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3 By Representative Irons  
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ENROLLED, An Act,

Relating to guardianships and protective proceedings; to provide for the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; to provide for jurisdiction of certain cases where a party is located in a different state; to provide for transfer of adult guardianship or conservatorship proceedings to another jurisdiction; to provide for recognition and enforcement of guardianship and protective orders from other states; to amend Sections 26-2A-31, 26-2A-109, and 26-2A-131, Code of Alabama 1975, of the Uniform Guardianship Act to reference the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; and to specify that both acts are operative.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Chapter 2B of Title 26 is added to the Code of Alabama 1975, to read as follows:

ARTICLE 1

GENERAL PROVISIONS

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

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

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

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

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

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

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

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

19           (7) INCAPACITATED PERSON. An adult for whom a  
20 guardian has been appointed.

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

24           (9) PERSON. Except as used in the term incapacitated  
25 person or protected person, an individual, corporation,

1 business trust, estate, trust, partnership, limited liability  
2 company, association, joint venture, public corporation,  
3 government or governmental subdivision, agency, or  
4 instrumentality, or any other legal or commercial entity.

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

7 (11) PROTECTIVE ORDER. An order appointing a  
8 conservator or other order related to management of an adult's  
9 property.

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

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

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

17 (15) STATE. A state of the United States, the  
18 District of Columbia, Puerto Rico, the United States Virgin  
19 Islands, a federally recognized Indian tribe, or any territory  
20 or insular possession subject to the jurisdiction of the  
21 United States.

22 §26-2B-103. INTERNATIONAL APPLICATION OF ACT.

23 (a) A court of this state, by written order, may  
24 treat a foreign country as if it were a state of the United

1 States for the purpose of applying this article and Articles  
2 2, 3, and 5.

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

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

12 §26-2B-104. COMMUNICATION BETWEEN COURTS.

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

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

21 (c) Except as otherwise provided in subsection (d),  
22 the court shall make a record of any communication under this  
23 section and promptly inform the parties of the communication  
24 and grant them access to the record.

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

4           §26-2B-105. COOPERATION BETWEEN COURTS.

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

8                 (1) Hold an evidentiary hearing.

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

11                (3) Order that an evaluation or assessment be made  
12 of the respondent.

13                (4) Order any appropriate investigation of a person  
14 involved in a proceeding.

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

21                (6) Issue any order necessary to assure the  
22 appearance in the proceeding of a person whose presence is  
23 necessary for the court to make a determination, including the  
24 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.

1           (3) SIGNIFICANT-CONNECTION STATE. A state, other  
2 than the home state, with which a respondent has a significant  
3 connection other than mere physical presence and in which  
4 substantial evidence concerning the respondent is available.

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

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

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

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

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

20           §26-2B-202. EXCLUSIVE BASIS.

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

24           §26-2B-203. JURISDICTION.

1           (a) A court of this state has jurisdiction to  
2 appoint a guardian or issue a protective order for a  
3 respondent if:

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

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

7           (A) the respondent does not have a home state or a  
8 court of the respondent's home state has declined to exercise  
9 jurisdiction because this state is a more appropriate forum;  
10 or

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

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

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

20           (iii) the court in this state concludes that it is  
21 an appropriate forum under the factors set forth in Section  
22 26-2B-206;

23           (3) this state does not have jurisdiction under  
24 either paragraph (1) or (2), the respondent's home state and  
25 all significant-connection states have declined to exercise

1 jurisdiction because this state is the more appropriate forum,  
2 and jurisdiction in this state is consistent with the  
3 Constitutions of this state and the United States; or

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

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

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

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

18 §26-2B-204. SPECIAL JURISDICTION.

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

22 (1) appoint a guardian in an emergency for a term  
23 not exceeding 90 days for a respondent who is physically  
24 present in this state;

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

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

7           (b) If a petition for the appointment of a guardian  
8 in an emergency is brought in this state and this state was  
9 not the respondent's home state on the date the petition was  
10 filed, the court shall dismiss the proceeding at the request  
11 of the court of the home state, if any, whether dismissal is  
12 requested before or after the emergency appointment.

13           (c) The court may entertain successive petitions  
14 based upon its special jurisdiction under this section  
15 provided that the court receives no request for dismissal from  
16 the court of the respondent's home state and the court  
17 determines that the need for guardianship and/or  
18 conservatorship under this section continues.

19           §26-2B-205. EXCLUSIVE AND CONTINUING JURISDICTION.

20           Except as otherwise provided in Section 26-2B-204, a  
21 court that has appointed a guardian or issued a protective  
22 order consistent with this chapter has exclusive and  
23 continuing jurisdiction over the proceeding until it is  
24 terminated by the court or the appointment or order expires by  
25 its own terms.

1 §26-2B-206. APPROPRIATE FORUM.

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

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

13 (c) In determining whether it is an appropriate  
14 forum, the court shall consider all relevant factors,  
15 including:

16 (1) any expressed preference of the respondent;

17 (2) whether abuse, neglect, or exploitation of the  
18 respondent has occurred or is likely to occur and which state  
19 could best protect the respondent from the abuse, neglect, or  
20 exploitation;

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

23 (4) the distance of the respondent from the court in  
24 each state;

1                   (5) the financial circumstances of the respondent's  
2 estate;

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

4                   (7) the ability of the court in each state to decide  
5 the issue expeditiously and the procedures necessary to  
6 present evidence;

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

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

11                   §26-2B-207. JURISDICTION DECLINED BY REASON OF  
12 CONDUCT.

13                   (a) If at any time a court of this state determines  
14 that it acquired jurisdiction to appoint a guardian or issue a  
15 protective order because of unjustifiable conduct, the court  
16 may:

17                   (1) decline to exercise jurisdiction;

18                   (2) exercise jurisdiction for the limited purpose of  
19 fashioning an appropriate remedy to ensure the health, safety,  
20 and welfare of the respondent or the protection of the  
21 respondent's property or prevent a repetition of the  
22 unjustifiable conduct, including staying the proceeding until  
23 a petition for the appointment of a guardian or issuance of a  
24 protective order is filed in a court of another state having  
25 jurisdiction; or

1           (3) continue to exercise jurisdiction after  
2 considering:

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

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

9           (C) whether the court of any other state would have  
10 jurisdiction under factual circumstances in substantial  
11 conformity with the jurisdictional standards of Section  
12 26-2B-203.

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

24           §26-2B-208. NOTICE OF PROCEEDING.

1           If a petition for the appointment of a guardian or  
2           issuance of a protective order is brought in this state and  
3           this state was not the respondent's home state on the date the  
4           petition was filed, in addition to complying with the notice  
5           requirements of this state, notice of the petition must be  
6           given to those persons who would be entitled to notice of the  
7           petition if a proceeding were brought in the respondent's home  
8           state, if any. The notice must be given in the same manner as  
9           notice is required to be given in this state, pursuant to  
10          Section 26-2A-50 of the Alabama Uniform Guardianship and  
11          Protective Proceedings Act.

12                   §26-2B-209. PROCEEDINGS IN MORE THAN ONE STATE.

13           Except for a petition for the appointment of a  
14           guardian in an emergency or issuance of a protective order  
15           limited to property located in this state under paragraph (1)  
16           or (2) of subsection (a) of Section 26-2B-204, if a petition  
17           for the appointment of a guardian or issuance of a protective  
18           order is filed in this state and in another state and neither  
19           petition has been dismissed or withdrawn, the following rules  
20           apply:

21                   (1) If the court in this state has jurisdiction  
22           under Section 26-2B-203, it may proceed with the case unless a  
23           court in another state issues an order establishing  
24           jurisdiction under provisions similar to Section 26-2B-203

1 before the appointment or issuance of an order by the court in  
2 this state.

3 (2) If the court in this state does not have  
4 jurisdiction under Section 26-2B-203, whether at the time the  
5 petition is filed or at any time before the appointment or  
6 issuance of the order, the court shall stay the proceeding and  
7 communicate with the court in the other state. If the court in  
8 the other state has jurisdiction, the court in this state  
9 shall dismiss the petition unless the court in the other state  
10 determines that the court in this state is a more appropriate  
11 forum.

12 §26-2B-210. INFORMATION TO BE SUBMITTED TO COURT.

13 (a) Except as otherwise provided in this section,  
14 each party, in its first pleading or in an attached affidavit,  
15 shall give information, if reasonably ascertainable, under  
16 oath as to the respondent's present address or whereabouts,  
17 the places and addresses where the respondent has lived during  
18 the last five years. The pleading or affidavit must state  
19 whether the party:

20 (1) Has participated, as a party or witness or in  
21 any other capacity, in any other proceeding concerning the  
22 guardianship or conservatorship of the respondent and, if so,  
23 identify the court, the case number, and the date of the  
24 guardianship or conservatorship determination, if any;

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

6           (3) Knows the names and addresses of any person not  
7 a party to the proceeding who has physical custody of the  
8 respondent, and, if so, the names and addresses of any such  
9 person; and

10           (4) Knows the names and addresses of any person not  
11 a party to the proceeding who holds an appointment or  
12 alternate appointment as legal agent of the respondent and, if  
13 so, the names and addresses of any such person;

14           (b) If the information required by subsection (a) is  
15 not furnished, the court, upon motion of a party or its own  
16 motion, may stay the proceeding until the information is  
17 furnished.

18           (c) If the declaration as to any of the items  
19 described in paragraphs (1) through (4) of subsection (a) is  
20 in the affirmative, the declarant shall give additional  
21 information under oath as may be required by the court. The  
22 court may examine the parties and other persons under oath as  
23 to details of the information furnished and other matters  
24 pertinent to the court's jurisdiction and the disposition of  
25 the case.

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

4           (e) If a party alleges in an affidavit or pleading  
5 under oath that the health, safety, or liberty of a party or  
6 incapacitated person would be jeopardized by disclosure of the  
7 present address or whereabouts of a party or incapacitated  
8 person, the information must be sealed and may not be  
9 disclosed to the other party or the public unless the court  
10 orders the disclosure to be made after a hearing in which the  
11 court takes into consideration the health, safety, or liberty  
12 of the party or incapacitated person and determines that the  
13 disclosure is in the interest of justice.

14           ARTICLE 3

15           TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

16           §26-2B-301. TRANSFER OF GUARDIANSHIP OR  
17 CONSERVATORSHIP TO ANOTHER STATE.

18           (a) A guardian or conservator appointed in this  
19 state may petition the court to transfer the guardianship or  
20 conservatorship to another state.

21           (b) Notice of a petition under subsection (a) must  
22 be given to the persons that would be entitled to notice of a  
23 petition in this state for the appointment of a guardian or  
24 conservator pursuant to Section 26-2A-103 as required by

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

3 (c) On the court's own motion or on request of the  
4 guardian or conservator, the incapacitated or protected  
5 person, or other person required to be notified of the  
6 petition, the court shall hold a hearing on a petition filed  
7 pursuant to subsection (a).

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

14 (1) the incapacitated person is physically present  
15 in or is reasonably expected to move permanently to the other  
16 state;

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

21 (3) plans for care and services for the  
22 incapacitated person in the other state are reasonable and  
23 sufficient.

24 (e) The court shall issue a provisional order  
25 granting a petition to transfer a conservatorship and shall

1 direct the conservator to petition for conservatorship in the  
2 other state if the court is satisfied that the conservatorship  
3 will be accepted by the court of the other state and the court  
4 finds that:

5 (1) the protected person is physically present in or  
6 is reasonably expected to move permanently to the other state,  
7 or the protected person has a significant connection to the  
8 other state considering the factors in subsection (b) of  
9 Section 26-2B-201;

10 (2) an objection to the transfer has not been made  
11 or, if an objection has been made, the objector has not  
12 established that the transfer would be contrary to the  
13 interests of the protected person; and

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

16 (f) The court shall issue a final order confirming  
17 the transfer and terminating the guardianship or  
18 conservatorship upon its receipt of:

19 (1) a provisional order accepting the proceeding  
20 from the court to which the proceeding is to be transferred  
21 which is issued under provisions similar to Section 26-2B-302;  
22 and

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

1 (g) The court may appoint a guardian ad litem to  
2 represent the best interests of the incapacitated or protected  
3 person in any proceeding initiated by petition under  
4 subsection (a) and may require prepayment of guardian ad litem  
5 fees.

6 §26-2B-302. ACCEPTING GUARDIANSHIP OR  
7 CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE.

8 (a) To confirm transfer of a guardianship or  
9 conservatorship transferred to this state under provisions  
10 similar to Section 26-2B-301, the guardian or conservator must  
11 petition the court in this state to accept the guardianship or  
12 conservatorship. The petition must include the following:

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

15 (2) an inventory of the protected person's estate as  
16 of the date of the petition including certified records of all  
17 bank accounts in the protected person's estate as of the date  
18 of the petition;

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

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

1           (b) Notice of a petition under subsection (a) must  
2 be given to those persons that would be entitled to notice if  
3 the petition were a petition for the appointment of a guardian  
4 or issuance of a protective order in both the transferring  
5 state and this state. The notice must be given in the same  
6 manner as notice is required to be given in this state.

7           (c) On the court's own motion or on request of the  
8 guardian or conservator, the incapacitated or protected  
9 person, or other person required to be notified of the  
10 proceeding, the court shall hold a hearing on a petition filed  
11 pursuant to subsection (a).

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

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

17           (2) the guardian or conservator is ineligible for  
18 appointment in this state; or

19           (3) the petitioner fails to comply with the  
20 provisions of subsection (a).

21           (e) The court shall issue a final order accepting  
22 the proceeding and appointing the guardian or conservator as  
23 guardian or conservator in this state upon its receipt from  
24 the court from which the proceeding is being transferred of a  
25 final order issued under provisions similar to Section

1 26-2B-301 transferring the proceeding to this state and upon  
2 compliance with Section 26-2A-139.

3 (f) Not later than 90 days after issuance of a final  
4 order accepting transfer of a guardianship or conservatorship,  
5 the court shall determine whether the guardianship or  
6 conservatorship needs to be modified to conform to the law of  
7 this state. Such modification may include, among other things,  
8 an inventory or an accounting pursuant to Sections 26-2A-146  
9 and 26-2A-147.

10 (g) In granting a petition under this section, the  
11 court shall recognize a guardianship or conservatorship order  
12 from the other state, including the determination of the  
13 incapacitated or protected person's incapacity and the  
14 appointment of the guardian or conservator.

15 (h) The denial by a court of this state of a  
16 petition to accept a guardianship or conservatorship  
17 transferred from another state does not affect the ability of  
18 the guardian or conservator to seek appointment as guardian or  
19 conservator in this state under Sections 26-2A-1, et seq., if  
20 the court has jurisdiction to make an appointment other than  
21 by reason of the provisional order of transfer.

22 ARTICLE 4

23 RECORDING AND RECOGNITION OF ORDERS FROM OTHER  
24 STATES

25 §26-2B-401. RECORDING OF GUARDIANSHIP ORDERS.

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

9           §26-2B-402. RECORDING OF PROTECTIVE ORDERS.

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

19           §26-2B-403. EFFECT OF RECORDING.

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

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

4 ARTICLE 5

5 MISCELLANEOUS PROVISIONS

6 §26-2B-501. UNIFORMITY OF APPLICATION AND  
7 CONSTRUCTION.

8 In applying and construing this uniform act,  
9 consideration must be given to the need to promote uniformity  
10 of the law with respect to its subject matter among states  
11 that enact it.

12 §26-2B-502. RELATION TO ELECTRONIC SIGNATURES IN  
13 GLOBAL AND NATIONAL COMMERCE ACT.

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

21 §26-2B-503. RULE OF CONSTRUCTION.

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

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

4                   "§26-2A-31.

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

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

14                   "(c) The court has jurisdiction over protective  
15 proceedings and guardianship proceedings.

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

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

23                   "§26-2A-109.

24                   "The authority and responsibility of a guardian of  
25 an incapacitated person terminates upon the death of the

1 guardian or ward, the determination of incapacity of the  
 2 guardian, upon transfer to another state as provided in  
 3 Section 26-2B-301, or upon removal or resignation as provided  
 4 in Section 26-2A-110. Termination does not affect a guardian's  
 5 liability for prior acts or the obligation to account for  
 6 funds and assets of the ward.

7 "§26-2A-131.

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

12 "(1) Exclusive jurisdiction to determine the need  
 13 for a conservator or other protective order until the  
 14 proceedings are terminated; and

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

20 Section 3. This act shall become effective January  
 21 1, 2011.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 26-JAN-10, as amended.

Greg Pappas  
Clerk

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Senate

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14-APR-10

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Passed