

SB83 ENGROSSED



1 SB83
2 G3HLP62-2
3 By Senator Orr
4 RFD: Judiciary
5 First Read: 13-Jan-26



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A BILL
TO BE ENTITLED
AN ACT

Relating to guardianships and conservatorships; to amend Sections 26-2-2, 26-2-3, 26-2A-20 26-2A-50, 26-2A-52, 26-2A-103, 26-2A-134, and 26-2A-136, Code of Alabama 1975, and to add Sections 26-2A-54, 26-2A-107.1, and 26-2A-136.1 to the Code of Alabama 1975; to further provide procedures and requirements relating to the removal of proceedings involving guardianships or conservatorships from probate court to the circuit court; to further provide for notice requirements for petitions involving a guardianship, conservatorship, or protective proceeding; to require guardians ad litem to undergo training before appointment in a case involving a guardianship, conservatorship, or protective proceeding; to specify the duties of such a guardian ad litem; to require the court to appoint a court representative in proceedings involving a guardianship or protective order, with exceptions; to provide for the duties and responsibilities of a court representative; to provide for the appointment of temporary or emergency guardians in certain circumstances to prevent harm to an adult's physical health, safety, or welfare; to provide for the appointment of temporary or emergency conservators or



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29 other temporary or emergency relief in certain circumstances
30 to prevent harm to an adult's property or financial interests;
31 to allow the court to penalize attorneys or parties who
32 improperly petition for temporary or emergency guardians or
33 conservators; to revise the authority of a court to preserve
34 and apply the property of a person who is the subject of an
35 ongoing protective order proceeding; to repeal Section
36 26-2A-107, Code of Alabama 1975, relating to emergency orders
37 for a temporary guardian; and to make nonsubstantive,
38 technical revisions to update the existing code language to
39 current style.

40 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

41 Section 1. Sections 26-2-2, 26-2-3, 26-2A-20, 26-2A-50,
42 26-2A-52, 26-2A-103, 26-2A-134, and 26-2A-136 are amended to
43 read as follows:

44 "§26-2-2

45 (a) For all guardianships, conservatorships, and other
46 protective proceedings commencing before January 1, 2027, the
47 ~~The~~ administration or conduct of any guardianship or
48 conservatorship of a minor or incapacitated person may be
49 removed from the probate court to the circuit court, at any
50 time before the final settlement thereof by the guardian or
51 conservator of any such guardianship or conservatorship or
52 guardian ad litem or next friend of such ward or anyone
53 entitled to support out of the estate of such ward without
54 assigning any special equity, and an order of removal must be
55 made by the court or judge upon the filing of a sworn petition
56 by any such guardian or conservator or guardian ad litem or



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57 next friend for the ward or such person entitled to support
58 out of the estate of such ward, reciting in what capacity the
59 petitioner acts and that in the opinion of the petitioner such
60 guardianship or conservatorship can be better administered in
61 the circuit court than in the probate court.

62 (b) The following shall apply to all guardianships,
63 conservatorships, and other protective proceedings commenced
64 on or after January 1, 2027:

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

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

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

79 2. The conservator, including any emergency or
80 temporary conservator appointed by a court of competent
81 jurisdiction and any conservator appointed in another
82 jurisdiction for the person who is the subject of the
83 proceeding.

84 3. The alleged incapacitated person, prior to a



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85 determination of incapacity.

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

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

91 6. Any facility in which the person who is the subject
92 of the proceeding resides or has been admitted as a patient.

93 7. The next friend of the person who is the subject of
94 the proceeding.

95 8. The Department of Human Resources.

96 9. Any person entitled to support out of the estate of
97 the person who is the subject of the proceeding.

98 10. The spouse of the person who is the subject of the
99 proceeding.

100 (2) To remove a proceeding from the probate court to
101 the circuit court, the removing party shall file in the
102 circuit court to which the proceeding is being removed a
103 notice of removal that contains all of the following:

104 a. A description of the nature of the proceeding being
105 removed.

106 b. Whether a jury trial is demanded under Section
107 26-2A-35.

108 c. The removing party's interest in the proceeding
109 being removed.

110 d. The name of all interested persons to the proceeding
111 being removed to which the removing party is delivering the
112 notice of removal.



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113 (3) Following the removal to the circuit court, the
114 removing party shall file a copy of the notice of removal with
115 the clerk of the probate court and shall send a copy of the
116 notice of removal to all interested parties listed in the
117 notice. Upon receiving a copy of the notice of removal, the
118 probate court may not take further action unless and until the
119 removed proceeding is remanded, except to deliver a copy of
120 the record in the probate court to the clerk of the circuit
121 court.

122 (4) The circuit court shall have jurisdiction of a
123 removed proceeding upon filing of the notice of removal with
124 the circuit clerk. None of the following may deprive the
125 circuit court of jurisdiction to hear and decide the removed
126 proceeding:

127 a. The omission of any information required to be
128 included in the notice of removal.

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

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

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

139 (6) The circuit court may remand a proceeding removed
140 under this section to the probate court if the circuit court



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141 finds any of the following:

142 a. The removal was sought for purpose of improper
143 delay.

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

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

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

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

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

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

165 "§26-2-3

166 (a) In any county where the judge of probate is
167 required to be learned in the law, the administration or
168 conduct of any guardianship or conservatorship of a minor or



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169 incapacitated person may be removed from the probate court to
170 the circuit court pursuant to Section 26-2-2 at any time
171 before a proceeding for final settlement~~thereof~~ is commenced
172 in probate court by the guardian or conservator of the
173 guardianship or conservatorship or guardian ad litem or next
174 friend of a ward or anyone entitled to support out of the
175 estate of the ward without assigning any special equity. The
176 circuit court shall remand the administration of a
177 guardianship or conservatorship transferred pursuant to this
178 section to the probate court if the circuit court finds that
179 the removal was sought for the purpose of improper delay or
180 did not comply with applicable law. The circuit court may
181 remand the administration of a guardianship or conservatorship
182 pursuant to this section to the probate court if the circuit
183 court finds that any of the following apply:

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

190 (2) All interested parties or their representatives
191 request the administration of the guardianship or
192 conservatorship be remanded to probate court.

193 (b) Nothing in subsection (a) shall prevent the
194 administration of a guardianship or conservatorship from being
195 removed again to the circuit court pursuant to Section 26-2-2
196 after the administration has been remanded to the probate



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197 court as provided above.

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

201 "§26-2A-20

202 For the purposes of As used in this chapter, the
203 following terms ~~shall~~ have the following meanings,
204 ~~respectively, unless the context clearly indicates otherwise:~~

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

211 (2) CONSERVATOR. A person who is appointed by a court
212 to manage the estate of a protected person ~~and~~. The term
213 includes a limited conservator described in Section
214 26-2A-148(a).

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

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

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

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



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225 (7) GUARDIAN. A person who has qualified as a guardian
226 of a minor or incapacitated person pursuant to parental or
227 spousal nomination or court appointment~~and~~. The term includes
228 a limited guardian as described in Sections 26-2A-78(e) and
229 26-2A-105(c), but excludes~~one~~ a person who is merely a
230 guardian ad litem.

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

238 (9) LEASE. Includes an oil, gas, or other mineral
239 lease.

240 (10) LETTERS.~~Includes letters~~ Letters of guardianships
241 and letters of conservatorship.

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

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

246 (13)~~(12)~~ MORTGAGE. Any conveyance, agreement, or
247 arrangement in which property is used as collateral.

248 (14)~~(13)~~ ORGANIZATION.~~Includes a~~ A corporation,
249 business trust, estate, trust, partnership, association, two
250 or more persons having a joint or common interest, government,
251 governmental subdivision or agency, or any other legal entity.

252 (15)~~(14)~~ PARENT.~~Includes any~~ Any person entitled to



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253 take, or who would be entitled to take if the child died
254 without a will, as a parent by intestate succession from the
255 child whose relationship is in question~~and~~. The term excludes
256 any person who is only a stepparent, foster parent, or
257 grandparent.

258 (16)-(15) PERSON. An individual or an organization,
259 unless the context otherwise requires.

260 (17)-(16) PETITION. A written request to the court for
261 an order after notice.

262 (18)-(17) PROCEEDING. ~~Includes action~~ Action at law and
263 suit in equity.

264 (19)-(18) PROPERTY. ~~Includes both~~ Both real and personal
265 property, or any interest therein, and ~~means~~ anything that may
266 be the subject of ownership.

267 (20)-(19) PROTECTED PERSON. A minor or other person for
268 whom a conservator has been appointed or other protective
269 order has been made as provided in Sections 26-2A-136 and
270 26-2A-137.

271 (21)-(20) PROTECTIVE PROCEEDING. A proceeding under~~the~~
272 ~~provisions of~~ Division 3 of Article 2, ~~Division 3.~~

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

278 (23)-(21) SECURITY. ~~Includes any~~ Any note~~;~~ stock;
279 treasury stock; ~~bond, debenture;~~ evidence of indebtedness;
280 certificate of interest or participation in an oil, gas, or



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281 mining title or lease or in payments out of production under
282 such a title or lease~~;~~ collateral trust certificate,
283 transferable share~~;~~ voting trust certificate or, in general,
284 any interest or instrument commonly known as a security, or
285 any certificate of interest or participation~~;~~ any temporary
286 or interim certificate, receipt or certificate of deposit for,
287 or any warrant or right to subscribe to or purchase any of the
288 foregoing.

289 ~~(24) (22)~~ WARD. A person for whom a guardian has been
290 appointed. ~~A "minor ward" is a minor for whom a guardian has~~
291 ~~been appointed solely because of minority."~~

292 "§26-2A-50

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

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

304 (1) If by certified mail or commercial carrier, ~~By~~
305 ~~mailing a copy of the notice shall be sent~~ at least 14 days
306 before the time set for the hearing ~~by certified, registered,~~
307 ~~or ordinary first-class mail~~ and addressed to the person being
308 notified using the post office address given in the request



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309 for notice, if any, or to the person's office or place of
310 residence, if known.

311 (2) If by process server, by ~~By delivering a copy~~
312 ~~thereof~~ the notice to the person being notified ~~personally~~ at
313 least ~~14~~ 10 days before the time set for the hearing; ~~or.~~

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

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

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

326 "§26-2A-52

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

333 (b) The primary responsibility of a guardian ad litem
334 is to protect the best interests of the respondent. The duties
335 of a guardian ad litem include the following:

336 (1)a. Meet with the respondent prior to court hearings



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337 and when apprised of emergencies or significant events
338 impacting the respondent.

339 b. Explain, in terms understandable to the respondent,
340 what is expected to happen before, during, and after each
341 court hearing.

342 (2) Conduct a thorough and independent investigation.
343 Unless otherwise directed by the court, the investigation
344 shall include the following:

345 a. Obtaining and reviewing relevant documents.

346 b. Interviewing the person who appears to have caused
347 the petition to be filed and any other person who is nominated
348 to serve as guardian or conservator.

349 c. Interviewing the respondent, if practicable.

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

353 e. Making reasonable efforts to ascertain the
354 respondent's wishes.

355 f. Identifying less-restrictive alternatives to
356 guardianship or conservatorship.

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

362 (4) Advocate for appropriate services for the
363 respondent.

364 (5) Advocate for the result that is the least



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365 restrictive in type, duration, and scope and consistent with
366 an alleged incapacitated adult respondent's best interests.

367 (6) Submit a report and recommendation in writing to
368 the court. In making the report, the guardian ad litem shall
369 be an advocate for the best interests of the respondent. The
370 guardian ad litem should consider, but is not bound by, the
371 wishes of the respondent.

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

374 (8) Avoid conflicts of interest, impropriety, and
375 self-dealing.

376 (c) The court may include additional duties or
377 instructions for the guardian ad litem in its order of
378 appointment.

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

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

390 "§26-2A-103

391 (a) Except as provided in Section 26-2A-107.1, in~~In~~ a
392 proceeding for the appointment of a guardian of an



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393 incapacitated person, ~~and, if notice is required in a~~
394 ~~proceeding for appointment of a temporary guardian,~~ notice of
395 hearing ~~must~~ shall be given to each of the following:

396 (1) ~~The person alleged to be incapacitated~~ respondent,
397 ~~her or his spouse (if any)~~ the respondent's spouse, if any,
398 and adult children, or if none, parents~~;~~.

399 (2) Any person who is serving as guardian~~,~~ or
400 conservator~~,~~ or who has the care and custody of the ~~person~~
401 ~~alleged to be incapacitated;~~ respondent.

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

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

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

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

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

419 "§26-2A-134

420 (a) On a petition for appointment of a conservator or



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421 other protective order, the requirements for notice described
422 in Section 26-2A-103 apply, ~~but (i) if~~ except that:

423 (1) If the person to be protected respondent has
424 disappeared or is otherwise situated so as to make personal
425 service of notice impracticable, notice to the ~~person must~~
426 respondent shall be given by publication as provided in
427 Section 26-2A-50, ~~and (ii) if;~~ and

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

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

436 "§26-2A-136

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

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

446 ~~(1) While a petition for appointment of a conservator~~
447 ~~or other protective order is pending and after preliminary~~
448 ~~hearing and without notice, the court may preserve and apply~~



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449 ~~the property of the person to be protected as may be required~~
450 ~~for the support of the person or dependents of the person.~~

451 ~~(2)~~ After hearing and upon determining that a basis for
452 an appointment or other protective order exists with respect
453 to a minor without other disability, the court has all those
454 powers over the estate and business affairs of the minor which
455 are or may be necessary for the best interest of the minor and
456 members of minor's immediate family.

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

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

467 b. Convey or release contingent and expectant interests
468 in property, including marital property rights and any right
469 of survivorship incident to joint tenancy or tenancy by the
470 entirety; ~~to exercise.~~

471 c. Exercise or release powers held by the protected
472 person as trustee, personal representative, custodian for
473 minors, conservator, or donee of a power of appointment; ~~to~~
474 ~~enter.~~

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

476 e. Create revocable or irrevocable trusts of property



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477 of the estate which may extend beyond the disability or life
478 of the protected person;~~to exercise.~~

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

481 g. Exercise rights to elect options and change
482 beneficiaries under insurance and annuity policies and to
483 surrender the policies for their cash value;~~to exercise.~~

484 h. Exercise any right to an elective share in the state
485 of the person's deceased spouse and to renounce or disclaim
486 any interest by testate or intestate succession or by inter
487 vivos transfer.

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

494 (1) To exercise or release powers of appointments of
495 which the protected person is done;~~.~~

496 (2) To renounce or disclaim interests;~~.~~

497 (3) To make gifts in trust or otherwise exceeding in
498 the aggregate 20 percent of the year's income of the estate;
499 ~~and.~~

500 (4) To change beneficiaries under insurance and annuity
501 policies.

502 (d) Except for the disability necessitating the
503 appointment, a determination that a basis for appointment of a
504 conservator or other protective order exists has no effect



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505 otherwise on the capacity of the protected person. A
506 conservator has all the powers granted by this section, unless
507 specifically limited by the court. A protected person does not
508 have or possess powers granted to the conservator."

509 Section 2. Sections 26-2A-54, 26-2A-107.1, and
510 26-2A-136.1 are added to the Code of Alabama 1975, to read as
511 follows:

512 §26-2A-54

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

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

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

528 (1) Independently evaluate the petition and the
529 allegations made in the petition.

530 (2) Interview the respondent in person and do both of
531 the following in a manner that the respondent is best able to
532 understand:



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533 a. Explain to the respondent the substance of the
534 petition and the nature, purpose, and effect of the
535 proceeding.

536 b. Determine the respondent's views about the relief
537 sought by the petitioner.

538 (3) Interview the petitioner and proposed guardian or
539 conservator, if any.

540 (4) If relevant to the proceedings, visit the
541 respondent's present dwelling and any dwelling in which the
542 court representative reasonably believes the respondent will
543 live if the relief sought is granted.

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

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

550 (d) The court may use the service of any public or
551 charitable agency as an additional court representative to
552 evaluate the condition of the respondent and to make
553 appropriate recommendations to the court.

554 §26-2A-107.1

555 (a) Either at the court's discretion after a petition
556 has been filed under this division or on petition by a person
557 interested in the adult's welfare, the court may appoint a
558 temporary guardian or emergency guardian for an adult if the
559 court finds all of the following:

560 (1) The appointment of a temporary guardian or



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561 emergency guardian is likely to prevent substantial harm to
562 the adult's physical health, safety, or welfare.

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

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

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

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

578 a. The respondent.

579 b. The respondent's guardian ad litem and attorney.

580 c. Any other person that the court determines is an
581 appropriate party to the hearing.

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

586 (2) Prior to the expiration of the duration of
587 authority granted to a temporary guardian for an adult under
588 subdivision (1), the duration of authority of a temporary



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589 guardian for an adult may be extended for a second term of not
590 more than 60 days without a hearing, provided that the court
591 finds both of the following:

592 a. The conditions for appointment of a temporary
593 guardian in subsection (a) continue.

594 b. It is in the best interest of the respondent to
595 continue the appointment.

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

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

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

616 (3) If the court appoints an emergency guardian without



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617 giving notice under subsection (b), the court must do each of
618 the following:

619 a. Give notice of the appointment of the emergency
620 guardian no later than 48 hours after the appointment to:

621 1. The respondent;

622 2. The respondent's guardian ad litem and attorney, if
623 any; and

624 3. Any other person that the court determines is an
625 appropriate party to the hearing.

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

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

633 a. Appoint a temporary guardian for the adult.

634 b. Terminate the emergency guardianship without
635 appointment of a temporary guardian.

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

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

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

643 (g) The court may order a temporary guardian or
644 emergency guardian to file a written report, the contents of



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645 which may be determined by the court. A temporary guardian or
646 emergency guardian shall make any report the court requires.

647 (h) No county sheriff shall be appointed as a temporary
648 guardian or emergency guardian pursuant to this section unless
649 the county sheriff consents and accepts the appointment as
650 temporary guardian or emergency guardian.

651 §26-2A-136.1

652 (a) Either at the court's discretion after a petition
653 has been filed under this division or on petition under this
654 division by a person interested in the adult's welfare, the
655 court may appoint a temporary conservator or emergency
656 conservator for the person or grant such other temporary or
657 emergency relief as may be appropriate, including an order to
658 preserve and apply property of the person as required for
659 support of the person or any person who is in fact dependent
660 on the person, if the court finds all of the following:

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

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

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

671 (b) (1) Immediately upon the filing of a petition for
672 appointment of a temporary conservator or emergency



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673 conservator or other temporary or emergency relief and if a
674 guardian ad litem has not been appointed to represent the
675 respondent, the court shall appoint a guardian ad litem to
676 represent the respondent in the proceeding.

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

682 a. The respondent.

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

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

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

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

700 a. The conditions for appointment of a temporary



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701 conservator or for the granting of any other temporary relief
702 under subsection (a) continue.

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

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

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

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



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729 appointment. The duration of any other emergency relief may
730 not exceed 10 days.

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

734 a. Give notice of the appointment of the emergency
735 conservator or the granting of emergency relief not later than
736 48 hours after the appointment to:

737 1. The respondent;

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

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

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

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

752 a. Appoint a temporary conservator for the adult.

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

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

756 (e) The appointment of a temporary conservator or



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757 emergency conservator under this section is not a
758 determination that a basis exists for appointment of a
759 conservator or other protective order under Section 26-2A-130.

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

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

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

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

775 (j) This section shall apply to all conservatorships
776 and other protective proceedings commenced on or after January
777 1, 2027.

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

781 Section 4. This act shall become effective on January
782 1, 2027.



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783
784
785 Senate

786 Read for the first time and referred13-Jan-26
787 to the Senate committee on Judiciary
788
789 Read for the second time and placed12-Feb-26
790 on the calendar:
791 1 amendment
792
793 Read for the third time and passed17-Feb-26
794 as amended
795 Yeas 33
796 Nays 0
797 Abstains 0
798
799

800 Patrick Harris,
801 Secretary.
802