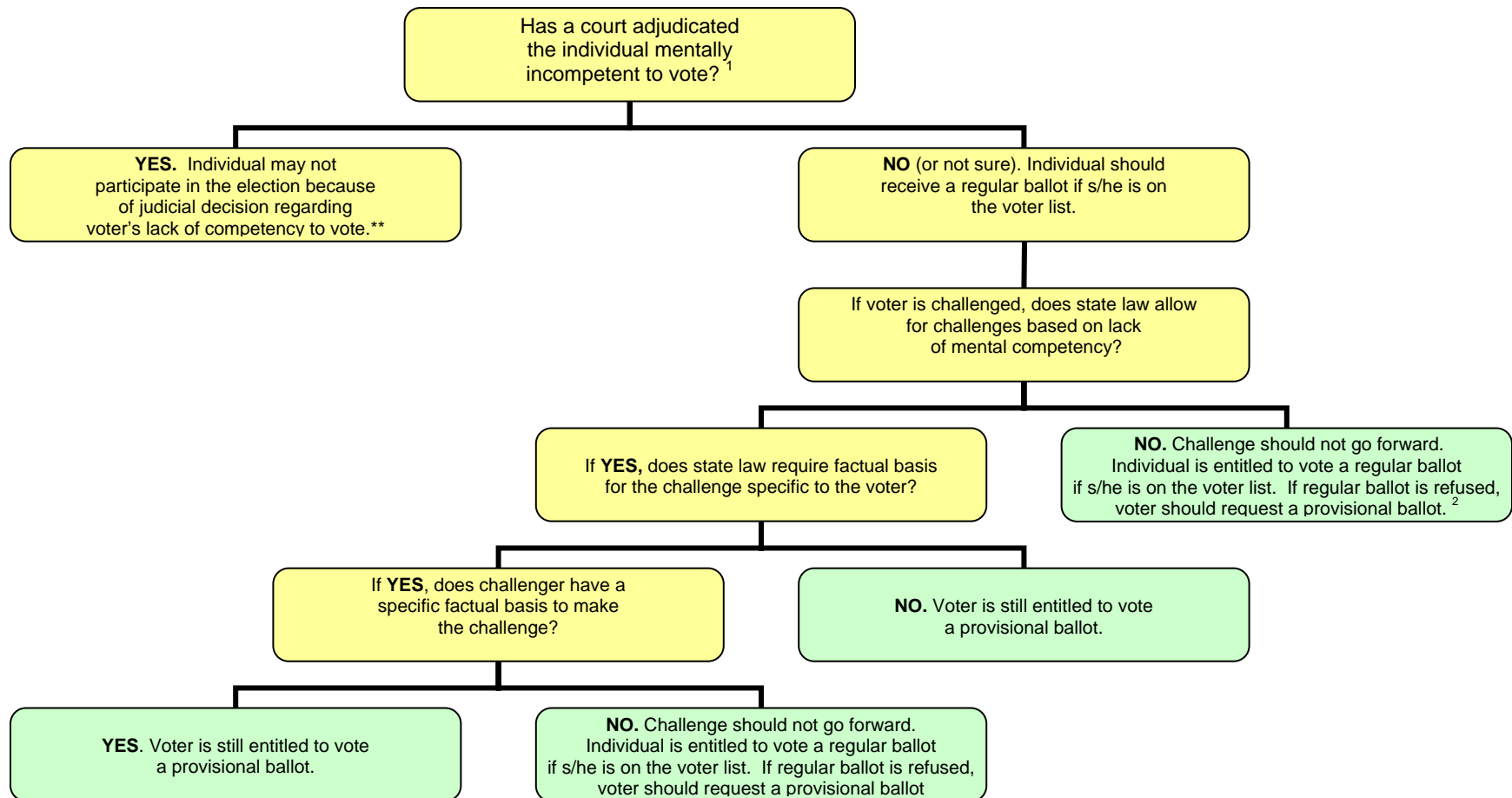


Analyzing a Challenge Based on Lack of Mental Competence to Vote



¹ State voting disqualification laws differ regarding when an individual may be disqualified from voting because of mental incompetence. Most, but not all, states require a court to rule that an individual does not have the capacity to vote before he can be disqualified from voting. To check what your state law says, see the "State Laws Affecting the Rights of People with Mental Disabilities" chart attached. The chart is also available at www.napas.org. ****IMPORTANT NOTE:** It is important to emphasize again that a person may be adjudicated mentally incompetent and may still be qualified to vote. Many states require a SPECIFIC adjudication of incompetence in regard to voting. Consult your state law.

² Provisional ballots are special ballots given to voters whose eligibility to vote is in doubt. Provisional ballots are kept separate from the regular ballots. After the election, election officials verify whether the voter was eligible to vote. Provisional ballots cast by eligible voters are added to all the others ballots and counted.

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>Persons who are mentally incompetent, unless the disability has been removed ALA. CONST. ART. VIII, 182</p> <p>Persons disqualified under the Constitution. ALA. CODE § 17-3-9.</p>		<p>Consumers of mental health services may vote and participate in the political process. ALA. CODE § 22-56-4(a)(5).</p>	<p>Persons with developmental disabilities and traumatic brain injury may 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>Judicially determined to be of “unsound mind”ⁱ unless the disability has been removed. ALASKA CONST. art. V, § 2.</p> <p>Disenfranchising statute, § 15.05.040, repealed 1996.</p>	<p>Guardian may not prohibit a ward from registering or voting. ALASKA STAT. §13.26.150(e)(6).</p> <p>Aug 28, 1992 Op. Att’y Gen 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.</p>	<p>Persons undergoing evaluation or treatment cannot be denied the right to vote. ALASKA STAT. § 47.30.835(A).</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 Association of Protection and Advocacy Systems (NAPAS) in June 2004. Updates and additional information are shaded for easy reference.

² Current terminology that is archaic regarding identifying individuals with disabilities is in quotation marks.

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
ARIZONA	<p>Adjudicated an incapacitated person, unless restored to civil rights. ARIZ. CONST. Art. 7, § 2(C).</p> <p>Art. 7 §2(C) amended in 2000 to read "No person who is adjudicated an incapacitated person shall be qualified to vote. . ." from the earlier "no person under guardianship, non compos mentis, or insane shall be qualified to vote."</p> <p>Adjudicated an incapacitated person under Title 14, ch. 5, Protection of Persons under Disability and Their Property. ARIZ. REV. STAT. § 16-101(A)(6).</p> <p>Proposed legislation under consideration by the State House would amend §14-5101 by adding "partially incapacitated" as a definition—this would allow guardianship of someone with incapacities, but still allow them to vote. The bill also amends §16-101 so that if a finding of partial incapacity is found, the individual retains the right to vote. The bill has passed the Senate and is in committee in the House.</p> <p>Ariz. Pend Leg. 2004 AZ S.B. 1154</p>		<p>Persons undergoing evaluation or treatment may not be denied the right to vote. ARIZ. REV. STAT. § 36-506(A).</p>	

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
ARKANSAS	<p>“Idiot” or “insane” person. ARK. CONST. art. 3, § 5.</p> <p>Adjudged mentally incompetent, registration cancelled. ARK. CONST. Amend. 51, § 11(a)(6).</p> <p>Const. Amendment 51 §9All persons may register who are qualified electors and who have not previously registered. (But Art. 3§5 disqualifications of “idiots” and “insane” still applicable).</p> <p>Disqualified under the Constitution. ARK. STAT. ANN. § 7-1-101(22).</p> <p>Ark. Stat. Ann. § 7-1-101(20) is a definition of “precinct” but §7-1-101(22) may apply—defines “qualified elector” as a person who holds the qualifications of an elector and who is registered pursuant to Arkansas Const., Amendment 51.</p>	<p>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 October 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). Added by Act 1629(2001).</p>	<p>Admission to a mental health system does not remove the right to vote. ARK. STAT. ANN. § 20-47-220(b)</p>	
CALIFORNIA	<p>Legislature shall disqualify while mentally incompetent. CAL. CONST. art. 2, § 4.</p> <p>No existing statutes enacted by the California legislature provide pursuant to the provisions of this section for the disqualification of electors while mentally incompetent. 59 Ops.Atty.Gen. 263, 4-29-76.</p> <p>Finding that the person is unable to complete the voter registration affidavit during a conservator for the person and/or estate under the Probate or Welfare and Institutions Code. CAL. ELEC. CODE § 2208(a).</p>	<p>Person under guardianship is disqualified if not capable of completing voter registration affidavit and appointment of conservator for person or person and estate. CAL. PROB CODE § 1910.</p>	<p>Conservatorship report can include recommendation to remove right to vote. CAL. WEL. and INST. CODE § 5357(c).</p>	
COLORADO	<p>No Constitutional disqualification provision.</p>		<p>Institutionalization itself does not restrict the right to vote. COLO. REV. STAT. § 27-10-</p>	<p>Service agencies should assist those receiving mental health services with registration,</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>Right to vote is not lost because of confinement in a state institution for the mentally ill. COLO. REV. STAT. § 1-2-103(5).</p>		<p>119; COLO. REV. STAT. § 1-2-103(5).</p>	<p>applications, and voting. COLO. REV. STAT. § 27-10.5-119.</p>
CONNECTICUT	<p>Legislature shall determine qualifications. CONN. CONST. art. 6, § 2.</p> <p>Mentally incompetent. CONN. GEN. STAT. § 9-12(b.)</p>		<p>Persons under hospitalization or treatment may vote unless under guardianship and a specific finding is made that they are incompetent to vote. CONN. GEN. STAT. § 17a-541.</p>	
DELAWARE	<p>“Idiot” or “insane” person. DEL. CONST. art. 5, § 2.</p> <p>Substituted "person adjudged mentally incompetent" for "idiot or insane person, pauper." 73 Del. Laws, c. 99, effective May 8, 2001.</p> <p>Del. Const. Art. 5§2 now reads: "and no person adjudged mentally incompetent or . . .incapacitated under the provisions of this Constitution from voting, shall enjoy the right of an elector"</p> <p>Adjudicated mentally incompetent. 15 DEL. CODE ANN. § 1701. 15 Del. Code Ann. §1701</p> <p>Amended by 73 Del. Laws, c. 34, effective May 8, 2001 Now reads: "and 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."</p>			

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
DISTRICT OF COLUMBIA	<p>Adjudged mentally incompetent. NEW COLUMBIA CONST. ART. 5 §1(c)</p> <p>Adjudged mentally incompetent. DC ST §1-1001.02</p>	<p>Persons under guardianship. D.C. CODE, 2001 ED. REGULATION OF ELECTIVE FRANCHISE.</p> <p>An incapacitated person is not considered incompetent and retains legal rights. DC Code §21-2004</p>	<p>A person committed for treatment shall not be deprived of the right to vote unless committed by court order before Sept. 15, 1964. DC CODE §21-564</p>	
FLORIDA	<p>Adjudicated, in this or any other state, to be mentally incompetent, until the disability has been removed. 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>Adjudicated mentally incapacitated regarding voting in this or any other state and right not restored. FLA. STAT. § 97.041(2)(a).</p> <p>A person who has been adjudicated physically incompetent continues to be eligible to vote, provided such person is duly registered as an elector. The clerk of the circuit court is under no duty to report such person to the supervisor of elections. Op. Atty. Gen., 077-1, Jan. 11, 1977.</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 may be evaluated for voting disqualification. FLA. STAT. § 744.331(3)(d)(2).</p>	<p>Patients may vote if otherwise eligible under state law. FLA. STAT. § 394.459(7).</p> <p>Proposed Legislation 2004 FL S.B. 700 (SN), 700 (SN), 2004 Florida Senate Bill No. 700, Florida 106th Re, (Apr 30, 2004) Would amend the language "any patient in a facility who is eligible to vote" to "any patient who is eligible to vote" (Has passed the House (4/30/04) and is in the Senate for consideration)</p>	<p>Persons with developmental disabilities may vote if otherwise qualified under state law. FLA. STAT. § 393.13(3)(j).</p> <p>Proposed Legislation 2004 FL S.B. 1280 (SN), 1280 (SN), 2004 Florida Senate Bill No. 1280, Florida 106th R, (Apr 28, 2004) Leave the (j) provision—otherwise qualified individuals with a developmental disability may vote.</p>
GEORGIA	<p>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>Right to vote should be independently determined by court. GA. CODE ANN. § 29-5-7(f).</p> <p>Amended by 2004 Georgia Laws Act 460 (H.B. 229) The appointment of a</p>	<p>Patients may vote if otherwise eligible under state law. GA. CODE ANN. § 37-3-144.</p>	<p>Clients may vote if otherwise eligible. GA. CODE ANN. § 37-4-104.</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
		guardian is not a determination regarding the right of the ward to vote. Art. 3 29-4-20(b)		
HAWAII	<p>“Non compos mentis.” HAW. CONST. art. 2, § 2.</p> <p>Adjudicated incapacitated or “mentally retarded” if the clerk finds the person is incapacitated to the extent that he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning voting. HAW. REV. STAT. § 11-23(a).</p> <p>Revised by the 2002 amendment, effective April 12, 2002. Deleted “mentally retarded” language. Now reads: “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, or has lost voting rights pursuant to section 831-2, or has lost citizenship, or is disqualified for any other reason to vote, the clerk shall remove the name of the person from the register.”</p>		Admission to psychiatric facility itself does not modify the right to vote. HAW. REV. STAT. § 334-61.	

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
IDAHO	<p>Constitutional disenfranchising provision removed in 1998.</p> <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>Amended by: 2004 Idaho Laws Ch. 315 (H.B. 579). But does not change the right to vote unless limited by a court order.</p>	<p>Developmentally disabled persons have the right to vote unless limited by prior court order. IDAHO CODE § 66-412(3)(j)</p>
ILLINOIS	<p>“Insane” persons cannot vote via case law not overruled by CONST. art. 3, § 1. (Const. Commentary).</p> <p>No disqualification statute.</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>	

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
IOWA	<p>“Idiot,” or “insane” person. IOWA CONST. art. 2, § 5.</p> <p>Proposed repeal and reenactment. (Will be voted on during the 2004 general election) If adopted, the section will read:</p> <p>“§ 5. Disqualified persons “A person adjudged mentally incompetent to vote or a person convicted of any infamous crime shall not be entitled to the privilege of an elector.” House Joint Resolution 3, Acts 2003 (80 G.A.) ch. 187, § 1.</p> <p>Mentally incompetent, unless finding reversed. IOWA CONST. § 48A.6(2)</p> <p>2002 deleted “mentally” preceding “incompetent”.</p> <p>Now reads: “2. A person who is incompetent to vote. Certification by the clerk of the district court that any such person has been found no longer incompetent by a court shall qualify such person to again be an elector, subject to the other provisions of this chapter.”</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. KY. CONST. § 145(3).</p> <p>Disqualified under the Constitution. KY. REV. STATS. § 116.025(1).</p>	<p>The right to vote can be removed under a limited guardianship or conservatorship. KY. REV. STATS. § 387.590(10)(11).</p>		

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
LOUISIANA	<p>Right to vote may be suspended while interdicted and judicially declared mentally incompetent. LA. CONST. art. 1, § 10(A).</p> <p>Interdicted after being judicially declared to be mentally incompetent. LA. REV. STAT. ANN. § 18:102(2).</p> <p>HB 1636 passed the Senate 6/15/04. Amends §18:102(A)(2) to say that if an individual is fully interdicted, that individual is not permitted to vote, but an individual who is only partially interdicted may be allowed to vote—there has to be a specific suspension of the right to vote.</p>		Patients in treatment facilities shall not be deprived of the right to vote. LA. REV. STAT. ANN. § 28:171(A).	<p>Department of Health and Hospitals shall establish rules and regulations to ensure that persons who are competent to vote are permitted to vote. LA. REV. STAT. ANN. § 18:102.1(B).</p> <p>HB 1636 passed the Senate 6/15/04. Amends §102.1 to affirm the rights of the mentally retarded to vote unless there has been a specific finding of mental incompetence (requires an affirmative finding).</p>
MAINE	<p>Persons under guardianship for reason of mental illness ME. CONST. ART. II §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 §1violates the Equal Protection Clause.</p> <p>Guardianship for reasons of mental illness. Me. Rev. Stat. Ann. Tit. 21A §115(1)(1993)</p> <p>Repealed by 2001, c. 516, §1</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. 35B § 3803(1)(A-C).	Persons with mental retardation or autism may not be denied voting rights because of mental illness, unless under guardianship. ME. REV. STAT. ANN. tit. 35B § 5605(5).
MARYLAND	State may regulate or prohibit the right to vote of a person under care or guardianship for mental disability. MD. CONST. art 1, § 4; MD. ELEC. 3-102(b)(2).		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.	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.

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
MASSACHUSETTS	Under guardianship. MASS. CONST. amend, art. III; MASS. ANN. LAWS ch. 51 § 1. Pending legislation HB 4509 regarding Mass. Ann. Laws ch 51 §1.			
MICHIGAN	Legislature may exclude persons based on mental incompetence. MICH. CONST. art. 2, § 2. No disqualification electoral statute.			
MINNESOTA	Under guardianship, “insane,” or not mentally competent. MINN. CONST. art. VII, § 1. Under guardianship of the person or adjudicated legally incompetent. MINN. STAT. § 201.014(2)(b)(c).	Persons under conservatorship have a right to vote unless the right is restricted by the court. MINN. STAT. § 525.54(4). Persons under conservatorship for mental retardation have the right to vote unless the loss of the right is stated in the guardianship/ conservatorship proceedings. MINN. STAT. § 252A.12.	Persons may not be deprived of the right to vote because of commitment or treatment. MINN. STAT. § 23(2)(a).	Persons may not be deprived of the right to vote because of commitment or treatment. MINN. STAT. § 253B.23(2)(a). Repealed by Laws 2003, c. 12, art. 2, § 8 Now §525.54 reads: "Subd. 4. Voting. The appointment of a conservator shall not deprive the conservatee of the right to vote, unless the right is restricted by court order."
MISSISSIPPI	“Idiots” and “insane” persons. MISS. CONST. art. 12, § 241. “Idiots” and “insane” persons. MISS. CODE ANN § 23-15-11.		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	Persons under guardianship of estate or person because of mental incapacity and persons involuntarily confined in a mental institution. MO. CONST. art. VIII, § 2. Persons adjudicated incapacitated. MO. ANN. STATE § 115.133(2).			
MONTANA	“Unsound mind,” as determined by a court. MONT. CONST. art IV, § 2.			

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>“Unsound mind,” unless has been restored to capacity. MONT. CODE ANN. § 13-1-111(3).</p>			
NEBRASKA	<p>“Non compos mentis,” unless restored to civil rights. NE. CONST. art. VI, § 2.</p> <p>“Non compos mentis,” restored to civil rights. NEB. REV. STAT. ANN. § 32-313(1).</p>			
NEVADA	<p>“Idiot” or “insane” person. NEV. CONST. art. 2, § 1.</p> <p>2003 Joint Resolution 3, passed May 27, 2003 submits to voters on the 2004 ballot an amendment to the language of the Const. If passed it would read “no person who has been adjudged mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of elector.”</p> <p>No disqualification electoral statute.</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. NEV. 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. NEV. REV. STAT. ANN. 433A.480(1).</p>	
NEW HAMPSHIRE	<p>No Constitutional disqualification provision.</p> <p>No disqualification electoral statute.</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>“Idiot” or “insane” person. N.J. CONST. art 2, § 6.</p> <p>“Idiot” or “insane” person. N.J. STAT. ANN. § 19:4-1(1).</p>		<p>Persons under treatment may register and vote subject to the laws and Constitution. N.J. STAT. ANN. § 30:4-24.2(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-4a.</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
			Persons receiving in-patient assessment or treatment may register and vote subject to laws and Constitution. N.J. STAT. ANN. § 30:4-27.11(c).	
NEW MEXICO	<p>“Idiots” and “insane” persons. N.M. CONST. art. 7, § 1.</p> <p>Persons under constitutional disqualification. N.M. STAT. ANN. § 1-1-4.</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>Adjudged incompetent, unless later adjudged competent. N.Y. ELEC. LAW § 5-106(6).</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.	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.
NORTH CAROLINA	<p>No Constitutional disqualification provision.</p> <p>No disqualification election statute.</p>		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	<p>Adjudicated mentally incompetent, unless order has been rescinded. N.D. CONST. art. 2, § 2.</p> <p>Election disqualification statute repealed 1993.</p>	Wards may vote, unless limited by a specific finding by the court. N.D. CENT. CODE § 30.1-28-04(c).		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	<p>“Idiot” or “insane” person. OHIO CONST. art 5, § 6.</p> <p>Adjudicated incompetent for the purpose of voting, OHIO REV. CODE ANN. § 3503.18.</p>		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	Court may make a specific		

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
	<p>for qualification. OKLA. CONST. art. III, § 1.</p> <p>Adjudicated an incapacitated person under Guardianship and Conservatorship Act, unless adjudicated no longer incapacitated; or adjudicated partially incapacitated person and right to vote restricted. OKLA. STAT. TIT. 26, § 4-101(2).</p>	<p>determination of the voting capacity of a person under guardianship. OKLA. STAT. ANN. TIT. 30 § 3-113(B)(1).</p>		
OREGON	<p>“Suffering from a mental handicap” and otherwise qualified, unless adjudicated incompetent to vote. 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>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.</p> <p>No disqualification election statute.</p>			
RHODE ISLAND	<p>Adjudicated “non compos mentis.” R.I. CONST. art. 2, § 1.</p> <p>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>	
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>Adjudicated mentally incompetent. S.C. CODE ANN. § 7-5-120(B)(1).</p>		<p>Patients may vote unless adjudicated incompetent. S.C. CODE ANN. § 44-22-80(7).</p>	<p>Residents of facilities may vote unless adjudicated incompetent. S.C. CODE ANN. § 44-26-90(7).</p>
SOUTH DAKOTA	<p>Disqualified by law for mental incompetence. S.D. CONST. art. 7, § 2.</p> <p>Not otherwise disqualified. S.D. CODIFIED LAWS § 12-3-1.</p>		<p>Not deemed incompetent to register and vote because of detention, admission, or commitment. S.D. CODIFIED LAWS § 27B-1-5.</p>	<p>Persons admitted or committed to a facility, or adjudicated mentally retarded shall not be deemed incompetent to register and vote. . S.D. CODIFIED LAWS §</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
				<p>27B-1-5.</p> <p>27B-1-5 Repealed by SL 2000, ch 131, § 1 There is now no mention of voting rights for those adjudged mentally incompetent in 27B.</p>
TENNESSEE	<p>No Constitutional disqualification provision.</p> <p>No disqualification election statute.</p>	<p>May remove the right to vote if placed under a conservatorship. TENN. CODE. ANN. § 34-13-204(8).</p> <p>Renumbered. Is now cited as Tenn. Code Ann. §34-3-104(8).</p>	<p>No person with mental illness, serious emotional disturbance, or development disabilities hospitalized or admitted, whether voluntarily or involuntarily shall, solely by reason of such hospitalization, admission, or order be denied the right to vote, unless he or she has been adjudicated incompetent and has not been restored to legal capacity or the denial is authorized by state or federal statute.</p> <p>The chief officer of the facility can file for the appointment of a conservator if he or she thinks a person is unable to exercise his or her right to vote and shall immediately notify the individual and his or her attorney, parent, legal custodian, spouse or other nearest known adult relative of his or her intention to file such. TENN. CODE ANN. § 33-3-104(5).</p> <p>Renumbered to §33-4-110 Repealed by 2000 Pub.Acts, c. 947. "Patients or residents may vote unless adjudicated incompetent." TENN. CODE ANN. §33-3-102(a)</p>	<p>No person with mental illness, serious emotional disturbance, or development disabilities hospitalized or admitted, whether voluntarily or involuntarily shall, solely by reason of such hospitalization, admission, or order be denied the right to vote, unless he or she has been adjudicated incompetent and has not been restored to legal capacity or the denial is authorized by state or federal statute. The chief officer of the facility can file for the appointment of a conservator if he or she thinks a person is unable to exercise his or her right to vote and shall immediately notify the individual and his or her attorney, parent, legal custodian, spouse or other nearest known adult relative of his or her intention to file such. TENN. CODE ANN. § 33-3-104(5).</p> <p>Renumbered to §33-4-110 Repealed by 2000 Pub.Acts, c. 947. "Patients or residents may vote unless adjudicated incompetent." TENN. CODE ANN. §33-3-102(a)</p>

STATE	State Constitution/ Electoral Statutes: Persons Disqualified	Guardianship/ Conservatorship Statutes	Mental Health Statutes	Developmental Disabilities/ Mental Retardation Statutes
TEXAS	<p>Adjudicated mentally incompetent subject to Legislature's exceptions. TEX. CONST. art. 6, § 1.</p> <p>Adjudicated mentally incompetent by a final judgment of a court. TEX. ELEC. CODE ANN. § 2-11.002(3).</p>		<p>Patients may register and vote unless specific law limits rights under a special procedure. TEX. HEALTH & SAFETY CODE ANN. § 576.001(b)(1).</p>	
UTAH	<p>Mentally incompetent, unless right to vote restored. UTAH CONST. art. 4, § 6.</p> <p>No disqualification election statute.</p>		<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 adjudicated to be incompetent and has not been restored to legal capacity. UTAH CODE ANN. § 62A-12-245(1)(c).</p> <p>Renumbered. Now cited as 62A-15-641 (1)(c)</p>	<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 adjudicated to be incompetent and has not been restored to legal capacity. UTAH CODE ANN. § 62A-12-245(1)(c).</p> <p>Renumbered. Now cited as: 62A-15-641 (1)(c)</p>
VERMONT	<p>Persons who are not of "quiet and peaceable behavior." VT. CONST. ch. II, § 42.</p> <p>No disqualifying election statute.</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>Adjudicated mentally incompetent, unless competency has been reestablished. VA. CONST. art. 2, § 1.</p> <p>Adjudicated incapacitated, unless capacity has been reestablished as provided by law. VA. CODE ANN. § 24.2-101.</p>			

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WASHINGTON	<p>Adjudicated mentally incompetent. WASH. CONST. art. 6, § 3.</p> <p>Disqualified under the Constitution. WASH. REV. CODE ANN. § 29.01.065.</p> <p>Proposed House Bill 1159 would renumber the section, but not change the language.</p>			
WEST VIRGINIA	<p>Adjudicated mentally incompetent while such disability continues. W. VA. CONST. art. IV, § 1.</p> <p>“unsound mind,” while such disability continues. W. VA. CODE § 3-1-3.</p> <p>Adjudicated mentally competent as long as that determination remains in effect. W. VA. CODE § 3-2-2(b).</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>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>Adjudged incompetent or partially incompetent, unless judgment specifies capable of understanding the objective of the elective process or judgment set aside. WIS. CONST. art. 3, § 2(4)(b).</p> <p>Any person who is incapable of understanding the elective process or under guardianship that if a limited guardianship the court may determine competent to vote. WIS. STAT. § 6.03(1)(a).</p> <p>Any elector can request a hearing to determine another elector’s capability to understand the objective of the elective process; a finding of incapability results in ineligibility to vote. WIS. STAT. § 6.03(3)</p>	<p>Limited guardianship of the person proceeding includes a voting rights determination. WIS. STAT. ANN. § 880.33(3).</p> <p>Any elector can request a hearing to determine another elector’s capability to understand the objective of the elective process; a finding of incapability results in ineligibility to vote. WIS. STAT. § 880.07(3).</p>	<p>Not deemed incompetent to vote solely on admission, detainment, or commitment. WIS. STAT. ANN. § 51.59(1).</p>	<p>Not deemed incompetent to vote solely on admission, detainment, or commitment. WIS. STAT. ANN. § 51.59(1).</p>
WYOMING	<p>Adjudicated to be mentally incompetent, unless restored to civil</p>			

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	<p>rights. WYO. CONST. art. 6 § 6.</p> <p>Election Statute: Currently adjudicated a mentally incompetent person. WYO. STAT. ANN. § 22-1-102(a)(xxvi).</p>			
