

Statutory Right to Counsel for Adults in Initial Proceedings in Probate Guardianships

Original Research by [Jenny Hatch Project](#)

*Differing View by Spectrum Institute (Compare [ABA](#) Analysis)

State	Automatic Right	Conditional Right	Comments
Alabama	yes		attorney may act as guardian ad litem
Alaska	yes		attorney to be zealous advocate
Arizona	yes		maintain normal attorney-client relationship
Arkansas	yes		maintain normal attorney-client relationship
California	yes		
Colorado	no	yes	upon request, recommended by visitor, or court's discretion
Connecticut	yes		represent stated wishes of client; maintain normal attorney-client relationship
Delaware	yes		may sometimes advocate best interests
District of Columbia	yes		act as zealous advocate; but may argue best interests if client cannot state wishes
Florida	yes		represent stated wishes; maintain normal attorney-client relationship
Georgia	yes		maintain normal attorney-client relationship
Hawaii	no	yes	upon request, recommended by visitor, or court's discretion
Idaho	yes		duties of guardian ad litem
Illinois	no	yes	upon request, recommended by visitor, or court's discretion
Indiana	no	yes	court's discretion
Iowa	yes		not act as GAL; maintain normal relationship
Kansas	yes		maintain normal attorney-client relationship
Kentucky	yes		maintain normal attorney-client relationship
Louisiana	yes		maintain normal attorney-client relationship
Maine	no*	yes*	if respondent wishes to contest the proceeding
Maryland	yes		maintain normal attorney-client relationship
Massachusetts	no	yes	upon request or in court's discretion
Michigan	no*	yes*	upon request or if respondent wishes to contest the proceeding
Minnesota	yes		maintain normal attorney-client relationship
Mississippi	no	no	statutes are silent on right to counsel

State	Automatic Right	Conditional Right	Comments
Missouri	yes		maintain normal attorney-client relationship
Montana	no	yes	court discretion in interests of justice
Nebraska	no*	yes*	right to private counsel or court may appoint counsel in its discretion
Nevada	yes		maintain normal attorney-client relationship
New Hampshire	yes		maintain normal attorney-client relationship
New Jersey	yes		maintain normal attorney-client relationship
New Mexico	yes		role of guardian ad litem
New York			
North Carolina	yes		role of guardian ad litem
North Dakota	yes		role of guardian ad litem
Ohio	no*	yes*	upon request
Oklahoma	no	yes	court may appoint attorney
Oregon	no	yes	court may appoint counsel
Pennsylvania	no	yes	may appoint counsel upon request
Rhode Island	no*	yes*	upon request or if respondent wishes to contest the proceeding
South Carolina	yes		role of guardian ad litem
South Dakota	no*	yes*	upon request, if respondent contests proceeding, or in court's discretion
Tennessee	no*	yes*	upon request, on recommendation of GAL, or if court deems it necessary
Texas	yes		unclear what role attorney has
Utah	yes		maintain normal attorney-client relationship
Vermont	yes		act as advocate, not GAL
Virginia	no*	yes*	right to private counsel; appointed counsel upon request of respondent or GAL if deemed necessary by court
Washington	no	yes	right to retain private counsel; if court deems it necessary then counsel is appointed
West Virginia	yes		advocate best interests of client
Wisconsin	no	yes	upon request or if respondent contests or if court deems it necessary
Wyoming	yes		advocate preferences, not best interests
Total	30 Yes	19 Yes	Mississippi is silent on the right to counsel; New York page is temporarily unavailable

* Spectrum Institute does not read the statutes in these states the same as the Jenny Hatch Project does. To us, the wording of these statutes indicate that appointment of counsel is not automatic but is dependent on some action or request by the respondent or the guardian ad litem, or that it rests in the discretion of the court. JH Project listed 38 states with mandatory appointment of counsel. We find only 30 states.