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Sub. H. B. No. 27

Representatives Stautberg, Letson

**Cosponsors: Representatives Hagan, R., Murray, Pillich, Ruhl, Thompson,
Burke, DeGeeter, McClain, Huffman, Balderson, Garland, Derickson,
McGregor, Weddington, O'Brien, Schuring, Patmon, Mecklenborg, Bulp,
Stinziano, Amstutz, Antonio, Beck, Blair, Boose, Budish, Celebrezze, Celeste,
Combs, Dovilla, Foley, Hackett, Hayes, Kozlowski, Maag, Mallory, Milkovich,
Newbold, Phillips, Ramos, Slesnick, Stebelton, Terhar, Williams, Winburn
Speaker Batchelder**

—

A B I L L

To amend sections 2111.01 and 2111.02, to enact 1
sections 2111.022, 2112.01, 2112.011, 2112.02, 2
2112.03, 2112.04, 2112.05, 2112.21, 2112.22, 3
2112.23, 2112.24, 2112.25, 2112.26, 2112.27, 4
2112.31, 2112.32, 2112.41, 2112.42, and 2112.43, 5
and to repeal section 2111.41 of the Revised Code 6
to adopt the Adult Guardianship and Protective 7
Proceedings Jurisdiction Act. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2111.01 and 2111.02 be amended and 9
sections 2111.022, 2112.01, 2112.011, 2112.02, 2112.03, 2112.04, 10
2112.05, 2112.21, 2112.22, 2112.23, 2112.24, 2112.25, 2112.26, 11
2112.27, 2112.31, 2112.32, 2112.41, 2112.42, and 2112.43 of the 12
Revised Code be enacted to read as follows: 13

Sec. 2111.01. As used in Chapters 2101. to 2131. of the Revised Code:

(A) "Guardian," other than a guardian under sections 5905.01 to 5905.19 of the Revised Code, means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, "guardian" includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. "Guardian" also includes an agency under contract with the department of developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.

(B) "Ward" means any person for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code.

(C) "Resident guardian" means a guardian appointed by a probate court to have the care and management of property in this state that belongs to a nonresident ward.

(D) "Incompetent" means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state.

(E) "Next of kin" means any person who would be entitled to inherit from a ward under Chapter 2105. of the Revised Code if the

ward dies intestate. 45

(F) "Conservator" means a conservator appointed by the 46
probate court in an order of conservatorship issued pursuant to 47
section 2111.021 of the Revised Code. 48

(G) "Parent" means a natural parent or adoptive parent of a 49
minor child whose parental rights and responsibilities have not 50
been terminated by a juvenile court or another court. 51

(H) "Financial harm" means impairment of an individual's 52
financial assets by unlawfully obtaining or exerting control over 53
the individual's real or personal property in any of the following 54
ways: 55

(1) Without the consent of the individual or the person 56
authorized to give consent on the individual's behalf; 57

(2) Beyond the scope of the express or implied consent of the 58
individual or the person authorized to give consent on the 59
individual's behalf; 60

(3) By deception; 61

(4) By threat; 62

(5) By intimidation; 63

(6) By fraud; 64

(7) By undue influence. 65

Sec. 2111.02. (A) If found necessary, ~~the~~ a probate court on 66
its own motion or on application by any interested party shall 67
appoint, subject to divisions (C) and (D) of this section and to 68
section 2109.21 and division (B) of section 2111.121 of the 69
Revised Code, a guardian of the person, the estate, or both, of a 70
minor or incompetent, provided the person for whom the guardian is 71
to be appointed is a resident of the county or has a legal 72
settlement in the county ~~and, except in the case of a minor, has 73~~

had. If the person for whom the guardian is to be appointed is an 74
adult, the person must be a qualified respondent as described in 75
section 2112.21 of the Revised Code and have the opportunity to 76
have the assistance of counsel in the proceeding for the 77
appointment of that guardian. An interested party includes, but is 78
not limited to, a person nominated in a durable power of attorney 79
under section 1337.24 of the Revised Code or in a writing as 80
described in division (A) of section 2111.121 of the Revised Code. 81

Except when the guardian of an incompetent is an agency under 82
contract with the department of developmental disabilities for the 83
provision of protective services under sections 5123.55 to 5123.59 84
of the Revised Code, the guardian of an incompetent, by virtue of 85
the appointment as guardian, shall be the guardian of the minor 86
children of the guardian's ward, unless the court appoints some 87
other person as their guardian. 88

When the primary purpose of the appointment of a guardian is, 89
or was, the collection, disbursement, or administration of moneys 90
awarded by the veterans administration to the ward, or assets 91
derived from those moneys, no court costs shall be charged in the 92
proceeding for the appointment or in any subsequent proceedings 93
made in pursuance of the appointment, unless the value of the 94
estate, including the moneys then due under the veterans 95
administration award, exceeds one thousand five hundred dollars. 96

(B)(1) If the probate court finds it to be in the best 97
interest of an incompetent or minor, it may appoint pursuant to 98
divisions (A) and (C) of this section, on its own motion or on 99
application by an interested party, a limited guardian with 100
specific limited powers. The sections of the Revised Code, rules, 101
and procedures governing guardianships apply to a limited 102
guardian, except that the order of appointment and letters of 103
authority of a limited guardian shall state the reasons for, and 104
specify the limited powers of, the guardian. The court may appoint 105

a limited guardian for a definite or indefinite period. An 106
incompetent or minor for whom a limited guardian has been 107
appointed retains all of the incompetent's or minor's rights in 108
all areas not affected by the court order appointing the limited 109
guardian. 110

(2) If a guardian appointed pursuant to division (A) of this 111
section is temporarily or permanently removed or resigns, and if 112
the welfare of the ward requires immediate action, at any time 113
after the removal or resignation, the probate court may appoint, 114
ex parte and with or without notice to the ward or interested 115
parties, an interim guardian for a maximum period of fifteen days. 116
If the court appoints the interim guardian ex parte or without 117
notice to the ward, the court, at its first opportunity, shall 118
enter upon its journal with specificity the reason for acting ex 119
parte or without notice, and, as soon as possible, shall serve 120
upon the ward a copy of the order appointing the interim guardian. 121
For good cause shown, after notice to the ward and interested 122
parties and after hearing, the court may extend an interim 123
guardianship for a specified period, but not to exceed an 124
additional thirty days. 125

(3) If a minor or incompetent has not been placed under a 126
guardianship pursuant to division (A) of this section and if an 127
emergency exists and it is reasonably certain that immediate 128
action is required to prevent significant injury to the person or 129
estate of the minor or incompetent, at any time after it receives 130
notice of the emergency, the court, ex parte, may issue any order 131
that it considers necessary to prevent injury to the person or 132
estate of the minor or incompetent, or may appoint an emergency 133
guardian for a maximum period of seventy-two hours. A written copy 134
of any order issued by a court under this division shall be served 135
upon the incompetent or minor as soon as possible after its 136
issuance. Failure to serve that order after its issuance or prior 137

to the taking of any action under its authority does not 138
invalidate the order or the actions taken. The powers of an 139
emergency guardian shall be specified in the letters of 140
appointment, and shall be limited to those powers that are 141
necessary to prevent injury to the person or estate of the minor 142
or incompetent. If the court acts ex parte or without notice to 143
the minor or incompetent, the court, at its first opportunity, 144
shall enter upon its journal a record of the case and, with 145
specificity, the reason for acting ex parte or without notice. For 146
good cause shown, after notice to the minor or incompetent and 147
interested parties, and after hearing, the court may extend an 148
emergency guardianship for a specified period, but not to exceed 149
an additional thirty days. 150

(C) Prior to the appointment of a guardian or limited 151
guardian under division (A) or (B)(1) of this section, the court 152
shall conduct a hearing on the matter of the appointment. The 153
hearing shall be conducted in accordance with all of the 154
following: 155

(1) The proposed guardian or limited guardian shall appear at 156
the hearing and, if appointed, shall swear under oath that the 157
proposed guardian or limited guardian has made and will continue 158
to make diligent efforts to file a true inventory in accordance 159
with section 2111.14 of the Revised Code and find and report all 160
assets belonging to the estate of the ward and that the proposed 161
guardian or limited guardian faithfully and completely will 162
fulfill the other duties of guardian, including the filing of 163
timely and accurate reports and accountings. 164

(2) If the hearing is conducted by a magistrate, the 165
procedures set forth in Civil Rule 53 shall be followed. 166

(3) If the hearing concerns the appointment of a guardian or 167
limited guardian for an alleged incompetent, the burden of proving 168
incompetency shall be by clear and convincing evidence. 169

(4) Upon request of the applicant, the alleged incompetent	170
for whom the appointment is sought or the alleged incompetent's	171
counsel, or any interested party, a recording or record of the	172
hearing shall be made.	173
(5) Evidence of a less restrictive alternative to	174
guardianship may be introduced, and when introduced, shall be	175
considered by the court.	176
(6) The court may deny a guardianship based upon a finding	177
that a less restrictive alternative to guardianship exists.	178
(7) If the hearing concerns the appointment of a guardian or	179
limited guardian for an alleged incompetent, the alleged	180
incompetent has all of the following rights:	181
(a) The right to be represented by independent counsel of the	182
alleged incompetent's choice;	183
(b) The right to have a friend or family member of the	184
alleged incompetent's choice present;	185
(c) The right to have evidence of an independent expert	186
evaluation introduced;	187
(d) If the alleged incompetent is indigent, upon the alleged	188
incompetent's request:	189
(i) The right to have counsel and an independent expert	190
evaluator appointed at court expense;	191
(ii) If the guardianship, limited guardianship, or standby	192
guardianship decision is appealed, the right to have counsel	193
appointed and necessary transcripts for appeal prepared at court	194
expense.	195
(D)(1) If a person has been nominated to be a guardian of the	196
estate of a minor in or pursuant to a durable power of attorney	197
under section 1337.24 of the Revised Code or a writing as	198
described in division (A) of section 2111.121 of the Revised Code,	199

the person nominated has preference in appointment over a person 200
selected by the minor. A person who has been nominated to be a 201
guardian of the person of a minor in or pursuant to a durable 202
power of attorney or writing of that nature does not have 203
preference in appointment over a person selected by the minor, but 204
the probate court may appoint the person named in the durable 205
power of attorney or the writing, the person selected by the 206
minor, or another person as guardian of the person of the minor. 207

(2) A person nominated as a guardian of an incompetent adult 208
child pursuant to a durable power of attorney under section 209
1337.24 or pursuant to section 2111.121 of the Revised Code shall 210
have preference in appointment over a person applying to be 211
guardian if the person nominated is competent, suitable, and 212
willing to accept the appointment, and if the incompetent adult 213
child does not have a spouse or an adult child and has not 214
designated a guardian prior to the court finding the adult child 215
incompetent. 216

Sec. 2111.022. (A) A probate court, on its own motion or on 217
application of an interested party, may issue an emergency ex 218
parte order freezing the financial assets of an individual whom 219
the court or applicant has reason to believe is missing or has 220
gone or been taken to another state if it is reasonably certain 221
that immediate action is required to prevent significant financial 222
harm to the individual. The order may freeze the individual's 223
assets for a period not exceeding seventy-two hours. If the 224
individual is located, a written copy of the order shall be served 225
upon the individual as soon as possible after its issuance. The 226
court, at its first opportunity, shall enter upon its journal a 227
record of the case and, with specificity, the reason for the 228
action. For good cause shown, after notice to the individual and 229
after a hearing, the court may extend the emergency order for a 230
specified period of not more than thirty additional days. 231

(B) The powers of the probate court under this section are in addition to and not in derogation of any powers the court has under division (B)(3) of section 2111.02 of the Revised Code. 232
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Sec. 2112.01. As used in this chapter: 235

(A) "Adult" means an individual who is eighteen years of age or older. 236
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(B) "Guardian" has the same meaning as in section 2111.01 of the Revised Code. 238
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(C) "Guardian of the person" means a person appointed by the court to make decisions regarding the support, care, education, health, and welfare of a ward. "Guardian of the person" does not include a guardian ad litem. 240
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(D) "Guardian of the estate" means a person appointed by the court to administer the estate of a ward. 244
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(E) "Ward" means any adult who has been adjudicated incompetent and for whom a guardian is acting or for whom the probate court is acting pursuant to section 2111.50 of the Revised Code. 246
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(F) "Emergency" means a circumstance that makes it reasonably certain that immediate action is required to prevent significant injury to a respondent's health, safety, welfare, or property and for which the appointment of a guardian or issuance of a protective order is necessary because no other person has authority and is willing to act on the respondent's behalf. 250
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(G) "Guardianship order" means an order appointing a guardian. 256
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(H) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued. 258
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(I) "Home state" means the state in which the respondent was 261

physically present, including any period of temporary absence, for 262
at least six consecutive months immediately before the filing of 263
an application for appointment of a guardian or the issuance of a 264
protective order or, if none, the state in which the respondent 265
was physically present, including any period of temporary absence, 266
for at least six consecutive months ending within the six months 267
prior to the filing of the application. 268

(J) "Party" means the respondent, applicant, guardian, or 269
other person allowed by the court to participate in a guardianship 270
or protective proceeding. 271

(K) "Person," except in the terms guardian of the person and 272
protected person, means an individual, parent, corporation, 273
business trust, estate, trust, partnership, limited liability 274
company, association, joint venture, government, governmental 275
agency or instrumentality, public corporation, or other legal or 276
commercial entity. 277

(L) "Protected person" means an adult for whom a protective 278
order has been issued. 279

(M) "Protective order" means an order appointing a guardian 280
or other order under division (B)(3) of section 2111.02 of the 281
Revised Code related to the management of an adult's person, 282
property, or both or an order under section 2111.022 of the 283
Revised Code related to the management of an individual's 284
property. 285

(N) "Protective proceeding" means a judicial proceeding in 286
which a protective order is sought or has been issued. 287

(O) "Record" means information that is inscribed on a 288
tangible medium or that is stored in an electronic or other medium 289
and is retrievable in perceivable form. 290

(P) "Respondent" means an adult for whom a protective order 291
or the appointment of a guardian is sought. 292

(Q) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available. 293
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(R) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code. 297
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(S) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. "State" includes an Indian tribe or band that is recognized by federal law or formally acknowledged by a state. 299
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Sec. 2112.011. Chapter 2112. of the Revised Code may be cited as the Adult Guardianship and Protective Proceedings Jurisdiction Act. 304
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Sec. 2112.02. A probate court of this state may treat a foreign country as if it were a state for the purpose of applying this chapter. 307
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Sec. 2112.03. (A) A probate court of this state may communicate with a court in another state concerning a proceeding arising under this chapter. The probate court may allow the parties to participate in the communication. Except as otherwise provided in division (B) of this section, the probate court shall make a record of the communication. The record may be limited to the fact that the communication occurred. 310
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(B) Probate courts may communicate concerning schedules, calendars, court records, and other administrative matters without making a record. 317
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Sec. 2112.04. (A) In a guardianship or protective proceeding 320

in this state, a probate court of this state may request the 321
appropriate court of another state to do any of the following: 322

(1) Hold an evidentiary hearing; 323

(2) Order a person in that state to produce evidence or give 324
testimony pursuant to the procedures of that state; 325

(3) Order that an evaluation or assessment be made of the 326
respondent; 327

(4) Order any appropriate investigation of a person involved 328
in the proceeding; 329

(5) Forward to the probate court of this state a certified 330
copy of the transcript or other record of a hearing under division 331
(A)(1) of this section or any other proceeding, any evidence 332
otherwise produced under division (A)(2) of this section, and any 333
evaluation or assessment prepared in compliance with an order 334
under division (A)(3) or (4) of this section; 335

(6) Issue any order necessary to assure the appearance in the 336
proceeding of a person whose presence is necessary for the probate 337
court to make a determination, including the respondent, ward, or 338
a protected person; 339

(7) Issue an order authorizing the release of medical, 340
financial, criminal, or other relevant information in that state, 341
including protected health information as authorized in 45 C.F.R. 342
164.504, as amended. 343

(B) If a court of another state in which a guardianship or 344
protective proceeding is pending requests assistance of the kind 345
provided in division (A) of this section, a probate court of this 346
state has jurisdiction for the limited purpose of granting the 347
request or making reasonable efforts to comply with the request. A 348
probate court of this state may require an advance deposit for 349
costs in an amount sufficient to obtain or provide the requested 350

assistance. 351

Sec. 2112.05. (A) In a guardianship proceeding or protective proceeding, in addition to other procedures that may be available, the testimony of a witness who is located in another state may be offered by deposition or other means allowable in this state for testimony taken in another state. The probate court on the court's own motion may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken. 352
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(B) In a guardianship or protective proceeding, a probate court in this state may permit a witness located in another state to be deposed or to testify by telephone, audiovisual, or other electronic means. A probate court of this state shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony. 360
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(C) Documentary evidence transmitted from another state to a probate court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule. 366
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(D) A probate court of this state may adopt local rules of practice that promote the use of any device or procedure to facilitate the expeditious disposition of the cases. 370
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Sec. 2112.21. (A) A probate court of this state has jurisdiction to appoint a guardian or issue a protective order for a respondent if any of the following applies: 373
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(1) This state is the respondent's home state. 376

(2) On the date that the application is filed, this state is a significant-connection state, and either of the following applies: 377
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(a) The respondent does not have a home state, or a court of the respondent's home state has declined to exercise jurisdiction because this state is a more appropriate forum. 380
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(b) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and before the probate court makes the appointment or issues the order all of the following apply: 383
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(i) An application for an appointment or order is not filed in the respondent's home state. 388
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(ii) An objection to the probate court's jurisdiction is not filed by a person required to be notified of the proceeding. 390
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(iii) The probate court in this state concludes that the probate court is an appropriate forum under the factors set forth in section 2112.24 of the Revised Code. 392
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(3) This state does not have jurisdiction under division (A) or (B) of this section, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with the constitutions of this state and the United States. 395
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(4) The requirements for special jurisdiction under section 2112.22 of the Revised Code are met. 401
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(B) In determining whether a respondent has a significant connection with a particular state for purposes of this section, the probate court may consider any of the following: 403
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(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding; 406
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(2) The length of time the respondent at any time was 409

physically present in the state and the duration of any absence; 410

(3) The location of the respondent's property; 411

(4) The extent to which the respondent has ties to the state, 412
including, but not limited to, voting registration, state or local 413
tax return filing, vehicle registration, driver's license, social 414
relationships, and receipt of services. 415

Sec. 2112.22. (A) A probate court of this state lacking 416
jurisdiction under section 2112.21 of the Revised Code has special 417
jurisdiction to do any of the following: 418

(1) Appoint a guardian in an emergency for a respondent who 419
is physically present in this state; 420

(2) Issue a protective order in an emergency with respect to 421
the adult or to the real or tangible personal property located in 422
this state; 423

(3) Appoint a guardian for a ward or protected person for 424
whom a provisional order to transfer the proceeding from another 425
state has been issued under procedures similar to section 2112.31 426
of the Revised Code. 427

(B) If an application for the appointment of a guardian in an 428
emergency is brought in this state and this state was not the 429
respondent's home state on the date that the application was 430
filed, the probate court shall dismiss the proceeding at the 431
request of the court of the home state, if any, whether dismissal 432
is requested before or after the emergency appointment. 433

Sec. 2112.23. Except as otherwise provided in section 2112.22 434
of the Revised Code, a probate court that has appointed a guardian 435
or issued a protective order consistent with this chapter has 436
exclusive and continuing jurisdiction over the proceeding until it 437
is terminated by the probate court or the appointment or order 438

expires by the appointment's or order's own terms. 439

Sec. 2112.24. (A) A probate court of this state having 440
jurisdiction under section 2112.21 of the Revised Code to appoint 441
a guardian or issue a protective order may decline to exercise the 442
court's jurisdiction if the probate court determines at any time 443
that a court of another state is a more appropriate forum. 444

(B) If a probate court of this state declines to exercise the 445
court's jurisdiction under division (A) of this section, the 446
probate court shall either dismiss or stay the proceeding. The 447
probate court may impose any condition that the probate court 448
considers just and proper, including the condition that an 449
application for the appointment of a guardian or issuance of a 450
protective order be filed promptly in another state. 451

(C) In determining whether it is an appropriate forum, the 452
probate court shall consider all relevant factors, including, but 453
not limited to, the following: 454

(1) Any expressed preference of the respondent; 455

(2) Whether abuse, neglect, or exploitation of the respondent 456
has occurred or is likely to occur and which state could best 457
protect the respondent from the abuse, neglect, or exploitation; 458

(3) The length of time the respondent was physically present 459
in or was a legal resident of this or another state; 460

(4) The distance of the respondent from the court in each 461
state; 462

(5) The financial circumstances of the respondent's estate; 463

(6) The nature and location of the evidence; 464

(7) The ability of the court in each state to decide the 465
issue expeditiously and the procedures necessary to present 466
evidence; 467

(8) The familiarity of the court of each state with the facts 468
and issues in the proceeding; 469

(9) The probate court's ability, if an appointment were made, 470
to monitor the conduct of the guardian; 471

(10) Any other factors that the probate court considers 472
relevant. 473

Sec. 2112.25. (A) If at any time a probate court of this 474
state determines that the probate court has acquired jurisdiction 475
to appoint a guardian or issue a protective order because of 476
unjustifiable conduct, the probate court may do any of the 477
following: 478

(1) Decline to exercise jurisdiction; 479

(2) Exercise jurisdiction for the limited purpose of 480
fashioning an appropriate remedy to ensure the health, safety, and 481
welfare of the respondent or the protection of the respondent's 482
property or to prevent a repetition of the unjustifiable conduct, 483
including staying the proceeding until an application for the 484
appointment of a guardian or issuance of a protective order is 485
filed in a court of another state having jurisdiction; 486

(3) Continue to exercise jurisdiction after considering all 487
of the following: 488

(a) The extent to which the respondent and all persons 489
required to be notified of the proceedings have acquiesced in the 490
exercise of the probate court's jurisdiction; 491

(b) Whether the probate court is a more appropriate forum 492
than the court of any other state under the factors set forth in 493
division (C) of section 2112.24 of the Revised Code; 494

(c) Whether the court of any other state would have 495
jurisdiction under factual circumstances in substantial conformity 496
with the jurisdictional standards of section 2112.21 of the 497

Revised Code. 498

(B) If a probate court of this state determines that the 499
probate court has acquired jurisdiction to appoint a guardian or 500
issue a protective order because a party seeking to invoke the 501
court's jurisdiction engaged in unjustifiable conduct, the probate 502
court may assess against that party necessary and reasonable 503
expenses, including, but not limited to, attorney's fees, 504
investigative fees, court costs, communication expenses, witness 505
fees and expenses, and travel expenses. Except as otherwise 506
provided by any provision of the Revised Code, the probate court 507
may not assess fees, costs, or expenses of any kind against this 508
state or a governmental subdivision, agency, or instrumentality of 509
this state. 510

(C) As used in this section, "unjustifiable conduct" 511
includes, but is not limited to, conduct by a person that attempts 512
to create jurisdiction in this state by removing the adult from 513
the adult's home state, secreting the adult, retaining the adult, 514
or restraining or otherwise preventing the adult from returning to 515
the adult's home state in order to prevent or deprive a court of 516
the adult's home state from taking jurisdiction. 517

Sec. 2112.26. If an application for the appointment of a 518
guardian or issuance of a protective order is brought in this 519
state and this state was not the respondent's home state on the 520
date that the application was filed, in addition to complying with 521
the notice requirements of this state, the applicant shall give 522
notice of the application to those persons who would be entitled 523
to notice of the application if a proceeding were brought in the 524
respondent's home state. The notice must be given in the same 525
manner as notice is required to be given in this state. 526

Sec. 2112.27. Except for an application for the appointment 527

of a guardian in an emergency or issuance of a protective order in 528
an emergency, if an application for the appointment of a guardian 529
or issuance of a protective order is filed in this state and in 530
another state and neither application has been dismissed or 531
withdrawn, the following rules apply: 532

(A) If the probate court in this state has jurisdiction under 533
section 2112.21 of the Revised Code, the probate court may proceed 534
with the case unless a court in another state acquires 535
jurisdiction under provisions similar to section 2112.21 of the 536
Revised Code before the appointment or issuance of the order. 537

(B) If the probate court in this state does not have 538
jurisdiction under section 2112.21 of the Revised Code, whether at 539
the time the application is filed or at any time before the 540
appointment or issuance of the order, the probate court shall stay 541
the proceeding and communicate with the court in the other state. 542
If the court in the other state has jurisdiction, the probate 543
court in this state shall dismiss the application unless the court 544
in the other state determines that the probate court in this state 545
is a more appropriate forum. 546

Sec. 2112.31. (A) A guardian appointed in this state may 547
petition the probate court to transfer the guardianship to another 548
state. 549

(B) Notice of a petition under division (A) of this section 550
must be given by the guardian to the persons that would be 551
entitled to notice of an application in this state for the 552
appointment of a guardian. 553

(C) On the probate court's own motion or on request of the 554
guardian, ward, protected person, or other person required to be 555
notified of the petition, the probate court shall hold a hearing 556
on a petition filed pursuant to division (A) of this section. 557

(D) The probate court shall issue a provisional order 558
granting a petition to transfer a guardianship of the person and 559
shall direct the guardian to petition for guardianship in the 560
other state if the probate court is satisfied that the 561
guardianship will be accepted by the court in the other state, and 562
the probate court finds all of the following: 563

(1) The ward is physically present in or is reasonably 564
expected to move permanently to the other state. 565

(2) An objection to the transfer has not been made, or, if an 566
objection has been made, the objector has not established that the 567
transfer would be contrary to the interests of the ward. 568

(3) Plans for care and services for the ward in the other 569
state are reasonable and sufficient. 570

(E) The probate court shall issue a provisional order 571
granting a petition to transfer a guardianship of the estate and 572
shall direct the guardian to petition for a guardianship of the 573
estate in the other state if the probate court is satisfied that 574
the guardianship of the estate will be accepted by the court of 575
the other state, and the probate court finds all of the following: 576

(1) The ward is physically present in or is reasonably 577
expected to move permanently to the other state, or the ward has a 578
significant connection to the other state and meets the 579
requirements of division (A)(2) of section 2112.21 of the Revised 580
Code. 581

(2) An objection to the transfer has not been made, or, if an 582
objection has been made, the objector has not established that the 583
transfer would be contrary to the interests of the protected 584
person. 585

(3) Adequate arrangements will be made for management of the 586
ward's property. 587

(F) The probate court shall issue a final order confirming the transfer and terminating the guardianship upon the probate court's receipt of both of the following: 588
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590

(1) A provisional order accepting the proceeding from the court to which the proceeding is to be transferred and that is issued under provisions similar to section 2112.32 of the Revised Code; 591
592
593
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(2) The documents required to terminate a guardianship in this state. 595
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(G) In determining whether a respondent has a significant connection with a particular state for purposes of this section, the probate court may consider any of the following: 597
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(1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding; 600
601
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(2) The length of time the respondent at any time was physically present in the state and the duration of any absence; 603
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(3) The location of the respondent's property; 605

(4) The extent to which the respondent has ties to the state, including, but not limited to, voting registration, state or local tax return filing, vehicle registration, driver's license, social relationships, and receipt of services. 606
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Sec. 2112.32. (A) To confirm transfer of a guardianship transferred to this state under provisions similar to section 2112.31 of the Revised Code, the guardian shall petition the probate court in this state to accept the guardianship of the person, guardianship of the estate, or both. The petition must include a certified copy of the other state's provisional order of transfer. 610
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(B) Notice of a petition under division (A) of this section 617

must be given by the guardian to those persons that would be 618
entitled to notice if the petition were an application for the 619
appointment of a guardian or issuance of a protective order in 620
both the transferring state and this state. The notice must be 621
given in the same manner as notice is required to be given in this 622
state. 623

(C) On the probate court's own motion or on the request of 624
the guardian, ward, protected person, or other person required to 625
be notified of the proceeding, the probate court shall hold a 626
hearing on a petition filed pursuant to division (A) of this 627
section. 628

(D) The probate court shall issue a provisional order 629
granting a petition filed under division (A) of this section 630
unless either of the following applies: 631

(1) An objection is made, and the objector establishes that 632
transfer of the proceeding would be contrary to the interests of 633
the ward or protected person. 634

(2) The guardian is ineligible for appointment in this state. 635

(E) The probate court shall issue a final order accepting the 636
proceeding and appointing the guardian as a guardian in this state 637
upon the probate court's receipt from the court from which the 638
proceeding is being transferred of a final order transferring the 639
proceedings to this state issued under provisions similar to 640
section 2112.31 of the Revised Code. 641

(F) In granting a petition under this section, the probate 642
court shall recognize a guardianship order from the other state, 643
including the determination of the incompetence of the ward and 644
the appointment of the guardian. Nothing in this section shall 645
limit the probate court's authority under Chapter 2111. of the 646
Revised Code. 647

(G) The denial by a probate court of this state of a petition 648

to accept a guardianship transferred from another state does not 649
affect the ability of the guardian to seek appointment as a 650
guardian in this state under section 2111.02 of the Revised Code 651
if the probate court has jurisdiction to make an appointment other 652
than by reason of the provisional order of transfer. 653

Sec. 2112.41. If a guardian has been appointed in another 654
state and an application for the appointment of a guardian of the 655
person is not pending in this state, the guardian appointed in the 656
other state, after giving notice to the appointing court of an 657
intent to register, may register the guardianship order in this 658
state by filing as a foreign judgment in a probate court, in any 659
appropriate county of this state, certified copies of the order 660
and letters of office. 661

Sec. 2112.42. If a guardian of the estate has been appointed 662
in another state and an application for the appointment of a 663
guardian of the estate is not pending in this state, the guardian 664
of the estate appointed in the other state, after giving notice to 665
the appointing court of an intent to register, may register a 666
protective order or guardianship in this state by filing as a 667
foreign judgment in a probate court of this state, in any county 668
in which property belonging to the ward or protected person is 669
located, certified copies of the order and letters of office and 670
of any bond. 671

Sec. 2112.43. (A) Upon the registration of a guardianship or 672
protective order from another state, the guardian may exercise in 673
this state all powers authorized in the order of appointment 674
except as prohibited under the laws of this state, including 675
maintaining actions and proceedings in this state and, if the 676
guardian is not a resident of this state, subject to any 677
conditions imposed upon nonresident parties. 678

(B) A probate court of this state may grant any relief 679
available under the Revised Code to enforce a registered order. 680

Section 2. That existing sections 2111.01 and 2111.02 and 681
section 2111.41 of the Revised Code are hereby repealed. 682

Section 3. Sections 2112.01, 2112.011, 2112.02, 2112.03, 683
2112.04, 2112.05, 2112.31, 2112.32, 2112.41, 2112.42, and 2112.43 684
of the Revised Code, as enacted by this act, apply to guardianship 685
and protective proceedings begun before the effective date of this 686
act, regardless of whether a guardianship or protective order has 687
been issued pursuant to those proceedings. 688

Section 4. Section 2111.02 of the Revised Code is presented 689
in this act as a composite of the section as amended by both Sub. 690
S.B. 117 and Am. Sub. S.B. 124 of the 129th General Assembly. The 691
General Assembly, applying the principle stated in division (B) of 692
section 1.52 of the Revised Code that amendments are to be 693
harmonized if reasonably capable of simultaneous operation, finds 694
that the composite is the resulting version of the section in 695
effect prior to the effective date of the section as presented in 696
this act. 697