likely to be prevented by the appointment of an emergency guardian”
Notice Required?	Notice is required unless waiting would endanger the adult subject to guardianship 11.130.320(10)
Right to Hearing on Emergency Petition?	A hearing is required unless waiting would endanger the adult subject to guardianship 11.130.320(10)
Respondent’s presence at Hearing Required?	No 11.130.320(9)
Duration of Emergency Guardianship Appointment?	60 days 11.130.320(8)
Standard of Proof?	Clear and convincing evidence 11.130.320(4)
Emergency Conservatorships?	Yes 11.130.430



# Emergency Guardianship Statutes



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State & Citation:	<b>West Virginia</b> § 44A-2-14
Standard for Appointment:	§ 44A-2-14(a): “an immediate need exists, that adherence to the procedures otherwise set forth in this chapter for the appointment of a guardian or conservator may result in significant harm to a person or the estate, and that no other individual or entity appears to have authority to act on behalf of the person, or that the individual or entity with authority to act is unwilling, or has ineffectively or improperly exercised the authority.”
Notice Required?	Yes § 44A-2-14(c)
Right to Hearing on Emergency Petition?	No § 44A-2-14(c)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	6 months, but this may be extended for good cause § 44A-2-14(b)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes § 44A-2-14

# Emergency Guardianship Statutes



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State & Citation:	<b>Wisconsin</b> 54.50
Standard for Appointment:	54.50(1): “If it is demonstrated to the court that a proposed ward's particular situation, including the needs of the proposed ward's dependents, requires the immediate appointment of a temporary guardian of the person or estate”
Notice Required?	Not specified
Right to Hearing on Emergency Petition?	Yes 54.50(3)(c)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	60 days, but the court may extend the period another 60 days for good cause 54.50(2)
Standard of Proof?	Not specified
Emergency Conservatorships?	No

# Emergency Guardianship Statutes



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State & Citation:	<b>Wyoming § 3-2-106</b>
Standard for Appointment:	§ 3-2-106 (a): “Upon the filing of a petition for a temporary guardian other than a petition for temporary guardianship for educational, medical care and dental care purposes pursuant to W.S. 3-2-301 through 3-2-303 and after a hearing the court may appoint a temporary guardian subject to any notice and conditions the court prescribes.”
Notice Required?	Not if waiting would cause harm to the adult subject to guardianship § 3-2-106(e)
Right to Hearing on Emergency Petition?	Not if waiting would cause harm to the adult subject to guardianship § 3-2-106(e)
Respondent’s presence at Hearing Required?	Not specified
Duration of Emergency Guardianship Appointment?	90 days § 3-2-106(b)
Standard of Proof?	Not specified
Emergency Conservatorships?	Yes: § 3-3-107