

House Bill 896

By: Representatives Efration of the 104th, Willard of the 51st, Trammell of the 132nd, and Caldwell of the 131st

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward,
2 so as to change provisions relating to guardians and conservators of adults; to recognize
3 certain provisions of the "Uniform Adult Guardianship and Conservatorship Proceedings
4 Jurisdiction Act" in connection with the appointment of a guardian or conservator of adults
5 and the jurisdiction for such petitions; to change provisions relating to the termination of an
6 emergency guardianship; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is
11 amended by revising subsection (b) and paragraph (1) of subsection (e) of Code Section
12 29-4-1, relating to prerequisite findings prior to appointment of guardian for adult and the
13 extent of guardianship, as follows:

14 "(b) No guardian, other than a guardian ad litem or a guardian appointed in an emergency
15 under paragraph (1) of subsection (a) of Code Section 29-11-13, shall be appointed for an
16 adult except pursuant to the procedures of this chapter."

17 "(e)(1) No adult shall be presumed to be in need of a guardian unless;

18 (A) He or she has been adjudicated to be in need of a guardian pursuant to this chapter;

19 or

20 (B) A court has recognized another state's determination of incapacity and the
21 appointment of a guardian as provided in subsection (g) of Code Section 29-11-21."

22 **SECTION 2.**

23 Said title is further amended by revising subsection (a) of Code Section 29-4-10, relating to
24 a petition for appointment of guardian and the requirements of such petition, as follows:

25 "(a) Any interested person ~~or persons~~, including the proposed ward, may file a petition for
 26 the appointment of a guardian. ~~The~~ Such petition shall be filed in the court of the county
 27 in which ~~the~~:

28 (1) ~~The~~ proposed ward is domiciled ~~or is found~~;

29 (2) ~~The proposed ward is found~~; provided, ~~however~~, that if the court of the county where
 30 the proposed ward is found ~~shall not have jurisdiction to hear any guardianship petition~~
 31 ~~if it appears~~ determines that the proposed ward was removed to ~~that~~ such county solely
 32 for the purposes of filing a petition for the appointment of a guardian and that such court
 33 acquired jurisdiction to appoint a guardian because of unjustifiable conduct, such court
 34 may take any action authorized by Code Section 29-11-16; or

35 (3) Jurisdiction is otherwise proper under Code Section 29-11-12."

36 SECTION 3.

37 Said title is further amended by revising subsection (a) of Code Section 29-4-14, relating to
 38 petition for appointment of emergency guardian and the requirements for such petition, as
 39 follows:

40 "(a) Any interested person, including the proposed ward, may file a petition for the
 41 appointment of an emergency guardian. ~~The~~ Such petition shall be filed in the court of the
 42 county in which ~~the~~:

43 (1) ~~The~~ proposed ward is domiciled ~~or~~;

44 (2) ~~The proposed ward~~ is found; ~~or~~

45 (3) Jurisdiction is otherwise proper under Code Section 29-11-12."

46 SECTION 4.

47 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section
 48 29-4-16, relating to conducting an emergency guardianship hearing and limitations on
 49 emergency guardianship, as follows:

50 "(3) The emergency guardianship shall terminate on the earliest of:

51 (A) The court's removal of the emergency guardian, with or without cause;

52 (B) The effective date of the appointment of a guardian;

53 (C) Unless otherwise specified in the order of dismissal, the dismissal of a petition for
 54 appointment of a guardian;

55 (D) The date specified for the termination in the order appointing the emergency
 56 guardian; ~~or~~

57 (E) Sixty days from the date of appointment of the emergency guardian, provided that
 58 the court had jurisdiction to issue such order under paragraph (1) of Code Section
 59 29-11-12; or

60 (F) Ninety days from the date of appointment of the emergency guardian, provided that
 61 the court had jurisdiction to issue such order under paragraph (2) or (3) of Code Section
 62 29-11-12."

63 **SECTION 5.**

64 Said title is further amended by revising subsection (b) and paragraph (1) of subsection (e)
 65 of Code Section 29-5-1, relating to conservator for adults, the best interest of the adult, no
 66 presumption of need for conservator, and the objective of conservatorship, as follows:

67 "(b) No conservator, except a conservator appointed under paragraph (2) of subsection (a)
 68 of Code Section 29-11-13 or a conservator for the estate of an individual who is missing
 69 or who is believed to be dead, shall be appointed for any adult except pursuant to the
 70 procedures of this chapter."

71 "(e)(1) No adult shall be presumed to be in need of a conservator unless:

72 (A) He or she has been adjudicated to be in need of a conservator pursuant to this
 73 chapter; or

74 (B) A court has recognized another state's determination of a protected person's
 75 incapacity and the appointment of a conservator as provided in subsection (g) of Code
 76 Section 29-11-21."

77 **SECTION 6.**

78 Said title is further amended by revising subsection (a) of Code Section 29-5-10, relating to
 79 a petition for appointment of conservator and the requirements of such petition, as follows:

80 "(a) Any interested person ~~or persons~~, including the proposed ward, may file a petition for
 81 the appointment of a conservator. ~~The~~ Such petition shall be filed in the court of the
 82 county in which ~~the~~:

83 (1) The proposed ward is domiciled or is found;

84 (2) The proposed ward is found; provided, however, that if the court of the county where
 85 the proposed ward is found shall not have jurisdiction to hear any conservatorship
 86 petition if it appears determines that the proposed ward was removed to that such county
 87 solely for the purposes of filing a petition for the appointment of a conservator and that
 88 such court acquired jurisdiction to appoint a conservator because of unjustifiable conduct,
 89 such court may take any action authorized by Code Section 29-11-16; or

90 (3) Jurisdiction is otherwise proper under Code Section 29-11-12."

91 **SECTION 7.**

92 Said title is further amended by revising subsection (a) of Code Section 29-5-14, relating to
 93 appointment of emergency conservator and requirements of the petition, as follows:

94 "(a) Any interested person, including the proposed ward, may file a petition for the
95 appointment of an emergency conservator. ~~The~~ Such petition shall be filed in the court of
96 the county in which ~~the~~:

97 (1) The proposed ward is domiciled or;

98 (2) The proposed ward is found; or

99 (3) Jurisdiction is otherwise proper under Code Section 29-11-12."

100

SECTION 8.

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