

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 213

96TH GENERAL ASSEMBLY

2011

0439L.06T

AN ACT

To repeal sections 194.115, 475.060, and 475.061, RSMo, and to enact in lieu thereof twenty-seven new sections relating to guardianship, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 194.115, 475.060, and 475.061, RSMo, are repealed
2 and twenty-seven new sections enacted in lieu thereof, to be known as sections
3 194.115, 475.060, 475.061, 475.501, 475.502, 475.503, 475.504, 475.505, 475.506,
4 475.521, 475.522, 475.523, 475.524, 475.525, 475.526, 475.527, 475.528, 475.529,
5 475.531, 475.532, 475.541, 475.542, 475.543, 475.544, 475.551, 475.552, and
6 475.555, to read as follows:

194.115. 1. Except when ordered or directed by a public officer, court of
2 record or agency authorized by law to order an autopsy or postmortem
3 examination, it is unlawful for any licensed physician and surgeon to perform an
4 autopsy or postmortem examination upon the remains of any person without the
5 consent of one of the following:

6 (1) The deceased, if in writing, and duly signed and acknowledged prior
7 to his death; or

8 (2) A person designated by the deceased in a durable power of attorney
9 that expressly refers to the giving of consent to an autopsy or postmortem
10 examination; or

11 (3) The surviving spouse; or

12 (4) If the surviving spouse through injury, illness or mental capacity is
13 incapable of giving his or her consent, or if the surviving spouse is unknown, or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

14 his or her address unknown or beyond the boundaries of the United States, or if
15 he or she has been separated and living apart from the deceased, or if there is no
16 surviving spouse, then any surviving child, parent, brother or sister, in the order
17 named; or

18 (5) If no surviving child, parent, brother or sister can be contacted by
19 telephone or telegraph, then any other relative, by blood or marriage; or

20 (6) If there are no relatives who assume the right to control the
21 disposition of the remains, then any person, friend or friends who assume such
22 responsibility.

23 **2. If an individual through injury, illness, or mental capacity is**
24 **incapable of giving consent prior to his or her death as contemplated**
25 **by subdivision (1) of subsection 1 of this section, then any child, parent,**
26 **brother or sister of said individual may petition the court to order that**
27 **an autopsy or postmortem examination shall be performed upon the**
28 **remains of said individual following his or her passing.**

29 **3.** If the surviving spouse, child, parent, brother or sister hereinabove
30 mentioned is under the age of twenty-one years, but over the age of sixteen years,
31 such minor shall be deemed of age for the purpose of granting the consent
32 hereinabove required.

33 **[3.] 4.** Any licensed physician and surgeon performing an autopsy or
34 postmortem examination with the consent of any of the persons enumerated in
35 subsection 1 of this section shall use his judgment as to the scope and extent to
36 be performed, and shall be in no way liable for such action.

37 **[4.] 5.** It is unlawful for any licensed physician, unless specifically
38 authorized by law, to hold a postmortem examination on any unclaimed dead
39 without the consent required by section 194.170.

40 **[5.] 6.** Any person not a licensed physician performing an autopsy or any
41 licensed physician performing an autopsy without the authorization herein
42 required shall upon conviction be adjudged guilty of a misdemeanor, and subject
43 to the penalty provided for in section 194.180.

44 **[6.] 7.** If an autopsy is performed on a deceased patient and an autopsy
45 report is prepared, such report shall be made available upon request to the
46 personal representative or administrator of the estate of the deceased, the
47 surviving spouse, any surviving child, parent, brother or sister of the deceased.

475.060. **1.** Any person may file a petition for the appointment of himself
2 **or herself** or some other qualified person as guardian of a minor [or guardian

3 of an incapacitated person]. Such petition shall state:

4 (1) The name, age, domicile, actual place of residence and post office
5 address of the minor [or incapacitated person] if known and if any of these facts
6 is unknown, the efforts made to ascertain that fact;

7 (2) The estimated value of [his] **the minor's** real and personal property,
8 **and the location and value of any real property owned by the minor**
9 **outside of this state;**

10 (3) If the minor [or incapacitated person] has no domicile or place of
11 residence in this state, the county in which the property or major part thereof of
12 the minor [or incapacitated person] is located;

13 (4) The name and address of the parents of the minor [or incapacitated
14 person] and whether they are living or dead;

15 (5) The name and address of the spouse, and the names, ages and
16 addresses of all living children of the minor [or incapacitated person];

17 (6) The name and address of the person having custody of the person of
18 the minor [or incapacitated person];

19 (7) The name and address of any guardian of the person or conservator
20 of the estate of the minor [or incapacitated person] appointed in this or any other
21 state;

22 (8) If appointment is sought for a natural person, other than the public
23 administrator, the names and addresses of wards and disabled persons for whom
24 such person is already guardian or conservator;

25 (9) [In the case of an incapacitated person, the fact that the person for
26 whom guardianship is sought is unable by reason of some specified physical or
27 mental condition to receive and evaluate information or to communicate decisions
28 to such an extent that the person lacks capacity to meet essential requirements
29 for food, clothing, shelter, safety or other care such that serious physical injury,
30 illness or disease is likely to occur] **The name and address of the trustees**
31 **and the purpose of any trust of which the minor is a qualified**
32 **beneficiary;**

33 (10) The reasons why the appointment of a guardian is sought;

34 (11) A petition for the appointment of a guardian of a minor may be filed
35 for the sole and specific purpose of school registration or medical insurance
36 coverage. Such a petition shall clearly set out this limited request and shall not
37 be combined with a petition for conservatorship.

38 **2. Any person may file a petition for the appointment of himself**

39 or herself or some other qualified person as guardian of an
40 incapacitated person. Such petition shall state:

41 (1) If known, the name, age, domicile, actual place of residence,
42 and post office address of the alleged incapacitated person, and for the
43 period of three years before the filing of the petition, the most recent
44 addresses, up to three, at which the alleged incapacitated person lived
45 prior to the most recent address, and if any of these facts is unknown,
46 the efforts made to ascertain that fact. In the case of a petition filed by
47 a public official in his or her official capacity, the information required
48 by this subdivision need only be supplied to the extent it is reasonably
49 available to the petitioner;

50 (2) The estimated value of the alleged incapacitated person's real
51 and personal property, and the location and value of any real property
52 owned by the alleged incapacitated person outside of this state;

53 (3) If the alleged incapacitated person has no domicile or place
54 of residence in this state, the county in which the property or major
55 part thereof of the alleged incapacitated person is located;

56 (4) The name and address of the parents of the alleged
57 incapacitated person and whether they are living or dead;

58 (5) The name and address of the spouse, the names, ages, and
59 addresses of all living children of the alleged incapacitated person, the
60 names and addresses of the alleged incapacitated person's closest
61 known relatives, and the names and relationship, if known, of any
62 adults living with the alleged incapacitated person; if no spouse, adult
63 child, or parent is listed, the names and addresses of the siblings and
64 children of deceased siblings of the alleged incapacitated person; the
65 name and address of any agent appointed by the alleged incapacitated
66 person in any durable power of attorney, and of the presently acting
67 trustees of any trust of which the alleged incapacitated person is the
68 grantor or is a qualified beneficiary or is or was the trustee or co-
69 trustee and the purpose of the power of attorney or trust;

70 (6) The name and address of the person having custody of the
71 person of the alleged incapacitated person;

72 (7) The name and address of any guardian of the person or
73 conservator of the estate of the alleged incapacitated person appointed
74 in this or any other state;

75 (8) If appointment is sought for a natural person, other than the

76 **public administrator, the names and addresses of wards and disabled**
77 **persons for whom such person is already guardian or conservator;**

78 **(9) The fact that the person for whom guardianship is sought is**
79 **unable by reason of some specified physical or mental condition to**
80 **receive and evaluate information or to communicate decisions to such**
81 **an extent that the person lacks capacity to meet essential requirements**
82 **for food, clothing, shelter, safety, or other care such that serious**
83 **physical injury, illness, or disease is likely to occur;**

84 **(10) The reasons why the appointment of a guardian is sought.**

475.061. 1. Any person may file a petition in the probate division of the
2 circuit court of the county of proper venue for the appointment of himself or some
3 other qualified person as conservator of the estate of a minor or disabled
4 person. The petition shall contain the same allegations as are set forth in
5 subdivisions (1), (8), and (10) of **subsection 2** of section 475.060 with respect to
6 the appointment of a guardian for an incapacitated person and, in addition
7 thereto, an allegation that the respondent is unable by reason of some specific
8 physical or mental condition to receive and evaluate information or to
9 communicate decisions to such an extent that the respondent lacks ability to
10 manage his financial resources or that the respondent is under the age of
11 eighteen years.

12 2. A petition for appointment of a conservator or limited conservator of
13 the estate may be combined with a petition for appointment of a guardian or
14 limited guardian of the person. In such a combined petition allegations need not
15 be repeated.

16 **ARTICLE 1**

17 **GENERAL PROVISIONS**

475.501. Sections 475.501 to 475.555 may be cited as the "Uniform
2 **Adult Guardianship and Protective Proceedings Jurisdiction Act".**

475.502. Notwithstanding the definitions in section 475.010, when
2 **used in sections 475.501 to 475.555, the following terms mean:**

3 **(1) "Adult", an individual who has attained eighteen years of age;**

4 **(2) "Conservator", a person appointed by the court to administer**
5 **the property of an adult, including a person appointed under this**
6 **chapter;**

7 **(3) "Guardian", a person appointed by the court to make**
8 **decisions regarding the person of an adult, including a person**

- 9 appointed under this chapter;
- 10 (4) "Guardianship order", an order appointing a guardian;
- 11 (5) "Guardianship proceeding", a proceeding in which an order
12 for the appointment of a guardian is sought or has been issued;
- 13 (6) "Incapacitated person", an adult for whom a guardian has
14 been appointed;
- 15 (7) "Party", the respondent, petitioner, guardian, conservator, or
16 any other person allowed by the court to participate in a guardianship
17 or protective proceeding;
- 18 (8) "Person", except in the term "incapacitated person" or
19 "protected person", an individual, corporation, business trust, estate,
20 trust, partnership, limited liability company, association, joint venture,
21 public corporation, government or governmental subdivision, agency,
22 or instrumentality, or any other legal or commercial entity;
- 23 (9) "Protected person", an adult for whom a protective order has
24 been issued;
- 25 (10) "Protective order", an order appointing a conservator or
26 other order related to management of an adult's property;
- 27 (11) "Protective proceeding", a judicial proceeding in which a
28 protective order is sought or has been issued;
- 29 (12) "Record", information that is inscribed on a tangible medium
30 or that is stored in an electronic or other medium and is retrievable in
31 perceivable form;
- 32 (13) "Respondent", an adult for whom a protective order or the
33 appointment of a guardian is sought;
- 34 (14) "State", a state of the United States, the District of Columbia,
35 Puerto Rico, the United States Virgin Islands, a federally recognized
36 Indian tribe, or any territory or insular possession subject to the
37 jurisdiction of the United States.

475.503. A court of this state may treat a foreign country as if it
2 were a state for the purpose of applying this article and articles 2, 3,
3 and 5.

475.504. 1. A court of this state may communicate with a court
2 in another state concerning a proceeding arising under sections 475.501
3 to 475.555. The court may allow the parties to participate in the
4 communication. Except as otherwise provided in subsection 2 of this
5 section, the court shall make a record of the communication. The

6 record may be limited to the fact that the communication occurred.

7 2. Courts may communicate concerning schedules, calendars,
8 court records, and other administrative matters without making a
9 record.

475.505. 1. In a guardianship or protective proceeding in this
2 state, 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 that state to produce evidence or give
6 testimony pursuant to procedures of that state;

7 (3) Order that an evaluation or assessment be made of the
8 respondent;

9 (4) Order any appropriate investigation of a person involved in
10 a proceeding;

11 (5) Forward to the court of this state a certified copy of the
12 transcript or other record of a hearing under subdivision (1) of
13 subsection 1 of this section or any other proceeding, any evidence
14 otherwise produced under subdivision (2) of subsection 1 of this
15 section, and any evaluation or assessment prepared in compliance with
16 an order under subdivisions (3) and (4) of subsection 1 of this section;

17 (6) Issue any order necessary to assure the appearance in the
18 proceeding of a person whose presence is necessary for the court to
19 make a determination, including the respondent or the incapacitated
20 or protected person;

21 (7) Issue an order authorizing the release of medical, financial,
22 criminal, or other relevant information in that state, including
23 protected health information as defined in 45 CFR 160.103, as amended.

24 2. 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 1 of this section, a court of this state has
27 jurisdiction for the limited purpose of granting the request or making
28 reasonable efforts to comply with the request.

475.506. 1. In a guardianship or protective proceeding, in
2 addition to other procedures that may be available, testimony of a
3 witness who is located in another state may be offered by deposition or
4 other means allowable in this state for testimony taken in another
5 state. The court on its own motion may order that the testimony of a

6 witness be taken in another state and may prescribe the manner in
7 which and the terms upon which the testimony is to be taken.

8 2. In a guardianship or protective proceeding, a court in this
9 state may permit a witness located in another state to be deposed or to
10 testify by telephone or audiovisual or other electronic means. A court
11 of this state shall cooperate with the court of the other state in
12 designating an appropriate location for the deposition or testimony.

13 3. Documentary evidence transmitted from another state to a
14 court of this state by technological means that do not produce an
15 original writing may not be excluded from evidence on an objection
16 based on the best evidence rule.

17 ARTICLE 2

18 JURISDICTION

475.521. 1. In this article, the following terms mean:

2 (1) "Emergency", a circumstance that likely will result in
3 substantial harm to a respondent's health, safety, or welfare, and for
4 which the appointment of a guardian is necessary because no other
5 person has authority and is willing to act on the respondent's behalf;

6 (2) "Home state", the state in which the respondent was
7 physically present, including any period of temporary absence, for at
8 least six consecutive months immediately before the filing of a petition
9 for a protective order or the appointment of a guardian; or if none, the
10 state in which the respondent was physically present, including any
11 period of temporary absence, for at least six consecutive months ending
12 within the six months prior to the filing of the petition;

13 (3) "Significant-connection state", a state, other than the home
14 state, with which a respondent has a significant connection other than
15 mere physical presence and in which substantial evidence concerning
16 the respondent is available.

17 2. In determining under section 475.523 and subsection 5 of
18 section 475.531 whether a respondent has a significant connection with
19 a particular state, the court shall consider:

20 (1) The location of the respondent's family and other persons
21 required to be notified of the guardianship or protective proceeding;

22 (2) The length of time the respondent at any time was physically
23 present in the state and the duration of any absence;

24 (3) The location of the respondent's property; and

25 (4) The extent to which the respondent has ties to the state such
26 as voting registration, state or local tax return filing, vehicle
27 registration, driver's license, social relationship, and receipt of
28 services.

 475.522. This article provides the exclusive jurisdictional basis
2 for a court of this state to appoint a guardian or issue a protective
3 order for an adult.

 475.523. A court of this state has jurisdiction to appoint a
2 guardian or issue a protective order for a respondent if:

3 (1) This state is the respondent's home state;

4 (2) On the date a petition is filed, this state is a significant-
5 connection state and:

6 (a) The respondent does not have a home state or a court of the
7 respondent's home state has declined to exercise jurisdiction because
8 this state is a more appropriate forum; or

9 (b) The respondent has a home state, a petition for an
10 appointment or order is not pending in a court of that state or another
11 significant-connection state, and, before the court makes the
12 appointment or issues the order:

13 a. A petition for an appointment or order is not filed in the
14 respondent's home state;

15 b. An objection to the court's jurisdiction is not filed by a person
16 required to be notified of the proceeding; and

17 c. The court in this state concludes that it is an appropriate
18 forum under the factors set forth in section 475.526;

19 (3) This state does not have jurisdiction under either
20 subdivisions (1) or (2) of this section, the respondent's home state and
21 all significant-connection states have declined to exercise jurisdiction
22 because this state is the more appropriate forum, and jurisdiction in
23 this state is consistent with the constitutions of this state and the
24 United States; or

25 (4) The requirements for special jurisdiction under section
26 475.524 are met.

 475.524. 1. A court of this state lacking jurisdiction under
2 section 475.523 has special jurisdiction to do any of the following:

3 (1) Appoint a guardian in an emergency for a term not exceeding
4 ninety days for a respondent who is physically present in this state;

5 **(2) Issue a protective order with respect to real or tangible**
6 **personal property located in this state;**

7 **(3) Appoint a guardian or conservator for an incapacitated or**
8 **protected person for whom a provisional order to transfer the**
9 **proceeding from another state has been issued under procedures**
10 **similar to section 475.531.**

11 **2. If a petition for the appointment of a guardian in an**
12 **emergency is brought in this state and this state was not the**
13 **respondent's home state on the date the petition was filed, the court**
14 **shall dismiss the proceeding at the request of the court of the home**
15 **state, if any, whether dismissal is requested before or after the**
16 **emergency appointment.**

475.525. Except as otherwise provided in section 475.524, a court
2 **that has appointed a guardian or issued a protective order consistent**
3 **with sections 475.501 to 475.555 has exclusive and continuing**
4 **jurisdiction over the proceeding until it is terminated by the court or**
5 **the appointment or order expires by its own terms.**

475.526. 1. A court of this state having jurisdiction under section
2 **475.523 to appoint a guardian or issue a protective order may decline**
3 **to exercise its jurisdiction if it determines at any time that a court of**
4 **another state is a more appropriate forum.**

5 **2. If a court of this state declines to exercise its jurisdiction**
6 **under subsection 1 of this section, it shall either dismiss or stay the**
7 **proceeding. The court may impose any condition the court considers**
8 **just and proper, including the condition that a petition for the**
9 **appointment of a guardian or protective order be promptly filed in**
10 **another state.**

11 **3. In determining whether it is an appropriate forum, the court**
12 **shall consider all relevant factors, including:**

13 **(1) Any expressed preference of the respondent;**

14 **(2) Whether abuse, neglect, or exploitation of the respondent has**
15 **occurred or is likely to occur and which state could best protect the**
16 **respondent from the abuse, neglect, or exploitation;**

17 **(3) The length of time the respondent was physically present in**
18 **or was a legal resident of this or another state;**

19 **(4) The distance of the respondent from the court in each state;**

20 **(5) The financial circumstances of the respondent's estate;**

- 21 **(6) The nature and location of the evidence;**
22 **(7) The ability of the court in each state to decide the issue**
23 **expeditiously and the procedures necessary to present evidence;**
24 **(8) The familiarity of the court of each state with the facts and**
25 **issues in the proceeding; and**
26 **(9) If an appointment were made, the court's ability to monitor**
27 **the conduct of the guardian or conservator.**

475.527. 1. If at any time a court of this state determines that it
2 **acquired jurisdiction to appoint a guardian or issue a protective order**
3 **because of unjustifiable conduct, the court may:**

- 4 **(1) Decline to exercise jurisdiction;**
5 **(2) Exercise jurisdiction for the limited purpose of fashioning an**
6 **appropriate remedy to ensure the health, safety, and welfare of the**
7 **respondent or the protection of the respondent's property or prevent**
8 **a repetition of the unjustifiable conduct, including staying the**
9 **proceeding until a petition for the appointment of a guardian or**
10 **issuance of a protective order is filed in a court of another state having**
11 **jurisdiction; or**
12 **(3) Continue to exercise jurisdiction after considering:**
13 **(a) The extent to which the respondent and all persons required**
14 **to be notified of the proceedings have acquiesced in the exercise of the**
15 **court's jurisdiction;**
16 **(b) Whether it is a more appropriate forum than the court of any**
17 **other state under the factors set forth in subsection 3 of section 475.526;**
18 **and**
19 **(c) Whether the court of any other state would have jurisdiction**
20 **under factual circumstances in substantial conformity with the**
21 **jurisdictional standards of section 475.523.**

22 **2. If a court of this state determines that it acquired jurisdiction**
23 **to appoint a guardian or issue a protective order because a party**
24 **seeking to invoke its jurisdiction engaged in unjustifiable conduct, it**
25 **may assess against that party necessary and reasonable expenses,**
26 **including attorney's fees, investigative fees, court costs, communication**
27 **expenses, witness fees and expenses, and travel expenses. The court**
28 **may not assess fees, costs, or expenses of any kind against this state or**
29 **a governmental subdivision, agency, or instrumentality of this state**
30 **unless authorized by law other than sections 475.501 to 475.555.**

475.528. If a petition for the appointment of a guardian or
2 issuance of a protective order is brought in this state and this state was
3 not the respondent's home state on the date the petition was filed, in
4 addition to complying with the notice requirements of this state, notice
5 of the petition shall be given to those persons who would be entitled to
6 notice of the petition if a proceeding were brought in the respondent's
7 home state. The notice shall be given in the same manner as notice is
8 required to be given in this state.

475.529. Except for a petition for the appointment of a guardian
2 in an emergency or issuance of a protective order limited to property
3 located in this state as provided in subdivision (1) or (2) of subsection
4 1 of section 475.524, if a petition for the appointment of a guardian or
5 issuance of a protective order is filed in this and in another state and
6 neither petition has been dismissed or withdrawn, the following rules
7 apply:

8 (1) If the court in this state has jurisdiction under section
9 475.523, it may proceed with the case unless a court in another state
10 acquires jurisdiction under provisions similar to section 475.523 before
11 the appointment or issuance of the order.

12 (2) If the court in this state does not have jurisdiction under
13 section 475.523, whether at the time the petition is filed or at any time
14 before the appointment or issuance of the order, the court shall stay
15 the proceeding and communicate with the court in the other state. If
16 the court in the other state has jurisdiction, the court in this state shall
17 dismiss the petition unless the court in the other state determines that
18 the court in this state is a more appropriate forum.

ARTICLE 3

TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

475.531. 1. A guardian or conservator appointed in this state
2 may petition the court to transfer the guardianship or conservatorship
3 to another state.

4 2. Notice of a petition under subsection 1 of this section shall be
5 given to those persons that would be entitled to notice of a petition in
6 this state for the appointment of a guardian or conservator.

7 3. On the court's own motion or on request of the guardian or
8 conservator, the incapacitated or protected person, or other person
9 required to be notified of the petition, the court shall hold a hearing on

10 a petition filed pursuant to subsection 1 of this section.

11 4. The court shall issue an order provisionally granting a
12 petition to transfer a guardianship and shall direct the guardian to
13 petition for guardianship in the other state if the court is satisfied that
14 the guardianship will be accepted by the court in the other state and
15 the court finds that:

16 (1) The incapacitated person is physically present in or is
17 reasonably expected to move permanently to the other state;

18 (2) An objection to the transfer has not been made or, if an
19 objection has been made, the objector has not established that the
20 transfer would be contrary to the interests of the incapacitated person;
21 and

22 (3) Plans for care and services for the incapacitated person in
23 the other state are reasonable and sufficient.

24 5. The court shall issue a provisional order granting a petition
25 to transfer a conservatorship and shall direct the conservator to
26 petition for conservatorship in the other state if the court is satisfied
27 that the conservatorship will be accepted by the court of the other state
28 and the court finds that:

29 (1) The protected person is physically present in or is reasonably
30 expected to move permanently to the other state, or the protected
31 person has a significant connection to the other state considering the
32 factors set forth in subsection 2 of section 475.521;

33 (2) An objection to the transfer has not been made or, if an
34 objection has been made, the objector has not established that the
35 transfer would be contrary to the interests of the protected person; and

36 (3) Adequate arrangements will be made for management of the
37 protected person's property.

38 6. The court shall issue a final order confirming the transfer and
39 terminating the guardianship or conservatorship upon its receipt of:

40 (1) A provisional order accepting the proceeding from the court
41 to which the proceeding is to be transferred which is issued under
42 provisions similar to section 475.532; and

43 (2) The documents required to terminate a guardianship or
44 conservatorship in this state.

475.532. 1. To confirm transfer of a guardianship or
2 conservatorship transferred to this state under provisions similar to

3 those in section 475.531, the guardian or conservator shall petition the
4 court in this state to accept the guardianship or conservatorship. The
5 petition shall include a certified copy of the other state's provisional
6 order of transfer.

7 2. Notice of a petition under subsection 1 of this section shall be
8 given to those persons that would be entitled to notice if the petition
9 were a petition for the appointment of a guardian or issuance of a
10 protective order in both the transferring state and this state. The
11 notice shall be given in the same manner as notice is required to be
12 given in this state.

13 3. On the court's own motion or on request of the guardian or
14 conservator, the incapacitated or protected person, or other person
15 required to be notified of the proceeding, the court shall hold a hearing
16 on a petition filed pursuant to subsection 1 of this section.

17 4. The court shall issue an order provisionally granting a
18 petition filed under subsection 1 of this section unless:

19 (1) An objection is made and the objector establishes that
20 transfer of the proceeding would be contrary to the interests of the
21 incapacitated or protected person; or

22 (2) The guardian or conservator is ineligible for appointment in
23 this state.

24 5. The court shall issue a final order accepting the proceeding
25 and appointing the guardian or conservator as guardian or conservator
26 in this state upon its receipt from the court from which the proceeding
27 is being transferred of a final order issued under provisions similar to
28 section 475.531 transferring the proceeding to this state.

29 6. Not later than ninety days after issuance of a final order
30 accepting transfer of a guardianship or conservatorship, the court shall
31 determine whether the guardianship or conservatorship needs to be
32 modified to conform to the law of this state.

33 7. In granting a petition under this section, the court shall
34 recognize a guardianship or conservatorship order from the other state,
35 including the determination of the incapacitated or protected person's
36 incapacity and the appointment of the guardian or conservator.

37 8. The denial by a court of this state of a petition to accept
38 guardianship or conservatorship transferred from another state does
39 not affect the ability of the guardian or conservator to seek

40 appointment as guardian or conservator in this state under this
41 chapter if the court has jurisdiction to make an appointment other than
42 by reason of the provisional order of transfer.

43

ARTICLE 444 **REGISTRATION AND RECOGNITION OF ORDERS FROM OTHER STATES**

475.541. If a guardian has been appointed in another state and
2 a petition for the appointment of a guardian is not pending in this
3 state, the guardian appointed in the other state, after giving notice to
4 the appointing court of an intent to register, may register the
5 guardianship order in this state by filing as a foreign judgment in a
6 court, in any appropriate county of this state, certified copies of the
7 order and letters of office.

475.542. If a conservator has been appointed in another state and
2 a petition for a protective order is not pending in this state, the
3 conservator appointed in the other state, after giving notice to the
4 appointing court of an intent to register, may register the protective
5 order in this state by filing as a foreign judgment in a court of this
6 state, in any county in which property belonging to the protected
7 person is located, certified copies of the order and letters of office and
8 of any bond.

475.543. 1. Upon registration of a guardianship or protective
2 order from another state, the guardian or conservator may exercise in
3 this state all powers authorized in the order of appointment except as
4 prohibited under the laws of this state, including maintaining actions
5 and proceedings in this state and, if the guardian or conservator is not
6 a resident of this state, subject to any conditions imposed upon
7 nonresident parties.

8 2. A court of this state may grant any relief available under
9 sections 475.501 to 475.555 and other law of this state to enforce a
10 registered order.

475.544. Except where inconsistent with sections 475.541, 475.542,
2 and 475.543, the laws of this state relating to the registration and
3 recognition of the acts of a foreign guardian, curator, or conservator
4 contained in sections 475.335 to 475.340 shall be applicable.

5

ARTICLE 5

6

MISCELLANEOUS PROVISIONS

475.551. In applying and construing this uniform act,
2 consideration shall be given to the need to promote uniformity of the
3 law with respect to its subject matter among states that enact it.

475.552. Sections 475.501 to 475.555 modify, limit, and supersede
2 the federal Electronic Signatures in Global and National Commerce Act,
3 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede
4 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize
5 electronic delivery of any of the notices described in Section 103(b) of
6 that act, 15 U.S.C. Section 7003(b).

475.555. 1. Sections 475.501 to 475.555 apply to guardianship and
2 protective proceedings begun on or after August 28, 2011.

3 2. Articles 1, 3, 4, and sections 475.551 and 475.552 apply to
4 proceedings begun before August 28, 2011, regardless of whether a
5 guardianship or protective order has been issued.

✓

Bill

Copy