

HB249 ENROLLED



1 HB249
2 DGC49NN-3
3 By Representative Faulkner
4 RFD: Judiciary
5 First Read: 15-Jan-26



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1 Enrolled, An Act,

2
3 Relating to guardianships and conservatorships; to
4 amend Sections 26-2-2, 26-2-3, 26-2A-20 26-2A-50, 26-2A-52,
5 26-2A-103, 26-2A-134, and 26-2A-136, Code of Alabama 1975, and
6 to add Sections 26-2A-54, 26-2A-107.1, and 26-2A-136.1 to the
7 Code of Alabama 1975; to further provide procedures and
8 requirements relating to the removal of proceedings involving
9 guardianships or conservatorships from probate court to the
10 circuit court; to further provide for notice requirements for
11 petitions involving a guardianship, conservatorship, or
12 protective proceeding; to require guardians ad litem to
13 undergo training before appointment in a case involving a
14 guardianship, conservatorship, or protective proceeding; to
15 specify the duties of such a guardian ad litem; to require the
16 court to appoint a court representative in proceedings
17 involving a guardianship or protective order, with exceptions;
18 to provide for the duties and responsibilities of a court
19 representative; to provide for the appointment of temporary or
20 emergency guardians in certain circumstances to prevent harm
21 to an adult's physical health, safety, or welfare; to provide
22 for the appointment of temporary or emergency conservators or
23 other temporary or emergency relief in certain circumstances
24 to prevent harm to an adult's property or financial interests;
25 to allow the court to penalize attorneys or parties who
26 improperly petition for temporary or emergency guardians or
27 conservators; to revise the authority of a court to preserve
28 and apply the property of a person who is the subject of an



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29 ongoing protective order proceeding; to repeal Section
30 26-2A-107, Code of Alabama 1975, relating to emergency orders
31 for a temporary guardian; and to make nonsubstantive,
32 technical revisions to update the existing code language to
33 current style.

34 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

35 Section 1. Sections 26-2-2, 26-2-3, 26-2A-20, 26-2A-50,
36 26-2A-52, 26-2A-103, 26-2A-134, and 26-2A-136 are amended to
37 read as follows:

38 "§26-2-2

39 (a) For all guardianships, conservatorships, and other
40 protective proceedings commencing before January 1, 2027, the
41 ~~The~~ administration or conduct of any guardianship or
42 conservatorship of a minor or incapacitated person may be
43 removed from the probate court to the circuit court, at any
44 time before the final settlement thereof by the guardian or
45 conservator of any such guardianship or conservatorship or
46 guardian ad litem or next friend of such ward or anyone
47 entitled to support out of the estate of such ward without
48 assigning any special equity, and an order of removal must be
49 made by the court or judge upon the filing of a sworn petition
50 by any such guardian or conservator or guardian ad litem or
51 next friend for the ward or such person entitled to support
52 out of the estate of such ward, reciting in what capacity the
53 petitioner acts and that in the opinion of the petitioner such
54 guardianship or conservatorship can be better administered in
55 the circuit court than in the probate court.

56 (b) The following shall apply to all guardianships,



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57 conservatorships, and other protective proceedings commenced
58 on or after January 1, 2027:

59 (1)a. Except for a proceeding pending in a probate
60 court in a county where the probate court or judge of probate
61 exercises equity jurisdiction concurrent with that of the
62 circuit court, a proceeding in a probate court under this
63 chapter or Chapter 2A may be removed to the circuit court for
64 the county where the proceeding in probate court is pending at
65 any time before the probate court has taken steps toward a
66 final settlement.

67 b. Removal under this subdivision may be done by any of
68 the following parties:

69 1. The guardian, including any emergency or temporary
70 guardian appointed by a court of competent jurisdiction and
71 any guardian appointed in another jurisdiction for the person
72 who is the subject of the proceeding.

73 2. The conservator, including any emergency or
74 temporary conservator appointed by a court of competent
75 jurisdiction and any conservator appointed in another
76 jurisdiction for the person who is the subject of the
77 proceeding.

78 3. The alleged incapacitated person, prior to a
79 determination of incapacity.

80 4. The guardian ad litem or attorney for the person who
81 is the subject of the proceeding.

82 5. An agent acting under a facially valid durable power
83 of attorney executed prior to the commencement of any such
84 proceeding by the person who is the subject of the proceeding.



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85 6. Any facility, including, but not limited to, a
86 hospital as defined in Section 22-21-20, in which the person
87 who is the subject of the proceeding resides or has been
88 admitted as a patient.

89 7. The next friend of the person who is the subject of
90 the proceeding.

91 8. The Department of Human Resources.

92 9. Any person entitled to support out of the estate of
93 the person who is the subject of the proceeding.

94 10. The spouse of the person who is the subject of the
95 proceeding.

96 (2) To remove a proceeding from the probate court to
97 the circuit court, the removing party shall file in the
98 circuit court to which the proceeding is being removed a
99 notice of removal that contains all of the following:

100 a. A description of the nature of the proceeding being
101 removed.

102 b. Whether a jury trial is demanded under Section
103 26-2A-35.

104 c. The removing party's interest in the proceeding
105 being removed.

106 d. The name of all interested persons to the proceeding
107 being removed to which the removing party is delivering the
108 notice of removal.

109 (3) Following the removal to the circuit court, the
110 removing party shall file a copy of the notice of removal with
111 the clerk of the probate court and shall send a copy of the
112 notice of removal to all interested parties listed in the



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113 notice. Upon receiving a copy of the notice of removal, the
114 probate court may not take further action unless and until the
115 removed proceeding is remanded, except to deliver a copy of
116 the record in the probate court to the clerk of the circuit
117 court.

118 (4) The circuit court shall have jurisdiction of a
119 removed proceeding upon filing of the notice of removal with
120 the circuit clerk. None of the following may deprive the
121 circuit court of jurisdiction to hear and decide the removed
122 proceeding:

123 a. The omission of any information required to be
124 included in the notice of removal.

125 b. An incorrect statement of any information required
126 to be included in the notice of removal.

127 c. The failure of the probate court to deliver a copy
128 of the record of proceedings in that court.

129 (5) If a necessary party to the proceedings does not
130 receive notice of the proceedings as required by law before
131 the notice of removal is filed, the removing party shall cause
132 notice of the proceeding to be issued to the necessary party
133 as provided in the Alabama Rules of Civil Procedure or as
134 otherwise provided by law.

135 (6) The circuit court may remand a proceeding removed
136 under this section to the probate court if the circuit court
137 finds any of the following:

138 a. The removal was sought for purpose of improper
139 delay.

140 b. The removal did not comply with applicable law.



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141 c. Judgment on all contested matters pending before the
142 circuit court is final and: (i) the time for an appeal expired
143 without the filing of an appeal; or (ii) if an appeal was
144 filed, there is a final adjudication of the appeal.

145 d. All interested parties or their representatives have
146 requested the removed proceeding be remanded to probate court.

147 (7) Following remand by the circuit court, the clerk of
148 the circuit court shall deliver a copy of the order of remand
149 and the record of all proceedings in the circuit court to the
150 clerk of the probate court, to be filed with the records of
151 the proceeding in the probate court. The probate court shall
152 proceed with the proceeding in accordance with the circuit
153 court's order.

154 (8) In any proceeding removed from a probate court, the
155 circuit court may issue all necessary orders and process to
156 bring before it all proper parties, whether served by process
157 issued by the probate court or otherwise.

158 (9) Neither remand nor anything else shall prevent the
159 subsequent removal of a proceeding to the circuit court under
160 this section."

161 "§26-2-3

162 (a) In any county where the judge of probate is
163 required to be learned in the law, the administration or
164 conduct of any guardianship or conservatorship of a minor or
165 incapacitated person may be removed from the probate court to
166 the circuit court pursuant to Section 26-2-2 at any time
167 before a proceeding for final settlement ~~thereof~~ is commenced
168 in probate court by the guardian or conservator of the



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169 guardianship or conservatorship or guardian ad litem or next
170 friend of a ward or anyone entitled to support out of the
171 estate of the ward without assigning any special equity. The
172 circuit court shall remand the administration of a
173 guardianship or conservatorship transferred pursuant to this
174 section to the probate court if the circuit court finds that
175 the removal was sought for the purpose of improper delay or
176 did not comply with applicable law. The circuit court may
177 remand the administration of a guardianship or conservatorship
178 pursuant to this section to the probate court if the circuit
179 court finds that any of the following apply:

180 (1) The circuit court has issued a final order or
181 judgment on all contested matters pending before the circuit
182 court in the administration of the guardianship or
183 conservatorship and the time for an appeal of the order or
184 judgment has expired without an appeal being filed or, if an
185 appeal was filed, after the final adjudication of the appeal.

186 (2) All interested parties or their representatives
187 request the administration of the guardianship or
188 conservatorship be remanded to probate court.

189 (b) Nothing in subsection (a) shall prevent the
190 administration of a guardianship or conservatorship from being
191 removed again to the circuit court pursuant to Section 26-2-2
192 after the administration has been remanded to the probate
193 court as provided above.

194 (c) This section shall not apply to any guardianship,
195 conservatorship, or other protective proceeding commenced on
196 or after January 1, 2027."



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197 "§26-2A-20

198 For the purposes of As used in this chapter, the
199 following terms ~~shall~~ have the following meanings, ~~the~~
200 ~~respectively, unless the context clearly indicates otherwise:~~

201 (1) CLAIMS. ~~In respect of~~ With respect to a protected
202 person, ~~includes the~~ liabilities of the protected person,
203 whether arising in contract, tort, or otherwise, and
204 liabilities of the estate which arise at or after the
205 appointment of a conservator, including expenses of
206 administration.

207 (2) CONSERVATOR. A person who is appointed by a court
208 to manage the estate of a protected person ~~and~~. The term
209 includes a limited conservator described in Section
210 26-2A-148(a).

211 (3) COURT. A probate court of this state.

212 (4) COURT REPRESENTATIVE. A person appointed in a
213 guardianship or protective proceeding who: (i) is trained in
214 law, nursing, or social work, ~~;~~ (ii) is an officer, employee,
215 or special appointee of the court, ~~;~~ (iii) and has no personal
216 interest in the proceeding.

217 (5) DISABILITY. Cause for a protective order as
218 described in Section 26-2A-130.

219 (6) ESTATE. ~~Includes the~~ The property of the person
220 whose affairs are subject to this chapter.

221 (7) GUARDIAN. A person who has qualified as a guardian
222 of a minor or incapacitated person pursuant to parental or
223 spousal nomination or court appointment ~~and~~. The term includes
224 a limited guardian as described in Sections 26-2A-78(e) and



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225 26-2A-105(c), but excludes ~~one~~ a person who is merely a
226 guardian ad litem.

227 (8) INCAPACITATED PERSON. Any person who is impaired by
228 reason of mental illness, mental deficiency, physical illness
229 or disability, physical or mental infirmities accompanying
230 advanced age, chronic use of drugs, chronic intoxication, or
231 other cause ~~(, except minority,)~~ to the extent of lacking
232 sufficient understanding or capacity to make or communicate
233 responsible decisions.

234 (9) LEASE. Includes an oil, gas, or other mineral
235 lease.

236 (10) LETTERS. ~~Includes letters~~ Letters of guardianships
237 and letters of conservatorship.

238 (11) MINOR. A person who is under 19 years of age and
239 has not otherwise had the disabilities of minority removed.

240 (12) MINOR WARD. A minor for whom a guardian has been
241 appointed solely because of minority.

242 (13) ~~(12)~~ MORTGAGE. Any conveyance, agreement, or
243 arrangement in which property is used as collateral.

244 (14) ~~(13)~~ ORGANIZATION. ~~Includes a~~ A corporation,
245 business trust, estate, trust, partnership, association, two
246 or more persons having a joint or common interest, government,
247 governmental subdivision or agency, or any other legal entity.

248 (15) ~~(14)~~ PARENT. ~~Includes any~~ Any person entitled to
249 take, or who would be entitled to take if the child died
250 without a will, as a parent by intestate succession from the
251 child whose relationship is in question ~~and~~. The term excludes
252 any person who is only a stepparent, foster parent, or



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253 grandparent.

254 (16)-(15) PERSON. An individual or an organization,
255 unless the context otherwise requires.

256 (17)-(16) PETITION. A written request to the court for
257 an order after notice.

258 (18)-(17) PROCEEDING. ~~Includes action~~ Action at law and
259 suit in equity.

260 (19)-(18) PROPERTY. ~~Includes both~~ Both real and personal
261 property, or any interest therein, and ~~means~~ anything that may
262 be the subject of ownership.

263 (20)-(19) PROTECTED PERSON. A minor or other person for
264 whom a conservator has been appointed or other protective
265 order has been made as provided in Sections 26-2A-136 and
266 26-2A-137.

267 (21)-(20) PROTECTIVE PROCEEDING. A proceeding under ~~the~~
268 ~~provisions of~~ Division 3 of Article 2, ~~Division 3.~~

269 (22) RESPONDENT. An individual for whom: (i) a petition
270 requests the court to enter a protective order to appoint a
271 guardian or conservator; (ii) a protective arrangement is
272 sought; or (iii) any emergency or temporary guardian,
273 conservator, or other relief is requested.

274 (23)-(21) SECURITY. ~~Includes any~~ Any note, stock,
275 treasury stock, bond, debenture, evidence of indebtedness,
276 certificate of interest or participation in an oil, gas, or
277 mining title or lease or in payments out of production under
278 such a title or lease, collateral trust certificate,
279 transferable share, voting trust certificate or, in general,
280 any interest or instrument commonly known as a security, or



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281 any certificate of interest or participation, ~~r~~; any temporary
282 or interim certificate, receipt or certificate of deposit for,
283 or any warrant or right to subscribe to or purchase any of the
284 foregoing.

285 ~~(24)~~ ~~(22)~~ WARD. A person for whom a guardian has been
286 appointed. ~~A "minor ward" is a minor for whom a guardian has~~
287 ~~been appointed solely because of minority."~~

288 "§26-2A-50

289 (a) If notice of a hearing on any petition is required,
290 other than a notice meeting specific notice requirements
291 otherwise provided under Sections 26-2A-103, 26-2A-107.1,
292 26-2A-134, and 26-2A-136.1, the petitioner shall cause notice
293 of the time and place of the hearing of any petition to be
294 given to the person to be notified or to the attorney if the
295 person has appeared by attorney or requested that notice be
296 sent to an attorney.

297 (b) ~~Notice must~~ shall be given by service in the manner
298 provided for service of summons in the Alabama Rules of Civil
299 Procedure, except as follows:

300 (1) If by certified mail or commercial carrier, ~~By~~
301 ~~mailing a copy of the notice shall be sent~~ at least 14 days
302 before the time set for the hearing ~~by certified, registered,~~
303 ~~or ordinary first-class mail~~ and addressed to the person being
304 notified using the post office address given in the request
305 for notice, if any, or to the person's office or place of
306 residence, if known ~~r~~.

307 (2) If by process server, by ~~By~~ delivering ~~a copy~~
308 ~~thereof~~ the notice to the person being notified ~~personally~~ at



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309 least ~~14~~ 10 days before the time set for the hearing; ~~or.~~

310 (3) If by publication when the address or identity of
311 any person is not known and cannot be ascertained with
312 reasonable diligence, by publishing a copy of the notice, at
313 least once a week for three consecutive weeks, ~~a copy of the~~
314 ~~notice~~ in a newspaper having general circulation in the county
315 in which the hearing is to be held, the last publication of
316 which ~~is to~~ shall be at least 10 days before the time set for
317 the hearing.

318 (c) The court for good cause shown may provide for a
319 different method or time of giving notice for any hearing.

320 (d) Proof of the giving of notice must be made not
321 later than the hearing and filed in the proceeding."

322 "§26-2A-52

323 (a) At any point in a proceeding, a court may appoint a
324 guardian ad litem to represent the interest of a ~~minor or~~
325 ~~other person~~ respondent if the court determines that
326 representation of the interest otherwise would be inadequate.
327 If not precluded by conflict of interests, a guardian ad litem
328 may be appointed to represent several persons or interests.

329 (b) The primary responsibility of a guardian ad litem
330 is to protect the best interests of the respondent. The duties
331 of a guardian ad litem include the following:

332 (1)a. Meet with the respondent prior to court hearings
333 and when apprised of emergencies or significant events
334 impacting the respondent.

335 b. Explain, in terms understandable to the respondent,
336 what is expected to happen before, during, and after each



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337 court hearing.

338 (2) Conduct a thorough and independent investigation.

339 Unless otherwise directed by the court, the investigation

340 shall include the following:

341 a. Obtaining and reviewing relevant documents.

342 b. Interviewing the person who appears to have caused
343 the petition to be filed and any other person who is nominated
344 to serve as guardian or conservator.

345 c. Interviewing the respondent, if practicable.

346 d. Prior to a final hearing on the appointment of a
347 guardian or conservator, and at other times as necessary,
348 visiting the present dwelling of the respondent.

349 e. Making reasonable efforts to ascertain the
350 respondent's wishes.

351 f. Identifying less-restrictive alternatives to
352 guardianship or conservatorship.

353 (3) Unless represented by counsel, inform an alleged
354 incapacitated adult respondent of the respondent's right to be
355 present at the hearing, to be represented by counsel, to
356 prevent evidence and cross-examine witnesses, and to demand a
357 trial by jury.

358 (4) Advocate for appropriate services for the
359 respondent.

360 (5) Advocate for the result that is the least
361 restrictive in type, duration, and scope and consistent with
362 an alleged incapacitated adult respondent's best interests.

363 (6) Submit a report and recommendation in writing to
364 the court. In making the report, the guardian ad litem shall



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365 be an advocate for the best interests of the respondent. The
366 guardian ad litem should consider, but is not bound by, the
367 wishes of the respondent.

368 (7) Attend all court hearings and file all necessary
369 pleadings to facilitate the best interests of the respondent.

370 (8) Avoid conflicts of interest, impropriety, and
371 self-dealing.

372 (c) The court may include additional duties or
373 instructions for the guardian ad litem in its order of
374 appointment.

375 (d) Unless otherwise provided by court order, a
376 guardian ad litem's duties in a proceeding terminate: (i) when
377 the court has issued a final order or judgment and the time
378 for an appeal of the order or judgment has expired without an
379 appeal being filed; or (ii) if an appeal was filed, after the
380 final adjudication of the appeal.

381 (e) Before being appointed by the court, every guardian
382 ad litem appointed under this chapter shall successfully
383 complete a training program prepared or approved by the
384 Alabama Probate Judges Association and the Alabama Law
385 Institute."

386 "§26-2A-103

387 (a) Except as provided in Section 26-2A-107.1, in~~In~~ a
388 proceeding for the appointment of a guardian of an
389 incapacitated person, ~~and, if notice is required in a~~
390 ~~proceeding for appointment of a temporary guardian,~~ notice of
391 hearing ~~must~~ shall be given to each of the following:

392 (1) ~~The person alleged to be incapacitated~~ respondent,



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393 ~~her or his spouse (if any)~~ the respondent's spouse, if any,
394 and adult children, or if none, parents.

395 (2) Any person who is serving as guardian ~~or~~
396 conservator ~~or~~ who has the care and custody of the ~~person~~
397 ~~alleged to be incapacitated;~~ respondent.

398 (3) In case no other person is notified under ~~paragraph~~
399 subdivision (1), at least one of the nearest adult relatives
400 residing in this state, if any can be found; ~~and.~~

401 (4) Any other person as directed by the court.

402 (b) Notice of hearing on a petition for an order
403 subsequent to appointment of a guardian must be given to the
404 ~~ward~~ respondent, the guardian, and any other person as ordered
405 by the court.

406 (c) Notice must be served ~~personally~~ on the ~~alleged~~
407 ~~incapacitated person~~ respondent as provided in Section
408 26-2A-50(b)(2). Notices to other persons as required by
409 subsection ~~(a)(1) must~~ (a) or (b) shall be served ~~personally~~
410 ~~if the person to be notified can be found within the state. In~~
411 ~~all other cases, required notices must be given as provided in~~
412 Section 26-2A-50.

413 (d) ~~The person alleged to be incapacitated~~ respondent
414 may not waive notice."

415 "§26-2A-134

416 (a) On a petition for appointment of a conservator or
417 other protective order, the requirements for notice described
418 in Section 26-2A-103 apply, ~~but (i) if~~ except that:

419 (1) If the person to be protected respondent has
420 disappeared or is otherwise situated so as to make personal



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421 service of notice impracticable, notice to the ~~person must~~
422 respondent shall be given by publication as provided in
423 Section 26-2A-50, ~~and (ii) if; and~~

424 (2) If the person to be protected respondent is a
425 minor, the provisions of Section 26-2A-75 also apply.

426 (b) Notice, as described in Section 26-2A-103, of any
427 hearing on a petition for an order subsequent to appointment
428 of a conservator or other protective order must be given to
429 the ~~protected person~~ respondent, any conservator of the
430 ~~protected person's~~ respondent's estate, and any other person
431 as ordered by the court."

432 "§26-2A-136

433 (a) The court shall exercise the authority conferred in
434 this division to encourage the development of maximum
435 self-reliance and independence of a protected person and make
436 protective orders only to the extent necessitated by the
437 protected person's mental and adaptive limitations and other
438 conditions warranting the procedure.

439 (b) The court has the following powers that may be
440 exercised directly or through a conservator in respect to the
441 estate and business affairs of a protected person:

442 ~~(1) While a petition for appointment of a conservator~~
443 ~~or other protective order is pending and after preliminary~~
444 ~~hearing and without notice, the court may preserve and apply~~
445 ~~the property of the person to be protected as may be required~~
446 ~~for the support of the person or dependents of the person.~~

447 ~~(2)~~ After hearing and upon determining that a basis for
448 an appointment or other protective order exists with respect



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449 to a minor without other disability, the court has all those
450 powers over the estate and business affairs of the minor which
451 are or may be necessary for the best interest of the minor and
452 members of minor's immediate family.

453 (2) ~~(3)~~ After hearing and upon determining that a basis
454 for an appointment or other protective order exists with
455 respect to a person for reasons other than minority, the
456 court, for the benefit of the person and members of the
457 person's immediate family, has all the powers over the estate
458 and business affairs which the person could exercise if
459 present and not under disability, except the power to make a
460 will. Subject to subsection (c), those ~~powers~~ include, but are
461 not limited to, the powers to do the following: ~~power to make~~

462 a. Make gifts; ~~to convey.~~

463 b. Convey or release contingent and expectant interests
464 in property, including marital property rights and any right
465 of survivorship incident to joint tenancy or tenancy by the
466 entirety; ~~to exercise.~~

467 c. Exercise or release powers held by the protected
468 person as trustee, personal representative, custodian for
469 minors, conservator, or donee of a power of appointment; ~~to~~
470 enter.

471 d. Enter into contracts; ~~to create.~~

472 e. Create revocable or irrevocable trusts of property
473 of the estate which may extend beyond the disability or life
474 of the protected person; ~~to exercise.~~

475 f. Exercise options of the protected person to purchase
476 securities or other property; ~~to exercise.~~



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477 g. Exercise rights to elect options and change
478 beneficiaries under insurance and annuity policies and to
479 surrender the policies for their cash value; ~~to exercise.~~

480 h. Exercise any right to an elective share in the state
481 of the person's deceased spouse and to renounce or disclaim
482 any interest by testate or intestate succession or by inter
483 vivos transfer.

484 (c) The court may exercise or direct the exercise of
485 the following powers only if, after notice and hearing, the
486 court is satisfied, ~~after notice and hearing,~~ that it is in
487 the best interest of the protected person, and that the person
488 either is incapable of consenting or has consented to the
489 proposed exercise of power:

490 (1) To exercise or release powers of appointments of
491 which the protected person is done; .

492 (2) To renounce or disclaim interests; .

493 (3) To make gifts in trust or otherwise exceeding in
494 the aggregate 20 percent of the year's income of the estate;
495 and.

496 (4) To change beneficiaries under insurance and annuity
497 policies.

498 (d) Except for the disability necessitating the
499 appointment, a determination that a basis for appointment of a
500 conservator or other protective order exists has no effect
501 otherwise on the capacity of the protected person. A
502 conservator has all the powers granted by this section, unless
503 specifically limited by the court. A protected person does not
504 have or possess powers granted to the conservator."



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505 Section 2. Sections 26-2A-54, 26-2A-107.1, and
506 26-2A-136.1 are added to the Code of Alabama 1975, to read as
507 follows:

508 §26-2A-54

509 (a) In any proceeding under this article, the court
510 shall appoint a court representative unless the court
511 determines that the appointment is not likely to aid the court
512 or would add unnecessary expense to the proceeding. At any
513 time after the order is entered, the court may appoint a court
514 representative if the court determines that the appointment
515 would aid the court.

516 (b) Each court representative shall have training or
517 experience in the type of abilities, limitations, and needs
518 alleged in the petition, and have no personal interest in the
519 proceedings. An appointed court representative shall be an
520 officer, employee, or special appointee of the court.

521 (c) A court representative appointed under subsection
522 (a) shall do all of the following, unless otherwise directed
523 or limited by the court:

524 (1) Independently evaluate the petition and the
525 allegations made in the petition.

526 (2) Interview the respondent in person and do both of
527 the following in a manner that the respondent is best able to
528 understand:

529 a. Explain to the respondent the substance of the
530 petition and the nature, purpose, and effect of the
531 proceeding.

532 b. Determine the respondent's views about the relief



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533 sought by the petitioner.

534 (3) Interview the petitioner and proposed guardian or
535 conservator, if any.

536 (4) If relevant to the proceedings, visit the
537 respondent's present dwelling and any dwelling in which the
538 court representative reasonably believes the respondent will
539 live if the relief sought is granted.

540 (5) Obtain information from any physician or other
541 person known to have treated, advised, or assessed the
542 respondent's relevant physical or mental condition.

543 (6) File a report of the court representative's
544 findings in a record with the court, unless waived by the
545 court for good cause shown.

546 (d) The court may use the service of any public or
547 charitable agency as an additional court representative to
548 evaluate the condition of the respondent and to make
549 appropriate recommendations to the court.

550 §26-2A-107.1

551 (a) Either at the court's discretion after a petition
552 has been filed under this division or on petition by a person
553 interested in the adult's welfare, including, but not limited
554 to, a hospital as defined in Section 22-21-20, the court may
555 appoint a temporary guardian or emergency guardian for an
556 adult if the court finds all of the following:

557 (1) The appointment of a temporary guardian or
558 emergency guardian is likely to prevent substantial harm to
559 the adult's physical health, safety, or welfare.

560 (2) No other person appears to have the authority and



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561 the willingness to act in the circumstances.

562 (3) There is reason to believe that a basis for
563 appointment of a guardian under Section 26-2A-102 exists.

564 (b) (1) Immediately upon the filing of a petition for
565 appointment of a temporary guardian or emergency guardian of
566 an adult and if a guardian ad litem has not been appointed to
567 represent the respondent, the court shall appoint a guardian
568 ad litem to represent the respondent in the proceeding.

569 (2) Except as otherwise provided in subsection (d), the
570 court shall provide notice of the date, time, and place of a
571 hearing on a petition for appointment of a temporary guardian
572 or emergency guardian of an adult no later than five days
573 before the time set for the hearing to all of the following
574 parties:

- 575 a. The respondent.
- 576 b. The respondent's guardian ad litem and attorney.
- 577 c. Any other person that the court determines is an
578 appropriate party to the hearing.

579 (c) (1) The duration of authority of a temporary
580 guardian for an adult may not exceed 60 days. A temporary
581 guardian may exercise only the powers specified in the order
582 of appointment.

583 (2) Prior to the expiration of the duration of
584 authority granted to a temporary guardian for an adult under
585 subdivision (1), the duration of authority of a temporary
586 guardian for an adult may be extended for a second term of not
587 more than 60 days without a hearing, provided that the court
588 finds both of the following:



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589 a. The conditions for appointment of a temporary
590 guardian in subsection (a) continue.

591 b. It is in the best interest of the respondent to
592 continue the appointment.

593 (3) Prior to the expiration of the second or any
594 subsequent term of the duration of authority granted to a
595 temporary guardian under subdivision (2), the authority of a
596 temporary guardian for an adult may be extended for a third or
597 subsequent term of not more than 60 days upon hearing and upon
598 the court finding that there is good cause to extend the
599 temporary appointment. Notice of the date, time, and place of
600 the hearing to extend the temporary appointment shall be given
601 in accordance with the requirements of subsection (b).

602 (d)(1) The court may appoint an emergency guardian for
603 an adult without providing notice to the adult, the adult's
604 guardian ad litem, or any attorney for the adult only if the
605 court finds from an affidavit or testimony that the adult's
606 physical health, safety, or welfare will be substantially
607 harmed before a hearing with notice on the appointment can be
608 held.

609 (2) The duration of authority of an emergency guardian
610 for an adult may not exceed 10 days. The emergency guardian
611 may exercise only the powers specified in the order of
612 appointment.

613 (3) If the court appoints an emergency guardian without
614 giving notice under subsection (b), the court must do each of
615 the following:

616 a. Give notice of the appointment of the emergency



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617 guardian no later than 48 hours after the appointment to:

618 1. The respondent;

619 2. The respondent's guardian ad litem and attorney, if
620 any; and

621 3. Any other person that the court determines is an
622 appropriate party to the hearing.

623 b. Hold a hearing on the appropriateness of the
624 emergency appointment no later than 10 days after the
625 appointment, with notice of the date, time, and place of the
626 hearing given at least five days before the time set for the
627 hearing to those persons listed in paragraph a.

628 (4) At the conclusion of the hearing on the emergency
629 appointment, the court may do any of the following:

630 a. Appoint a temporary guardian for the adult.

631 b. Terminate the emergency guardianship without
632 appointment of a temporary guardian.

633 c. Grant such other relief as may be proper.

634 (e) The appointment of a temporary guardian or
635 emergency guardian under this section is not a determination
636 that a basis exists for appointment of a guardian under
637 Section 26-2A-102.

638 (f) The court may remove a temporary guardian or
639 emergency guardian appointed under this section at any time.

640 (g) The court may order a temporary guardian or
641 emergency guardian to file a written report, the contents of
642 which may be determined by the court. A temporary guardian or
643 emergency guardian shall make any report the court requires.

644 (h) No county sheriff shall be appointed as a temporary



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645 guardian or emergency guardian pursuant to this section unless
646 the county sheriff consents and accepts the appointment as
647 temporary guardian or emergency guardian.

648 §26-2A-136.1

649 (a) Either at the court's discretion after a petition
650 has been filed under this division or on petition under this
651 division by a person interested in the adult's welfare,
652 including, but not limited to, a hospital as defined in
653 Section 22-21-20, the court may appoint a temporary
654 conservator or emergency conservator for the person or grant
655 such other temporary or emergency relief as may be
656 appropriate, including an order to preserve and apply property
657 of the person as required for support of the person or any
658 person who is in fact dependent on the person, if the court
659 finds all of the following:

660 (1) The appointment of a temporary conservator or
661 emergency conservator or granting of other temporary or
662 emergency relief is likely to prevent substantial and
663 irreparable harm to the person's property or financial
664 interests.

665 (2) No other person appears to have the authority and
666 the willingness to act in the circumstances.

667 (3) There is reason to believe that a basis for
668 appointment of a conservator or other protective order under
669 Section 26-2A-130 exists.

670 (b) (1) Immediately upon the filing of a petition for
671 appointment of a temporary conservator or emergency
672 conservator or other temporary or emergency relief and if a



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673 guardian ad litem has not been appointed to represent the
674 respondent, the court shall appoint a guardian ad litem to
675 represent the respondent in the proceeding.

676 (2) Except as otherwise provided in subsection (d), the
677 court shall provide notice of the date, time, and place of a
678 hearing on a petition under this section at least five days
679 before the time set for the hearing to all of the following
680 parties:

681 a. The respondent.

682 b. The respondent's guardian ad litem and attorney, if
683 any.

684 c. Any other person that the court determines is an
685 appropriate party to the hearing.

686 (c) The duration of authority of a temporary
687 conservator and the duration of any other temporary relief
688 ordered under this section may not exceed 60 days. The
689 temporary conservator may exercise only the powers specified
690 in the order of appointment.

691 (2) Prior to the expiration of the duration of
692 authority granted to a temporary conservator or the expiration
693 of the duration of any other temporary relief under
694 subdivision (1), the duration of authority of a temporary
695 conservator or the duration of any other temporary relief may
696 be extended for a second term of not more than 60 days without
697 a hearing, provided that the court finds both of the
698 following:

699 a. The conditions for appointment of a temporary
700 conservator or for the granting of any other temporary relief



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701 under subsection (a) continue.

702 b. It is in the interest of the respondent to continue
703 the appointment of a temporary conservator or granting of
704 temporary relief.

705 (3) Prior to the expiration of the second or any
706 subsequent term of the duration of authority granted to a
707 temporary conservator or the duration of any other temporary
708 relief under subdivision (2), the authority of a temporary
709 conservator or any other temporary relief may be extended for
710 a third or subsequent term of not more than 60 days upon
711 hearing and upon the court finding that there is good cause to
712 extend the temporary appointment or granting of temporary
713 relief. Notice of the date, time, and place of the hearing to
714 extend the temporary appointment or other temporary relief
715 shall be given in accordance with the requirements established
716 in subsection (b).

717 (d) (1) The court may appoint an emergency conservator
718 or grant other emergency relief without providing notice to
719 the respondent, the respondent's guardian ad litem, or any
720 attorney for the respondent only if the court finds from an
721 affidavit or testimony that the respondent's property or
722 financial interests will be substantially and irreparably
723 harmed before a hearing with notice on the appointment can be
724 held.

725 (2) The duration of authority of an emergency
726 conservator may not exceed 10 days. The emergency conservator
727 may exercise only the powers specified in the order of
728 appointment. The duration of any other emergency relief may



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729 not exceed 10 days.

730 (3) If the court appoints an emergency conservator or
731 grants other emergency relief without giving notice under
732 subsection (b), the court must do each of the following:

733 a. Give notice of the appointment of the emergency
734 conservator or the granting of emergency relief not later than
735 48 hours after the appointment to:

736 1. The respondent;

737 2. The respondent's guardian ad litem and attorney, if
738 any; and

739 3. Any other person that the court determines is an
740 appropriate party to the hearing.

741 b. Hold a hearing on the appropriateness of the
742 emergency appointment or granting of emergency relief not
743 later than 10 days after the appointment is made or the
744 emergency relief is granted, with notice of the date, time,
745 and place of the hearing given at least five days before the
746 time set for the hearing to those persons listed in paragraph
747 a.

748 (4) At the conclusion of the hearing on the emergency
749 appointment or granting of emergency relief, the court may do
750 any of the following:

751 a. Appoint a temporary conservator for the adult.

752 b. Terminate the emergency conservatorship or other
753 emergency relief without further appointment or relief.

754 c. Grant such other relief as may be proper.

755 (e) The appointment of a temporary conservator or
756 emergency conservator under this section is not a



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757 determination that a basis exists for appointment of a
758 conservator or other protective order under Section 26-2A-130.

759 (f) The court may remove a temporary conservator or
760 emergency conservator appointed under this section at any
761 time.

762 (g) The court may order a temporary conservator or
763 emergency conservator to file a written report, the contents
764 of which may be determined by the court. A temporary
765 conservator or emergency conservator shall make any report the
766 court requires.

767 (h) No county sheriff shall be appointed as a temporary
768 conservator or emergency conservator pursuant to this section
769 unless the county sheriff consents and accepts the appointment
770 as temporary conservator or emergency conservator.

771 (i) The requirements of Section 26-2A-139 shall apply
772 to any individual appointed as a temporary conservator or
773 emergency conservator under this section.

774 (j) This section shall apply to all conservatorships
775 and other protective proceedings commenced on or after January
776 1, 2027.

777 Section 3. Section 26-2A-107, Code of Alabama 1975,
778 relating to the emergency appointment of temporary guardians,
779 is repealed.

780 Section 4. This act shall become effective on January
781 1, 2027.



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Speaker of the House of Representatives

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 24-Feb-26, as amended.

John Treadwell
Clerk

Senate

07-Apr-26

Amended and Passed

House

07-Apr-26

Concurred in Senate
Amendment