As Passed by the Senate

129th General Assembly
Regular Session **Sub. H. B. No. 27**
2011-2012

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, Bubp, 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
Senators Balderson, Beagle, Brown, Burke, Cafaro, Gentile, Hite, Hughes, Jones, Kearney, Lehner, Manning, Niehaus, Obhof, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Seitz, Smith, Tavares, Wagoner

A B I L L

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

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

Section 1. That sections 2111.01 and 2111.02 be amended and sections 2111.022, 2112.01, 2112.011, 2112.02, 2112.03, 2112.04,

2112.05, 2112.21, 2112.22, 2112.23, 2112.24, 2112.25, 2112.26, 2112.27, 2112.31, 2112.32, 2112.41, 2112.42, and 2112.43 of the Revised Code be enacted to read as follows:

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.

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

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

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

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

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

(3) By deception;

(4) By threat;

(5) By intimidation;

(6) By fraud;

(7) By undue influence.

Sec. 2111.02. (A) If found necessary, ~~the~~ a probate court on its own motion or on application by any interested party shall appoint, subject to divisions (C) and (D) of this section and to section 2109.21 and division (B) of section 2111.121 of the

Revised Code, a guardian of the person, the estate, or both, of a minor or incompetent, provided the person for whom the guardian is to be appointed is a resident of the county or has a legal settlement in the county ~~and, except in the case of a minor, has had~~. If the person for whom the guardian is to be appointed is an adult, the person must be a qualified respondent as described in section 2112.21 of the Revised Code and have the opportunity to have the assistance of counsel in the proceeding for the appointment of that guardian. An interested party includes, but is not limited to, a person nominated in a durable power of attorney under section 1337.24 of the Revised Code or in a writing as described in division (A) of section 2111.121 of the Revised Code.

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

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

(B)(1) If the probate court finds it to be in the best interest of an incompetent or minor, it may appoint pursuant to divisions (A) and (C) of this section, on its own motion or on application by an interested party, a limited guardian with specific limited powers. The sections of the Revised Code, rules,

and procedures governing guardianships apply to a limited guardian, except that the order of appointment and letters of authority of a limited guardian shall state the reasons for, and specify the limited powers of, the guardian. The court may appoint a limited guardian for a definite or indefinite period. An incompetent or minor for whom a limited guardian has been appointed retains all of the incompetent's or minor's rights in all areas not affected by the court order appointing the limited guardian.

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

(3) If a minor or incompetent has not been placed under a guardianship pursuant to division (A) of this section and if an emergency exists and it is reasonably certain that immediate action is required to prevent significant injury to the person or estate of the minor or incompetent, at any time after it receives notice of the emergency, the court, ex parte, may issue any order that it considers necessary to prevent injury to the person or estate of the minor or incompetent, or may appoint an emergency

guardian for a maximum period of seventy-two hours. A written copy of any order issued by a court under this division shall be served upon the incompetent or minor as soon as possible after its issuance. Failure to serve that order after its issuance or prior to the taking of any action under its authority does not invalidate the order or the actions taken. The powers of an emergency guardian shall be specified in the letters of appointment, and shall be limited to those powers that are necessary to prevent injury to the person or estate of the minor or incompetent. If the court acts ex parte or without notice to the minor or incompetent, the court, at its first opportunity, shall enter upon its journal a record of the case and, with specificity, the reason for acting ex parte or without notice. For good cause shown, after notice to the minor or incompetent and interested parties, and after hearing, the court may extend an emergency guardianship for a specified period, but not to exceed an additional thirty days.

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

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

(2) If the hearing is conducted by a magistrate, the

procedures set forth in Civil Rule 53 shall be followed.

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

(4) Upon request of the applicant, the alleged incompetent for whom the appointment is sought or the alleged incompetent's counsel, or any interested party, a recording or record of the hearing shall be made.

(5) Evidence of a less restrictive alternative to guardianship may be introduced, and when introduced, shall be considered by the court.

(6) The court may deny a guardianship based upon a finding that a less restrictive alternative to guardianship exists.

(7) If the hearing concerns the appointment of a guardian or limited guardian for an alleged incompetent, the alleged incompetent has all of the following rights:

(a) The right to be represented by independent counsel of the alleged incompetent's choice;

(b) The right to have a friend or family member of the alleged incompetent's choice present;

(c) The right to have evidence of an independent expert evaluation introduced;

(d) If the alleged incompetent is indigent, upon the alleged incompetent's request:

(i) The right to have counsel and an independent expert evaluator appointed at court expense;

(ii) If the guardianship, limited guardianship, or standby guardianship decision is appealed, the right to have counsel appointed and necessary transcripts for appeal prepared at court expense.

(D)(1) If a person has been nominated to be a guardian of the estate of a minor in or pursuant to a durable power of attorney under section 1337.24 of the Revised Code or a writing as described in division (A) of section 2111.121 of the Revised Code, the person nominated has preference in appointment over a person selected by the minor. A person who has been nominated to be a guardian of the person of a minor in or pursuant to a durable power of attorney or writing of that nature does not have preference in appointment over a person selected by the minor, but the probate court may appoint the person named in the durable power of attorney or the writing, the person selected by the minor, or another person as guardian of the person of the minor.

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

Sec. 2111.022. (A) A probate court, on its own motion or on application of an interested party, may issue an emergency ex parte order freezing the financial assets of an individual whom the court or applicant has reason to believe is missing or has gone or been taken to another state if it is reasonably certain that immediate action is required to prevent significant financial harm to the individual. The order may freeze the individual's assets for a period not exceeding seventy-two hours. If the individual is located, a written copy of the order shall be served upon the individual as soon as possible after its issuance. The court, at its first opportunity, shall enter upon its journal a

record of the case and, with specificity, the reason for the action. For good cause shown, after notice to the individual and after a hearing, the court may extend the emergency order for a specified period of not more than thirty additional days.

(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.

Sec. 2112.01. As used in this chapter:

(A) "Adult" means an individual who is eighteen years of age or older.

(B) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(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.

(D) "Guardian of the estate" means a person appointed by the court to administer the estate of a ward.

(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.

(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.

(G) "Guardianship order" means an order appointing a guardian.

(H) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

(I) "Home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of an application for appointment of a guardian or the issuance of a protective order or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the application.

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

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

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

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

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

(O) "Record" means information that is inscribed on a

tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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

(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.

(R) "Incompetent" has the same meaning as in section 2111.01 of the Revised Code.

(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.

Sec. 2112.011. Chapter 2112. of the Revised Code may be cited as the Adult Guardianship and Protective Proceedings Jurisdiction Act.

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.

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.

(B) Probate courts may communicate concerning schedules,

calendars, court records, and other administrative matters without making a record.

Sec. 2112.04. (A) In a guardianship or protective proceeding in this state, a probate court of this state may request the appropriate court of another state to do any of the following:

(1) Hold an evidentiary hearing;

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

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

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

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

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

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

(B) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in division (A) of this section, a probate court of this state has jurisdiction for the limited purpose of granting the

request or making reasonable efforts to comply with the request. A probate court of this state may require an advance deposit for costs in an amount sufficient to obtain or provide the requested assistance.

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.

(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.

(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.

(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.

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:

(1) This state is the respondent's home state.

(2) On the date that the application is filed, this state is

a significant-connection state, and either of the following applies:

(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.

(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:

(i) An application for an appointment or order is not filed in the respondent's home state.

(ii) An objection to the probate court's jurisdiction is not filed by a person required to be notified of the proceeding.

(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.

(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.

(4) The requirements for special jurisdiction under section 2112.22 of the Revised Code are met.

(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:

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

proceeding;

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

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

(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.

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

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

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

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

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

Sec. 2112.23. Except as otherwise provided in section 2112.22 of the Revised Code, a probate court that has appointed a guardian or issued a protective order consistent with this chapter has

exclusive and continuing jurisdiction over the proceeding until it is terminated by the probate court or the appointment or order expires by the appointment's or order's own terms.

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

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

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

(1) Any expressed preference of the respondent;

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

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

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

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

(6) The nature and location of the evidence;

(7) The ability of the court in each state to decide the

issue expeditiously and the procedures necessary to present evidence;

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

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

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

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

(1) Decline to exercise jurisdiction;

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

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

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

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

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

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

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

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

manner as notice is required to be given in this state.

Sec. 2112.27. Except for an application for the appointment of a guardian in an emergency or issuance of a protective order in an emergency, if an application for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither application has been dismissed or withdrawn, the following rules apply:

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

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

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

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

(C) On the probate court's own motion or on request of the

guardian, ward, protected person, or other person required to be notified of the petition, the probate court shall hold a hearing on a petition filed pursuant to division (A) of this section.

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

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

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

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

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

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

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

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

(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:

(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;

(2) The documents required to terminate a guardianship in this state.

(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:

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

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

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

(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.

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.

(B) Notice of a petition under division (A) of this section must be given by the guardian to those persons that would be entitled to notice if the petition were an application for the appointment of a guardian or issuance of a protective order in both the transferring state and this state. The notice must be given in the same manner as notice is required to be given in this state.

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

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

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

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

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

(F) In granting a petition under this section, the probate court shall recognize a guardianship order from the other state, including the determination of the incompetence of the ward and the appointment of the guardian. Nothing in this section shall

limit the probate court's authority under Chapter 2111. of the Revised Code.

(G) The denial by a probate court of this state of a petition to accept a guardianship transferred from another state does not affect the ability of the guardian to seek appointment as a guardian in this state under section 2111.02 of the Revised Code if the probate court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

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

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

Sec. 2112.43. (A) Upon the registration of a guardianship or protective order from another state, the guardian may exercise in this state all powers authorized in the order of appointment except as prohibited under the laws of this state, including

maintaining actions and proceedings in this state and, if the guardian is not a resident of this state, subject to any conditions imposed upon nonresident parties.

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

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

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

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