LDIR#220 ART.VII GUARDIAN-SHIP

Article VII: Guardianship

Part 1. General Provisions

Sec. 701 DEFINITIONS AND USE OF TERMS. When used in Parts 1, 2, 3 and 4, unles otherwise apparent from the context:

(1) A "Guardian" is one appointed by a court to have the care and custody of an incompetent person or of the estate of an incompetent person or of both.

(2) An "incompetent" is any person who is

(a) Under the age of 19; or

(b) Incapable by reason of insanity, mental illness, imbecility, idiocy, senility, habitual drunkenness, excessive use of drugs, or other incapacity, of either managing his property or caring for himself or both.

(3) A "missing person" is one who owns property within the state, and cannot be located upon reasonable inquiry.

(4) A "ward" is an incompetent or missing person for whom a guardian has been appointed.

COMMENT:

A guardian is generally appointed for minors and for persons who are so mentally deficient that they are unable to care for themselves or their property. E.g., ACLA 1949, Secs. 61-1-1 thru 6 (minors); Sec. 62-1-11 (insane or incompetent); Mo. Stat. Anno. (1956), Sec. 475.010 (incompetents). The cause of the mental deficiency is immaterial - it may result from illness, old age, or be a congenital defect. See Annotation 13 ALR 354 (1938)(incompetents).

Physical disability has not been included within the purview of "incompetent," for guardianship purposes. Statutory attempts to do so have previously been declared unconstitutional as an unwarranted interference of liberty and right to property. Schafer v. Haller