

# HOUSE BILL No. 1055

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 29-3; IC 29-3.5.

**Synopsis:** Adult guardianships and protective proceedings. Enacts the uniform adult guardianship and protective proceedings jurisdiction act. Governs issues concerning original jurisdiction, registration, transfer, and out-of-state enforcement of guardianships and protective orders appointed or issued for adults. Makes conforming changes, including changing the duration of a temporary guardianship from 60 days to 90 days. (The introduced version of this bill was prepared by the probate code study commission.)

**Effective:** July 1, 2011.

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**Foley, McMillin, DeLaney, Dvorak**

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January 5, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## HOUSE BILL No. 1055



A BILL FOR AN ACT to amend the Indiana Code concerning probate.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 29-3-2-1, AS AMENDED BY P.L.138-2007,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 1. (a) This article applies to the following:  
4 (1) The business affairs, physical person, and property of every  
5 incapacitated person and minor residing in Indiana.  
6 (2) Property located in Indiana of every incapacitated person and  
7 minor residing outside Indiana.  
8 (3) Property of every incapacitated person or minor, regardless of  
9 where the property is located, coming into the control of a  
10 fiduciary who is subject to the laws of Indiana.  
11 (b) Except as provided in subsections (c) through (e), the court has  
12 exclusive original jurisdiction **with respect to an individual who is**  
13 **not an adult (as defined in IC 29-3.5-1-2(1))** over all matters  
14 concerning the following:  
15 (1) Guardians.  
16 (2) Protective proceedings under IC 29-3-4.  
17 **In the case of an adult (as defined in IC 29-3.5-1-2(1)), a court must**



1 **establish jurisdiction concerning a guardianship or a protective**  
2 **proceeding in accordance with IC 29-3.5-2.**

3 (c) A juvenile court has exclusive original jurisdiction over matters  
4 relating to the following:

- 5 (1) Minors described in IC 31-30-1-1.
- 6 (2) Matters related to guardians of the person and guardianships  
7 of the person described in IC 31-30-1-1(10).

8 (d) Except as provided in subsection (c), courts with child custody  
9 jurisdiction under:

- 10 (1) IC 31-14-10;
- 11 (2) IC 31-17-2-1; or
- 12 (3) IC 31-21-5 (or IC 31-17-3-3 before its repeal);

13 have original and continuing jurisdiction over custody matters relating  
14 to minors.

15 (e) A mental health division of a superior court under IC 33-33-49  
16 has jurisdiction concurrent with the court in mental health proceedings  
17 under IC 12-26 relating to guardianship and protective orders.

18 (f) Jurisdiction under this section is not dependent on issuance or  
19 service of summons.

20 SECTION 2. IC 29-3-2-2 IS AMENDED TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The venue for the  
22 appointment of a guardian or for protective proceedings is as follows:

23 (1) If the alleged incapacitated person or minor resides in Indiana,  
24 venue is:

- 25 (A) in the county where the alleged incapacitated person or  
26 minor resides; or
- 27 (B) if the proceeding is for the appointment of a temporary  
28 guardian of the person for an alleged incapacitated person or  
29 minor who is in need of medical care, in the county where a  
30 facility is located that is providing or attempting to provide  
31 medical care to the alleged incapacitated person or minor.

32 (2) If the alleged incapacitated person or minor does not reside in  
33 Indiana, then venue is in any county where any property of the  
34 alleged incapacitated person or minor is located. However, if the  
35 proceeding is for the appointment of a temporary guardian of the  
36 person for an alleged incapacitated person or minor who is in  
37 need of medical care, venue is in the county where the facility  
38 providing or attempting to provide medical care is located.

39 **(3) If the alleged incapacitated person is an adult (as defined**  
40 **in IC 29-3.5-1-2(1)), venue is determined under the laws of the**  
41 **state or country having jurisdiction under IC 29-3.5-2.**  
42 **However, if a court in Indiana has jurisdiction under**

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1           **IC 29-3.5-2, the rules for determining venue set forth in this**  
 2           **section apply.**

3           (b) If proceedings are commenced in more than one (1) county, they  
 4 shall be stayed except in the county where first commenced until final  
 5 determination of the proper venue by the court in the county where first  
 6 commenced. After proper venue has been determined, all proceedings  
 7 in any county other than the county where jurisdiction has been finally  
 8 determined to exist shall be dismissed. If the proper venue is finally  
 9 determined to be in another county, the court shall transmit the original  
 10 file to the proper county. The proceedings shall be commenced by the  
 11 filing of a petition with the court, and the proceeding first commenced  
 12 extends to all of the property of the minor or the incapacitated person  
 13 unless otherwise ordered by the court.

14           (c) If it appears to the court at any time that:  
 15           (1) the proceeding was commenced in the wrong county;  
 16           (2) the residence of the incapacitated person or the minor has  
 17           been changed to another county;  
 18           (3) the proper venue is determined to be otherwise under the  
 19           Indiana Rules of Trial Procedure; or  
 20           (4) it would be in the best interest of the incapacitated person or  
 21           the minor and the property of the minor or the incapacitated  
 22           person;

23           the court may order the proceeding, together with all papers, files, and  
 24           a certified copy of all orders, transferred to another court in Indiana.  
 25           That court shall complete the proceeding as if originally commenced  
 26           in that court. The court may in like manner transfer a guardianship or  
 27           protective proceeding in Indiana to a court outside Indiana if the other  
 28           court assumes jurisdiction to complete the proceeding as if originally  
 29           commenced in that court. Before any transfer is made under this  
 30           subsection, a hearing pursuant to notice shall be held in the same  
 31           manner as provided with respect to the appointment of a guardian.

32           (d) Where a guardian has been appointed by a court that does not  
 33           have probate jurisdiction, the matter shall be transferred in accordance  
 34           with the proper venue to a court having probate jurisdiction for  
 35           qualification of the guardian and for further proceedings in the  
 36           guardianship.

37           (e) Nothing in this section shall be construed as a requirement of  
 38           jurisdiction.

39           SECTION 3. IC 29-3-3-4 IS AMENDED TO READ AS FOLLOWS  
 40           [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) If:

41           (1) a guardian has not been appointed for an incapacitated person  
 42           or minor;

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- 1 (2) an emergency exists;
- 2 (3) the welfare of the incapacitated person or minor requires
- 3 immediate action; and
- 4 (4) no other person appears to have authority to act in the
- 5 circumstances;

6 the court, on petition by any person or on its own motion, may appoint  
 7 a temporary guardian for the incapacitated person or minor for a  
 8 specified period not to exceed ~~sixty (60)~~ **ninety (90)** days. No such  
 9 appointment shall be made except after notice and hearing unless it is  
 10 alleged and found by the court that immediate and irreparable injury to  
 11 the person or injury, loss, or damage to the property of the alleged  
 12 incapacitated person or minor may result before the alleged  
 13 incapacitated person or minor can be heard in response to the petition.  
 14 If a temporary guardian is appointed without notice and the alleged  
 15 incapacitated person or minor files a petition that the guardianship be  
 16 terminated or the court order modified, the court shall hear and  
 17 determine the petition at the earliest possible time.

18 (b) If the court finds that a previously appointed guardian is not  
 19 effectively performing fiduciary duties and that the welfare of the  
 20 protected person requires immediate action, the court may suspend the  
 21 authority of the previously appointed guardian and appoint a temporary  
 22 guardian for the protected person for any period fixed by the court. The  
 23 authority of the previously appointed guardian is suspended as long as  
 24 a temporary guardian appointed under this subsection has authority to  
 25 act.

26 (c) A temporary guardian appointed under this section has only the  
 27 responsibilities and powers that are ordered by the court. The court  
 28 shall order only the powers that are necessary to prevent immediate and  
 29 substantial injury or loss to the person or property of the alleged  
 30 incapacitated person or minor in an appointment made under this  
 31 section.

32 (d) Proceedings under this section are not subject to the provisions  
 33 of IC 29-3-4.

34 (e) A proceeding under this section may be joined with a proceeding  
 35 under IC 29-3-4 or IC 29-3-5.

36 SECTION 4. IC 29-3-13-1 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Any person  
 38 indebted to an incapacitated person or minor, or having possession of  
 39 property belonging to a minor or incapacitated person, may pay the  
 40 debt or deliver the property to a foreign guardian appointed by a court  
 41 of the state in which the incapacitated person or minor resides upon  
 42 being presented with proof of the foreign guardian's appointment and

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1 an affidavit made by the foreign guardian stating the following:

2 (1) That the foreign guardian does not know of any other

3 guardianship proceeding, relating to the incapacitated person or

4 minor, pending in Indiana.

5 (2) That the letters of the foreign guardian were duly issued.

6 **(3) In the case of an incapacitated person who is an adult (as**

7 **defined in IC 29-3.5-1-2(1)), that the foreign guardian does**

8 **not know of a court in a jurisdiction other than Indiana that**

9 **has exercised jurisdiction regarding the incapacitated person**

10 **under a law similar to IC 29-3.5-2.**

11 ~~(3)~~ **(4)** That the foreign guardian is entitled to receive the payment

12 or delivery.

13 (b) If the person to whom the affidavit is presented does not know

14 of any other guardianship proceeding pending in Indiana, payment or

15 delivery in response to the demand and affidavit discharges the debtor

16 or possessor from any further liability.

17 SECTION 5. IC 29-3-13-2 IS AMENDED TO READ AS

18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. **(a) This subsection**

19 **applies to a guardianship of the property of a minor.** If no guardian

20 has been appointed, and no petition in a guardianship proceeding is

21 pending in Indiana, a guardian appointed by a court of another state in

22 which the ~~incapacitated person~~ or minor is domiciled may file, with an

23 Indiana court in a county in which property belonging to the

24 ~~incapacitated person~~ or minor is located, an authenticated copy of the

25 guardian's appointment and a bond that meets the requirements of

26 IC 29-3-7-1 with respect to that part of the property of the ~~incapacitated~~

27 ~~person~~ or minor that is located in that county. After filing the copy and

28 bond, the foreign guardian may exercise as to the property of the

29 ~~incapacitated person~~ or minor in that county in Indiana all powers of a

30 guardian in Indiana and may maintain actions and proceedings in

31 Indiana.

32 **(b) In the case of an incapacitated person who is an adult (as**

33 **defined in IC 29-3.5-1-2(1)), a foreign guardian for that adult may**

34 **register certified copies of the guardian's letters of office and order**

35 **of appointment under IC 29-3.5-4.**

36 SECTION 6. IC 29-3-13-3 IS AMENDED TO READ AS

37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A foreign guardian

38 submits personally to the jurisdiction of Indiana courts in any

39 proceeding relating to the property for which the guardian is

40 responsible by:

41 (1) complying with section 2 of this chapter;

42 (2) receiving payment of money or taking delivery of property

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1 belonging to ~~the incapacitated person or a~~ minor in Indiana; or  
2 (3) doing any act as a guardian in Indiana that would give Indiana  
3 jurisdiction over the guardian as an individual.

4 SECTION 7. IC 29-3.5 IS ADDED TO THE INDIANA CODE AS  
5 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
6 2011]:

7 **ARTICLE 3.5. UNIFORM ADULT GUARDIANSHIP AND**  
8 **PROTECTIVE PROCEEDINGS JURISDICTION ACT**

9 **Chapter 1. General Provisions**

10 **Sec. 1. This article may be cited as the uniform adult**  
11 **guardianship and protective proceedings jurisdiction act.**

12 **Sec. 2. The following definitions apply throughout this article:**

- 13 (1) "Adult" means either of the following:
  - 14 (A) An individual who has attained eighteen (18) years of
  - 15 age.
  - 16 (B) An emancipated minor who has not attained eighteen
  - 17 (18) years of age.
- 18 (2) "Conservator" means a guardian (as defined in
- 19 IC 29-3-1-6).
- 20 (3) "Guardian" has the meaning set forth in IC 29-3-1-6.
- 21 (4) "Guardianship order" means an order appointing a
- 22 guardian.
- 23 (5) "Guardianship proceeding" means a proceeding in which
- 24 an order for the appointment of a guardian is sought or has
- 25 been issued.
- 26 (6) "Home state" means either of the following:
  - 27 (A) The state in which the respondent was physically
  - 28 present, including any period of temporary absence, for at
  - 29 least six (6) consecutive months immediately before the
  - 30 filing of a petition for a protective order or the
  - 31 appointment of a guardian.
  - 32 (B) In the case of a respondent for whom no state satisfies
  - 33 clause (A), the state in which the respondent was physically
  - 34 present, including any period of temporary absence, for at
  - 35 least six (6) consecutive months ending within the six (6)
  - 36 months prior to the filing of the petition.
- 37 (7) "Incapacitated person" has the meaning set forth in
- 38 IC 29-3-1-7.5 with respect to an adult.
- 39 (8) "Party" means the respondent, petitioner, guardian,
- 40 conservator, or any other person allowed by the court to
- 41 participate in a guardianship or protective proceeding.
- 42 (9) "Person" has the meaning set forth in IC 29-3-1-12.

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- 1 (10) "Protected person" has the meaning set forth in  
 2 IC 29-3-1-13 with respect to an adult.
- 3 (11) "Protective order" refers to an order issued under  
 4 IC 29-3-4.
- 5 (12) "Protective proceeding" has the meaning set forth in  
 6 IC 29-3-1-14.
- 7 (13) "Record" means information that is inscribed on a  
 8 tangible medium or that is stored in an electronic or other  
 9 medium and is retrievable in perceivable form.
- 10 (14) "Respondent" means an adult for whom a protective  
 11 order or the appointment of a guardian is sought.
- 12 (15) "Significant connection state" means a state, other than  
 13 the home state, with which a respondent has a significant  
 14 connection other than mere physical presence and in which  
 15 substantial evidence concerning the respondent is available.
- 16 (16) "State" means a state of the United States, the District of  
 17 Columbia, Puerto Rico, the United States Virgin Islands, a  
 18 federally recognized Indian tribe, or any territory or insular  
 19 possession subject to the jurisdiction of the United States.
- 20 **Sec. 3. A court of this state may treat a foreign country as if it**  
 21 **were a state for the purpose of applying this article.**
- 22 **Sec. 4. (a) A court of this state may communicate with a court**  
 23 **in another state concerning a proceeding arising under this**  
 24 **chapter. The court may allow the parties to participate in the**  
 25 **communication. Except as otherwise provided in subsection (b), the**  
 26 **court shall make a record of the communication. The record may**  
 27 **be limited to the fact that the communication occurred.**
- 28 **(b) Courts may communicate concerning schedules, calendars,**  
 29 **court records, and other administrative matters without making a**  
 30 **record.**
- 31 **Sec. 5. (a) In a guardianship or protective proceeding in this**  
 32 **state, a court of this state may request the appropriate court of**  
 33 **another state to do any of the following:**
- 34 **(1) Hold an evidentiary hearing.**
- 35 **(2) Order a person in that state to produce or give evidence**  
 36 **pursuant to procedures of that state.**
- 37 **(3) Order that an evaluation or assessment be made of the**  
 38 **respondent, or order any appropriate investigation of a**  
 39 **person involved in a proceeding.**
- 40 **(4) Forward to the court of this state a certified copy of any of**  
 41 **the following:**
- 42 **(A) The transcript or other record of a hearing under**

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1                    subdivision (1) or any other proceeding.  
2                    (B) Any evidence otherwise presented under subdivision  
3                    (2).  
4                    (C) Any evaluation or assessment prepared in compliance  
5                    with the request under subdivision (3).  
6                    (5) Issue any other order necessary to assure the appearance  
7                    of a person necessary to make a determination, including the  
8                    respondent or the incapacitated or protected person.  
9                    (6) Issue an order authorizing the release of medical,  
10                    financial, criminal, or other relevant information in that state,  
11                    including health information otherwise protected by state or  
12                    federal law.  
13                    (b) If a court of another state in which a guardianship or  
14                    protective proceeding is pending requests assistance of the kind  
15                    provided in subsection (a), a court of this state has jurisdiction for  
16                    the limited purpose of granting the request or making reasonable  
17                    efforts to comply with the request.  
18                    Sec. 6. (a) In a guardianship or protective proceeding, in  
19                    addition to other procedures that may be available, testimony of  
20                    witnesses who are located in another state may be offered by  
21                    deposition or other means allowable in this state for testimony  
22                    taken in another state. The court on its own motion may order that  
23                    the testimony of a witness be taken in another state and may  
24                    prescribe the manner in which and the terms upon which the  
25                    testimony is to be taken.  
26                    (b) In a guardianship or protective proceeding, a court in this  
27                    state may permit a witness located in another state to be deposed  
28                    or to testify by telephone or audiovisual or other electronic means.  
29                    A court of this state shall cooperate with courts of other states in  
30                    designating an appropriate location for the deposition or  
31                    testimony.  
32                    (c) Documentary evidence transmitted from another state to a  
33                    court of this state by technological means that do not produce a  
34                    record simultaneously with the transmission may not be excluded  
35                    from evidence on an objection based on the means of transmission.  
36                    Chapter 2. Jurisdiction  
37                    Sec. 1. In determining under section 3 of this chapter and  
38                    IC 29-3.5-3-1(d) whether a respondent has a significant connection  
39                    with a particular state, the court shall consider:  
40                    (1) the location of the respondent's family and other persons  
41                    required to be notified of the guardianship or protective  
42                    proceeding;

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- 1           (2) the length of time the respondent at any time was
- 2           physically present in the state and the duration of any
- 3           absence;
- 4           (3) the location of the respondent's property; and
- 5           (4) the extent to which the respondent has ties to the state such
- 6           as registering to vote, filing a state or local tax return,
- 7           registering a vehicle, possessing a driver's license, having
- 8           social relationships, and receiving services in the state.

9           **Sec. 2. This chapter provides the exclusive jurisdictional basis**  
 10          **for a court of this state to appoint a guardian or issue a protective**  
 11          **order for an adult.**

12          **Sec. 3. A court of this state has jurisdiction to appoint a**  
 13          **guardian or issue a protective order for a respondent if:**

- 14           (1) this state is the respondent's home state;
- 15           (2) on the date the petition is filed, this state is a significant
- 16           connection state and:

17           (A) the respondent does not have a home state or a court of  
 18           the respondent's home state has declined to exercise  
 19           jurisdiction because this state is a more appropriate  
 20           forum; or

21           (B) the respondent has a home state, a petition for an  
 22           appointment or order is not pending in a court of that state  
 23           or another significant connection state, and, before the  
 24           court makes the appointment or issues the order:

- 25           (i) a petition for an appointment or order is not filed in
- 26           the respondent's home state;
- 27           (ii) an objection to the court's jurisdiction is not filed by
- 28           a person required to be notified of the proceeding; and
- 29           (iii) the court in this state concludes that it is an
- 30           appropriate forum under the factors set forth in section
- 31           6 of this chapter;

32           (3) this state does not have jurisdiction under either  
 33           subdivision (1) or (2), the respondent's home state and all  
 34           significant connection states have declined to exercise  
 35           jurisdiction because this state is the more appropriate forum,  
 36           and jurisdiction in this state is consistent with the  
 37           constitutions of this state and the United States; or

38           (4) the requirements for special jurisdiction under section 4 of  
 39           this chapter are met.

40          **Sec. 4. (a) A court of this state lacking jurisdiction under section**  
 41          **3(1) through 3(3) of this chapter has special jurisdiction to do any**  
 42          **of the following:**

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- 1 (1) Appoint a temporary guardian in an emergency as
- 2 permitted by IC 29-3-3-4 for a term not exceeding ninety (90)
- 3 days for a respondent who is physically present in this state.
- 4 (2) Issue a protective order with respect to real or tangible
- 5 personal property located in this state.
- 6 (3) Appoint a guardian or conservator for an incapacitated or
- 7 protected person for whom a provisional order to transfer the
- 8 proceeding from another state has been issued under
- 9 procedures similar to IC 29-3.5-3-1.

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

16 Sec. 5. Except as otherwise provided in section 4 of this chapter,  
 17 a court that has appointed a guardian or issued a protective order  
 18 consistent with this chapter has exclusive and continuing  
 19 jurisdiction over the proceeding until it is terminated by the court  
 20 or the appointment or order expires by its own terms.

21 Sec. 6. (a) A court of this state having jurisdiction under section  
 22 3 of this chapter to appoint a guardian or issue a protective order  
 23 may decline to exercise its jurisdiction if it determines at any time  
 24 that a court of another state is a more appropriate forum.

25 (b) If a court of this state declines to exercise its jurisdiction  
 26 under subsection (a), it shall either dismiss or stay the proceeding.  
 27 The court may impose any condition the court considers just and  
 28 proper, including the condition that a petition for the appointment  
 29 of a guardian or issuance of a protective order be filed promptly in  
 30 another state.

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

- 33 (1) any expressed preference of the respondent;
- 34 (2) whether abuse, neglect, or exploitation of the respondent
- 35 has occurred or is likely to occur, and which state could best
- 36 protect the respondent from the abuse, neglect, or
- 37 exploitation;
- 38 (3) the length of time the respondent was physically present in
- 39 or was a legal resident of this or another state;
- 40 (4) the distance of the respondent from the court in each state;
- 41 (5) the financial circumstances of the respondent's estate;
- 42 (6) the nature and location of the evidence;

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- 1 (7) the ability of the court in each state to decide the issue
- 2 expeditiously and the procedures necessary to present
- 3 evidence;
- 4 (8) the familiarity of the court of each state with the facts and
- 5 issues in the proceeding; and
- 6 (9) if an appointment were made, the court's ability to
- 7 monitor the conduct of the guardian.

8 **Sec. 7. (a) If at any time a court of this state determines that it**  
 9 **acquired jurisdiction to appoint a guardian or issue a protective**  
 10 **order because of unjustifiable conduct, the court may:**

- 11 (1) decline to exercise jurisdiction;
- 12 (2) exercise jurisdiction for the limited purpose of fashioning
- 13 an appropriate remedy to ensure the health, safety, and
- 14 welfare of the respondent or the protection of the
- 15 respondent's property or prevent a repetition of the
- 16 unjustifiable conduct, including staying the proceeding until
- 17 a petition for the appointment of a guardian or issuance of a
- 18 protective order is filed in a court of another state having
- 19 jurisdiction; or
- 20 (3) continue to exercise jurisdiction after considering:
- 21 (A) the extent to which the respondent and all persons
- 22 required to be notified of the proceedings have acquiesced
- 23 in the exercise of the court's jurisdiction;
- 24 (B) whether it is a more appropriate forum than the court
- 25 of any other state under the factors set forth in section 6(c)
- 26 of this chapter; and
- 27 (C) whether the court of any other state would have
- 28 jurisdiction under factual circumstances in substantial
- 29 conformity with the jurisdictional standards of section 3 of
- 30 this chapter.

31 (b) If a court of this state determines that it acquired  
 32 jurisdiction to appoint a guardian or issue a protective order  
 33 because a party seeking to invoke its jurisdiction engaged in  
 34 unjustifiable conduct, it may assess against that party necessary  
 35 and reasonable expenses, including attorney's fees, investigative  
 36 fees, court costs, communication expenses, witness fees and  
 37 expenses, and travel expenses. The court may not assess fees, costs,  
 38 or expenses of any kind against this state or a governmental  
 39 subdivision, agency, or instrumentality of this state unless  
 40 authorized by law other than this chapter.

41 **Sec. 8. If a petition for the appointment of a guardian or**  
 42 **issuance of a protective order is brought in this state and this state**

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1 was not the respondent's home state on the date the petition was  
2 filed, in addition to complying with the notice requirements of this  
3 state, notice of the petition must be given to those persons who  
4 would be entitled to notice of the petition if a proceeding were  
5 brought in the respondent's home state. The notice must be given  
6 in the same manner as notice is required to be given in this state.

7 **Sec. 9.** Except for a petition for the appointment of a guardian  
8 in an emergency or issuance of a protective order limited to  
9 property located in this state under section 4(a)(1) or 4(a)(2) of this  
10 chapter, if a petition for the appointment of a guardian or issuance  
11 of a protective order is filed in this state and in another state and  
12 neither petition has been dismissed or withdrawn, the following  
13 rules apply:

14 (1) If the court in this state has jurisdiction under section 3 of  
15 this chapter, it may proceed with the case unless a court in  
16 another state acquires jurisdiction under provisions similar to  
17 section 3 of this chapter before the appointment or issuance  
18 of the order.

19 (2) If the court in this state does not have jurisdiction under  
20 section 3 of this chapter, whether at the time the petition is  
21 filed or at any time before the appointment or issuance of the  
22 order, the court shall stay the proceeding and communicate  
23 with the court in the other state. If the court in the other state  
24 has jurisdiction, the court in this state shall dismiss the  
25 petition unless the court in the other state determines that the  
26 court in this state is a more appropriate forum.

27 **Chapter 3. Transfer of Guardianship or Conservatorship**

28 **Sec. 1. (a)** A guardian appointed in this state may petition the  
29 court to transfer the guardianship to another state.

30 (b) Notice of a petition under subsection (a) must be given to the  
31 persons that would be entitled to notice of a petition in this state for  
32 the appointment of a guardian.

33 (c) On the court's own motion or on request of the guardian, the  
34 protected person, or other person required to be notified of the  
35 petition, the court shall hold a hearing on a petition filed under  
36 subsection (a).

37 (d) The court shall issue an order provisionally granting a  
38 petition to transfer a guardianship and shall direct the guardian to  
39 petition for guardianship in the other state if the court is satisfied  
40 that the guardianship will be accepted by the court in the other  
41 state and the court finds that:

42 (1) the protected person:

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- 1 (A) is physically present in the other state;
- 2 (B) is reasonably expected to move permanently to the
- 3 other state; or
- 4 (C) has a significant connection to the other state as
- 5 determined under IC 29-3.5-2-1;
- 6 (2) an objection to the transfer has not been made or, if an
- 7 objection has been made, the objector has not established that
- 8 the transfer would be contrary to the interests of the
- 9 protected person;
- 10 (3) plans for care and services for the protected person in the
- 11 other state are reasonable and sufficient; and
- 12 (4) adequate arrangements will be made for management of
- 13 the protected person's property.
- 14 (e) The court shall issue a final order confirming the transfer
- 15 and terminating the guardianship upon its receipt of:
  - 16 (1) a provisional order accepting the proceeding from the
  - 17 court to which the proceeding is to be transferred which is
  - 18 issued under provisions similar to section 2 of this chapter;
  - 19 and
  - 20 (2) the documents required to terminate a guardianship in
  - 21 this state.
- 22 Sec. 2. (a) To confirm transfer of a guardianship or
- 23 conservatorship transferred to this state under provisions similar
- 24 to section 1 of this chapter, the guardian or conservator must
- 25 petition the court in this state to accept the guardianship or
- 26 conservatorship. The petition must include a certified copy of the
- 27 other state's provisional order of transfer.
- 28 (b) Notice of a petition under subsection (a) must be given to
- 29 those persons that would be entitled to notice if the petition were
- 30 a petition for the appointment of a guardian or issuance of a
- 31 protective order in both the transferring state and this state. The
- 32 notice must be given in the same manner as notice is required to be
- 33 given in this state.
- 34 (c) On the court's own motion or on request of the guardian or
- 35 conservator, the incapacitated or protected person, or other person
- 36 required to be notified of the proceeding, the court shall hold a
- 37 hearing on a petition filed under subsection (a).
- 38 (d) The court shall issue an order provisionally granting a
- 39 petition filed under subsection (a) unless:
  - 40 (1) an objection is made and the objector establishes that
  - 41 transfer of the proceeding would be contrary to the interests
  - 42 of the incapacitated or protected person; or

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1 (2) the guardian or conservator is ineligible for appointment  
2 in this state.

3 (e) The court shall issue a final order accepting the proceeding  
4 and appointing the guardian or conservator as guardian or  
5 conservator in this state upon its receipt from the court from which  
6 the proceeding is being transferred of a final order issued under  
7 provisions similar to section 1 of this chapter transferring the  
8 proceeding to this state.

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

13 (g) In granting a petition under this section, the court shall  
14 recognize a guardianship or conservatorship order from the other  
15 state, including the determination of the incapacitated or protected  
16 person's incapacity and the appointment of the guardian or  
17 conservator.

18 (h) The denial by a court of this state of a petition to accept a  
19 guardianship or conservatorship transferred from another state  
20 does not affect the ability of the guardian or conservator to seek  
21 appointment as guardian in this state under IC 29-3 if the court has  
22 jurisdiction to make an appointment other than by reason of the  
23 provisional order of transfer.

24 Chapter 4. Registration and Recognition of Order From Other  
25 States

26 Sec. 1. If:

- 27 (1) a guardian has been appointed in another state;
- 28 (2) a petition for the appointment of a guardian is not pending  
29 in this state; and
- 30 (3) the guardian appointed in the other state gives notice to  
31 the appointing court of an intent to register the guardianship  
32 order;

33 the guardian appointed in the other state may register the  
34 guardianship order in this state by filing certified copies of the  
35 guardian's order and letters of office as a foreign judgment in the  
36 court of this state having probate jurisdiction and venue of the  
37 registered guardianship.

38 Sec. 2. If:

- 39 (1) a conservator has been appointed in another state;
- 40 (2) a petition for a guardianship or protective order is not  
41 pending in this state; and
- 42 (3) the conservator appointed in the other state gives notice to

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1           the appointing court of an intent to register the protective  
 2           order;  
 3           the conservator appointed in the other state may register the  
 4           protective order in this state by filing as a foreign judgment  
 5           certified copies of the conservator's order, letters of office, and  
 6           bond, if any, in the court of this state having probate jurisdiction  
 7           in any county in which property belonging to the protected person  
 8           is located.

9           **Sec. 3. (a)** Upon registration of a guardianship or protective  
 10          order from another state, the guardian or conservator may  
 11          exercise in this state all powers authorized in the order of  
 12          appointment except as prohibited under the laws of this state,  
 13          including maintaining actions and proceedings in this state and, if  
 14          the guardian or conservator is not a resident of this state, subject  
 15          to any conditions imposed upon nonresident parties.

16          **(b)** A court of this state may grant any relief available under this  
 17          chapter and other laws of this state to enforce a registered order.

18          **Chapter 5. Miscellaneous Provisions**

19          **Sec. 1.** In applying and construing this uniform act,  
 20          consideration must be given to the need to promote uniformity of  
 21          the law with respect to its subject matter among states that enact  
 22          it.

23          **Sec. 2.** This article modifies, limits, and supersedes the federal  
 24          Electronic Signatures in Global and National Commerce Act, 15  
 25          U.S.C. 7001, et seq., but does not modify, limit, or supersede  
 26          Section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic  
 27          delivery of any of the notices described in Section 103(b) of that  
 28          act, 15 U.S.C. 7003(b).

29          **Sec. 3. (a)** This article applies as follows:

30                 **(1)** To guardianships and protective orders in existence on  
 31                 July 1, 2011.

32                 **(2)** To guardianship and protective proceedings begun after  
 33                 June 30, 2011.

34          **(b)** In the case of a guardianship or protective proceeding begun  
 35          in Indiana before July 1, 2011, jurisdiction is established under  
 36          IC 29-3.

37          **(c)** After June 30, 2011, a guardianship appointed or a  
 38          protective order issued by a court exercising jurisdiction  
 39          established under subsection (b) may be transferred to another  
 40          court in accordance with IC 29-3.5-3.

41          **(d)** After June 30, 2011, a guardianship or protective proceeding  
 42          begun in another state before July 1, 2011, may be registered in

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1 **Indiana in accordance with IC 29-3.5-4.**

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