

The Senate Committee on Health and Human Services offered the following substitute to HB 954:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward,  
2 so as to enact the "Uniform Adult Guardianship and Conservatorship Proceedings  
3 Jurisdiction Act"; to provide for a short title; to provide for definitions; to provide for  
4 international application; to provide for communications and cooperation between courts; to  
5 provide for taking testimony in another state; to provide for jurisdiction and special  
6 jurisdiction; to provide for jurisdiction declined by reason of conduct; to provide for notice  
7 of proceedings and proceedings in more than one state; to provide for transfer of  
8 guardianship or conservatorship to another state; to provide for acceptance of guardianship  
9 or conservatorship transferred from another state; to provide for registration and recognition  
10 from other states; to provide for uniformity of application and construction; to provide for  
11 relation to electronic signature; to provide for applicability; to repeal certain provisions  
12 relating to procedure and transfers of guardianship and conservatorship; to provide for related  
13 matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

15 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is  
16 amended by adding a new chapter to read as follows:  
17

"CHAPTER 11

ARTICLE 1

18 29-11-1.

19 This chapter shall be known and may be cited as the 'Uniform Adult Guardianship and  
20 Conservatorship Proceedings Jurisdiction Act.'  
21  
22

23 29-11-2.

24 As used in this chapter, the term:

25 (1) 'Conservatorship order' means an order appointing a conservator or other order  
26 related to management of an adult's property.

27 (2) 'Conservatorship proceeding' means a judicial proceeding in which a conservatorship  
28 order is sought or has been issued.

29 (3) 'Emergency' means a circumstance that likely will result in substantial harm to a  
30 respondent's health, safety, or welfare and for which the appointment of a guardian is  
31 necessary because no other person has authority and is willing to act on the respondent's  
32 behalf.

33 (4) 'Guardianship order' means an order appointing a guardian.

34 (5) 'Guardianship proceeding' means a judicial proceeding in which an order for the  
35 appointment of a guardian is sought or has been issued.

36 (6) 'Home state' means the state in which the respondent was physically present,  
37 including any period of temporary absence, for at least six consecutive months  
38 immediately before the filing of a petition for a conservatorship order or the appointment  
39 of a guardian or, if none, the state in which the respondent was physically present,  
40 including any period of temporary absence, for at least six consecutive months ending  
41 within the six months prior to the filing of the petition.

42 (7) 'Incapacitated person' means an adult for whom a guardian has been appointed,  
43 including a ward, as defined in paragraph (27) of Code Section 29-1-1.

44 (8) 'Party' means the respondent, petitioner, guardian, conservator, or any other person  
45 allowed by the court to participate in a guardianship proceeding or conservatorship  
46 proceeding.

47 (9) 'Person,' except in the term 'incapacitated person' or 'protected person,' means an  
48 individual, corporation, business trust, estate, trust, partnership, limited liability company,  
49 association, joint venture, public corporation, government or governmental subdivision,  
50 agency, or instrumentality or any other legal or commercial entity.

51 (10) 'Protected person' means an adult for whom a conservatorship order has been issued,  
52 including a ward, as defined in paragraph (27) of Code Section 29-1-1.

53 (11) 'Record' means information that is inscribed on a tangible medium or that is stored  
54 in an electronic or other medium and is retrievable in perceivable form.

55 (12) 'Respondent' means an adult for whom a conservatorship order or the appointment  
56 of a guardian is sought, including a proposed ward as defined in paragraph (16) of Code  
57 Section 29-1-1.

58 (13) 'Significant-connection state' means a state, other than the home state, with which  
59 a respondent has a significant connection other than mere physical presence and in which  
60 substantial evidence concerning the respondent is available.

61 (14) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the  
62 United States Virgin Islands, a federally recognized Indian tribe, or any territory or  
63 insular possession subject to the jurisdiction of the United States.

64 29-11-3.

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

67 29-11-4.

68 (a) A court of this state may communicate with a court in another state concerning a  
69 proceeding arising under this chapter. The court may allow the parties to participate in the  
70 communication. Except as otherwise provided in subsection (b) of this Code section, the  
71 court shall make a record of the communication. The record may be limited to the fact that  
72 the communication occurred.

73 (b) Courts may communicate concerning schedules, calendars, court records, and other  
74 administrative matters without making a record.

75 29-11-5.

76 (a) In a guardianship proceeding or conservatorship proceeding in this state, a court of this  
77 state may request the appropriate court of another state to do any of the following:

78 (1) Hold an evidentiary hearing;

79 (2) Order a person in that state to produce evidence or give testimony pursuant to  
80 procedures of that state;

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

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

83 (5) Forward to the court of this state a certified copy of the transcript or other record of  
84 a hearing under paragraph (1) of this subsection or any other proceeding, any evidence  
85 otherwise produced under paragraph (2) of this subsection, and any evaluation or  
86 assessment prepared in compliance with an order under paragraph (3) or (4) of this  
87 subsection;

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

91 (7) Issue an order authorizing the release of medical, financial, criminal, or other relevant  
 92 information in that state, including protected health information as defined in 45 C.F.R.  
 93 160.103, as amended.

94 (b) If a court of another state in which a guardianship proceeding or conservatorship  
 95 proceeding is pending requests a court of this state to do any action included in subsection  
 96 (a) of this Code section, such court of this state shall have jurisdiction for the limited  
 97 purpose of granting the request or making reasonable efforts to comply with the request.

98 29-11-6.

99 (a) In a guardianship proceeding or conservatorship proceeding, in addition to other  
 100 procedures that may be available, testimony of a witness who is located in another state  
 101 may be offered by deposition or other means allowable in this state for testimony taken in  
 102 another state. The court on its own motion may order that the testimony of a witness be  
 103 taken in another state and may prescribe the manner in which and the terms upon which the  
 104 testimony is to be taken.

105 (b) In a guardianship proceeding or conservatorship proceeding, a court in this state may  
 106 permit a witness located in another state to be deposed or to testify by telephone or  
 107 audiovisual or other electronic means. A court of this state shall cooperate with the court  
 108 of the other state in designating an appropriate location for the deposition or testimony.

109 (c) Documentary evidence transmitted from another state to a court of this state by  
 110 technological means that do not produce an original writing may not be excluded from  
 111 evidence on an objection based on the best evidence rule as provided for under Chapter 10  
 112 of Title 24.

## 113 ARTICLE 2

114 29-11-10.

115 In determining under Code Section 29-11-12 and subsection (e) of Code Section 29-11-20  
 116 whether a respondent has a significant connection with a particular state, the court shall  
 117 consider:

118 (1) The location of the respondent's family and other persons required to be notified of  
 119 the guardianship proceeding or conservatorship proceeding;

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

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

123 (4) The extent to which the respondent has ties to the state such as voting registration,  
 124 state or local tax return filing, vehicle registration, driver's license, social relationship, and  
 125 receipt of services; and

126 (5) The extent to which the respondent considers or, in the absence of an impairment of  
 127 mental faculties, would consider himself or herself to have a significant connection with  
 128 the state.

129 29-11-11.

130 This article provides the exclusive jurisdictional basis for a court of this state to appoint a  
 131 guardian or issue a conservatorship order for an adult.

132 29-11-12.

133 A court of this state has jurisdiction to appoint a guardian or issue a conservatorship order  
 134 for a respondent if:

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

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

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

140 (B) The respondent has a home state, a petition for an appointment or order is not  
 141 pending in a court of that state or another significant-connection state, and, before the  
 142 court makes the appointment or issues the order:

143 (i) A petition for an appointment or order is not filed in the respondent's home state;

144 (ii) An objection to the court's jurisdiction is not filed by a person required to be  
 145 notified of the proceeding; and

146 (iii) The court in this state concludes that it is an appropriate forum under the factors  
 147 set forth in Code Section 29-11-15;

148 (3) This state does not have jurisdiction under either paragraph (1) or (2) of this Code  
 149 section, the respondent's home state and all significant-connection states have declined  
 150 to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction  
 151 in this state is consistent with the Constitutions of this state and the United States; or

152 (4) The requirements for special jurisdiction under Code Section 29-11-13 are met.

153 29-11-13.

154 (a) A court of this state lacking jurisdiction under paragraphs (1) through (3) of Code  
 155 Section 29-11-12 has special jurisdiction to do any of the following:

156 (1) Appoint a guardian in an emergency for a term not exceeding 90 days for a  
 157 respondent who is physically present in this state;

158 (2) Issue a conservatorship order with respect to real or tangible personal property  
 159 located in this state; or

160 (3) Appoint a guardian or conservator for an incapacitated person or protected person for  
 161 whom a provisional order to transfer the proceeding from another state has been issued  
 162 under procedures similar to Code Section 29-11-20.

163 (b) If a petition for the appointment of a guardian in an emergency is brought in this state  
 164 and this state was not the respondent's home state on the date the petition was filed, the  
 165 court shall dismiss the proceeding at the request of the court of the home state, if any,  
 166 whether dismissal is requested before or after the emergency appointment.

167 29-11-14.

168 Except as otherwise provided in Code Section 29-11-13, a court that has appointed a  
 169 guardian or issued a conservatorship order consistent with this chapter shall have exclusive  
 170 and continuing jurisdiction over the proceeding until it is terminated by the court or the  
 171 appointment or order expires by its own terms.

172 29-11-15.

173 (a) A court of this state having jurisdiction under Code Section 29-11-12 to appoint a  
 174 guardian or conservator may decline to exercise its jurisdiction if it determines at any time  
 175 that a court of another state is a more appropriate forum.

176 (b) If a court of this state declines to exercise its jurisdiction under subsection (a) of this  
 177 Code section, it shall either dismiss or stay the proceeding. The court may impose any  
 178 condition the court considers just and proper, including the condition that a petition for the  
 179 appointment of a guardian or issuance of a conservatorship order be filed promptly in  
 180 another state.

181 (c) In determining whether it is an appropriate forum, the court shall consider all relevant  
 182 factors, including:

183 (1) Any expressed preference of the respondent;

184 (2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to  
 185 occur and which state could best protect the respondent from the abuse, neglect, or  
 186 exploitation;

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

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

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

- 191 (6) The nature and location of the evidence;  
 192 (7) The ability of the court in each state to decide the issue expeditiously and the  
 193 procedures necessary to present evidence;  
 194 (8) The familiarity of the court of each state with the facts and issues in the proceeding;  
 195 and  
 196 (9) If an appointment were made, the court's ability to monitor the conduct of the  
 197 guardian or conservator.

198 29-11-16.

199 (a) If at any time a court of this state determines that it acquired jurisdiction to appoint a  
 200 guardian or issue a conservatorship order because of unjustifiable conduct, the court may:

201 (1) Decline to exercise jurisdiction;

202 (2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to  
 203 ensure the health, safety, and welfare of the respondent or the protection of the  
 204 respondent's property or prevent a repetition of the unjustifiable conduct, including  
 205 staying the proceeding until a petition for the appointment of a guardian or issuance of  
 206 a conservatorship order is filed in a court of another state having jurisdiction; or

207 (3) Continue to exercise jurisdiction after considering:

208 (A) The extent to which the respondent and all persons required to be notified of the  
 209 proceedings have acquiesced in the exercise of the court's jurisdiction;

210 (B) Whether it is a more appropriate forum than the court of any other state under the  
 211 factors set forth in subsection (c) of Code Section 29-11-15; and

212 (C) Whether the court of any other state would have jurisdiction under factual  
 213 circumstances in substantial conformity with the jurisdictional standards of Code  
 214 Section 29-11-12.

215 (b) If a court of this state determines that it acquired jurisdiction to appoint a guardian or  
 216 issue a conservatorship order because a party seeking to invoke its jurisdiction engaged in  
 217 unjustifiable conduct, it may assess against that party necessary and reasonable expenses,  
 218 including attorney's fees, investigative fees, court costs, communication expenses, witness  
 219 fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses  
 220 of any kind against this state or a governmental subdivision, agency, or instrumentality of  
 221 this state unless authorized by law other than this chapter.

222 29-11-17.

223 (a) If a petition for the appointment of a guardian or issuance of a conservatorship order  
 224 is brought in this state and this state was not the respondent's home state on the date the  
 225 petition was filed, in addition to complying with the notice requirements of this state,

226 notice of the petition must be given to those persons that would be entitled to notice of the  
 227 petition if a proceeding were brought in the respondent's home state. The notice must be  
 228 given in the same manner as notice is required to be given in this state.

229 (b) If compliance with the notice requirements under subsection (a) of this Code section  
 230 would require personal service on any person outside this state, a court of competent  
 231 jurisdiction in this state may order that such person be served by registered or certified mail  
 232 or statutory overnight delivery, in the manner provided in subsection (e) of Code Section  
 233 29-9-4, or by a special process server, if the petitioner so requests in the petition or on the  
 234 court's own motion.

235 (c) If compliance with the notice requirements under subsection (a) of this Code section  
 236 would require service on any person outside this state that is not sui juris, such person shall  
 237 be served in a manner provided in subsection (d) of Code Section 29-9-4.

238 29-11-18.

239 Except for a petition for the appointment of a guardian in an emergency or issuance of a  
 240 conservatorship order limited to property located in this state under paragraph (1) or (2) of  
 241 subsection (a) of Code Section 29-11-13, if a petition for the appointment of a guardian or  
 242 issuance of a conservatorship order is filed in this state and in another state and neither  
 243 petition has been dismissed or withdrawn, the following rules shall apply:

244 (1) If the court in this state has jurisdiction under Code Section 29-11-12, it may proceed  
 245 with the case unless a court in another state acquires jurisdiction under provisions similar  
 246 to Code Section 29-11-12 before the appointment or issuance of the order; and

247 (2) If the court in this state does not have jurisdiction under Code Section 29-11-12,  
 248 whether at the time the petition is filed or at any time before the appointment or issuance  
 249 of the order, the court shall stay the proceeding and communicate with the court in the  
 250 other state. If the court in the other state has jurisdiction, the court in this state shall  
 251 dismiss the petition unless the court in the other state determines that the court in this  
 252 state is a more appropriate forum.

### 253 ARTICLE 3

254 29-11-20.

255 (a) A guardian or conservator appointed in this state may petition the court to transfer the  
 256 guardianship or conservatorship to another state.

257 (b) Notice of a petition under subsection (a) of this Code section shall be given to the  
 258 persons that would be entitled to notice of a petition in this state for the appointment of a  
 259 guardian or conservator.



260 (c) On the court's own motion or on request of the guardian or conservator, the  
261 incapacitated person or protected person, or other person required to be notified of the  
262 petition, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this  
263 Code section.

264 (d) The court shall issue an order provisionally granting a petition to transfer a  
265 guardianship and shall direct the guardian to petition for guardianship in the other state if  
266 the court is satisfied that the guardianship will be accepted by the court in the other state  
267 and the court finds that:

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

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

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

275 (e) The court shall issue a provisional order granting a petition to transfer a  
276 conservatorship and shall direct the conservator to petition for conservatorship in the other  
277 state if the court is satisfied that the conservatorship will be accepted by the court of the  
278 other state and the court finds that:

279 (1) The protected person is physically present in or is reasonably expected to move  
280 permanently to the other state or the protected person has a significant connection to the  
281 other state considering the factors in Code Section 29-11-10;

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

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

287 (f) The court shall issue a final order confirming the transfer and terminating the  
288 guardianship or conservatorship upon its receipt of:

289 (1) A provisional order accepting the proceeding from the court to which the proceeding  
290 is to be transferred which is issued under provisions similar to Code Section 29-11-21;  
291 and

292 (2) The documents required to terminate a guardianship or conservatorship in this state.  
293 29-11-21.

294 (a) To confirm transfer of a guardianship or conservatorship transferred to this state under  
295 provisions similar to Code Section 29-11-20, the guardian or conservator must petition the

296 court in this state to accept the guardianship or conservatorship. The petition must include  
297 a certified copy of the other state's provisional order of transfer.

298 (b) Notice of a petition under subsection (a) of this Code section shall be given to those  
299 persons that would be entitled to notice if the petition were a petition for the appointment  
300 of a guardian or issuance of a conservatorship order in both the transferring state and this  
301 state. The notice must be given in the same manner as notice is required to be given in this  
302 state.

303 (c) On the court's own motion or on request of the guardian or conservator, the  
304 incapacitated person or protected person, or other person required to be notified of the  
305 proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of  
306 this Code section.

307 (d) The court shall issue an order provisionally granting a petition filed under  
308 subsection (a) of this Code section unless:

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

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

312 (e) The court shall issue a final order accepting the proceeding and appointing the guardian  
313 or conservator as guardian or conservator in this state upon its receipt from the court from  
314 which the proceeding is being transferred of a final order issued under provisions similar  
315 to Code Section 29-11-20 transferring the proceeding to this state.

316 (f) Not later than 90 days after issuance of a final order accepting transfer of a  
317 guardianship or conservatorship, the court shall determine whether the guardianship or  
318 conservatorship needs to be modified to conform to the law of this state.

319 (g) In granting a petition under this Code section, the court shall recognize a guardianship  
320 order or conservatorship order from the other state, including the determination of the  
321 incapacitated person's or protected person's incapacity and the appointment of the guardian  
322 or conservator.

323 (h) The denial by a court of this state of a petition to accept a guardianship or  
324 conservatorship transferred from another state does not affect the ability of the guardian  
325 or conservator to seek appointment as guardian or conservator in this state under Article 2  
326 of Chapter 4 and Article 2 of Chapter 5 of this title if the court has jurisdiction to make an  
327 appointment other than by reason of the provisional order of transfer.

328

ARTICLE 4329 29-11-30.

330 If a guardian has been appointed in another state and a petition for the appointment of a  
 331 guardian is not pending in this state, the guardian appointed in the other state, after giving  
 332 notice to the appointing court of an intent to register, may register the guardianship order  
 333 in this state by filing as a foreign judgment in a court, in any appropriate county of this  
 334 state, certified copies of the order and letters of office. The provisions of this Code section  
 335 shall apply only if the other state has adopted the 'Uniform Adult Guardianship and  
 336 Conservatorship Proceedings Jurisdiction Act' in substantially the same form.

337 29-11-31.

338 If a conservator has been appointed in another state and a petition for a conservatorship  
 339 order is not pending in this state, the conservator appointed in the other state, after giving  
 340 notice to the appointing court of an intent to register, may register the conservatorship order  
 341 in this state by filing as a foreign judgment in a court of this state, in any county in which  
 342 property belonging to the protected person is located, certified copies of the order and  
 343 letters of office and of any bond. The provisions of this Code section shall apply only if  
 344 the other state has adopted the 'Uniform Adult Guardianship and Conservatorship  
 345 Proceedings Jurisdiction Act' in substantially the same form.

346 29-11-32.

347 (a) Upon registration of a guardianship order or conservatorship order from another state,  
 348 the guardian or conservator may exercise in this state all powers authorized in the order of  
 349 appointment except as prohibited under the laws of this state, including maintaining actions  
 350 and proceedings in this state and, if the guardian or conservator is not a resident of this  
 351 state, subject to any conditions imposed upon nonresident parties.

352 (b) A court of this state may grant any relief available under this chapter and other law of  
 353 this state to enforce a registered order.

354

ARTICLE 5355 29-11-40.

356 In applying and construing this chapter, consideration must be given to the need to promote  
 357 uniformity of the law with respect to its subject matter among states that enact it.

358 29-11-41.

359 This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global  
 360 and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit,  
 361 or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic  
 362 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section  
 363 7003(b).

364 29-11-42.

365 (a) This chapter shall apply to guardianship proceedings and conservatorship proceedings  
 366 begun on or after July 1, 2016.

367 (b) Articles 1, 3, and 4 of this chapter and Code Sections 29-11-40 and 29-11-41 shall  
 368 apply to proceedings begun before July 1, 2016, regardless of whether a guardianship order  
 369 or conservatorship order has been issued."

370 **SECTION 2.**

371 Said title is further amended by repealing Parts 2 and 3 of Article 9 of Chapter 4, relating,  
 372 respectively, to procedure and transfer of guardianship, and designating said parts as  
 373 reserved.

374 **SECTION 3.**

375 Said title is further amended by repealing Parts 2 and 3 of Article 13 of Chapter 5, relating  
 376 to transfer of conservatorship, and designating said parts as reserved.

377 **SECTION 4.**

378 Said title is further amended by revising subsection (a) of Code Section 29-4-95, relating to  
 379 the definition of "foreign guardian" and the sale of ward's property, as follows:

380 "(a) For purposes of this part, a 'foreign guardian' is a guardian or other person who has  
 381 been given responsibility by a court of competent jurisdiction in another state or territory  
 382 governed by the Constitution of the United States for the care of an incapacitated adult  
 383 referred to as the 'ward' and whose guardianship has not been transferred to and accepted  
 384 in this state pursuant to the provisions of ~~Part 2 of this article~~ Article 3 of Chapter 11 of this  
 385 title."

386 **SECTION 5.**

387 Said title is further amended by revising subsection (a) of Code Section 29-5-135, relating  
 388 to the definition of "foreign conservator" and the sale or disposal of property, as follows:

389       “(a) For purposes of this part, the term ‘foreign conservator’ means a conservator or other  
390 person who has been given responsibility by a court of competent jurisdiction in another  
391 state or territory governed by the Constitution of the United States for the care of the  
392 property of an incapacitated adult, referred to as the ward, and whose conservatorship has  
393 not been transferred to and accepted in this state pursuant to the provisions of ~~Part 2 of this~~  
394 ~~article~~ Article 3 of Chapter 11 of this title.”

395

**SECTION 6.**

396 All laws and parts of laws in conflict with this Act are repealed.