

HOUSE RESEARCH

Bill Summary

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Subject: Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

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Overview

This bill enacts the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. The uniform act would establish procedures and standards for recognizing and interacting with guardianship and protective order proceedings and appointments from outside of Minnesota.

Section

- 1** **Transfer of jurisdiction.** Modifies an existing section of law related to transfer of jurisdiction in a guardianship proceeding so that it applies only to proceedings involving minors.
- 2** **Title.** Provides that this bill constitutes the “Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.”
- 3** **Definitions.** Establishes definitions for a number of terms used throughout the bill.
- 4** **International application.** Provides that a court may treat a foreign country as the equivalent of another state for purposes of implementing the provisions of this bill.
- 5** **Communication between courts.** Provides that a court in Minnesota may communicate with a court of another state related to a matter proceeding under the provisions of this bill. A record of the communication must be made in most circumstances, and the parties may be allowed to participate.
- 6** **Cooperation between courts.** Provides that a Minnesota court may request the assistance of the court of another state in conducting certain hearings or making specified orders to facilitate the proceeding in Minnesota. This section also provides that Minnesota courts have limited jurisdiction to respond to a similar request by a court of another state.
- 7** **Out-of-state testimony.** Permits a witness who is located in another state to give testimony, by deposition or other allowable means, in a matter proceeding in Minnesota

court. This section also provides that documents transmitted from out-of-state to a Minnesota court that do not result in an original document being in the possession of the Minnesota court may not be excluded from evidence by the best evidence rule.

- 8 Significant connection factors.** Provides definitions and standards for determining whether an individual has “significant connections” with a state. The existence of a significant connection is necessary to establish jurisdiction in a court in most cases.
- 9 Exclusive basis for jurisdiction.** Provides that the provisions contained in the bill form the exclusive basis for the jurisdiction of a Minnesota court to appoint a guardian or issue a protective order for an adult.
- 10 Jurisdiction.** Provides the conditions under which a Minnesota court has jurisdiction to appoint a guardian or issue a protective order for an adult respondent.
- 11 Special jurisdiction.** Provides that, even if a Minnesota court does not have jurisdiction over a matter generally, the court does have special jurisdiction:
- (1) to appoint a guardian in an emergency, if the person to be protected is located within the state;
 - (2) to issue a protective order related to real or tangible personal property located within the state; and
 - (3) to appoint a guardian or conservator for an incapacitated or protected person from whom a provision order has been entered to transfer the proceeding to Minnesota from another state.
- 12 Exclusive and continuing jurisdiction.** Provides that a court has continuing and exclusive jurisdiction over a proceeding until it is terminated by the court or the appointment of a guardian or conservator expires. Continuing and exclusive jurisdiction does not apply if the court’s jurisdiction is based on the special jurisdiction provisions established in section 10 of the bill.
- 13 Forum.** Provides that a court may decline to exercise jurisdiction if it determines that the court of another state is a more appropriate forum. A number of factors to consider when determining the appropriateness of a forum are provided.
- 14 Jurisdiction declined; unjustifiable conduct.** Permits the court to decline jurisdiction, exercise limited jurisdiction, or continue to exercise full jurisdiction in the event it determines that the jurisdiction was acquired as a result of unjustifiable conduct. To continue exercising full jurisdiction, the court must weigh several factors provided in the bill.
- The court may assess necessary and reasonable expenses, including attorney’s fees, against a party determined to have engaged in unjustifiable conduct leading to jurisdiction, except that these expenses may not be assessed against a governmental unit unless otherwise authorized by law.
- 15 Notice of proceeding.** Establishes notice requirements in the event a petition is filed for the appointment of a guardian or issuance of a protective order in Minnesota, if the respondent’s home state is not Minnesota.

- 16 Proceedings in more than one state.** Establishes rules for moving forward with a proceeding if a petition for appointment of a guardian or issuance of a protective order is filed and active in both Minnesota and another state simultaneously.
- 17 Transfer to another state.** Establishes the procedure for transferring a guardianship or conservatorship to another state.
- 18 Transfer from another state.** Establishes the procedure for accepting a guardianship or conservatorship transfer into Minnesota from another state.
- 19 Registration of guardianship.** Permits a guardian who has been appointed in another state to register the guardianship in Minnesota, even if a petition for the appointment of a guardian is not pending in Minnesota.
- 20 Registration of protective order.** Permits a conservator appointed in another state to register a protective order in Minnesota, if the protective order was originally issued in another state.
- 21 Effect of registration.** Permits a guardian or conservator who registers their appointment or protective order from another state in the state of Minnesota to exercise all powers authorized by the appointment or protective order, unless a power is specifically prohibited by Minnesota law.
- 22 Effective date.** Provides a delayed effective date for the bill: January 1, 2010, with some specified applicability exceptions.