

1 HB114
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3 By Representative Irons
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1 §26-2B-101. SHORT TITLE. This act may be cited as
2 the Alabama Uniform Adult Guardianship and Protective
3 Proceedings Jurisdiction Act.

4 §26-2B-102. DEFINITIONS. In this chapter, the
5 following terms shall have the following meanings:

6 (1) ADULT. An individual who has attained 19 years
7 of age or who by statute has otherwise been deemed to be an
8 adult under the laws of the State of Alabama or the laws of
9 another state.

10 (2) CONSERVATOR. A person appointed by the court to
11 administer the property of an adult, including a person
12 appointed under Section 26-2A-20(2) of the Alabama Uniform
13 Guardianship and Protective Proceedings Act.

14 (3) COURT. A probate court of this state and
15 includes an appropriate court of another state.

16 (4) GUARDIAN. A person appointed by the court to
17 make decisions regarding the person of an adult, including a
18 person appointed under Section 26-2A-20(7) of the Alabama
19 Uniform Guardianship and Protective Proceedings Act.

20 (5) GUARDIANSHIP. An order appointing a guardian.

21 (6) GUARDIANSHIP PROCEEDING. A judicial proceeding
22 in which an order for the appointment of a guardian is sought
23 or has been issued.

24 (7) INCAPACITATED PERSON. An adult for whom a
25 guardian has been appointed.

1 (8) PARTY. The respondent, petitioner, guardian,
2 conservator, or any other person allowed by the court to
3 participate in a guardianship or protective proceeding.

4 (9) PERSON. Except as used in the term incapacitated
5 person or protected person, an individual, corporation,
6 business trust, estate, trust, partnership, limited liability
7 company, association, joint venture, public corporation,
8 government or governmental subdivision, agency, or
9 instrumentality, or any other legal or commercial entity.

10 (10) PROTECTED PERSON. An adult for whom a
11 protective order has been issued.

12 (11) PROTECTIVE ORDER. An order appointing a
13 conservator or other order related to management of an adult's
14 property.

15 (12) PROTECTIVE PROCEEDING. A judicial proceeding in
16 which a protective order is sought or has been issued.

17 (13) RECORD. Information that is inscribed on a
18 tangible medium or that is stored in an electronic or other
19 medium and is retrievable in perceivable form.

20 (14) RESPONDENT. An adult for whom a protective
21 order or the appointment of a guardian is sought.

22 (15) STATE. A state of the United States, the
23 District of Columbia, Puerto Rico, the United States Virgin
24 Islands, a federally recognized Indian tribe, or any territory
25 or insular possession subject to the jurisdiction of the
26 United States.

1 §26-2B-103. INTERNATIONAL APPLICATION OF ACT.

2 (a) A court of this state, by written order, may
3 treat a foreign country as if it were a state of the United
4 States for the purpose of applying this article and Articles
5 2, 3, and 5.

6 (b) Except as otherwise provided in subsection (c),
7 a guardianship or conservatorship determination made in a
8 foreign country under factual circumstances in substantial
9 conformity with the jurisdictional standards of this chapter
10 shall be recognized and enforced under Article 3.

11 (c) A court of this state need not apply this
12 chapter if the guardianship or conservatorship law of a
13 foreign country violates fundamental principles of human
14 rights.

15 §26-2B-104. COMMUNICATION BETWEEN COURTS.

16 (a) A court of this state may communicate with a
17 court in another state concerning a proceeding arising under
18 this chapter. The court may allow the parties to participate
19 in the communication.

20 (b) If the parties are not allowed to participate in
21 the communication, the court shall give all parties the
22 opportunity to present facts and legal arguments before the
23 court issues an order establishing jurisdiction.

24 (c) Except as otherwise provided in subsection (d),
25 the court shall make a record of any communication under this

1 section and promptly inform the parties of the communication
2 and grant them access to the record.

3 (d) Courts may communicate concerning schedules,
4 calendars, court records, and other administrative matters
5 without making a record.

6 §26-2B-105. COOPERATION BETWEEN COURTS.

7 (a) In a guardianship or protective proceeding in
8 this state, a court of this state may request the appropriate
9 court of another state to do any of the following:

10 (1) Hold an evidentiary hearing.

11 (2) Order a person in that state to produce evidence
12 or give testimony pursuant to procedures of that state.

13 (3) Order that an evaluation or assessment be made
14 of the respondent.

15 (4) Order any appropriate investigation of a person
16 involved in a proceeding.

17 (5) Forward to the court of this state a certified
18 copy of the transcript or other record of a hearing under
19 paragraph (1) or any other proceeding, any evidence otherwise
20 produced under paragraph (2), and any evaluation or assessment
21 prepared in compliance with an order under paragraph (3) or
22 (4).

23 (6) Issue any order necessary to assure the
24 appearance in the proceeding of a person whose presence is
25 necessary for the court to make a determination, including the
26 respondent or the incapacitated or protected person.

1 (7) Issue an order authorizing the release of
2 medical, financial, criminal, or other relevant information in
3 that state, including protected health information as defined
4 in 45 C.F.R. Section 164.504, as amended.

5 (b) If a court of another state in which a
6 guardianship or protective proceeding is pending requests
7 assistance of the kind provided in subsection (a), a court of
8 this state has jurisdiction for the limited purpose of
9 granting the request or making reasonable efforts to comply
10 with the request.

11 §26-2B-106. TAKING TESTIMONY IN ANOTHER STATE.

12 (a) In a guardianship or protective proceeding, in
13 addition to other procedures that may be available, testimony
14 of a witness who is located in another state may be offered by
15 deposition or other means allowable in this state for
16 testimony taken in another state. The court on its own motion
17 may order that the testimony of a witness be taken in another
18 state and may prescribe the manner in which and the terms upon
19 which the testimony is to be taken.

20 (b) In a guardianship or protective proceeding, a
21 court in this state may permit a witness located in another
22 state to be deposed or to testify by telephone or audiovisual
23 or other electronic means. A court of this state shall
24 cooperate with the court of the other state in designating an
25 appropriate location for the deposition or testimony.

1 (c) Documentary evidence transmitted from another
2 state to a court of this state by technological means that do
3 not produce an original writing may not be excluded from
4 evidence solely on an objection based on the means of
5 transmission.

6 ARTICLE 2

7 JURISDICTION

8 §26-2B-201. DEFINITIONS; SIGNIFICANT CONNECTION
9 FACTORS.

10 (a) In this article, the following terms shall have
11 the following meanings:

12 (1) EMERGENCY. A circumstance that likely will
13 result in substantial harm to a respondent's health, safety,
14 or welfare, and for which the appointment of a guardian is
15 necessary because no other person has authority and is willing
16 to act on the respondent's behalf.

17 (2) HOME STATE. The state in which the respondent
18 was physically present, including any period of temporary
19 absence, for at least six consecutive months immediately
20 before the filing of a petition for a protective order or the
21 appointment of a guardian; or if none, the state in which the
22 respondent was physically present, including any period of
23 temporary absence, for at least six consecutive months ending
24 within the six months prior to the filing of the petition.

25 (3) SIGNIFICANT-CONNECTION STATE. A state, other
26 than the home state, with which a respondent has a significant

1 connection other than mere physical presence and in which
2 substantial evidence concerning the respondent is available.

3 (b) In determining under Section 26-2B-203 and
4 subsection (e) of Section 26-2B-301 whether a respondent has a
5 significant connection with a particular state, the court
6 shall consider:

7 (1) the location of the respondent's family and
8 other persons required to be notified of the guardianship or
9 protective proceeding;

10 (2) the length of time the respondent at any time
11 was physically present in the state and the duration of any
12 absence;

13 (3) the location of the respondent's property; and

14 (4) the extent to which the respondent has ties to
15 the state such as voting registration, state or local tax
16 return filing, vehicle registration, driver's license, social
17 relationship, and receipt of services.

18 §26-2B-202. EXCLUSIVE BASIS.

19 This article provides the exclusive jurisdictional
20 basis for a court of this state to appoint a guardian or issue
21 a protective order for an adult.

22 §26-2B-203. JURISDICTION.

23 (a) A court of this state has jurisdiction to
24 appoint a guardian or issue a protective order for a
25 respondent if:

26 (1) this state is the respondent's home state;

1 (2) on the date the petition is filed, this state is
2 a significant-connection state and:

3 (A) the respondent does not have a home state or a
4 court of the respondent's home state has declined to exercise
5 jurisdiction because this state is a more appropriate forum;
6 or

7 (B) the respondent has a home state, a petition for
8 an appointment or order is not pending in a court of that
9 state or another significant-connection state and before the
10 court makes the appointment or issues the order:

11 (i) a petition for an appointment or order is not
12 filed in the respondent's home state;

13 (ii) an objection to the court's jurisdiction is not
14 filed by a person required to be notified of the proceeding;
15 and

16 (iii) the court in this state concludes that it is
17 an appropriate forum under the factors set forth in Section
18 26-2B-206;

19 (3) this state does not have jurisdiction under
20 either paragraph (1) or (2), the respondent's home state and
21 all significant-connection states have declined to exercise
22 jurisdiction because this state is the more appropriate forum,
23 and jurisdiction in this state is consistent with the
24 Constitutions of this state and the United States; or

25 (4) the requirements for special jurisdiction under
26 Section 26-2B-204 are met.

1 (b) When the jurisdiction of a court of this state
2 is contested under this article, such guardianship or
3 protective proceeding may be removed to circuit court by the
4 court's own motion or in accordance with Section 26-2-2.

5 (c) Nothing in this section is intended to limit the
6 jurisdiction of those Alabama probate courts which have been
7 granted equity jurisdiction.

8 (d) Nothing in this section shall be construed as
9 extending the provisions of this chapter to proceedings
10 brought pursuant to Sections 30-5-1, et seq., the Protection
11 from Abuse Act or Sections 38-9-1, et seq., the Adult
12 Protective Services Act.

13 §26-2B-204. SPECIAL JURISDICTION.

14 (a) A court of this state lacking jurisdiction under
15 Section 26-2B-203 has special jurisdiction to do any of the
16 following:

17 (1) appoint a guardian in an emergency for a term
18 not exceeding 90 days for a respondent who is physically
19 present in this state;

20 (2) issue a protective order with respect to real or
21 tangible personal property located in this state;

22 (3) appoint a guardian or conservator for an
23 incapacitated or protected person for whom a provisional order
24 to transfer the proceeding from another state has been issued
25 under procedures similar to Section 26-2B-301.

1 (b) If a petition for the appointment of a guardian
2 in an emergency is brought in this state and this state was
3 not the respondent's home state on the date the petition was
4 filed, the court shall dismiss the proceeding at the request
5 of the court of the home state, if any, whether dismissal is
6 requested before or after the emergency appointment.

7 (c) The court may entertain successive petitions
8 based upon its special jurisdiction under this section
9 provided that the court receives no request for dismissal from
10 the court of the respondent's home state and the court
11 determines that the need for guardianship and/or
12 conservatorship under this section continues.

13 §26-2B-205. EXCLUSIVE AND CONTINUING JURISDICTION.

14 Except as otherwise provided in Section 26-2B-204, a
15 court that has appointed a guardian or issued a protective
16 order consistent with this chapter has exclusive and
17 continuing jurisdiction over the proceeding until it is
18 terminated by the court or the appointment or order expires by
19 its own terms.

20 §26-2B-206. APPROPRIATE FORUM.

21 (a) A court of this state having jurisdiction under
22 Section 26-2B-203 to appoint a guardian or issue a protective
23 order may decline to exercise its jurisdiction if it
24 determines at any time that a court of another state is a more
25 appropriate forum.

1 (b) If a court of this state declines to exercise
2 its jurisdiction under subsection (a), it shall either dismiss
3 or stay the proceeding. The court may impose any condition the
4 court considers just and proper, including the condition that
5 a petition for the appointment of a guardian or issuance of a
6 protective order be filed promptly in another state.

7 (c) In determining whether it is an appropriate
8 forum, the court shall consider all relevant factors,
9 including:

10 (1) any expressed preference of the respondent;

11 (2) whether abuse, neglect, or exploitation of the
12 respondent has occurred or is likely to occur and which state
13 could best protect the respondent from the abuse, neglect, or
14 exploitation;

15 (3) the length of time the respondent was physically
16 present in or was a legal resident of this or another state;

17 (4) the distance of the respondent from the court in
18 each state;

19 (5) the financial circumstances of the respondent's
20 estate;

21 (6) the nature and location of the evidence;

22 (7) the ability of the court in each state to decide
23 the issue expeditiously and the procedures necessary to
24 present evidence;

25 (8) the familiarity of the court of each state with
26 the facts and issues in the proceeding; and

1 (9) if an appointment were made, the court's ability
2 to monitor the conduct of the guardian or conservator.

3 §26-2B-207. JURISDICTION DECLINED BY REASON OF
4 CONDUCT.

5 (a) If at any time a court of this state determines
6 that it acquired jurisdiction to appoint a guardian or issue a
7 protective order because of unjustifiable conduct, the court
8 may:

9 (1) decline to exercise jurisdiction;

10 (2) exercise jurisdiction for the limited purpose of
11 fashioning an appropriate remedy to ensure the health, safety,
12 and welfare of the respondent or the protection of the
13 respondent's property or prevent a repetition of the
14 unjustifiable conduct, including staying the proceeding until
15 a petition for the appointment of a guardian or issuance of a
16 protective order is filed in a court of another state having
17 jurisdiction; or

18 (3) continue to exercise jurisdiction after
19 considering:

20 (A) the extent to which the respondent and all
21 persons required to be notified of the proceedings have
22 acquiesced in the exercise of the court's jurisdiction;

23 (B) whether it is a more appropriate forum than the
24 court of any other state under the factors set forth in
25 subsection (c) of Section 26-2B-206; and

1 (C) whether the court of any other state would have
2 jurisdiction under factual circumstances in substantial
3 conformity with the jurisdictional standards of Section
4 26-2B-203.

5 (b) If a court of this state determines that it
6 acquired jurisdiction to appoint a guardian or issue a
7 protective order because a party seeking to invoke its
8 jurisdiction engaged in unjustifiable conduct, it may assess
9 against that party necessary and reasonable expenses,
10 including attorney's fees, investigative fees, court costs,
11 communication expenses, witness fees and expenses, and travel
12 expenses. The court may not assess fees, costs, or expenses
13 of any kind against this state or a governmental subdivision,
14 agency, or instrumentality of this state unless authorized by
15 law other than this chapter.

16 §26-2B-208. NOTICE OF PROCEEDING.

17 If a petition for the appointment of a guardian or
18 issuance of a protective order is brought in this state and
19 this state was not the respondent's home state on the date the
20 petition was filed, in addition to complying with the notice
21 requirements of this state, notice of the petition must be
22 given to those persons who would be entitled to notice of the
23 petition if a proceeding were brought in the respondent's home
24 state, if any. The notice must be given in the same manner as
25 notice is required to be given in this state, pursuant to

1 Section 26-2A-50 of the Alabama Uniform Guardianship and
2 Protective Proceedings Act.

3 §26-2B-209. PROCEEDINGS IN MORE THAN ONE STATE.

4 Except for a petition for the appointment of a
5 guardian in an emergency or issuance of a protective order
6 limited to property located in this state under paragraph (1)
7 or (2) of subsection (a) of Section 26-2B-204, if a petition
8 for the appointment of a guardian or issuance of a protective
9 order is filed in this state and in another state and neither
10 petition has been dismissed or withdrawn, the following rules
11 apply:

12 (1) If the court in this state has jurisdiction
13 under Section 26-2B-203, it may proceed with the case unless a
14 court in another state issues an order establishing
15 jurisdiction under provisions similar to Section 26-2B-203
16 before the appointment or issuance of an order by the court in
17 this state.

18 (2) If the court in this state does not have
19 jurisdiction under Section 26-2B-203, whether at the time the
20 petition is filed or at any time before the appointment or
21 issuance of the order, the court shall stay the proceeding and
22 communicate with the court in the other state. If the court in
23 the other state has jurisdiction, the court in this state
24 shall dismiss the petition unless the court in the other state
25 determines that the court in this state is a more appropriate
26 forum.

1 §26-2B-210. INFORMATION TO BE SUBMITTED TO COURT.

2 (a) Except as otherwise provided in this section,
3 each party, in its first pleading or in an attached affidavit,
4 shall give information, if reasonably ascertainable, under
5 oath as to the respondent's present address or whereabouts,
6 the places and addresses where the respondent has lived during
7 the last five years. The pleading or affidavit must state
8 whether the party:

9 (1) Has participated, as a party or witness or in
10 any other capacity, in any other proceeding concerning the
11 guardianship or conservatorship of the respondent and, if so,
12 identify the court, the case number, and the date of the
13 guardianship or conservatorship determination, if any;

14 (2) Knows of any proceeding that could affect the
15 current proceeding, including, but not limited to, proceedings
16 for the establishment, modification, termination, or
17 enforcement of a protective order, and, if so, identify the
18 court, the case number, and the nature of the proceeding;

19 (3) Knows the names and addresses of any person not
20 a party to the proceeding who has physical custody of the
21 respondent, and, if so, the names and addresses of any such
22 person; and

23 (4) Knows the names and addresses of any person not
24 a party to the proceeding who holds an appointment or
25 alternate appointment as legal agent of the respondent and, if
26 so, the names and addresses of any such person;

1 (b) If the information required by subsection (a) is
2 not furnished, the court, upon motion of a party or its own
3 motion, may stay the proceeding until the information is
4 furnished.

5 (c) If the declaration as to any of the items
6 described in paragraphs (1) through (4) of subsection (a) is
7 in the affirmative, the declarant shall give additional
8 information under oath as may be required by the court. The
9 court may examine the parties and other persons under oath as
10 to details of the information furnished and other matters
11 pertinent to the court's jurisdiction and the disposition of
12 the case.

13 (d) Each party has a continuing duty to inform the
14 court of any proceeding in this or any other state that could
15 affect the current proceeding.

16 (e) If a party alleges in an affidavit or pleading
17 under oath that the health, safety, or liberty of a party or
18 incapacitated person would be jeopardized by disclosure of the
19 present address or whereabouts of a party or incapacitated
20 person, the information must be sealed and may not be
21 disclosed to the other party or the public unless the court
22 orders the disclosure to be made after a hearing in which the
23 court takes into consideration the health, safety, or liberty
24 of the party or incapacitated person and determines that the
25 disclosure is in the interest of justice.

26 ARTICLE 3

1 TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

2 §26-2B-301. TRANSFER OF GUARDIANSHIP OR
3 CONSERVATORSHIP TO ANOTHER STATE.

4 (a) A guardian or conservator appointed in this
5 state may petition the court to transfer the guardianship or
6 conservatorship to another state.

7 (b) Notice of a petition under subsection (a) must
8 be given to the persons that would be entitled to notice of a
9 petition in this state for the appointment of a guardian or
10 conservator pursuant to Section 26-2A-103 as required by
11 Section 26-2A-50 of the Alabama Uniform Guardianship and
12 Protective Proceedings Act.

13 (c) On the court's own motion or on request of the
14 guardian or conservator, the incapacitated or protected
15 person, or other person required to be notified of the
16 petition, the court shall hold a hearing on a petition filed
17 pursuant to subsection (a).

18 (d) The court shall issue a provisional order
19 granting a petition to transfer a guardianship and shall
20 direct the guardian to petition for guardianship in the other
21 state if the court is satisfied that the guardianship will be
22 accepted by the court in the other state and the court finds
23 that:

24 (1) the incapacitated person is physically present
25 in or is reasonably expected to move permanently to the other
26 state;

1 (2) an objection to the transfer has not been made
2 or, if an objection has been made, the objector has not
3 established that the transfer would be contrary to the
4 interests of the incapacitated person; and

5 (3) plans for care and services for the
6 incapacitated person in the other state are reasonable and
7 sufficient.

8 (e) The court shall issue a provisional order
9 granting a petition to transfer a conservatorship and shall
10 direct the conservator to petition for conservatorship in the
11 other state if the court is satisfied that the conservatorship
12 will be accepted by the court of the other state and the court
13 finds that:

14 (1) the protected person is physically present in or
15 is reasonably expected to move permanently to the other state,
16 or the protected person has a significant connection to the
17 other state considering the factors in subsection (b) of
18 Section 26-2B-201;

19 (2) an objection to the transfer has not been made
20 or, if an objection has been made, the objector has not
21 established that the transfer would be contrary to the
22 interests of the protected person; and

23 (3) adequate arrangements will be made for
24 management of the protected person's property.

1 (f) The court shall issue a final order confirming
2 the transfer and terminating the guardianship or
3 conservatorship upon its receipt of:

4 (1) a provisional order accepting the proceeding
5 from the court to which the proceeding is to be transferred
6 which is issued under provisions similar to Section 26-2B-302;
7 and

8 (2) the documents required to terminate a
9 guardianship or conservatorship in this state.

10 (g) The court may appoint a guardian ad litem to
11 represent the best interests of the incapacitated or protected
12 person in any proceeding initiated by petition under
13 subsection (a) and may require prepayment of guardian ad litem
14 fees.

15 §26-2B-302. ACCEPTING GUARDIANSHIP OR
16 CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE.

17 (a) To confirm transfer of a guardianship or
18 conservatorship transferred to this state under provisions
19 similar to Section 26-2B-301, the guardian or conservator must
20 petition the court in this state to accept the guardianship or
21 conservatorship. The petition must include the following:

22 (1) a certified copy of the other state's
23 provisional order of transfer;

24 (2) an inventory of the protected person's estate as
25 of the date of the petition including certified records of all

1 bank accounts in the protected person's estate as of the date
2 of the petition;

3 (3) proof of the conservator's bond; and

4 (4) any final accounting of the protected person's
5 estate which has been submitted in the prior jurisdiction. If
6 no such accounting was required by the transferring court, the
7 petitioner must prepare and submit an accounting prior to
8 acceptance.

9 (b) Notice of a petition under subsection (a) must
10 be given to those persons that would be entitled to notice if
11 the petition were a petition for the appointment of a guardian
12 or issuance of a protective order in both the transferring
13 state and this state. The notice must be given in the same
14 manner as notice is required to be given in this state.

15 (c) On the court's own motion or on request of the
16 guardian or conservator, the incapacitated or protected
17 person, or other person required to be notified of the
18 proceeding, the court shall hold a hearing on a petition filed
19 pursuant to subsection (a).

20 (d) The court shall issue a provisional order
21 granting a petition filed under subsection (a) unless:

22 (1) an objection is made and the objector
23 establishes that transfer of the proceeding would be contrary
24 to the interests of the incapacitated or protected person;

25 (2) the guardian or conservator is ineligible for
26 appointment in this state; or

1 (3) the petitioner fails to comply with the
2 provisions of subsection (a).

3 (e) The court shall issue a final order accepting
4 the proceeding and appointing the guardian or conservator as
5 guardian or conservator in this state upon its receipt from
6 the court from which the proceeding is being transferred of a
7 final order issued under provisions similar to Section
8 26-2B-301 transferring the proceeding to this state and upon
9 compliance with Section 26-2A-139.

10 (f) Not later than 90 days after issuance of a final
11 order accepting transfer of a guardianship or conservatorship,
12 the court shall determine whether the guardianship or
13 conservatorship needs to be modified to conform to the law of
14 this state. Such modification may include, among other things,
15 an inventory or an accounting pursuant to Sections 26-2A-146
16 and 26-2A-147.

17 (g) In granting a petition under this section, the
18 court shall recognize a guardianship or conservatorship order
19 from the other state, including the determination of the
20 incapacitated or protected person's incapacity and the
21 appointment of the guardian or conservator.

22 (h) The denial by a court of this state of a
23 petition to accept a guardianship or conservatorship
24 transferred from another state does not affect the ability of
25 the guardian or conservator to seek appointment as guardian or
26 conservator in this state under Sections 26-2A-1, et seq., if

1 the court has jurisdiction to make an appointment other than
2 by reason of the provisional order of transfer.

3 ARTICLE 4

4 RECORDING AND RECOGNITION OF ORDERS FROM OTHER
5 STATES

6 §26-2B-401. RECORDING OF GUARDIANSHIP ORDERS.

7 If a guardian has been appointed in another state
8 and a petition for the appointment of a guardian is not
9 pending in this state, the guardian appointed in the other
10 state, after giving notice to the appointing court of an
11 intent to register, may record the guardianship order in this
12 state by recording as a foreign judgment in a court, in any
13 appropriate county of this state, certified copies of the
14 order and letters of office.

15 §26-2B-402. RECORDING OF PROTECTIVE ORDERS.

16 If a conservator has been appointed in another state
17 and a petition for a protective order is not pending in this
18 state, the conservator appointed in the other state, after
19 giving notice to the appointing court of an intent to record,
20 may record the protective order in this state by recording as
21 a foreign judgment in a court of this state, in any county in
22 which property belonging to the protected person is located,
23 certified copies of the order and letters of office and of any
24 bond.

25 §26-2B-403. EFFECT OF RECORDING.

1 (a) Upon the recording of a guardianship or
2 protective order from another state, the guardian or
3 conservator may exercise in this state all powers provided in
4 Section 26-2A-160.

5 (b) A court of this state may grant any relief
6 available under this chapter and other law of this state to
7 enforce a recorded order.

8 ARTICLE 5

9 MISCELLANEOUS PROVISIONS

10 §26-2B-501. UNIFORMITY OF APPLICATION AND
11 CONSTRUCTION.

12 In applying and construing this uniform act,
13 consideration must be given to the need to promote uniformity
14 of the law with respect to its subject matter among states
15 that enact it.

16 §26-2B-502. RELATION TO ELECTRONIC SIGNATURES IN
17 GLOBAL AND NATIONAL COMMERCE ACT.

18 This chapter modifies, limits, and supersedes the
19 federal Electronic Signatures in Global and National Commerce
20 Act, 15 U.S.C. Section 7001, et seq., but does not modify,
21 limit, or supersede Section 101(c) of that act, 15 U.S.C.
22 Section 7001(c), or authorize electronic delivery of any of
23 the notices described in Section 103(b) of that act, 15 U.S.C.
24 Section 7003(b).

25 §26-2B-503. RULE OF CONSTRUCTION.

1 Nothing in this chapter shall be construed as
2 repealing any portion of Chapter 2A of this title, the Alabama
3 Uniform Guardianship and Protective Proceedings Act, unless
4 specifically addressed.

5 Section 2. Sections 26-2A-31, 26-2A-109, and
6 26-2A-131, Code of Alabama 1975, are amended to read as
7 follows:

8 "§26-2A-31.

9 "(a) To the full extent permitted by the
10 constitution and as permitted under Article 2 of Chapter 2B of
11 this title, the court has jurisdiction over all subject matter
12 relating to estates of protected persons and protection of
13 minors and incapacitated persons.

14 "(b) The court has full power to make order,
15 judgments, and decrees and take all other action necessary and
16 proper to administer justice in the matters that come before
17 it.

18 "(c) The court has jurisdiction over protective
19 proceedings and guardianship proceedings.

20 "(d) If both guardianship and protective proceedings
21 as to the same person are commenced or pending in the same
22 court, the proceedings may be consolidated.

23 "(e) No provision of this chapter shall be construed
24 to void, abate, or diminish, the powers or equity
25 jurisdiction, when invoked, heretofore or hereafter granted by
26 statute to certain probate courts.

1 "§26-2A-109.

2 "The authority and responsibility of a guardian of
3 an incapacitated person terminates upon the death of the
4 guardian or ward, the determination of incapacity of the
5 guardian, upon transfer to another state as provided in
6 Section 26-2B-301, or upon removal or resignation as provided
7 in Section 26-2A-110. Termination does not affect a guardian's
8 liability for prior acts or the obligation to account for
9 funds and assets of the ward.

10 "§26-2A-131.

11 "~~After~~ Subject to Section 26-2A-31, after the
12 service of notice in a proceeding seeking the appointment of a
13 conservator or other protective order and until termination of
14 the proceeding, the court in which the petition is filed has:

15 "(1) Exclusive jurisdiction to determine the need
16 for a conservator or other protective order until the
17 proceedings are terminated; and

18 "(2) Exclusive jurisdiction to determine how the
19 estate of the protected person which is subject to the laws of
20 this state must be managed, expended, or distributed to or for
21 the use of the protected person, the protected person's
22 dependents, or other claimants."

23 Section 3. This act shall become effective January
24 1, 2011.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 12-JAN-10

Read for the second time and placed
on the calendar with 1 substitute
and 21-JAN-10

Read for the third time and passed
as amended 26-JAN-10

Yeas 101, Nays 0, Abstains 0

Greg Pappas
Clerk