

SENATE BILL 122

N2, O3, D4

9lr0624
CF 9lr1937

By: **Senator Kelley**

Introduced and read first time: January 16, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 3, 2009

CHAPTER _____

1 AN ACT concerning

2 **Maryland Uniform Adult Guardianship and Protective Proceedings**
3 **Jurisdiction Act**

4 FOR the purpose of establishing the Maryland Uniform Adult Guardianship and
5 Protective Proceedings Jurisdiction Act; authorizing a court of this State to
6 treat a foreign country as if the country were a state for the purpose of applying
7 this Act; authorizing a court of this State to make a certain request of an
8 appropriate court of another state in a certain guardianship or protective
9 proceeding in this State and to grant a certain request from an appropriate
10 court of another state in a certain guardianship or protective proceeding in that
11 state; authorizing the offer of testimony by deposition or certain other means in
12 a certain guardianship or protective proceeding; requiring a court of this State
13 to cooperate with courts of other states in designating an appropriate location
14 for a deposition or testimony in a certain guardianship or protective proceeding;
15 establishing that a court of this State has jurisdiction to appoint a guardian or
16 issue a protective order for a certain respondent under certain circumstances;
17 establishing that a court of this State that lacks certain jurisdiction under this
18 Act has special jurisdiction to take certain steps; requiring a court in this State
19 to dismiss a certain proceeding at the request of a certain court in another state
20 under certain circumstances; establishing that a court that has appointed a
21 guardian or issued a protective order consistent with this Act has exclusive and
22 continuing jurisdiction over the proceeding until the proceeding is terminated
23 by the court or the appointment or order expires by the terms of the
24 appointment or order; authorizing a court to decline to exercise jurisdiction
25 under certain circumstances; requiring a court that declines jurisdiction to take
26 certain steps in certain circumstances; authorizing a court to take certain steps

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 if a certain determination is made; requiring a certain petitioner to provide
2 certain notice to certain persons; authorizing a court to proceed or requiring the
3 court to take certain steps on the filing of a certain petition under certain
4 circumstances; authorizing a certain guardian or conservator to petition a court
5 to transfer a guardianship or conservatorship to another state under certain
6 circumstances; providing that a certain notice of a petition to transfer a
7 guardianship or conservatorship to another state be given under certain
8 circumstances; requiring a court to hold a hearing on a certain petition under
9 certain circumstances; requiring a court to issue a provisional order granting a
10 petition to transfer a guardianship or conservatorship to another state on a
11 certain finding; requiring a guardian or conservator to petition a court in this
12 State to accept a certain guardianship or conservatorship under certain
13 circumstances; providing that a certain notice of a petition to accept a
14 guardianship or conservatorship be given under certain circumstances;
15 requiring a court to hold a hearing on a certain petition under certain
16 circumstances; requiring a court to issue a provisional order approving a certain
17 petition unless a certain objection is made; requiring a court to recognize a
18 guardianship or conservatorship order from another state under certain
19 circumstances; establishing that the denial of a petition to accept a
20 guardianship or conservatorship from another state does not affect the ability of
21 a certain person to seek a certain court appointment; ~~requiring a court to issue~~
22 ~~an order confirming the transfer of a proceeding to another state and~~
23 ~~terminating a guardianship or conservatorship in this State under certain~~
24 ~~circumstances; requiring a court to issue a final order appointing a guardian or~~
25 ~~conservator from another state as guardian or conservator in this State under~~
26 ~~certain circumstances; requiring a court to determine whether a certain~~
27 ~~guardianship or conservatorship need be modified to conform to the law of this~~
28 ~~State within a certain period after issuance of a certain order;~~ authorizing a
29 guardian appointed in another state to register a certain guardianship order in
30 this State as a foreign judgment under certain circumstances; authorizing a
31 conservator appointed in another state to register a certain conservatorship
32 order in this State as a foreign judgment under certain circumstances;
33 authorizing, with certain exceptions, a certain guardian or conservator to
34 exercise certain powers in this State; authorizing a court in this State to grant
35 certain relief to enforce a certain registered order; providing for the application
36 of this Act; establishing that this Act modifies, limits, and supersedes certain
37 provisions of federal law; making certain technical corrections; defining certain
38 terms; and generally relating to adult guardianships and protective
39 proceedings.

40 BY repealing and reenacting, without amendments,
41 Article – Estates and Trusts
42 Section 13–101(a), (e), and (h), 13–201 through 13–206, 13–208 through 13–221,
43 and 13–705 through 13–713
44 Annotated Code of Maryland
45 (2001 Replacement Volume and 2008 Supplement)

46 BY repealing and reenacting, with amendments,

1 Article – Estates and Trusts
 2 Section 13–105, 13–207, 13–222, and 13–704
 3 Annotated Code of Maryland
 4 (2001 Replacement Volume and 2008 Supplement)

5 BY adding to
 6 Article – Estates and Trusts
 7 Section 13.5–101 through 13.5–504 to be under the new title “Title 13.5.
 8 Maryland Uniform Adult Guardianship and Protective Proceedings
 9 Jurisdiction Act”
 10 Annotated Code of Maryland
 11 (2001 Replacement Volume and 2008 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Estates and Trusts**

15 13–101.

16 (a) In this title the following words have the meanings indicated.

17 (e) “Disabled person” means a person other than a minor who:

18 (1) (i) Has been judged by a court to be unable to manage his
 19 property for reasons listed in § 13–201(c)(1) of this title; and

20 (ii) As a result of this inability requires a guardian of his
 21 property; or

22 (2) (i) Has been judged by a court to be unable to provide for his
 23 daily needs sufficiently to protect his health or safety for reasons listed in § 13–705(b)
 24 of this title; and

25 (ii) As a result of this inability requires a guardian of the
 26 person.

27 (h) “Guardian” means a guardian of an estate appointed by a court under
 28 Subtitle 2 of this title to manage the property of a disabled person or minor or a
 29 guardian of a person appointed by a court under Subtitle 7 of this title, according to
 30 the context in which it is used.

31 13–105.

32 (a) The orphans’ courts and the circuit courts have concurrent jurisdiction
 33 over guardians of the person of a minor and over protective proceedings for minors.
 34 Upon petition of an interested person, a matter initiated in the orphans’ court may be
 35 transferred to the circuit court.

1 (b) [The] **SUBJECT TO TITLE 13.5 OF THIS ARTICLE, THE** circuit courts
2 have exclusive jurisdiction over protective proceedings for disabled persons.

3 13–201.

4 (a) Upon petition, and after any notice or hearing prescribed by law or the
5 Maryland Rules, the court may appoint a guardian of the property of a minor or a
6 disabled person.

7 (b) A guardian shall be appointed if the court determines that:

8 (1) A minor owns or is entitled to property that requires management
9 or protection; or

10 (2) Funds are needed for his support, care, welfare, and education and
11 protection is necessary or desirable to obtain or provide funds.

12 (c) A guardian shall be appointed if the court determines that:

13 (1) The person is unable to manage his property and affairs effectively
14 because of physical or mental disability, disease, habitual drunkenness, addiction to
15 drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign
16 power, or disappearance; and

17 (2) The person has or may be entitled to property or benefits which
18 require proper management.

19 13–202.

20 Venue in proceedings under this subtitle shall be as provided by the Maryland
21 Rules.

22 13–203.

23 (a) While a petition for appointment of a guardian or other protective order
24 is pending, the court may preserve and apply the property of the alleged disabled
25 person or minor as may be required. The court need not give notice to other persons.

26 (b) The court may not exercise the power conferred by subsection (a) unless it
27 appears from specific facts shown by affidavit that immediate, substantial, and
28 irreparable injury will result to the applicant or to the minor or disabled person before
29 an adversary hearing can be held. The court may communicate informally with the
30 minor or disabled person prior to taking action. Any order shall be served immediately
31 on the minor or disabled person.

1 (b) Before approving a transaction or arrangement under this section, the
2 court shall consider the interests of creditors and dependents of the minor or disabled
3 person and whether the property of the minor or disabled person needs the continuing
4 protection provided by a guardian.

5 13–205.

6 An adjudication under this subtitle shall have no bearing on the issue of
7 capacity of the alleged disabled person to care for his own person.

8 13–206.

9 (a) Subject to the provisions of § 13–207 of this subtitle, the court may
10 appoint as guardian of the estate of a minor or disabled person:

11 (1) Any individual;

12 (2) Any trust company; or

13 (3) Any other corporation authorized by law to serve as a trustee.

14 (b) The appointed guardian shall qualify by filing any required bond.

15 (c) (1) The appointment and qualification of a guardian vests in him title
16 to all property of the minor or protected person that is held at the time of appointment
17 or acquired later. The appointment is not a transfer or alienation within the meaning
18 of any federal or State statute or regulation, insurance policy, pension plan, contract,
19 will, or trust instrument that imposes restrictions on or penalties for transfer or
20 alienation by the minor or disabled person of his rights or interest. A guardian shall
21 utilize powers conferred by this subtitle to perform the services, exercise his
22 discretion, and discharge his duties for the best interest of the minor or disabled
23 person or his dependents.

24 (2) If a trust company is appointed guardian, a court may order any
25 money paid to the court for the benefit of the minor or disabled person to be deposited
26 with the trust company.

27 (d) The guardian is the statutory agent of the minor or disabled person for
28 the purpose of filing all government reports and returns.

29 13–207.

30 (a) Persons are entitled to appointment as guardian for a minor or disabled
31 person according to the following priorities:

1 (1) A conservator, committee, guardian of property, or other like
2 fiduciary appointed by any appropriate court of any foreign jurisdiction in which the
3 minor or disabled person resides;

4 (2) A person or corporation nominated by the minor or disabled person
5 if the designation was signed by the minor or disabled person after his 16th birthday,
6 and, in the opinion of the court, he had sufficient mental capacity to make an
7 intelligent choice at the time he executed the designation;

8 (3) His spouse;

9 (4) His parents;

10 (5) A person or corporation nominated by the will of a deceased
11 parent;

12 (6) His children;

13 (7) The persons who would be his heirs if he were dead;

14 (8) A person or corporation nominated by a person who, or institution,
15 organization, or public agency which, is caring for him;

16 (9) A person or corporation nominated by a governmental agency
17 which is paying benefits to him; **AND**

18 (10) Any other person considered appropriate by the court.

19 (b) A person specified in a priority in subsection (a)(1), (3), (4), (6) or (7) may
20 waive and nominate in writing a person or corporation to serve in his stead. A
21 nominee of a person holding a priority has the same priority as the person making the
22 nomination.

23 (c) Among persons with equal priority, the court shall select the one best
24 qualified of those willing to serve. For good cause the court may pass over a person
25 with priority and appoint a person with less priority or no priority.

26 (d) Nonresidence does not disqualify any person from serving as guardian.
27 Any nonresident who is appointed cannot qualify until he has on file with the register
28 or clerk an irrevocable designation by him of an appropriate person who resides in the
29 State on whom service of process may be made in the same manner and with the effect
30 as if it were served personally in the State on the nonresident.

31 (e) The court may not name an official or employee of a local department of
32 social services, the State Department of Human Resources, a local area agency on
33 aging as defined in § 10-101 of the Human Services Article, or the Department of
34 Aging as guardian of the estate.

1 13-208.

2 (a) Where the instrument nominating a guardian excuses a noncorporate
3 guardian from furnishing bond, the court shall not require a bond unless exceptional
4 circumstances are shown to exist which make it necessary to require a bond for the
5 safety of those interested in the administration of the estate.

6 (b) A corporate guardian shall not be required to furnish bond.

7 (c) In the case of a noncorporate guardian, including a substituted or
8 successor or reinstated guardian nominated by the court or nominated under an
9 instrument which is silent as to bond, the court may, subject to subsection (d) of this
10 section, require a bond if, in its discretion, it finds it necessary for the safety of those
11 interested in the administration of the estate.

12 (d) In a guardian estate consisting entirely of cash, deposited as provided in
13 the rules, securities or real property, or any combination of them which cannot be
14 transferred by the guardian without the approval of the court, not exceeding \$10,000,
15 the court shall not require a guardian to furnish or continue in effect a bond, unless
16 exceptional circumstances are shown to exist.

17 (e) The penalty of the bond shall not be greater than the aggregate value of
18 the property of the estate under the control of the guardian, less the value of securities
19 or money deposited in a financial institution as defined in § 13-301(h) of this title
20 under arrangements requiring an order of the court for their removal, and the value of
21 any land which the guardian, by express limitation of power, lacks power to sell or
22 convey without court authorization. The court may, in lieu of sureties on a bond,
23 accept other security for the performance of the bond, including a pledge of securities
24 or a mortgage of land. The court may at any time, subject to the maximum penalty
25 provided by this section, require the amount of the bond, or the type or value of
26 security, to be changed. The approval of a new bond shall not discharge a bond filed
27 previously from any liability which may have accrued before approval.

28 (f) The terms of any bond shall be as provided by the Maryland Rules.

29 13-209.

30 Inventory and accounting in proceedings under this subtitle shall be as provided
31 by the Maryland Rules.

32 13-210.

33 (a) An interested person may file a petition for an order:

34 (1) Requiring bond, security, additional bond, or security in an estate
35 where bond can be required;

- 1 (2) Requiring an accounting of the administration of the estate;
2 (3) Directing distribution;
3 (4) Removing the guardian and appointing a successor guardian; or
4 (5) Granting other appropriate relief.

5 (b) A guardian may petition the appointing court for permission to act in any
6 matter relating to the administration of the estate.

7 (c) Upon hearing after notice and upon good cause shown, the court may
8 issue an appropriate order.

9 13–211.

10 (a) There shall be no jury trial in protective proceedings. Procedures for
11 notice to interested persons, the forms of petitions, and the conduct of and
12 requirements at hearings are as provided in the Maryland Rules.

13 (b) Unless the alleged disabled person has counsel of his own choice, the
14 court shall appoint an attorney to represent him in the proceeding.

15 13–212.

16 In the administration of the estate and the exercise of his powers, a guardian
17 shall exercise the care and skill of a man of ordinary prudence dealing with his own
18 property.

19 13–213.

20 All the provisions of § 15–102 of this article with respect to the powers of a
21 fiduciary and the manner of exercise of those powers are applicable to a guardian.

22 13–214.

23 (a) A guardian may distribute or disburse property without court
24 authorization or confirmation in accordance with this section.

25 (b) (1) A guardian of a minor may pay or apply income and principal from
26 the estate as needed for the clothing, support, care, protection, welfare, and education
27 of the minor.

28 (2) A guardian of a disabled person may pay or apply income and
29 principal from the estate as needed for the clothing, support, care, protection, welfare,
30 and rehabilitation of the disabled person. He shall give consideration to the support
31 and care of the disabled person during the probable period of the estate and the needs
32 of persons dependent upon the disabled person.

1 (3) Income and principal also may be paid or applied for the benefit of
2 persons legally dependent upon the minor or disabled person and, with the approval of
3 the court, for the benefit of other persons maintained and supported in whole or in
4 part by the disabled person prior to the appointment of a guardian.

5 (c) (1) When a minor attains his majority, his guardian, after meeting all
6 prior claims and expenses of administration, shall distribute the estate to the former
7 minor as soon as possible, unless the minor is then disabled. The distribution normally
8 shall be in kind.

9 (2) If the guardian is satisfied that the disability of the disabled
10 person has ceased or if the court has found in a proceeding under § 13–221 of this
11 subtitle that the disability has ceased, the guardian, after meeting all prior claims and
12 expenses of administration, shall distribute the estate to the former disabled person as
13 soon as possible. The distribution normally shall be in kind.

14 (3) When a minor or disabled person dies, the guardian shall deliver to
15 the appropriate probate court for safekeeping any will of the deceased person in his
16 possession, inform the personal representative or a beneficiary named in it that he has
17 done so, and retain the estate for delivery to an appointed personal representative of
18 the decedent or other person entitled to it.

19 (4) If a guardianship is terminated for reasons other than the
20 attainment of majority, cessation of disability, or death of the protected person, the
21 guardian shall distribute the estate in accordance with the order of the court
22 terminating the guardianship.

23 13–215.

24 Any limitation on the powers of a guardian contained in a will or other
25 instrument which nominated a guardian should ordinarily be imposed by the court on
26 the guardian. If the court limits any power conferred on the guardian by § 13–214 of
27 this subtitle or § 15–102 of this article, the limitation shall be endorsed upon his
28 letters of appointment.

29 13–216.

30 (a) If the exercise of a power is improper, the guardian is liable for breach of
31 his fiduciary duty to the minor or disabled person or to interested persons for resulting
32 damage or loss to the same extent as a trustee of an express trust.

33 (b) The rights of purchasers and others dealing with a guardian shall be
34 determined as provided in § 13–219 and are not necessarily affected by the fact that
35 the guardian breached his fiduciary duty in the transaction.

36 13–217.

1 (a) Letters of guardianship may be recorded in the land records of the county
2 of residence of the minor or disabled person and of any other county where there is
3 real estate in which the estate has an interest. The recordation has the same effect as
4 notice as recording a conveyance from the minor or disabled person to the guardian.

5 (b) Orders of the court modifying or terminating letters of guardianship or
6 authorizing making a conveyance or doing any other act with respect to interests in
7 real estate constituting part of the estate may be recorded in a similar manner and
8 with similar effect.

9 13-218.

10 Except in unusual circumstances, the guardian is entitled to the same
11 compensation and reimbursement for actual and necessary expenses as the trustee of
12 a trust. No petition or hearing is required to entitle the guardian to compensation and
13 expenses. Upon the petition of any interested person and upon a finding by the court
14 that unusual circumstances exist, the court may increase or decrease compensation.

15 13-219.

16 In the absence of actual knowledge or of reasonable cause to inquire whether
17 the guardian is improperly exercising his power, a person dealing with the guardian
18 need not inquire whether the guardian is exercising it properly, and is protected as if
19 the guardian properly exercised the power, except that every person is charged with
20 actual knowledge of any limitations endorsed on the letters of guardianship. A person
21 need not see to the proper application of estate assets paid or delivered to a guardian.

22 13-220.

23 (a) The appointment of a guardian terminates when the guardianship
24 terminates under § 13-221 and may be terminated sooner by his death, disability,
25 resignation, or removal.

26 (b) Termination of appointment of a guardian has the effects provided in this
27 section.

28 (1) Termination ends the right and power pertaining to the office of
29 guardian. Unless otherwise ordered by the court, a guardian whose appointment has
30 been terminated shall perform acts necessary to protect the estate and deliver the
31 property to the successor guardian.

32 (2) Subject to the provisions of the Maryland Rules, termination does
33 not discharge a guardian from liability for transactions or omissions occurring before
34 termination, or relieve him of the duty to preserve, account for, and deliver to his
35 successor property subject to his control.

36 (3) All lawful acts of a guardian before the termination of his
37 appointment shall remain valid and effective.

1 (c) The death of a guardian or the decree of a court of competent jurisdiction
2 that he is under legal disability shall terminate his appointment. The personal
3 representative of a deceased guardian or the person appointed to protect the estate of
4 a guardian under legal disability shall have the duty to protect property belonging to
5 the estate being administered by the deceased or disabled guardian.

6 (1) He shall have the power to perform acts necessary for the
7 protection of property.

8 (2) He shall immediately account for and deliver the property to a
9 successor guardian.

10 (3) He shall apply immediately to the court for the appointment of a
11 successor guardian to carry on the administration of the estate which was being
12 administered by the deceased or disabled guardian in accordance with the Maryland
13 Rules.

14 (d) A guardian who desires to resign his office may do so in accordance with
15 the provisions of the same Maryland Rules by which a fiduciary may resign his office.

16 13-221.

17 (a) The minor or disabled person, his personal representative, the guardian,
18 or any other interested person may petition the court to terminate the guardianship
19 proceedings.

20 (b) A guardianship proceeding shall terminate upon:

21 (1) The cessation of the minority or disability;

22 (2) The death or presumptive death of the minor or disabled person;

23 (3) Transfer of all the assets of the estate to a foreign fiduciary; or

24 (4) Other good cause for termination as may be shown to the
25 satisfaction of the court.

26 (c) Termination and final distribution of the estate of a former minor or
27 disabled person shall be made in compliance with the provisions of the Maryland
28 Rules, applying to a fiduciary.

29 13-222.

30 (a) [When no guardianship proceeding is pending in the state, a] **A**
31 guardian, conservator, committee, or other similar fiduciary, appointed by the
32 appropriate court of another jurisdiction to manage the property of a protected person

1 who is a resident of that jurisdiction, may exercise in the state all powers of his office,
2 including the power to sell, purchase, or mortgage real estate in the state, collect,
3 receipt for, and take possession of money due, tangible personal property, or an
4 instrument evidencing a debt, obligation, stock, or chose in action located in the state,
5 and remove it to the other jurisdiction. Subject to any statute or rule relating to
6 nonresidents, he may sue and be sued in the state.

7 (b) Before receiving actual notice of the pendency of a guardianship
8 proceeding in the state, a person who has changed his position by relying on the
9 powers granted by this section may not be prejudiced by the pendency of the
10 proceeding.

11 13-704.

12 The court may superintend and direct the care of a disabled person, appoint a
13 guardian of the person, and pass orders and decrees respecting the person as seems
14 proper, including an order directing the disabled person to be sent to a hospital.
15 Procedures in these cases shall be as prescribed by the Maryland Rules and in
16 accordance with the provisions of this subtitle **AND TITLE 13.5 OF THIS ARTICLE.**

17 13-705.

18 (a) On petition and after any notice or hearing prescribed by law or the
19 Maryland Rules, a court may appoint a guardian of the person of a disabled person.

20 (b) A guardian of the person shall be appointed if the court determines from
21 clear and convincing evidence that a person lacks sufficient understanding or capacity
22 to make or communicate responsible decisions concerning his person, including
23 provisions for health care, food, clothing, or shelter, because of any mental disability,
24 disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form
25 of intervention is available which is consistent with the person's welfare and safety.

26 (c) (1) Procedures and venue in these cases shall be as described by Title
27 10, Chapters 100 and 200 of the Maryland Rules.

28 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
29 a petition for guardianship of a disabled person shall include signed and verified
30 certificates of competency from the following health care professionals:

31 (i) Two licensed physicians who have examined the disabled
32 person; or

33 (ii) 1. One licensed physician who has examined the
34 disabled person; and

35 2. A. One licensed psychologist who has evaluated
36 the disabled person; or

1 B. One licensed certified social worker–clinical who has
2 evaluated the disabled person.

3 (3) An examination or evaluation by at least one of the health care
4 professionals under paragraph (2) of this subsection shall occur within 21 days before
5 filing a petition for guardianship of a disabled person.

6 (d) (1) Subject to paragraph (2) of this subsection, unless the alleged
7 disabled person has counsel of his own choice, the court shall appoint an attorney to
8 represent him in the proceeding. If the person is indigent, the State shall pay a
9 reasonable attorney’s fee.

10 (2) In any action in which payment for the services of a
11 court–appointed attorney for the alleged disabled person is the responsibility of the
12 local department of social services, unless the court finds that it would not be in the
13 best interests of the alleged disabled person, the court shall:

14 (i) Appoint an attorney who has contracted with the
15 Department of Human Resources to provide those services, in accordance with the
16 terms of the contract; and

17 (ii) In an action in which an attorney has previously been
18 appointed, strike the appearance of the attorney previously appointed and appoint the
19 attorney who is currently under contract with the Department of Human Resources, in
20 accordance with the terms of the contract.

21 (e) The person alleged to be disabled is entitled to be present at the hearing
22 unless he has knowingly and voluntarily waived the right to be present or cannot be
23 present because of physical or mental incapacity. Waiver or incapacity may not be
24 presumed from nonappearance but shall be determined on the basis of factual
25 information supplied to the court by counsel or a representative appointed by the
26 court. The person alleged to be disabled is also entitled to present evidence and to
27 cross–examine witnesses. The issue may be determined at a closed hearing without a
28 jury if the person alleged to be disabled or his counsel so requests and all hearings
29 herein shall be confidential and sealed unless otherwise ordered by a court of
30 competent jurisdiction for good cause shown.

31 (f) The court shall hear and rule on a petition seeking appointment of a
32 guardian of the person of a disabled person in connection with medical treatment on
33 an expedited basis.

34 13–706.

35 (a) An adjudication of a disability for purposes of appointing a guardian of a
36 person may not be the basis for commitment of the disabled person to a mental
37 institution.

1 (b) Appointment of a guardian of the person:

2 (1) Is not evidence of incompetency of the disabled person; and

3 (2) Does not modify any civil right of the disabled person unless the
4 court orders, including any civil service ranking, appointment, and rights relating to
5 licensure, permit, privilege, or benefit under any law.

6 13–707.

7 (a) Persons are entitled to appointment as guardian of the person according
8 to the following priorities:

9 (1) A person, agency, or corporation nominated by the disabled person
10 if the disabled person was 16 years old or older when the disabled person signed the
11 designation and, in the opinion of the court, the disabled person had sufficient mental
12 capacity to make an intelligent choice at the time the disabled person executed the
13 designation;

14 (2) A health care agent appointed by the disabled person in accordance
15 with Title 5, Subtitle 6 of the Health – General Article;

16 (3) The disabled person’s spouse;

17 (4) The disabled person’s parents;

18 (5) A person, agency, or corporation nominated by the will of a
19 deceased parent;

20 (6) The disabled person’s children;

21 (7) Adult persons who would be the disabled person’s heirs if the
22 disabled person were dead;

23 (8) A person, agency, or corporation nominated by a person caring for
24 the disabled person;

25 (9) Any other person, agency, or corporation considered appropriate by
26 the court; and

27 (10) For adults less than 65 years old, the director of the local
28 department of social services or, for adults 65 years old or older, the Secretary of Aging
29 or the director of the area agency on aging, except in those cases where the
30 department of social services has been appointed guardian of the person prior to age
31 65. Upon appointment as guardian, directors of local departments of social services,
32 directors of area agencies on aging, and the Secretary of Aging may delegate
33 responsibilities of guardianship to staff persons whose names and positions have been
34 registered with the court.

1 (b) A person specified in a priority in subsection (a)(2), (3), (5), or (6) may
2 waive and nominate in writing a person, agency or corporation to serve in his stead. A
3 nominee of a person holding priority has the same priority as the person making the
4 nomination.

5 (c) (1) Among persons with equal priority the court shall select the one
6 best qualified of those willing to serve. For good cause, the court may pass over a
7 person with priority and appoint a person with a lower priority.

8 (2) If a guardian of the estate has been appointed, the court may select
9 him to be guardian of the person, regardless of priority.

10 (d) Nonresidence does not disqualify any person from serving as guardian of
11 the person. However, a nonresident who is appointed may not qualify until he has on
12 file with the register or clerk an irrevocable designation by him of an appropriate
13 person who resides in the State on whom service of process may be made in the same
14 manner and with the same effect as if it were served personally in the State on the
15 nonresident.

16 (e) A local department of social services, local office on aging, or the
17 Secretary of Aging, may be appointed as a guardian of a person regardless of whether
18 that person resides in a State or private residential facility.

19 13-708.

20 (a) (1) The court may grant to a guardian of a person only those powers
21 necessary to provide for the demonstrated need of the disabled person.

22 (2) The court may appoint a guardian of the person of a disabled
23 person for the limited purpose of making one or more decisions related to the health
24 care of that person.

25 (b) Subject to subsection (a) of this section, the rights, duties, and powers
26 which the court may order include, but are not limited to:

27 (1) The same rights, powers, and duties that a parent has with respect
28 to an unemancipated minor child, except that the guardian is not liable solely by
29 reason of the guardianship to third persons for any act of the disabled person;

30 (2) The right to custody of the disabled person and to establish his
31 place of abode within and without the State, provided there is court authorization for
32 any change in the classification of abode, except that no one may be committed to a
33 mental facility without an involuntary commitment proceeding as provided by law;

34 (3) The duty to provide for care, comfort, and maintenance, including
35 social, recreational, and friendship requirements, and, if appropriate, for training and
36 education of the disabled person;

1 (4) The duty to take reasonable care of the clothing, furniture,
2 vehicles, and other personal effects of the disabled person, and, if other property
3 requires protection, the power to commence protective proceedings;

4 (5) If a guardian of the estate of the disabled person has not been
5 appointed, the right to commence proceedings to compel performance by any person of
6 his duty to support the disabled person, and to apply the estate to the support, care,
7 and education of the disabled person, except that the guardian of the person may not
8 obtain funds from the estate for room and board that the guardian, his spouse, parent,
9 or child provide without a court order approving the charge, and the duty to exercise
10 care to conserve any excess estate for the needs of the disabled person;

11 (6) If a guardian of the estate has been appointed, the duty to control
12 the custody and care of the disabled person, to receive reasonable sums for room and
13 board provided to the disabled person, and to account to the guardian of the estate for
14 funds expended, and the right to ask the guardian of the estate to expend the estate in
15 payment of third persons for care and maintenance of the disabled person;

16 (7) The duty to file an annual report with the court indicating the
17 present place of residence and health status of the ward, the guardian's plan for
18 preserving and maintaining the future well-being of the ward, and the need for
19 continuance or cessation of the guardianship or for any alteration in the powers of the
20 guardian. The court shall renew the appointment of the guardian if it is satisfied that
21 the grounds for the original appointment stated in § 13-705(b) above continue to exist.
22 If the court believes such grounds may not exist, it shall hold a hearing, similar to that
23 provided for in § 13-705 above, at which the guardian shall be required to prove that
24 such grounds exist. If the court does not make these findings, it shall order the
25 discontinuance of the guardianship of the person. If the guardian declines to
26 participate in the hearing, the court may appoint another guardian to replace him
27 pursuant to the priorities in § 13-707(a); and

28 (8) The power to give necessary consent or approval for:

29 (i) Medical or other professional care, counsel, treatment, or
30 service, including admission to a hospital or nursing home or transfer from one
31 medical facility to another;

32 (ii) Withholding medical or other professional care, counsel,
33 treatment, or service; and

34 (iii) Withdrawing medical or other professional care, counsel,
35 treatment, or service.

36 (c) (1) Notwithstanding the powers conferred to a guardian under
37 subsection (b)(8) of this section, and except as provided in paragraph (2) of this
38 subsection, where a medical procedure involves, or would involve, a substantial risk to

1 the life of a disabled person, the court must authorize a guardian's consent or approval
2 for:

3 (i) The medical procedure;

4 (ii) Withholding the medical procedure; or

5 (iii) Withdrawing the medical procedure that involves, or would
6 involve, a substantial risk to the life of the disabled person.

7 (2) The court may, upon such conditions as the court considers
8 appropriate, authorize a guardian to make a decision regarding medical procedures
9 that involve a substantial risk to life without further court authorization, if:

10 (i) The disabled person has executed an advance directive in
11 accordance with Title 5, Subtitle 6 of the Health – General Article that authorizes the
12 guardian to consent to the provision, withholding or withdrawal of a medical
13 procedure that involves a substantial risk to life but does not appoint a health care
14 agent; or

15 (ii) The guardian is:

16 1. Within a class of individuals specified in § 5–605(a)(2)
17 of the Health – General Article as authorized to make health care decisions for the
18 disabled person; and

19 2. Determined by the court to be familiar with the
20 personal beliefs, values, and medical situation of the disabled person.

21 (3) A petition seeking the authorization of a court that a
22 life-sustaining procedure be withheld or withdrawn is subject to the provisions of §§
23 13–711 through 13–713 of this subtitle.

24 (d) (1) Notwithstanding subsection (a) of this section, and in addition to
25 the rights, duties, and powers which the court may order under subsection (b) of this
26 section, the court may order the relief provided under this subsection.

27 (2) (i) If a guardian of the estate has been appointed, a guardian of
28 the person may ask the guardian of the estate to expend the estate in payment of care
29 and maintenance services provided directly to the disabled person by the guardian of
30 the person at the rate of reimbursement established under this subsection.

31 (ii) The guardian of the person shall maintain appropriate
32 records to document the care and maintenance services provided directly to the
33 disabled person to receive any payment under this subsection.

34 (3) To implement the provisions of this subsection, the court may:

1 (i) Adopt guidelines for the rate of reimbursement for care and
2 maintenance services provided directly by the guardian of the person to a disabled
3 person;

4 (ii) Establish appropriate procedures for records, inspections,
5 audits, or other requirements to monitor care and maintenance services provided
6 directly by the guardian of the person for which the guardian of the person is
7 reimbursed; and

8 (iii) Order any act necessary for the best interests of the disabled
9 person.

10 13-709.

11 (a) When, from personal observation of a law enforcement officer, it appears
12 probable that an adult will suffer immediate and serious physical injury or death if not
13 immediately placed in a health care facility, that the adult is incapable of giving
14 consent, and that it is not possible to follow the procedures of this section, the officer
15 shall transport the person to an appropriate medical facility which shall immediately
16 notify the next of kin and the director. This medical care may not be rendered in a
17 State mental hospital other than, in an appropriate case, the Walter P. Carter
18 Community Mental Health and Retardation Center and the Highland Health Facility
19 unless authorized by the courts in a civil commitment proceeding. The director shall
20 file a petition pursuant to subsection (b) of this section within 24 hours after the
21 transfer of the person has taken place. The court shall hold a hearing on the petition
22 and render its decision within 48 hours after the transfer has occurred.

23 (b) Upon petition by an interested person, a court may issue an order
24 authorizing the provision of protective services on an emergency basis to an adult after
25 finding on the record, based on clear and convincing evidence, that:

26 (1) For the purpose of this section the person lacks capacity under the
27 standards enumerated in § 13-705(b) of this subtitle;

28 (2) An emergency exists, as defined in § 13-101 of this title; and

29 (3) No person authorized by law or court order to give consent for the
30 person is available to consent to emergency services.

31 (c) In issuing an emergency order, the court shall adhere to the following
32 limitations:

33 (1) Only such protective services as are necessary to remove the
34 conditions creating the emergency shall be ordered; the court shall specifically
35 designate the approved services in its order;

1 (2) Protective services authorized by an emergency order shall not
2 include hospitalization or a change of residence unless the court specifically finds such
3 action is necessary and gives specific approval for such action in its order;

4 (3) Protective services may be provided under an initial emergency
5 order for not more than 144 hours, and the initial order may be renewed as provided in
6 paragraph (5) of this subsection;

7 (4) In its order the court shall appoint the petitioner, another
8 interested person, the director, or the Secretary of Aging as temporary guardian of the
9 person with responsibility for the person's welfare and authority to give consent for
10 the person for the approved protective services until the expiration of the order;

11 (5) Notwithstanding the provisions of paragraphs (3) and (4) of this
12 subsection, the court may extend the terms of the emergency order and the
13 appointment of the temporary guardian until appointment of a guardian of the person
14 pursuant to § 13-705 of this subtitle, upon petition of the temporary guardian, the
15 director, or the Secretary of Aging, as appropriate, and after a showing that the
16 conditions found to exist in subsection (b) of this section will probably continue beyond
17 the expiration of the extended emergency order. Such petition shall be filed before the
18 expiration of the six-day period provided for in paragraph (3) of this subsection and
19 shall be accompanied by a petition for appointment of a guardian of the person
20 pursuant to § 13-705 of this subtitle. Such petition for appointment of a guardian of
21 the person shall be heard on an expedited basis no more than 60 days after the filing
22 of the petition;

23 (6) The issuance of an emergency order and the appointment of a
24 temporary guardian shall not deprive the person of any rights except to the extent
25 provided for in the order or appointment; and

26 (7) To implement an emergency order, the court may authorize
27 forcible entry of the premises of the person for the purpose of rendering protective
28 services or transporting the person to another location for the provision of such
29 services only after a showing to the court that attempts to gain voluntary access to the
30 premises have failed and forcible entry is necessary. Persons making authorized
31 forcible entry shall be accompanied by a law enforcement officer, the director or his
32 representative, and if appropriate, a representative of the local department of health.

33 (d) The petition for an emergency order shall set forth the name, address,
34 and interest of the petitioner; the name, age, and address of the person in need of
35 protective services; the nature of the person's disability, if determinable; the proposed
36 protective services; the petitioner's reasonable belief, together with facts supportive
37 thereof, as to the existence of the facts stated in subsection (b)(1) through (3) of this
38 section; and facts showing petitioner's attempts to obtain the person's consent to the
39 services and the outcomes of such attempts.

40 (e) Notice of the filing of such petition shall be given as required in the
41 Maryland Rules and to the director. Such notice shall be given in language reasonably

1 understandable by the intended recipients at least 24 hours prior to the hearing for
2 emergency intervention. The court may waive the 24-hour notice requirement upon a
3 showing that (1) immediate and reasonably foreseeable physical harm to the person or
4 others will result from the 24-hour delay, and (2) reasonable attempts have been
5 made to give such notice. Notice of the court's final order shall be given to the same
6 parties.

7 (f) (1) The hearing on a petition for an emergency order for protective
8 services shall be held under the following conditions:

9 (i) The person shall be present unless he has knowingly and
10 voluntarily waived the right to be present or cannot be present because of physical or
11 mental incapacity. Waiver or incapacity may not be presumed from nonappearance
12 but shall be determined on the basis of factual information supplied to the court by
13 counsel or a representative appointed by the court.

14 (ii) The person has the right to counsel whether or not he is
15 present at the hearing. Subject to paragraph (2) of this subsection, if the person is
16 indigent or lacks the capacity to waive counsel, the court shall appoint counsel. Where
17 the person is indigent, the State shall pay reasonable attorney's fees.

18 (iii) The person may present evidence and cross-examine
19 witnesses. This hearing shall be held no earlier than 24 hours after the notice required
20 in subsection (e) of this section has been given, unless such notice has been waived by
21 the court.

22 (2) In any action in which payment for the services of a
23 court-appointed attorney for the person is the responsibility of the local department of
24 social services, unless the court finds that it would not be in the best interests of the
25 person, the court shall:

26 (i) Appoint an attorney who has contracted with the
27 Department of Human Resources to provide those services, in accordance with the
28 terms of the contract; and

29 (ii) In an action in which an attorney has previously been
30 appointed, strike the appearance of the attorney previously appointed and appoint the
31 attorney who is currently under contract with the Department of Human Resources, in
32 accordance with the terms of the contract.

33 (g) The court shall issue for the record a statement of its findings in support
34 of any order for emergency protective services.

35 (h) The person, the temporary guardian, or any interested person may
36 petition the court to have the emergency order set aside or modified at any time,
37 notwithstanding any prior findings by the court that the person is disabled.

1 (i) Where protective services are rendered on the basis of an emergency
2 order, the temporary guardian shall submit a report describing the circumstances
3 including the name, place, date, and nature of the services, and the use of forcible
4 entry, if any, to the court and the director. This report shall become part of the court
5 record.

6 (j) The person or the guardian of the person may appeal any findings of a
7 court under subsection (b) of this section. Such appeal shall be handled on an
8 expedited basis by the appellate court.

9 13-710.

10 (a) Any person filing a petition, participating in the making of a good-faith
11 report, or participating in an investigation or in a judicial proceeding resulting
12 therefrom, pursuant to § 13-705 or § 13-709 of this article or Title 14, Subtitle 3 of the
13 Family Law Article, shall have the immunity from civil liability or criminal penalty
14 described under § 5-618(a) of the Courts and Judicial Proceedings Article.

15 (b) A law enforcement officer who transports an adult to an appropriate
16 medical facility under § 13-709 of this article shall have the immunity from civil or
17 criminal liability described under § 5-618(b) of the Courts and Judicial Proceedings
18 Article.

19 13-711.

20 (a) In this Part III of this subtitle the following words have the meanings
21 indicated.

22 (b) "Best interest" means that the benefits to the disabled person resulting
23 from a treatment outweigh the burdens to the disabled person resulting from that
24 treatment, taking into account:

25 (1) The effect of the treatment on the physical, emotional, and
26 cognitive functions of the disabled person;

27 (2) The degree of physical pain or discomfort caused to the disabled
28 person by the treatment, or the withholding or withdrawal of the treatment;

29 (3) The degree to which the disabled person's medical condition, the
30 treatment, or the withholding or withdrawal of treatment, result in a severe and
31 continuing impairment of the dignity of the disabled person by subjecting the
32 individual to a condition of extreme humiliation and dependency;

33 (4) The effect of the treatment on the life expectancy of the disabled
34 person;

35 (5) The prognosis of the disabled person for recovery, with and without
36 the treatment;

1 (6) The risks, side effects, and benefits of the treatment or the
2 withholding or withdrawal of the treatment; and

3 (7) The religious beliefs and basic values of the disabled person
4 receiving treatment, to the extent these may assist the decision maker in determining
5 best interest.

6 (c) “Life–sustaining procedure” means any medical procedure, treatment, or
7 intervention used to sustain, restore, supplement, or supplant a spontaneous vital
8 function in order to prevent or postpone the death of a disabled person.

9 (d) “Substituted judgment” means a determination by a court that a disabled
10 person would, if competent, make the same health care decision regarding a
11 life–sustaining procedure taking into account any information that may be relevant to
12 the decision, including:

13 (1) The current diagnosis, prognosis with and without the
14 life–sustaining procedure, and life expectancy of the disabled person;

15 (2) Any expressed preferences of the disabled person regarding the
16 provision of, or the withholding or withdrawal of, the life–sustaining procedure at
17 issue;

18 (3) Any expressed preferences of the disabled person about the
19 provision of, or the withholding or withdrawal of, life–sustaining procedures generally;

20 (4) Any religious or moral beliefs or personal values of the disabled
21 person in relation to the provision of, or the withholding or withdrawal of,
22 life–sustaining procedures;

23 (5) Any behavioral or other manifestations of the attitude of the
24 disabled person toward the provision of, or the withholding or withdrawal of, the
25 life–sustaining procedure;

26 (6) Any consistent pattern of conduct by the disabled person regarding
27 prior decisions about health care;

28 (7) Any reactions of the disabled person to the provision of, or the
29 withholding or withdrawal of, a comparable life–sustaining procedure for another
30 individual; and

31 (8) Any expressed concerns of the disabled person about the effect on
32 the family or intimate friends of the disabled person if a life–sustaining procedure
33 were provided, withheld, or withdrawn.

34 13–712.

1 (a) The court may approve a request for the withholding or withdrawal of a
2 life-sustaining procedure from a disabled person on the basis of a substituted
3 judgment.

4 (b) The court may make a substituted judgment under subsection (a) of this
5 section only on the basis of clear and convincing evidence that the disabled person
6 would, if competent, decide to withhold or withdraw a life-sustaining procedure under
7 the circumstances.

8 (c) Evidence of the intentions or wishes of the disabled person regarding the
9 withholding or withdrawal of a life-sustaining procedure that might otherwise be
10 inadmissible may be admitted, in the discretion of the court, if it is:

11 (1) Material and probative; and

12 (2) The best evidence available.

13 13-713.

14 (a) If the court is unable to make a substituted judgment under § 13-712 of
15 this subtitle, the court may approve a request for the withholding or withdrawal of a
16 life-sustaining procedure from the disabled person if the court determines, on the
17 basis of clear and convincing evidence, that the withholding or withdrawal is in the
18 best interest of the disabled person.

19 (b) The decision of whether life-sustaining procedures should be provided,
20 withheld, or withdrawn shall not be based, in whole or in part, on either a patient's
21 preexisting, long-term mental or physical disability, or a patient's economic
22 disadvantage.

23 **TITLE 13.5. MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE**
24 **PROCEEDINGS JURISDICTION ACT.**

25 **SUBTITLE 1. GENERAL PROVISIONS.**

26 **13.5-101.**

27 (A) **IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

29 (B) **“CONSERVATOR” MEANS A PERSON APPOINTED BY A COURT TO**
30 **ADMINISTER THE PROPERTY OF AN ADULT, INCLUDING A PERSON APPOINTED**
31 **AS GUARDIAN UNDER TITLE 13, SUBTITLE 2 OF THIS ARTICLE TO MANAGE THE**
32 **PROPERTY OF A DISABLED PERSON.**

33 (C) **“EMERGENCY” MEANS A CIRCUMSTANCE THAT LIKELY WILL**
34 **RESULT IN A SUBSTANTIAL HARM TO THE HEALTH, SAFETY, OR WELFARE OF A**

1 RESPONDENT, AND FOR WHICH THE APPOINTMENT OF A GUARDIAN IS
2 NECESSARY BECAUSE NO OTHER PERSON HAS AUTHORITY AND IS WILLING TO
3 ACT ON BEHALF OF THE RESPONDENT.

4 (D) "GUARDIAN" MEANS A PERSON APPOINTED BY A COURT TO MAKE
5 DECISIONS REGARDING THE PERSON OF AN ADULT, INCLUDING A PERSON
6 APPOINTED UNDER TITLE 13, SUBTITLE 7 OF THIS ARTICLE.

7 (E) "GUARDIANSHIP ORDER" MEANS AN ORDER APPOINTING A
8 GUARDIAN.

9 (F) "GUARDIANSHIP PROCEEDING" MEANS A PROCEEDING IN WHICH
10 AN ORDER FOR THE APPOINTMENT OF A GUARDIAN IS SOUGHT OR HAS BEEN
11 ISSUED.

12 (G) "HOME STATE" MEANS THE STATE IN WHICH THE RESPONDENT WAS
13 PHYSICALLY PRESENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING A
14 PERIOD OF TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE FILING OF A
15 PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER.

16 (H) "INCAPACITATED PERSON" MEANS AN ADULT FOR WHOM A
17 GUARDIAN HAS BEEN APPOINTED, INCLUDING A "DISABLED PERSON" AS
18 DEFINED IN § 13-101 OF THIS ARTICLE.

19 (I) "PARTY" MEANS THE RESPONDENT, PETITIONER, GUARDIAN,
20 CONSERVATOR, OR ANY OTHER PERSON ALLOWED BY THE COURT TO
21 PARTICIPATE IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING.

22 (J) "PROTECTED PERSON" MEANS AN ADULT FOR WHOM A PROTECTIVE
23 ORDER HAS BEEN MADE.

24 (K) "PROTECTIVE ORDER" MEANS AN ORDER APPOINTING A
25 CONSERVATOR OR A GUARDIAN OF THE PROPERTY IN ACCORDANCE WITH TITLE
26 13, SUBTITLE 2 OF THIS ARTICLE, OR ANOTHER COURT ORDER RELATED TO
27 MANAGEMENT OF AN ADULT'S PROPERTY.

28 (L) "PROTECTIVE PROCEEDING" MEANS A JUDICIAL PROCEEDING IN
29 WHICH A PROTECTIVE ORDER IS SOUGHT OR HAS BEEN ISSUED.

30 (M) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A
31 TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM
32 AND IS RETRIEVABLE IN PERCEIVABLE FORM.

33 (N) "RESPONDENT" MEANS AN ADULT FOR WHOM A PROTECTIVE
34 ORDER OR THE APPOINTMENT OF A GUARDIAN IS SOUGHT.

1 (O) (1) “SIGNIFICANT-CONNECTION STATE” MEANS 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 (2) DETERMINATION OF WHETHER A RESPONDENT HAS A
6 SIGNIFICANT CONNECTION WITH A PARTICULAR STATE SHALL INCLUDE
7 CONSIDERATION OF THE FOLLOWING FACTORS:

8 (I) THE LOCATION OF THE FAMILY OF THE RESPONDENT
9 AND OTHERS REQUIRED TO BE NOTIFIED OF THE GUARDIANSHIP OR
10 PROTECTIVE PROCEEDING;

11 (II) THE LENGTH OF TIME THE RESPONDENT AT ANY TIME
12 WAS PHYSICALLY PRESENT IN THE STATE AND THE DURATION OF ANY
13 ABSENCES;

14 (III) THE LOCATION OF THE RESPONDENT’S PROPERTY; AND

15 (IV) THE EXTENT TO WHICH THE RESPONDENT HAS OTHER
16 TIES TO THE STATE SUCH AS VOTING REGISTRATION, FILING OF STATE OR
17 LOCAL TAX RETURNS, VEHICLE REGISTRATION, DRIVER’S LICENSE, SOCIAL
18 RELATIONSHIPS, AND RECEIPT OF SERVICES.

19 (P) “STATE” MEANS A STATE OF THE UNITED STATES, THE DISTRICT
20 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A
21 FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR
22 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

23 **13.5-102.**

24 A COURT OF THIS STATE MAY TREAT A FOREIGN COUNTRY AS IF THE
25 COUNTRY WERE A STATE FOR THE PURPOSE OF APPLYING SUBTITLES 1, 2, 3,
26 AND 5 OF THIS TITLE.

27 **13.5-103.**

28 (A) (1) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT
29 IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.

30 (2) THE COURT MAY ALLOW THE PARTIES TO PARTICIPATE IN A
31 COMMUNICATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION.

1 (3) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B)
2 OF THIS SECTION, THE COURT SHALL MAKE A RECORD OF THE
3 COMMUNICATION.

4 (II) A RECORD DESCRIBED IN THIS PARAGRAPH MAY BE
5 LIMITED TO THE FACT THAT THE COMMUNICATION OCCURRED.

6 (B) A COURT COMMUNICATING WITH A COURT IN ANOTHER STATE
7 UNDER THIS SECTION MAY COMMUNICATE CONCERNING SCHEDULES,
8 CALENDARS, COURT RECORDS, AND OTHER ADMINISTRATIVE MATTERS
9 WITHOUT MAKING A RECORD.

10 **13.5-104.**

11 (A) IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING IN THIS STATE,
12 A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER
13 STATE TO:

14 (1) HOLD AN EVIDENTIARY HEARING;

15 (2) ORDER A PERSON IN THE OTHER STATE TO PRODUCE OR GIVE
16 EVIDENCE IN ACCORDANCE WITH PROCEDURES OF THAT STATE;

17 (3) ORDER THAT AN EVALUATION OR ASSESSMENT BE MADE OF
18 THE RESPONDENT, OR ORDER AN APPROPRIATE INVESTIGATION OF A PERSON
19 INVOLVED IN A PROCEEDING;

20 (4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY
21 OF THE TRANSCRIPT OR OTHER RECORD OF A HEARING UNDER ITEM (1) OF
22 THIS SUBSECTION OR ANY OTHER PROCEEDING, EVIDENCE OTHERWISE
23 PRESENTED UNDER ITEM (2) OF THIS SUBSECTION, AND ANY EVALUATION OR
24 ASSESSMENT PREPARED IN COMPLIANCE WITH A REQUEST UNDER ITEM (3) OF
25 THIS SUBSECTION;

26 (5) ISSUE ANY OTHER ORDER NECESSARY TO ENSURE THE
27 APPEARANCE OF A PERSON NECESSARY TO MAKE A DETERMINATION,
28 INCLUDING THE RESPONDENT OR THE INCAPACITATED OR PROTECTED
29 PERSON; AND

30 (6) ISSUE AN ORDER AUTHORIZING THE RELEASE OF MEDICAL,
31 FINANCIAL, CRIMINAL, OR OTHER RELEVANT INFORMATION IN THE OTHER
32 STATE, INCLUDING PROTECTED HEALTH INFORMATION AS DEFINED IN 45
33 C.F.R. § 164.504.

1 **(B) IF A COURT OF ANOTHER STATE IN WHICH A GUARDIANSHIP OR**
2 **PROTECTIVE PROCEEDING IS PENDING REQUESTS ASSISTANCE OF THE KIND**
3 **PROVIDED IN SUBSECTION (A) OF THIS SECTION, A COURT OF THIS STATE HAS**
4 **JURISDICTION FOR THE LIMITED PURPOSE OF GRANTING THE REQUEST OR**
5 **MAKING REASONABLE EFFORTS TO COMPLY WITH THE REQUEST.**

6 **13.5-105.**

7 **(A) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
8 **PROCEEDING, IN ADDITION TO OTHER PROCEDURES THAT MAY BE AVAILABLE,**
9 **TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE MAY BE**
10 **OFFERED BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR**
11 **TESTIMONY TAKEN IN THE OTHER STATE.**

12 **(2) THE COURT ON ITS OWN MOTION MAY ORDER THAT THE**
13 **TESTIMONY OF A WITNESS BE TAKEN IN ANOTHER STATE AND MAY PRESCRIBE**
14 **THE MANNER IN WHICH AND THE TERMS ON WHICH THE TESTIMONY IS TO BE**
15 **TAKEN.**

16 **(B) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
17 **PROCEEDING, A COURT IN THIS STATE MAY PERMIT A WITNESS LOCATED IN**
18 **ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE OR**
19 **AUDIOVISUAL OR OTHER ELECTRONIC MEANS.**

20 **(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF**
21 **OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR A**
22 **DEPOSITION OR TESTIMONY IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**
23 **PROCEEDING UNDER THIS SECTION.**

24 **SUBTITLE 2. JURISDICTION.**

25 **13.5-201.**

26 **A COURT OF THIS STATE HAS JURISDICTION TO APPOINT A GUARDIAN OR**
27 **ISSUE A PROTECTIVE ORDER FOR A RESPONDENT IF:**

28 **(1) THIS STATE IS THE HOME STATE OF THE RESPONDENT;**

29 **(2) ON THE DATE THE PETITION IS FILED, THIS STATE IS A**
30 **SIGNIFICANT-CONNECTION STATE AND:**

31 **(I) THE RESPONDENT DOES NOT HAVE A HOME STATE OR A**
32 **COURT OF THE HOME STATE OF THE RESPONDENT HAS DECLINED TO EXERCISE**
33 **JURISDICTION BECAUSE THIS STATE IS A MORE APPROPRIATE FORUM; OR**

1 **(II) THE RESPONDENT HAS A HOME STATE, A PETITION FOR**
2 **THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS NOT PENDING IN**
3 **A COURT OF THAT STATE OR ANOTHER SIGNIFICANT-CONNECTION STATE, AND,**
4 **BEFORE THE COURT MAKES THE APPOINTMENT OR ISSUES THE ORDER:**

5 **1. A PETITION FOR AN APPOINTMENT OR ORDER IS**
6 **NOT FILED IN THE HOME STATE OF THE RESPONDENT;**

7 **2. AN OBJECTION TO THE JURISDICTION OF THE**
8 **COURT IS NOT FILED BY A PERSON REQUIRED TO BE NOTIFIED OF THE**
9 **PROCEEDING; AND**

10 **3. THE COURT CONCLUDES THAT THE COURT IS AN**
11 **APPROPRIATE FORUM UNDER THE FACTORS SET FORTH IN § 13.5-204 OF THIS**
12 **SUBTITLE;**

13 **(3) (I) THIS STATE DOES NOT HAVE JURISDICTION UNDER**
14 **ITEM (1) OR (2) OF THIS SUBSECTION; AND/OR**

15 **(II) THE HOME STATE OF THE RESPONDENT AND ALL**
16 **SIGNIFICANT-CONNECTION STATES HAVE DECLINED TO EXERCISE**
17 **JURISDICTION BECAUSE:**

18 **1. THIS STATE IS THE MORE APPROPRIATE FORUM;**
19 **AND**

20 **2. JURISDICTION IN THIS STATE IS CONSISTENT**
21 **WITH THE CONSTITUTIONS OF THIS STATE AND THE UNITED STATES; OR**

22 **(4) THE REQUIREMENTS FOR SPECIAL JURISDICTION UNDER §**
23 **13.5-202 OF THIS SUBTITLE ARE MET.**

24 **13.5-202.**

25 **(A) A COURT OF THIS STATE LACKING JURISDICTION UNDER § 13.5-201**
26 **OF THIS SUBTITLE HAS SPECIAL JURISDICTION TO DO ANY OF THE FOLLOWING:**

27 **(1) APPOINT A GUARDIAN IN AN EMERGENCY IN ACCORDANCE**
28 **WITH § 13-709 OF THIS ARTICLE FOR A TERM NOT EXCEEDING 60 DAYS FOR A**
29 **RESPONDENT WHO IS PHYSICALLY LOCATED IN THIS STATE;**

30 **(2) ISSUE A PROTECTIVE ORDER WITH RESPECT TO REAL OR**
31 **TANGIBLE PERSONAL PROPERTY LOCATED IN THIS STATE; AND**

1 **(3) APPOINT A GUARDIAN OR CONSERVATOR FOR AN**
2 **INCAPACITATED OR PROTECTED PERSON FOR WHOM A PROVISIONAL ORDER TO**
3 **TRANSFER THE PROCEEDING FROM ANOTHER STATE HAS BEEN ISSUED AS**
4 **PROVIDED IN § 13.5-301 OF THIS TITLE.**

5 **(B) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN**
6 **EMERGENCY IS BROUGHT IN THIS STATE IN ACCORDANCE WITH § 13-709 OF**
7 **THIS ARTICLE AND THIS STATE WAS NOT THE HOME STATE OF THE**
8 **RESPONDENT ON THE DATE THE PETITION WAS FILED, THE COURT SHALL**
9 **DISMISS THE PROCEEDING AT THE REQUEST OF THE COURT IN THE OTHER**
10 **STATE, IF ANY, WHETHER DISMISSAL IS REQUESTED BEFORE OR AFTER THE**
11 **EMERGENCY APPOINTMENT.**

12 **13.5-203.**

13 **EXCEPT AS OTHERWISE PROVIDED IN § 13.5-202 OF THIS SUBTITLE, A**
14 **COURT THAT HAS APPOINTED A GUARDIAN OR ISSUED A PROTECTIVE ORDER**
15 **CONSISTENT WITH THIS TITLE HAS EXCLUSIVE AND CONTINUING JURISDICTION**
16 **OVER THE PROCEEDING UNTIL THE PROCEEDING IS TERMINATED BY THE**
17 **COURT OR THE APPOINTMENT OR ORDER EXPIRES BY THE TERMS OF THE**
18 **APPOINTMENT OR ORDER.**

19 **13.5-204.**

20 **(A) A COURT OF THIS STATE HAVING JURISDICTION UNDER § 13.5-201**
21 **OF THIS SUBTITLE TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER**
22 **MAY DECLINE TO EXERCISE JURISDICTION IF THE COURT DETERMINES AT ANY**
23 **TIME THAT A COURT OF ANOTHER STATE IS A MORE APPROPRIATE FORUM.**

24 **(B) (1) IF A COURT OF THIS STATE DECLINES JURISDICTION OVER A**
25 **GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER**
26 **SUBSECTION (A) OF THIS SECTION, THE COURT SHALL EITHER DISMISS THE**
27 **PROCEEDING OR STAY THE PROCEEDING.**

28 **(2) A COURT UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY**
29 **IMPOSE ANY OTHER CONDITION THE COURT CONSIDERS JUST AND PROPER,**
30 **INCLUDING THE CONDITION THAT A PETITION FOR THE APPOINTMENT OF A**
31 **GUARDIAN OR PROTECTIVE ORDER BE PROMPTLY FILED IN ANOTHER STATE.**

32 **(C) IN DETERMINING WHETHER THE COURT IS AN APPROPRIATE**
33 **FORUM, A COURT SHALL CONSIDER ALL RELEVANT FACTORS, INCLUDING:**

34 **(1) AN EXPRESSED PREFERENCE OF THE RESPONDENT;**

1 (2) **WHETHER ABUSE, NEGLECT, OR EXPLOITATION OF THE**
2 **RESPONDENT HAS OCCURRED OR IS LIKELY TO OCCUR AND WHICH STATE**
3 **COULD BEST PROTECT THE RESPONDENT FROM THE ABUSE, NEGLECT, OR**
4 **EXPLOITATION;**

5 (3) **THE LENGTH OF TIME THE RESPONDENT WAS PHYSICALLY**
6 **LOCATED IN OR WAS A LEGAL RESIDENT OF THIS STATE OR ANOTHER STATE;**

7 (4) **THE DISTANCE OF THE RESPONDENT FROM THE COURT IN**
8 **EACH STATE;**

9 (5) **THE FINANCIAL CIRCUMSTANCES OF THE ESTATE OF THE**
10 **RESPONDENT;**

11 (6) **THE NATURE AND LOCATION OF THE EVIDENCE;**

12 (7) **THE ABILITY OF THE COURT IN EACH STATE TO DECIDE THE**
13 **ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT**
14 **EVIDENCE;**

15 (8) **THE FAMILIARITY OF THE COURT OF EACH STATE WITH THE**
16 **FACTS AND ISSUES IN THE PROCEEDING; AND**

17 (9) **IF AN APPOINTMENT WERE MADE, THE ABILITY OF THE**
18 **COURT TO MONITOR THE CONDUCT OF THE GUARDIAN OR CONSERVATOR.**

19 **13.5-205.**

20 (A) **IF AT ANY TIME A COURT OF THIS STATE DETERMINES THAT THE**
21 **COURT ACQUIRED JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A**
22 **PROTECTIVE ORDER BECAUSE OF UNJUSTIFIABLE CONDUCT, THE COURT MAY:**

23 (1) **DECLINE TO EXERCISE JURISDICTION;**

24 (2) **EXERCISE JURISDICTION FOR THE LIMITED PURPOSE OF**
25 **FASHIONING AN APPROPRIATE REMEDY TO ENSURE THE HEALTH, SAFETY, AND**
26 **WELFARE OF THE RESPONDENT OR THE PROTECTION OF THE PROPERTY OF THE**
27 **RESPONDENT OR PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT,**
28 **INCLUDING STAYING THE PROCEEDING UNTIL A PETITION FOR THE**
29 **APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN A COURT OF**
30 **ANOTHER STATE HAVING JURISDICTION; OR**

31 (3) **CONTINUE TO EXERCISE JURISDICTION AFTER CONSIDERING:**

1 (I) THE EXTENT TO WHICH THE RESPONDENT AND ALL
2 PERSONS REQUIRED TO BE NOTIFIED OF THE PROCEEDINGS HAVE ACQUIESCED
3 IN THE EXERCISE OF THE JURISDICTION OF THE COURT;

4 (II) WHETHER THE COURT IS A MORE APPROPRIATE FORUM
5 THAN THE COURT OF ANY OTHER STATE UNDER THE FACTORS SET FORTH IN §
6 13.5-204(C) OF THIS SUBTITLE; AND

7 (III) WHETHER THE COURT OF ANY OTHER STATE WOULD
8 HAVE JURISDICTION UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL
9 CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF § 13.5-201 OF THIS
10 SUBTITLE.

11 (B) (1) IF A COURT OF THIS STATE DETERMINES THAT IT ACQUIRED
12 JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER
13 BECAUSE A PARTY SEEKING TO INVOKE THE JURISDICTION OF THE COURT
14 ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT MAY ASSESS AGAINST THAT
15 PARTY NECESSARY AND REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES,
16 INVESTIGATIVE FEES, COURT COSTS, COMMUNICATION EXPENSES, WITNESS
17 FEES AND EXPENSES, AND TRAVEL EXPENSES.

18 (2) THE COURT MAY NOT ASSESS FEES, COSTS, OR EXPENSES OF
19 ANY KIND AGAINST THIS STATE OR A GOVERNMENTAL SUBDIVISION, AGENCY,
20 OR INSTRUMENTALITY OF THIS STATE UNLESS AUTHORIZED BY LAW OTHER
21 THAN THIS TITLE.

22 **13.5-206.**

23 (A) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR
24 ISSUANCE OF A PROTECTIVE ORDER IS BROUGHT IN THIS STATE AND THIS
25 STATE IS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE
26 PETITION IS FILED, IN ADDITION TO COMPLYING WITH THE NOTICE
27 REQUIREMENTS OF THIS STATE, NOTICE OF THE PETITION SHALL BE GIVEN BY
28 THE PETITIONER TO THOSE PERSONS WHO WOULD BE ENTITLED TO NOTICE OF
29 THE PETITION IF THE PROCEEDING WERE BROUGHT IN THE HOME STATE OF
30 THE RESPONDENT.

31 (B) THE NOTICE DESCRIBED IN SUBSECTION (A) OF THIS SECTION
32 SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN THIS STATE.

33 **13.5-207.**

34 EXCEPT FOR A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN
35 EMERGENCY OR A PROTECTIVE ORDER LIMITED TO PROPERTY LOCATED IN
36 THIS STATE AS PROVIDED IN § 13.5-202 OF THIS SUBTITLE, IF A PETITION FOR

1 THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN THIS
2 STATE AND ANOTHER STATE AND NEITHER PETITION HAS BEEN DISMISSED OR
3 WITHDRAWN, THE FOLLOWING RULES APPLY:

4 (1) IF THE COURT IN THIS STATE HAS JURISDICTION UNDER §
5 13.5-201 OF THIS SUBTITLE, THE COURT MAY PROCEED WITH THE CASE UNLESS
6 A COURT IN ANOTHER STATE ACQUIRES JURISDICTION UNDER § 13.5-201 OF
7 THIS SUBTITLE BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER; OR

8 (2) (I) IF THE COURT IN THIS STATE DOES NOT HAVE
9 JURISDICTION UNDER § 13.5-201 OF THIS SUBTITLE, WHETHER AT THE TIME
10 THE PETITION IS FILED OR AT ANY TIME BEFORE THE APPOINTMENT OR
11 ISSUANCE OF THE ORDER, THE COURT SHALL STAY THE PROCEEDING AND
12 COMMUNICATE WITH THE COURT IN THE OTHER STATE; AND

13 (II) IF THE COURT IN THE OTHER STATE DOES NOT
14 DETERMINE THAT THE COURT IN THIS STATE IS A MORE APPROPRIATE FORUM,
15 THE COURT IN THIS STATE SHALL DISMISS THE PETITION.

16 SUBTITLE 3. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO
17 ANOTHER STATE.

18 13.5-301.

19 (A) FOLLOWING THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR,
20 THE GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO TRANSFER THE
21 GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.

22 (B) NOTICE OF A PETITION TO TRANSFER A GUARDIANSHIP OR
23 CONSERVATORSHIP UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN
24 BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE
25 OF A PETITION IN THIS STATE FOR THE APPOINTMENT OF A GUARDIAN OR
26 CONSERVATOR.

27 (C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE
28 INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED
29 PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN
30 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

31 (D) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A
32 PETITION TO TRANSFER A GUARDIANSHIP IF THE COURT FINDS THAT:

33 (1) THE INCAPACITATED PERSON IS PHYSICALLY LOCATED IN OR
34 IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE;

1 (2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF
2 AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT
3 THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE
4 INCAPACITATED PERSON;

5 (3) THE COURT IS SATISFIED THAT PLANS FOR CARE AND
6 SERVICES FOR THE INCAPACITATED PERSON IN THE OTHER STATE ARE
7 REASONABLE AND SUFFICIENT; AND

8 (4) THE COURT IS SATISFIED THAT THE GUARDIANSHIP WILL BE
9 ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.

10 (E) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A
11 PETITION TO TRANSFER A CONSERVATORSHIP IF THE COURT FINDS THAT:

12 (1) THE PROTECTED PERSON IS PHYSICALLY LOCATED IN OR IS
13 REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE, OR
14 THE PROTECTED PERSON HAS A SIGNIFICANT CONNECTION TO THE OTHER
15 STATE CONSIDERING THE FACTORS SET FORTH IN § 13.5-101(O) OF THIS TITLE;

16 (2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF
17 AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT
18 THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE PROTECTED
19 PERSON;

20 (3) THE COURT IS SATISFIED THAT ADEQUATE ARRANGEMENTS
21 WILL BE MADE FOR MANAGEMENT OF THE PROPERTY OF THE PROTECTED
22 PERSON; AND

23 (4) THE COURT IS SATISFIED THAT THE CONSERVATORSHIP WILL
24 BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE
25 TRANSFERRED.

26 **13.5-302.**

27 (A) (1) ON ISSUANCE OF A PROVISIONAL ORDER IN ANOTHER STATE
28 TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THIS STATE UNDER
29 PROCEDURES SIMILAR TO THOSE IN § 13.5-301 OF THIS SUBTITLE, THE
30 GUARDIAN OR CONSERVATOR SHALL PETITION THE COURT IN THIS STATE TO
31 ACCEPT THE GUARDIANSHIP OR CONSERVATORSHIP.

32 (2) THE PETITION DESCRIBED IN PARAGRAPH (1) OF THIS
33 SUBSECTION SHALL INCLUDE A CERTIFIED COPY OF THE PROVISIONAL ORDER
34 OF THE OTHER STATE.

1 (B) (1) NOTICE OF A PETITION UNDER SUBSECTION (A) OF THIS
2 SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER
3 STATE SHALL BE GIVEN BY THE PETITIONER TO THOSE PERSONS THAT WOULD
4 BE ENTITLED TO NOTICE IF THE PETITION WERE A PETITION FOR THE
5 APPOINTMENT OF A GUARDIAN OR ISSUANCE OF A PROTECTIVE ORDER IN BOTH
6 THE TRANSFERRING STATE AND THIS STATE.

7 (2) THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN
9 THIS STATE.

10 (C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE
11 INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED
12 PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN
13 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO ACCEPT A
14 GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE.

15 (D) THE COURT SHALL ISSUE A PROVISIONAL ORDER APPROVING A
16 PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION UNLESS AN
17 OBJECTION IS MADE AND THE OBJECTOR ESTABLISHES THAT TRANSFER OF THE
18 PROCEEDING WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED
19 PERSON OR PROTECTED PERSON.

20 (E) IN APPROVING A PETITION UNDER THIS SECTION, THE COURT
21 SHALL RECOGNIZE A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE
22 OTHER STATE, INCLUDING THE DETERMINATION OF THE INCAPACITY OF THE
23 INCAPACITATED PERSON OR PROTECTED PERSON AND THE APPOINTMENT OF
24 THE GUARDIAN OR CONSERVATOR, IF THE GUARDIAN OR CONSERVATOR IS
25 ELIGIBLE TO ACT IN THIS STATE.

26 (F) THE DENIAL OF A PETITION FILED UNDER SUBSECTION (A) OF THIS
27 SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER
28 STATE DOES NOT AFFECT THE ABILITY OF A GUARDIAN OR CONSERVATOR
29 APPOINTED BY A COURT IN ANOTHER STATE TO SEEK APPOINTMENT AS
30 GUARDIAN OF THE PERSON OR PROPERTY OF THE DISABLED PERSON UNDER
31 TITLE 13 OF THIS ARTICLE.

32 ~~13.5-303.~~

33 ~~ON RECEIPT FROM THE COURT OF THE OTHER STATE OF A PROVISIONAL~~
34 ~~ORDER ISSUED UNDER § 13.5-302 OF THIS SUBTITLE TO ACCEPT A~~
35 ~~GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED UNDER § 13.5-301 OF~~
36 ~~THIS SUBTITLE AND THE FILING OF THE DOCUMENTS REQUIRED IN THIS STATE~~
37 ~~TO TERMINATE A GUARDIANSHIP OR CONSERVATORSHIP, THE COURT SHALL~~

1 ~~ISSUE AN ORDER CONFIRMING THE TRANSFER OF THE PROCEEDING TO THE~~
2 ~~OTHER STATE AND TERMINATING THE GUARDIANSHIP OR CONSERVATORSHIP IN~~
3 ~~THIS STATE.~~

4 ~~13.5-304.~~

5 ~~(A) ON RECEIPT OF AN ORDER ISSUED UNDER § 13.5-303 OF THIS~~
6 ~~SUBTITLE CONFIRMING THE TRANSFER OF A GUARDIANSHIP OR~~
7 ~~CONSERVATORSHIP PROCEEDING TO THIS STATE AND TERMINATING THE~~
8 ~~GUARDIANSHIP OR CONSERVATORSHIP IN THE TRANSFERRING STATE, THE~~
9 ~~COURT SHALL ISSUE A FINAL ORDER APPOINTING THE GUARDIAN OR~~
10 ~~CONSERVATOR AS GUARDIAN OR CONSERVATOR IN THIS STATE.~~

11 ~~(B) WITHIN 90 DAYS AFTER ISSUANCE OF A FINAL ORDER ACCEPTING A~~
12 ~~GUARDIANSHIP OR CONSERVATORSHIP TRANSFERRED FROM ANOTHER STATE,~~
13 ~~THE COURT SHALL DETERMINE WHETHER THE GUARDIANSHIP OR~~
14 ~~CONSERVATORSHIP MUST BE MODIFIED TO CONFORM TO THE LAW OF THIS~~
15 ~~STATE.~~

16 **SUBTITLE 4. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER**
17 **STATES.**

18 **13.5-401.**

19 **IF A GUARDIAN HAS NOT BEEN APPOINTED IN THIS STATE AND A**
20 **PETITION FOR THE APPOINTMENT OF A GUARDIAN IS NOT PENDING IN THIS**
21 **STATE, A GUARDIAN APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO**
22 **THE APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE**
23 **GUARDIANSHIP ORDER IN THIS STATE BY FILING, AS A FOREIGN JUDGMENT IN A**
24 **COURT IN ANY APPROPRIATE COUNTY OF THIS STATE, CERTIFIED COPIES OF**
25 **THE ORDER AND LETTERS OF OFFICE.**

26 **13.5-402.**

27 **IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A**
28 **PETITION FOR A PROTECTIVE ORDER IS NOT PENDING IN THIS STATE, A**
29 **CONSERVATOR APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE**
30 **APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE**
31 **PROTECTIVE ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT IN A**
32 **COURT OF THIS STATE, IN ANY COUNTY IN WHICH PROPERTY BELONGING TO**
33 **THE PROTECTED PERSON IS LOCATED, CERTIFIED COPIES OF THE ORDER, AND**
34 **LETTERS OF OFFICE AND OF ANY BOND.**

35 **13.5-403.**

1 (A) ON REGISTRATION OF A GUARDIANSHIP OR PROTECTIVE ORDER
2 FROM ANOTHER STATE, THE GUARDIAN OR CONSERVATOR MAY EXERCISE IN
3 THIS STATE ALL POWERS AUTHORIZED IN THE ORDER OF APPOINTMENT
4 EXCEPT AS PROHIBITED UNDER THE LAWS OF THIS STATE, INCLUDING
5 MAINTAINING ACTIONS AND PROCEEDINGS IN THIS STATE AND, IF THE
6 GUARDIAN OR CONSERVATOR IS NOT A RESIDENT OF THIS STATE, SUBJECT TO
7 ANY CONDITIONS IMPOSED ON NONRESIDENT PARTIES.

8 (B) A COURT OF THIS STATE MAY GRANT ANY RELIEF AVAILABLE
9 UNDER THIS TITLE AND OTHER LAW OF THIS STATE TO ENFORCE A REGISTERED
10 ORDER.

11 **SUBTITLE 5. MISCELLANEOUS PROVISIONS.**

12 **13.5-501.**

13 IN APPLYING AND CONSTRUING THIS TITLE, WHICH IS A UNIFORM ACT,
14 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF
15 THE LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE
16 STATES THAT ENACT THE LAW.

17 **13.5-502.**

18 THIS TITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL
19 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15
20 U.S.C. § 7001 ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE § 101(C)
21 OF THAT ACT, 15 U.S.C. § 7001, OR AUTHORIZE ELECTRONIC DELIVERY OF THE
22 NOTICES DESCRIBED IN § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).

23 **13.5-503.**

24 THIS TITLE APPLIES TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS
25 BEGINNING ON OR AFTER OCTOBER 1, 2009.

26 **13.5-504.**

27 THIS TITLE MAY BE CITED AS THE MARYLAND UNIFORM ADULT
28 GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2009.