

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 230

AN ACT

To repeal sections 475.035 and 475.115, RSMo, and to enact in lieu thereof two new sections relating to venue in guardianship and conservatorship proceedings.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 475.035 and 475.115, RSMo, are repealed
2 and two new sections enacted in lieu thereof, to be known as
3 sections 475.035 and 475.115, to read as follows:

4 475.035. 1. The venue for the appointment of a guardian or
5 conservator shall be:

6 (1) In the county in this state where the minor or alleged
7 incapacitated or disabled person is domiciled. Domicile for a
8 minor is the domicile of the custodial parent, custodial parents,
9 or guardian. Placement by a court, fiduciary, or agency for
10 evaluation, treatment, or residential care shall not constitute a
11 choice of domicile by the minor or alleged incapacitated or
12 disabled person; however, for the purpose of determining
13 domicile, the court may consider the desire or intent of the
14 alleged incapacitated or disabled person to the extent he or she
15 has capacity; or

16 (2) If the minor or alleged incapacitated or disabled

1 person has no domicile in this state, then in the county in which
2 the minor or alleged incapacitated or disabled person [actually
3 resides, or if he or she does not reside in any county, then in
4 any county wherein there is any property of the minor or alleged
5 incapacitated or disabled person; or

6 (3) In the county, or on any federal reservation within the
7 county, wherein the minor or alleged incapacitated or disabled
8 person or his or her property is found; or

9 (4) In a county of this state which is within a judicial
10 circuit which has prior and continuing jurisdiction over the
11 minor pursuant to subdivision (1) of subsection 1 of section
12 211.031] has a significant connection. In determining under this
13 section whether a minor or alleged incapacitated or disabled
14 person has a significant connection, the court shall consider:

15 (a) Whether a juvenile, criminal, or probate court in a
16 county of this state has previously or currently assumed
17 jurisdiction over the minor or alleged incapacitated or disabled
18 person under chapter 211 or 552;

19 (b) The location of the minor's or alleged incapacitated or
20 disabled person's family and other persons required to be
21 notified of the guardianship or conservatorship;

22 (c) Whether the minor or alleged incapacitated or disabled
23 person has a residence or is physically present in the county and
24 the duration of his or her physical presence or absence;

25 (d) The location of the minor's or alleged incapacitated or
26 disabled person's property; and

27 (e) The extent to which the minor or alleged incapacitated
28 or disabled person has ties such as voting registration, local

1 tax return filing, vehicle registration, driver's license, social
2 relationships, or receipt of services.

3 2. [If the alleged incapacitated or disabled person has
4 resided in a county other than the county of his or her domicile
5 for more than one year, the court of that county may assume venue
6 for the purpose of appointment of a guardian or conservator] In
7 the event the venue for purposes of guardianship and
8 conservatorship are in different counties, venue shall be in the
9 county of the guardianship.

10 3. If proceedings are commenced in more than one county,
11 they shall be stayed except in the county where first commenced
12 until final determination of venue in the county where first
13 commenced. The proceeding is deemed commenced by the filing of a
14 petition[; and the proceeding first legally commenced to appoint
15 a conservator of the estate extends to all of the property of the
16 protectee in this state].

17 475.115. 1. When a guardian or conservator dies, is
18 removed by order of the court, or resigns and his or her
19 resignation is accepted by the court, the court shall have the
20 same authority as it has in like cases over personal
21 representatives and their sureties and may appoint another
22 guardian or conservator in the same manner and subject to the
23 same requirements as are herein provided for an original
24 appointment of a guardian or conservator.

25 2. A public administrator may request transfer of any case
26 to the jurisdiction of another county by filing a petition for
27 transfer. If [the receiving county meets the venue requirements
28 of section 475.035 and] the public administrator of the receiving

1 county consents to the transfer, the court shall transfer the
2 case. The court with jurisdiction over the receiving county
3 shall, without the necessity of any hearing as required by
4 section 475.075, appoint the public administrator of the
5 receiving county as successor guardian and/or successor
6 conservator and issue letters therein. In the case of a
7 conservatorship, the final settlement of the public
8 administrator's conservatorship shall be filed within thirty days
9 of the court's transfer of the case, in the court with
10 jurisdiction over the original conservatorship, and forwarded to
11 the receiving county upon audit and approval.