

# SENATE BILL 231

N2, O3, D4  
SB 122/09 – JPR

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CF HB 1275

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By: **Senators Kelley and Forehand**

Introduced and read first time: January 22, 2010

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2010

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## 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

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

33 BY repealing and reenacting, without amendments,  
34 Article – Estates and Trusts  
35 Section 13–101(a), (e), and (h), 13–201 through 13–206, 13–208 through 13–221,  
36 and 13–705 through 13–713  
37 Annotated Code of Maryland  
38 (2001 Replacement Volume and 2009 Supplement)

39 BY repealing and reenacting, with amendments,  
40 Article – Estates and Trusts  
41 Section 13–105, 13–207, 13–222, and 13–704  
42 Annotated Code of Maryland  
43 (2001 Replacement Volume and 2009 Supplement)

44 BY adding to

1 Article – Estates and Trusts

2 Section 13.5–101 through 13.5–504 to be under the new title “Title 13.5.  
3 Maryland Uniform Adult Guardianship and Protective Proceedings  
4 Jurisdiction Act”

5 Annotated Code of Maryland

6 (2001 Replacement Volume and 2009 Supplement)

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

9 **Article – Estates and Trusts**

10 13–101.

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

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

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

15 (ii) As a result of this inability requires a guardian of his  
16 property; or

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

20 (ii) As a result of this inability requires a guardian of the  
21 person.

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

26 13–105.

27 (a) (1) The orphans’ courts and the circuit courts have concurrent  
28 jurisdiction over guardians of the person of a minor and over protective proceedings for  
29 minors.

30 (2) Upon petition of an interested person, a matter initiated in the  
31 orphans’ court may be transferred to the circuit court.

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

1           (c)   (1)   An orphans' court may exercise jurisdiction over guardianship of  
2 the person of a minor if the presiding judge of the orphans' court is a member of the  
3 bar, regardless of whether the minor who is the subject of the petition for  
4 guardianship of the person has property, may inherit property, or is destitute.

5                   (2)   An orphans' court that exercises jurisdiction or is requested to  
6 exercise jurisdiction under this subsection may:

7                           (i)   Transfer the matter to the circuit court on a finding that the  
8 best interests of the child require utilization of the equitable powers of the circuit  
9 court; and

10                           (ii)   Waive the costs, if any, of a transfer under this paragraph.

11 13–201.

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

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

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

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

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

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

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

27 13–202.

28           Venue in proceedings under this subtitle shall be as provided by the Maryland  
29 Rules.

30 13–203.

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

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

10 (c) (1) Except for the limitations contained in § 13–106 of this title, after  
11 appointment of the guardian, the court has all the powers over the property of the  
12 minor or disabled person that the person could exercise if not disabled or a minor.

13 (2) The powers that a circuit court has under paragraph (1) of this  
14 subsection include the power to authorize or direct the guardian to:

15 (i) Make gifts from the principal and income of the estate; and

16 (ii) Disclaim on behalf of the minor or disabled person, in whole  
17 or in part, the right of succession or transfer to that person of any property or interest  
18 in any property.

19 (3) The powers that a circuit court has under paragraph (2) of this  
20 subsection are in addition to and may not limit the power:

21 (i) Conferred upon the guardian to make distributions under §  
22 13–214 of this subtitle; and

23 (ii) Conferred upon the guardian or the circuit court, without  
24 appointing a guardian, to disclaim or authorize or direct a disclaimer on behalf of a  
25 minor or disabled person under § 9–201(c) of this article.

26 (d) A guardian or any other interested person may invoke the jurisdiction of  
27 the court at any time to resolve questions concerning the estate or its administration.

28 13–204.

29 (a) If a basis exists as described in § 13–201 of this subtitle for assuming  
30 jurisdiction over the property of a minor or disabled person, the circuit court, without  
31 appointing a guardian, may authorize or direct a transaction with respect to the  
32 property, service, or care arrangement of the minor or disabled person. These  
33 transactions include but are not limited to:

34 (1) Payment, delivery, deposit, or retention of funds or property;

- 1           (2)    Sale, mortgage, lease, or other transfer of property;
- 2           (3)    Purchase of contracts for an annuity, life care, training, or  
3 education; or
- 4           (4)    Any other transaction described in:
- 5                (i)    § 13–203(c)(2) of this subtitle;
- 6                (ii)   Title 9, Subtitle 2 of this article; or
- 7                (iii)  § 15–102 of this article.

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

12 13–205.

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

15 13–206.

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

- 18                (1)    Any individual;
- 19                (2)    Any trust company; or
- 20                (3)    Any other corporation authorized by law to serve as a trustee.

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

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

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

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

6 13–207.

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

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

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

16           (3) His spouse;

17           (4) His parents;

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

20           (6) His children;

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

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

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

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

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

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

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

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

13 13–208.

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

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

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

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

29 (e) The penalty of the bond shall not be greater than the aggregate value of  
30 the property of the estate under the control of the guardian, less the value of securities  
31 or money deposited in a financial institution as defined in § 13–301(h) of this title  
32 under arrangements requiring an order of the court for their removal, and the value of  
33 any land which the guardian, by express limitation of power, lacks power to sell or  
34 convey without court authorization. The court may, in lieu of sureties on a bond,  
35 accept other security for the performance of the bond, including a pledge of securities  
36 or a mortgage of land. The court may at any time, subject to the maximum penalty  
37 provided by this section, require the amount of the bond, or the type or value of  
38 security, to be changed. The approval of a new bond shall not discharge a bond filed  
39 previously from any liability which may have accrued before approval.



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

2 13-209.

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

5 13-210.

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

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

9 (2) Requiring an accounting of the administration of the estate;

10 (3) Directing distribution;

11 (4) Removing the guardian and appointing a successor guardian; or

12 (5) Granting other appropriate relief.

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

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

17 13-211.

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

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

23 13-212.

24 In the administration of the estate and the exercise of his powers, a guardian  
25 shall exercise the care and skill of a man of ordinary prudence dealing with his own  
26 property.

27 13-213.

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

3 13–214.

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

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

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

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

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

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

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

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

36 13–215.

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

6 13–216.

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

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

13 13–217.

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

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

22 13–218.

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

28 13–219.

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

35 13–220.

1 (a) The appointment of a guardian terminates when the guardianship  
2 terminates under § 13–221 and may be terminated sooner by his death, disability,  
3 resignation, or removal.

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

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

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

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

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

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

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

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

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

31 13–221.

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

35 (b) A guardianship proceeding shall terminate upon:

- 1           (1)    The cessation of the minority or disability;
- 2           (2)    The death or presumptive death of the minor or disabled person;
- 3           (3)    Transfer of all the assets of the estate to a foreign fiduciary; or
- 4           (4)    Other good cause for termination as may be shown to the  
5 satisfaction of the court.

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

9   13-222.

10          (a)    [When no guardianship proceeding is pending in the state, a] **A**  
11 guardian, conservator, committee, or other similar fiduciary, appointed by the  
12 appropriate court of another jurisdiction to manage the property of a protected person  
13 who is a resident of that jurisdiction, may exercise in the state all powers of his office,  
14 including the power to sell, purchase, or mortgage real estate in the state, collect,  
15 receipt for, and take possession of money due, tangible personal property, or an  
16 instrument evidencing a debt, obligation, stock, or chose in action located in the state,  
17 and remove it to the other jurisdiction. Subject to any statute or rule relating to  
18 nonresidents, he may sue and be sued in the state.

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

23   13-704.

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

29   13-705.

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

32          (b)    A guardian of the person shall be appointed if the court determines from  
33 clear and convincing evidence that a person lacks sufficient understanding or capacity  
34 to make or communicate responsible decisions concerning his person, including

1 provisions for health care, food, clothing, or shelter, because of any mental disability,  
2 disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form  
3 of intervention is available which is consistent with the person's welfare and safety.

4 (c) (1) Procedures and venue in these cases shall be as described by Title  
5 10, Chapters 100 and 200 of the Maryland Rules.

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

9 (i) Two licensed physicians who have examined the disabled  
10 person; or

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

13 2. A. One licensed psychologist who has evaluated  
14 the disabled person; or

15 B. One licensed certified social worker—clinical who has  
16 evaluated the disabled person.

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

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

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

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

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

1 (e) The person alleged to be disabled is entitled to be present at the hearing  
2 unless he has knowingly and voluntarily waived the right to be present or cannot be  
3 present because of physical or mental incapacity. Waiver or incapacity may not be  
4 presumed from nonappearance but shall be determined on the basis of factual  
5 information supplied to the court by counsel or a representative appointed by the  
6 court. The person alleged to be disabled is also entitled to present evidence and to  
7 cross-examine witnesses. The issue may be determined at a closed hearing without a  
8 jury if the person alleged to be disabled or his counsel so requests and all hearings  
9 herein shall be confidential and sealed unless otherwise ordered by a court of  
10 competent jurisdiction for good cause shown.

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

14 13-706.

15 (a) An adjudication of a disability for purposes of appointing a guardian of a  
16 person may not be the basis for commitment of the disabled person to a mental  
17 institution.

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

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

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

23 13-707.

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

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

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

33 (3) The disabled person's spouse;

34 (4) The disabled person's parents;

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

3                   (6)    The disabled person's children;

4                   (7)    Adult persons who would be the disabled person's heirs if the  
5   disabled person were dead;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

33           (7)   The duty to file an annual report with the court indicating the  
34 present place of residence and health status of the ward, the guardian's plan for  
35 preserving and maintaining the future well-being of the ward, and the need for  
36 continuance or cessation of the guardianship or for any alteration in the powers of the  
37 guardian. The court shall renew the appointment of the guardian if it is satisfied that

1 the grounds for the original appointment stated in § 13–705(b) above continue to exist.  
2 If the court believes such grounds may not exist, it shall hold a hearing, similar to that  
3 provided for in § 13–705 above, at which the guardian shall be required to prove that  
4 such grounds exist. If the court does not make these findings, it shall order the  
5 discontinuance of the guardianship of the person. If the guardian declines to  
6 participate in the hearing, the court may appoint another guardian to replace him  
7 pursuant to the priorities in § 13–707(a); and

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

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

12 (ii) Withholding medical or other professional care, counsel,  
13 treatment, or service; and

14 (iii) Withdrawing medical or other professional care, counsel,  
15 treatment, or service.

16 (c) (1) Notwithstanding the powers conferred to a guardian under  
17 subsection (b)(8) of this section, and except as provided in paragraph (2) of this  
18 subsection, where a medical procedure involves, or would involve, a substantial risk to  
19 the life of a disabled person, the court must authorize a guardian's consent or approval  
20 for:

21 (i) The medical procedure;

22 (ii) Withholding the medical procedure; or

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

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

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

33 (ii) The guardian is:

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

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

6                                   (3)    A petition seeking the authorization of a court that a  
7 life–sustaining procedure be withheld or withdrawn is subject to the provisions of §§  
8 13–711 through 13–713 of this subtitle.

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

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

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

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

20                                   (i)     Adopt guidelines for the rate of reimbursement for care and  
21 maintenance services provided directly by the guardian of the person to a disabled  
22 person;

23                                   (ii)    Establish appropriate procedures for records, inspections,  
24 audits, or other requirements to monitor care and maintenance services provided  
25 directly by the guardian of the person for which the guardian of the person is  
26 reimbursed; and

27                                   (iii)   Order any act necessary for the best interests of the disabled  
28 person.

29 13–709.

30                                   (a)     When, from personal observation of a law enforcement officer, it appears  
31 probable that an adult will suffer immediate and serious physical injury or death if not  
32 immediately placed in a health care facility, that the adult is incapable of giving  
33 consent, and that it is not possible to follow the procedures of this section, the officer  
34 shall transport the person to an appropriate medical facility which shall immediately  
35 notify the next of kin and the director. This medical care may not be rendered in a  
36 State mental hospital other than, in an appropriate case, the Walter P. Carter

1 Community Mental Health and Retardation Center and the Highland Health Facility  
2 unless authorized by the courts in a civil commitment proceeding. The director shall  
3 file a petition pursuant to subsection (b) of this section within 24 hours after the  
4 transfer of the person has taken place. The court shall hold a hearing on the petition  
5 and render its decision within 48 hours after the transfer has occurred.

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

9 (1) For the purpose of this section the person lacks capacity under the  
10 standards enumerated in § 13–705(b) of this subtitle;

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

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

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

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

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

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

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

29 (5) Notwithstanding the provisions of paragraphs (3) and (4) of this  
30 subsection, the court may extend the terms of the emergency order and the  
31 appointment of the temporary guardian until appointment of a guardian of the person  
32 pursuant to § 13–705 of this subtitle, upon petition of the temporary guardian, the  
33 director, or the Secretary of Aging, as appropriate, and after a showing that the  
34 conditions found to exist in subsection (b) of this section will probably continue beyond  
35 the expiration of the extended emergency order. Such petition shall be filed before the  
36 expiration of the six-day period provided for in paragraph (3) of this subsection and  
37 shall be accompanied by a petition for appointment of a guardian of the person

1 pursuant to § 13–705 of this subtitle. Such petition for appointment of a guardian of  
2 the person shall be heard on an expedited basis no more than 60 days after the filing  
3 of the petition;

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

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

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

21 (e) Notice of the filing of such petition shall be given as required in the  
22 Maryland Rules and to the director. Such notice shall be given in language reasonably  
23 understandable by the intended recipients at least 24 hours prior to the hearing for  
24 emergency intervention. The court may waive the 24-hour notice requirement upon a  
25 showing that (1) immediate and reasonably foreseeable physical harm to the person or  
26 others will result from the 24-hour delay, and (2) reasonable attempts have been  
27 made to give such notice. Notice of the court's final order shall be given to the same  
28 parties.

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

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

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

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

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

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

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

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

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

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

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

29 13-710.

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

35 (b) A law enforcement officer who transports an adult to an appropriate  
36 medical facility under § 13-709 of this article shall have the immunity from civil or

1 criminal liability described under § 5–618(b) of the Courts and Judicial Proceedings  
2 Article.

3 13–711.

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

6 (b) “Best interest” means that the benefits to the disabled person resulting  
7 from a treatment outweigh the burdens to the disabled person resulting from that  
8 treatment, taking into account:

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

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

13 (3) The degree to which the disabled person’s medical condition, the  
14 treatment, or the withholding or withdrawal of treatment, result in a severe and  
15 continuing impairment of the dignity of the disabled person by subjecting the  
16 individual to a condition of extreme humiliation and dependency;

17 (4) The effect of the treatment on the life expectancy of the disabled  
18 person;

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

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

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

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

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

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

1           (2) Any expressed preferences of the disabled person regarding the  
2 provision of, or the withholding or withdrawal of, the life-sustaining procedure at  
3 issue;

4           (3) Any expressed preferences of the disabled person about the  
5 provision of, or the withholding or withdrawal of, life-sustaining procedures generally;

6           (4) Any religious or moral beliefs or personal values of the disabled  
7 person in relation to the provision of, or the withholding or withdrawal of,  
8 life-sustaining procedures;

9           (5) Any behavioral or other manifestations of the attitude of the  
10 disabled person toward the provision of, or the withholding or withdrawal of, the  
11 life-sustaining procedure;

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

14           (7) Any reactions of the disabled person to the provision of, or the  
15 withholding or withdrawal of, a comparable life-sustaining procedure for another  
16 individual; and

17           (8) Any expressed concerns of the disabled person about the effect on  
18 the family or intimate friends of the disabled person if a life-sustaining procedure  
19 were provided, withheld, or withdrawn.

20 13-712.

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

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

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

31           (1) Material and probative; and

32           (2) The best evidence available.

33 13-713.



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

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

10 **TITLE 13.5. MARYLAND UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE**  
11 **PROCEEDINGS JURISDICTION ACT.**

12 **SUBTITLE 1. GENERAL PROVISIONS.**

13 **13.5-101.**

14 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
15 INDICATED.

16 (B) "CONSERVATOR" MEANS A PERSON APPOINTED BY A COURT TO  
17 ADMINISTER THE PROPERTY OF AN ADULT, INCLUDING A PERSON APPOINTED  
18 AS GUARDIAN UNDER TITLE 13, SUBTITLE 2 OF THIS ARTICLE TO MANAGE THE  
19 PROPERTY OF A DISABLED PERSON.

20 (C) "EMERGENCY" MEANS A CIRCUMSTANCE THAT LIKELY WILL  
21 RESULT IN A SUBSTANTIAL HARM TO THE HEALTH, SAFETY, OR WELFARE OF A  
22 RESPONDENT, AND FOR WHICH THE APPOINTMENT OF A GUARDIAN IS  
23 NECESSARY BECAUSE NO OTHER PERSON HAS AUTHORITY AND IS WILLING TO  
24 ACT ON BEHALF OF THE RESPONDENT.

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

28 (E) "GUARDIANSHIP ORDER" MEANS AN ORDER APPOINTING A  
29 GUARDIAN.

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

1           **(G) “HOME STATE” MEANS THE STATE IN WHICH THE RESPONDENT WAS**  
2 **PHYSICALLY PRESENT FOR AT LEAST 6 CONSECUTIVE MONTHS, INCLUDING A**  
3 **PERIOD OF TEMPORARY ABSENCE, IMMEDIATELY BEFORE THE FILING OF A**  
4 **PETITION FOR THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER.**

5           **(H) “INCAPACITATED PERSON” MEANS AN ADULT FOR WHOM A**  
6 **GUARDIAN HAS BEEN APPOINTED, INCLUDING A “DISABLED PERSON” AS**  
7 **DEFINED IN § 13-101 OF THIS ARTICLE.**

8           **(I) “PARTY” MEANS THE RESPONDENT, PETITIONER, GUARDIAN,**  
9 **CONSERVATOR, OR ANY OTHER PERSON ALLOWED BY THE COURT TO**  
10 **PARTICIPATE IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING.**

11           **(J) “PROTECTED PERSON” MEANS AN ADULT FOR WHOM A PROTECTIVE**  
12 **ORDER HAS BEEN MADE.**

13           **(K) “PROTECTIVE ORDER” MEANS AN ORDER APPOINTING A**  
14 **CONSERVATOR OR A GUARDIAN OF THE PROPERTY IN ACCORDANCE WITH TITLE**  
15 **13, SUBTITLE 2 OF THIS ARTICLE, OR ANOTHER COURT ORDER RELATED TO**  
16 **MANAGEMENT OF AN ADULT’S PROPERTY.**

17           **(L) “PROTECTIVE PROCEEDING” MEANS A JUDICIAL PROCEEDING IN**  
18 **WHICH A PROTECTIVE ORDER IS SOUGHT OR HAS BEEN ISSUED.**

19           **(M) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A**  
20 **TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM**  
21 **AND IS RETRIEVABLE IN PERCEIVABLE FORM.**

22           **(N) “RESPONDENT” MEANS AN ADULT FOR WHOM A PROTECTIVE**  
23 **ORDER OR THE APPOINTMENT OF A GUARDIAN IS SOUGHT.**

24           **(O) (1) “SIGNIFICANT-CONNECTION STATE” MEANS A STATE, OTHER**  
25 **THAN THE HOME STATE, WITH WHICH A RESPONDENT HAS A SIGNIFICANT**  
26 **CONNECTION OTHER THAN MERE PHYSICAL PRESENCE AND IN WHICH**  
27 **SUBSTANTIAL EVIDENCE CONCERNING THE RESPONDENT IS AVAILABLE.**

28           **(2) DETERMINATION OF WHETHER A RESPONDENT HAS A**  
29 **SIGNIFICANT CONNECTION WITH A PARTICULAR STATE SHALL INCLUDE**  
30 **CONSIDERATION OF THE FOLLOWING FACTORS:**

31                   **(I) THE LOCATION OF THE FAMILY OF THE RESPONDENT**  
32 **AND OTHERS REQUIRED TO BE NOTIFIED OF THE GUARDIANSHIP OR**  
33 **PROTECTIVE PROCEEDING;**

1                   **(II) THE LENGTH OF TIME THE RESPONDENT AT ANY TIME**  
2 **WAS PHYSICALLY PRESENT IN THE STATE AND THE DURATION OF ANY**  
3 **ABSENCES;**

4                   **(III) THE LOCATION OF THE RESPONDENT'S PROPERTY; AND**

5                   **(IV) THE EXTENT TO WHICH THE RESPONDENT HAS OTHER**  
6 **TIES TO THE STATE SUCH AS VOTING REGISTRATION, FILING OF STATE OR**  
7 **LOCAL TAX RETURNS, VEHICLE REGISTRATION, DRIVER'S LICENSE, SOCIAL**  
8 **RELATIONSHIPS, AND RECEIPT OF SERVICES.**

9                   **(P) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT**  
10 **OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A**  
11 **FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR**  
12 **POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.**

13 **13.5-102.**

14                   **A COURT OF THIS STATE MAY TREAT A FOREIGN COUNTRY AS IF THE**  
15 **COUNTRY WERE A STATE FOR THE PURPOSE OF APPLYING SUBTITLES 1, 2, 3,**  
16 **AND 5 OF THIS TITLE.**

17 **13.5-103.**

18                   **(A) (1) A COURT OF THIS STATE MAY COMMUNICATE WITH A COURT**  
19 **IN ANOTHER STATE CONCERNING A PROCEEDING ARISING UNDER THIS TITLE.**

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

22                   **(3) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B)**  
23 **OF THIS SECTION, THE COURT SHALL MAKE A RECORD OF THE**  
24 **COMMUNICATION.**

25                   **(II) A RECORD DESCRIBED IN THIS PARAGRAPH MAY BE**  
26 **LIMITED TO THE FACT THAT THE COMMUNICATION OCCURRED.**

27                   **(B) A COURT COMMUNICATING WITH A COURT IN ANOTHER STATE**  
28 **UNDER THIS SECTION MAY COMMUNICATE CONCERNING SCHEDULES,**  
29 **CALENDARS, COURT RECORDS, AND OTHER ADMINISTRATIVE MATTERS**  
30 **WITHOUT MAKING A RECORD.**

31 **13.5-104.**

1           **(A) IN A GUARDIANSHIP OR PROTECTIVE PROCEEDING IN THIS STATE,**  
2 **A COURT OF THIS STATE MAY REQUEST THE APPROPRIATE COURT OF ANOTHER**  
3 **STATE TO:**

4           **(1) HOLD AN EVIDENTIARY HEARING;**

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

7           **(3) ORDER THAT AN EVALUATION OR ASSESSMENT BE MADE OF**  
8 **THE RESPONDENT, OR ORDER AN APPROPRIATE INVESTIGATION OF A PERSON**  
9 **INVOLVED IN A PROCEEDING;**

10           **(4) FORWARD TO THE COURT OF THIS STATE A CERTIFIED COPY**  
11 **OF THE TRANSCRIPT OR OTHER RECORD OF A HEARING UNDER ITEM (1) OF**  
12 **THIS SUBSECTION OR ANY OTHER PROCEEDING, EVIDENCE OTHERWISE**  
13 **PRESENTED UNDER ITEM (2) OF THIS SUBSECTION, AND ANY EVALUATION OR**  
14 **ASSESSMENT PREPARED IN COMPLIANCE WITH A REQUEST UNDER ITEM (3) OF**  
15 **THIS SUBSECTION;**

16           **(5) ISSUE ANY OTHER ORDER NECESSARY TO ENSURE THE**  
17 **APPEARANCE OF A PERSON NECESSARY TO MAKE A DETERMINATION,**  
18 **INCLUDING THE RESPONDENT OR THE INCAPACITATED OR PROTECTED**  
19 **PERSON; AND**

20           **(6) ISSUE AN ORDER AUTHORIZING THE RELEASE OF MEDICAL,**  
21 **FINANCIAL, CRIMINAL, OR OTHER RELEVANT INFORMATION IN THE OTHER**  
22 **STATE, INCLUDING PROTECTED HEALTH INFORMATION AS DEFINED IN 45**  
23 **C.F.R. § 164.504.**

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

29 **13.5-105.**

30           **(A) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**  
31 **PROCEEDING, IN ADDITION TO OTHER PROCEDURES THAT MAY BE AVAILABLE,**  
32 **TESTIMONY OF WITNESSES WHO ARE LOCATED IN ANOTHER STATE MAY BE**  
33 **OFFERED BY DEPOSITION OR OTHER MEANS ALLOWABLE IN THIS STATE FOR**  
34 **TESTIMONY TAKEN IN THE OTHER STATE.**

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

5           **(B) (1) IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**  
6 **PROCEEDING, A COURT IN THIS STATE MAY PERMIT A WITNESS LOCATED IN**  
7 **ANOTHER STATE TO BE DEPOSED OR TO TESTIFY BY TELEPHONE OR**  
8 **AUDIOVISUAL OR OTHER ELECTRONIC MEANS.**

9           **(2) A COURT OF THIS STATE SHALL COOPERATE WITH COURTS OF**  
10 **OTHER STATES IN DESIGNATING AN APPROPRIATE LOCATION FOR A**  
11 **DEPOSITION OR TESTIMONY IN A GUARDIANSHIP PROCEEDING OR PROTECTIVE**  
12 **PROCEEDING UNDER THIS SECTION.**

13                                   **SUBTITLE 2. JURISDICTION.**

14           **13.5-201.**

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

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

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

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

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

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

29                                   **2. AN OBJECTION TO THE JURISDICTION OF THE**  
30 **COURT IS NOT FILED BY A PERSON REQUIRED TO BE NOTIFIED OF THE**  
31 **PROCEEDING; AND**

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

4                   **(3) (I) THIS STATE DOES NOT HAVE JURISDICTION UNDER**  
5 **ITEM (1) OR (2) OF THIS SUBSECTION; ~~OR~~ AND**

6                   **(II) THE HOME STATE OF THE RESPONDENT AND ALL**  
7 **SIGNIFICANT-CONNECTION STATES HAVE DECLINED TO EXERCISE**  
8 **JURISDICTION BECAUSE:**

9                   **1. THIS STATE IS THE MORE APPROPRIATE FORUM;**  
10 **AND**

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

13                   **(4) THE REQUIREMENTS FOR SPECIAL JURISDICTION UNDER §**  
14 **13.5-202 OF THIS SUBTITLE ARE MET.**

15 **13.5-202.**

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

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

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

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

27                   **(B) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN**  
28 **EMERGENCY IS BROUGHT IN THIS STATE IN ACCORDANCE WITH § 13-709 OF**  
29 **THIS ARTICLE AND THIS STATE WAS NOT THE HOME STATE OF THE**  
30 **RESPONDENT ON THE DATE THE PETITION WAS FILED, THE COURT SHALL**  
31 **DISMISS THE PROCEEDING AT THE REQUEST OF THE COURT IN THE OTHER**  
32 **STATE, IF ANY, WHETHER DISMISSAL IS REQUESTED BEFORE OR AFTER THE**  
33 **EMERGENCY APPOINTMENT.**

1 **13.5-203.**

2 EXCEPT AS OTHERWISE PROVIDED IN § 13.5-202 OF THIS SUBTITLE, A  
3 COURT THAT HAS APPOINTED A GUARDIAN OR ISSUED A PROTECTIVE ORDER  
4 CONSISTENT WITH THIS TITLE HAS EXCLUSIVE AND CONTINUING JURISDICTION  
5 OVER THE PROCEEDING UNTIL THE PROCEEDING IS TERMINATED BY THE  
6 COURT OR THE APPOINTMENT OR ORDER EXPIRES BY THE TERMS OF THE  
7 APPOINTMENT OR ORDER.

8 **13.5-204.**

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

13 (B) (1) IF A COURT OF THIS STATE DECLINES JURISDICTION OVER A  
14 GUARDIANSHIP PROCEEDING OR PROTECTIVE PROCEEDING UNDER  
15 SUBSECTION (A) OF THIS SECTION, THE COURT SHALL EITHER DISMISS THE  
16 PROCEEDING OR STAY THE PROCEEDING.

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

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

23 (1) AN EXPRESSED PREFERENCE OF THE RESPONDENT;

24 (2) WHETHER ABUSE, NEGLECT, OR EXPLOITATION OF THE  
25 RESPONDENT HAS OCCURRED OR IS LIKELY TO OCCUR AND WHICH STATE  
26 COULD BEST PROTECT THE RESPONDENT FROM THE ABUSE, NEGLECT, OR  
27 EXPLOITATION;

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

30 (4) THE DISTANCE OF THE RESPONDENT FROM THE COURT IN  
31 EACH STATE;

32 (5) THE FINANCIAL CIRCUMSTANCES OF THE ESTATE OF THE  
33 RESPONDENT;

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

2           **(7) THE ABILITY OF THE COURT IN EACH STATE TO DECIDE THE**  
3 **ISSUE EXPEDITIOUSLY AND THE PROCEDURES NECESSARY TO PRESENT**  
4 **EVIDENCE;**

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

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

9 **13.5–205.**

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

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

14           **(2) EXERCISE JURISDICTION FOR THE LIMITED PURPOSE OF**  
15 **FASHIONING AN APPROPRIATE REMEDY TO ENSURE THE HEALTH, SAFETY, AND**  
16 **WELFARE OF THE RESPONDENT OR THE PROTECTION OF THE PROPERTY OF THE**  
17 **RESPONDENT OR PREVENT A REPETITION OF THE UNJUSTIFIABLE CONDUCT,**  
18 **INCLUDING STAYING THE PROCEEDING UNTIL A PETITION FOR THE**  
19 **APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN A COURT OF**  
20 **ANOTHER STATE HAVING JURISDICTION; OR**

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

22           **(i) THE EXTENT TO WHICH THE RESPONDENT AND ALL**  
23 **PERSONS REQUIRED TO BE NOTIFIED OF THE PROCEEDINGS HAVE ACQUIESCED**  
24 **IN THE EXERCISE OF THE JURISDICTION OF THE COURT;**

25           **(ii) WHETHER THE COURT IS A MORE APPROPRIATE FORUM**  
26 **THAN THE COURT OF ANY OTHER STATE UNDER THE FACTORS SET FORTH IN §**  
27 **13.5–204(C) OF THIS SUBTITLE; AND**

28           **(iii) WHETHER THE COURT OF ANY OTHER STATE WOULD**  
29 **HAVE JURISDICTION UNDER FACTUAL CIRCUMSTANCES IN SUBSTANTIAL**  
30 **CONFORMITY WITH THE JURISDICTIONAL STANDARDS OF § 13.5–201 OF THIS**  
31 **SUBTITLE.**

32           **(B) (1) IF A COURT OF THIS STATE DETERMINES THAT IT ACQUIRED**  
33 **JURISDICTION TO APPOINT A GUARDIAN OR ISSUE A PROTECTIVE ORDER**



1 BECAUSE A PARTY SEEKING TO INVOKE THE JURISDICTION OF THE COURT  
2 ENGAGED IN UNJUSTIFIABLE CONDUCT, THE COURT MAY ASSESS AGAINST THAT  
3 PARTY NECESSARY AND REASONABLE EXPENSES, INCLUDING ATTORNEY'S FEES,  
4 INVESTIGATIVE FEES, COURT COSTS, COMMUNICATION EXPENSES, WITNESS  
5 FEES AND EXPENSES, AND TRAVEL EXPENSES.

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

10 **13.5-206.**

11 (A) IF A PETITION FOR THE APPOINTMENT OF A GUARDIAN OR  
12 ISSUANCE OF A PROTECTIVE ORDER IS BROUGHT IN THIS STATE AND THIS  
13 STATE IS NOT THE HOME STATE OF THE RESPONDENT ON THE DATE THE  
14 PETITION IS FILED, IN ADDITION TO COMPLYING WITH THE NOTICE  
15 REQUIREMENTS OF THIS STATE, NOTICE OF THE PETITION SHALL BE GIVEN BY  
16 THE PETITIONER TO THOSE PERSONS WHO WOULD BE ENTITLED TO NOTICE OF  
17 THE PETITION IF THE PROCEEDING WERE BROUGHT IN THE HOME STATE OF  
18 THE RESPONDENT.

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

21 **13.5-207.**

22 EXCEPT FOR A PETITION FOR THE APPOINTMENT OF A GUARDIAN IN AN  
23 EMERGENCY OR A PROTECTIVE ORDER LIMITED TO PROPERTY LOCATED IN  
24 THIS STATE AS PROVIDED IN § 13.5-202 OF THIS SUBTITLE, IF A PETITION FOR  
25 THE APPOINTMENT OF A GUARDIAN OR PROTECTIVE ORDER IS FILED IN THIS  
26 STATE AND ANOTHER STATE AND NEITHER PETITION HAS BEEN DISMISSED OR  
27 WITHDRAWN, THE FOLLOWING RULES APPLY:

28 (1) IF THE COURT IN THIS STATE HAS JURISDICTION UNDER §  
29 13.5-201 OF THIS SUBTITLE, THE COURT MAY PROCEED WITH THE CASE UNLESS  
30 A COURT IN ANOTHER STATE ACQUIRES JURISDICTION UNDER § 13.5-201 OF  
31 THIS SUBTITLE BEFORE THE APPOINTMENT OR ISSUANCE OF THE ORDER; OR

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

1                   **(II) IF THE COURT IN THE OTHER STATE DOES NOT**  
2 **DETERMINE THAT THE COURT IN THIS STATE IS A MORE APPROPRIATE FORUM,**  
3 **THE COURT IN THIS STATE SHALL DISMISS THE PETITION.**

4                   **SUBTITLE 3. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP TO**  
5 **ANOTHER STATE.**

6 **13.5-301.**

7                   **(A) FOLLOWING THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR,**  
8 **THE GUARDIAN OR CONSERVATOR MAY PETITION THE COURT TO TRANSFER THE**  
9 **GUARDIANSHIP OR CONSERVATORSHIP TO ANOTHER STATE.**

10                   **(B) NOTICE OF A PETITION TO TRANSFER A GUARDIANSHIP OR**  
11 **CONSERVATORSHIP UNDER SUBSECTION (A) OF THIS SECTION SHALL BE GIVEN**  
12 **BY THE PETITIONER TO THOSE PERSONS THAT WOULD BE ENTITLED TO NOTICE**  
13 **OF A PETITION IN THIS STATE FOR THE APPOINTMENT OF A GUARDIAN OR**  
14 **CONSERVATOR.**

15                   **(C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE**  
16 **INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED**  
17 **PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN**  
18 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

19                   **(D) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A**  
20 **PETITION TO TRANSFER A GUARDIANSHIP IF THE COURT FINDS THAT:**

21                   **(1) THE INCAPACITATED PERSON IS PHYSICALLY LOCATED IN OR**  
22 **IS REASONABLY EXPECTED TO MOVE PERMANENTLY TO THE OTHER STATE;**

23                   **(2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF**  
24 **AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT**  
25 **THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE**  
26 **INCAPACITATED PERSON;**

27                   **(3) THE COURT IS SATISFIED THAT PLANS FOR CARE AND**  
28 **SERVICES FOR THE INCAPACITATED PERSON IN THE OTHER STATE ARE**  
29 **REASONABLE AND SUFFICIENT; AND**

30                   **(4) THE COURT IS SATISFIED THAT THE GUARDIANSHIP WILL BE**  
31 **ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE TRANSFERRED.**

32                   **(E) THE COURT SHALL ISSUE A PROVISIONAL ORDER GRANTING A**  
33 **PETITION TO TRANSFER A CONSERVATORSHIP IF THE COURT FINDS THAT:**

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

5           (2) AN OBJECTION TO THE TRANSFER HAS NOT BEEN MADE OR, IF  
6 AN OBJECTION HAS BEEN MADE, THE OBJECTOR HAS NOT ESTABLISHED THAT  
7 THE TRANSFER WOULD BE CONTRARY TO THE INTERESTS OF THE PROTECTED  
8 PERSON;

9           (3) THE COURT IS SATISFIED THAT ADEQUATE ARRANGEMENTS  
10 WILL BE MADE FOR MANAGEMENT OF THE PROPERTY OF THE PROTECTED  
11 PERSON; AND

12           (4) THE COURT IS SATISFIED THAT THE CONSERVATORSHIP WILL  
13 BE ACCEPTED BY THE COURT TO WHICH THE PROCEEDING WILL BE  
14 TRANSFERRED.

15 **13.5-302.**

16           (A) (1) ON ISSUANCE OF A PROVISIONAL ORDER IN ANOTHER STATE  
17 TO TRANSFER A GUARDIANSHIP OR CONSERVATORSHIP TO THIS STATE UNDER  
18 PROCEDURES SIMILAR TO THOSE IN § 13.5-301 OF THIS SUBTITLE, THE  
19 GUARDIAN OR CONSERVATOR SHALL PETITION THE COURT IN THIS STATE TO  
20 ACCEPT THE GUARDIANSHIP OR CONSERVATORSHIP.

21           (2) THE PETITION DESCRIBED IN PARAGRAPH (1) OF THIS  
22 SUBSECTION SHALL INCLUDE A CERTIFIED COPY OF THE PROVISIONAL ORDER  
23 OF THE OTHER STATE.

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

30           (2) THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS  
31 SUBSECTION SHALL BE GIVEN IN THE SAME MANNER AS NOTICE IS GIVEN IN  
32 THIS STATE.

33           (C) ON THE MOTION OF THE COURT OR ON REQUEST OF THE  
34 INCAPACITATED PERSON OR PROTECTED PERSON, OR ANOTHER INTERESTED  
35 PERSON, A COURT SHALL HOLD A HEARING ON A PETITION FILED IN

1 ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION TO ACCEPT A  
2 GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER STATE.

3 (D) THE COURT SHALL ISSUE A PROVISIONAL ORDER APPROVING A  
4 PETITION FILED UNDER SUBSECTION (A) OF THIS SECTION UNLESS AN  
5 OBJECTION IS MADE AND THE OBJECTOR ESTABLISHES THAT TRANSFER OF THE  
6 PROCEEDING WOULD BE CONTRARY TO THE INTERESTS OF THE INCAPACITATED  
7 PERSON OR PROTECTED PERSON.

8 (E) IN APPROVING A PETITION UNDER THIS SECTION, THE COURT  
9 SHALL RECOGNIZE A GUARDIANSHIP OR CONSERVATORSHIP ORDER FROM THE  
10 OTHER STATE, INCLUDING THE DETERMINATION OF THE INCAPACITY OF THE  
11 INCAPACITATED PERSON OR PROTECTED PERSON AND THE APPOINTMENT OF  
12 THE GUARDIAN OR CONSERVATOR, IF THE GUARDIAN OR CONSERVATOR IS  
13 ELIGIBLE TO ACT IN THIS STATE.

14 (F) THE DENIAL OF A PETITION FILED UNDER SUBSECTION (A) OF THIS  
15 SECTION TO ACCEPT A GUARDIANSHIP OR CONSERVATORSHIP FROM ANOTHER  
16 STATE DOES NOT AFFECT THE ABILITY OF A GUARDIAN OR CONSERVATOR  
17 APPOINTED BY A COURT IN ANOTHER STATE TO SEEK APPOINTMENT AS  
18 GUARDIAN OF THE PERSON OR PROPERTY OF THE DISABLED PERSON UNDER  
19 TITLE 13 OF THIS ARTICLE.

20 SUBTITLE 4. REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER  
21 STATES.

22 13.5-401.

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

30 13.5-402.

31 IF A CONSERVATOR HAS NOT BEEN APPOINTED IN THIS STATE AND A  
32 PETITION FOR A PROTECTIVE ORDER IS NOT PENDING IN THIS STATE, A  
33 CONSERVATOR APPOINTED IN ANOTHER STATE, AFTER GIVING NOTICE TO THE  
34 APPOINTING COURT OF AN INTENT TO REGISTER, MAY REGISTER THE  
35 PROTECTIVE ORDER IN THIS STATE BY FILING AS A FOREIGN JUDGMENT IN A  
36 COURT OF THIS STATE, IN ANY COUNTY IN WHICH PROPERTY BELONGING TO

1 THE PROTECTED PERSON IS LOCATED, CERTIFIED COPIES OF THE ORDER, AND  
2 LETTERS OF OFFICE AND OF ANY BOND.

3 **13.5-403.**

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

11 (B) A COURT OF THIS STATE MAY GRANT ANY RELIEF AVAILABLE  
12 UNDER THIS TITLE AND OTHER LAW OF THIS STATE TO ENFORCE A REGISTERED  
13 ORDER.

14 **SUBTITLE 5. MISCELLANEOUS PROVISIONS.**

15 **13.5-501.**

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

20 **13.5-502.**

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

26 **13.5-503.**

27 THIS TITLE APPLIES TO GUARDIANSHIP AND PROTECTIVE PROCEEDINGS  
28 BEGINNING ON OR AFTER OCTOBER 1, 2010.

29 **13.5-504.**

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

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2010.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.