

SENATE SUBSTITUTE TO HB 70:

AS PASSED SENATE

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 revise provisions relating to guardians and conservators of minors and adults; to
 3 revise a provision relating to parental consent to temporary guardianship; to revise bond
 4 requirements of a minor guardian; to revise provisions relating to conservator bond and
 5 security; to revise provisions relating to petition appointment; to revise provisions relating
 6 to emergency guardianship and conservatorship; to recognize the "Uniform Enforcement of
 7 Foreign Judgments Act" in connection with the appointment of a guardian or conservator,
 8 the jurisdiction for such petitions, and the enforcement of orders issued in other states; to
 9 allow conservators to access the digital assets of minors and wards; to provide for the
 10 payment of costs, compensation, fees, and expenses; to revise provisions regarding court
 11 contempt powers; to provide for standards for the establishment of a guardian to act in
 12 certain circumstances; to amend various provisions of the Official Code of Georgia
 13 Annotated so as to make conforming revisions; to provide for related matters; to provide for
 14 an effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is
 18 amended by revising subsection (c) of Code Section 29-2-25, relating to bond requirements
 19 of guardians of minors, as follows:

20 "(c) If a guardian is required to give bond and has given as security one or more licensed
 21 commercial sureties authorized to transact business in this state, the bond premium ~~may~~
 22 shall, upon the request of the guardian, be paid as part of the cost of administration from
 23 the estate of the minor."

24 **SECTION 2.**

25 Said title is further amended by revising subsection (a) of Code Section 29-2-51, relating to
 26 appointment of successor guardian of minor, as follows:

27 "(a) The court shall appoint a successor guardian upon the resignation, death, or revocation
 28 of the letters of the guardian if the appointment of a successor guardian is in the best
 29 interest of the minor. The court shall select the successor guardian in the manner provided
 30 in Code Section ~~29-2-15~~ 29-2-16."

31 **SECTION 3.**

32 Said title is further amended by revising paragraphs (9) and (10) of subsection (c) of Code
 33 Section 29-3-22, relating to powers of conservators of minors, as follows:

34 "~~(9)~~ To access the digital assets of the minor pursuant to Code Section 53-13-20;
 35 (10) To engage in estate planning for the minor pursuant to the provisions of Code
 36 Section 29-3-36; and
 37 ~~(10)~~(11) To perform such other acts as may be in the best interest of the minor."

38 **SECTION 4.**

39 Said title is further amended by revising subsection (b) of Code Section 29-3-44, relating to
 40 payment of bond premium by conservators of minors, as follows:

41 "(b) When the guardian is required to give bond pursuant to Code Section 29-2-25, the
 42 conservator shall, upon the request of the guardian, pay any bond premium from the estate."

43 **SECTION 5.**

44 Said title is further amended by revising subsection (b) and paragraph (1) of subsection (e)
 45 of Code Section 29-4-1, relating to prerequisite findings prior to appointment of guardian for
 46 adult and extent of guardianship, as follows:

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

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

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

52 or

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

55 **SECTION 6.**

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

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

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

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

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

69 **SECTION 7.**

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

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

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

76 (2) The proposed ward is found; or

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

78 **SECTION 8.**

79 Said title is further amended by revising paragraph (3) of subsection (b) of Code Section
80 29-4-16, relating to conducting an emergency guardianship hearing and limitations on
81 emergency guardianship, as follows:

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

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

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

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

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

89 (E) Sixty days from the date of appointment of the emergency guardian, provided that
 90 the court had jurisdiction to issue such order under paragraph (1) of Code Section
 91 29-11-12; or

92 (F) Ninety days from the date of appointment of the emergency guardian, provided that
 93 the court had jurisdiction to issue such order under paragraph (2) or (3) of Code Section
 94 29-11-12."

95 **SECTION 9.**

96 Said title is further amended by repealing Code Section 29-4-17, relating to responsibility for
 97 paying expenses of hearings in guardianship proceeding, and designating it as reserved.

98 **SECTION 10.**

99 Said title is further amended by revising subsections (a) and (c) of Code Section 29-4-30,
 100 relating to bond requirements of guardian of adult, as follows:

101 "(a)(1) A guardian, including a guardian appointed in a final order accepting the transfer
 102 of a guardianship proceeding from another state issued under subsection (e) of Code
 103 Section 29-11-21, may be required to give bond with good and sufficient security in such
 104 amount as the court may determine from time to time.

105 (2) With respect to a guardianship order from another state that has been registered with
 106 and recorded by the court under Code Section 29-11-30, in addition to any action the
 107 court may take under paragraph (1) of this subsection or under subsection (b) of Code
 108 Section 29-11-32, such court of this state may communicate with the appointing court in
 109 such other state under subsection (a) of Code Section 29-11-4 to inform such appointing
 110 court of any action relating to a bond of such guardian, stating the reasons therefor."

111 "(c) If a guardian is required to give bond and has given as security one or more licensed
 112 commercial sureties authorized to transact business in this state, the bond premium ~~may~~
 113 shall, upon the request of the guardian, be paid as part of the cost of administration from
 114 the estate of the ward."

115 **SECTION 11.**

116 Said title is further amended by revising subsection (a) of Code Section 29-4-61, relating to
 117 appointment of successor guardian of adult, as follows:

118 "(a) The court shall appoint a successor guardian upon the resignation, death, or revocation
 119 of the letters of the guardian if the appointment of a successor guardian is in the best
 120 interest of the ward. The court shall select the successor guardian in the manner provided
 121 in Code Section ~~29-4-11~~ 29-4-3."

SECTION 12.

122
 123 Said title is further amended by revising Code Section 29-4-98, relating to submission to
 124 jurisdiction by foreign guardian, as follows:

125 "29-4-98.

126 (a) A foreign guardian submits personally to the jurisdiction of the courts of this state in
 127 any proceeding relating to the guardianship by:

128 (1) Receiving payment of money or taking delivery of personal property in this state
 129 belonging to the ward; ~~or~~

130 (2) Doing any act as a guardian in this state that would have given this state jurisdiction
 131 over the actor as an individual; or

132 (3) Registering the guardianship order in this state pursuant to Code Section 29-11-30.

133 (b) With respect to a guardianship order from another state that has been registered with
 134 and recorded by a court of this state under Code Section 29-11-30, in addition to any action
 135 such court of this state may take under this part or under subsection (b) of Code Section
 136 29-11-32, such court of this state may communicate with the appointing court in such other
 137 state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any
 138 proceeding relating to the guardianship initiated in this state under subsection (a) of this
 139 Code section, stating the reasons therefor."

SECTION 13.

140
 141 Said title is further amended by revising subsection (b) and paragraph (1) of subsection (e)
 142 of Code Section 29-5-1, relating to conservator for adults, best interest of the adult, no
 143 presumption of need for conservator, and objective of conservatorship, as follows:

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

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

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

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

SECTION 14.

154
 155 Said title is further amended by revising subsection (a) of Code Section 29-5-10, relating to
 156 a petition for appointment of conservator and requirements of petition, as follows:

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

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

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

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

168 **SECTION 15.**

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

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

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

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

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

177 **SECTION 16.**

178 Said title is further amended by repealing Code Section 29-5-17, relating to responsibility for
 179 paying expenses of hearings in conservatorship proceeding, and designating it as reserved.

180 **SECTION 17.**

181 Said title is further amended by revising paragraphs (10) and (11) of subsection (c) of Code
 182 Section 29-5-23, relating to authority of conservators of adults, as follows:

183 "(10) To access the digital assets of the ward pursuant to Code Section 53-13-20;

184 (11) To engage in estate planning for the ward pursuant to the provisions of Code
 185 Section 29-5-36; and

186 ~~(11)~~(12) To perform such other acts as may be in the best interest of the ward."

187 **SECTION 18.**

188 Said title is further amended by revising subsection (a) of Code Section 29-5-40, relating to
 189 bond requirement of conservator of adult, as follows:

190 "(a) A conservator appointed by the court, including a conservator appointed in a final
 191 order accepting the transfer of a conservatorship proceeding from another state issued
 192 under subsection (e) of Code Section 29-11-21, shall give bond with good and sufficient
 193 security."

194 **SECTION 19.**

195 Said title is further amended by revising subsection (b) of and adding a new subsection to
 196 Code Section 29-5-43, relating to requirement of additional bond or security from
 197 conservator of adult, as follows:

198 "(b) When it comes to the knowledge of the court that the surety on the conservator's bond
 199 has died, become insolvent, or removed from this state or if from other cause the security
 200 becomes insufficient, the court may give notice to the conservator to appear and give other
 201 and sufficient security. Notice shall be mailed by first-class mail to the conservator and to
 202 the surety on the conservator's bond. If the conservator fails to comply with the notice, the
 203 court may revoke the letters of conservatorship in accordance with Code Section ~~29-5-102~~
 204 29-5-92.

205 (c) With respect to any bond filed with a conservatorship order from another state that has
 206 been registered with and recorded by the court under Code Section 29-11-31, in addition
 207 to any action the court may take under this article or under subsection (b) of Code Section
 208 29-11-32, such court of this state may communicate with the appointing court in such other
 209 state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the
 210 insufficiency of such bond under subsection (a) or (b) of this Code section, stating the
 211 reasons therefor."

212 **SECTION 20.**

213 Said title is further amended by revising subsection (b) of Code Section 29-5-44, relating to
 214 payment of bond premium of conservators of adults, as follows:

215 "(b) When the guardian is required to give bond pursuant to Code Section 29-4-30, the
 216 conservator shall, upon the request of the guardian, pay any bond premium from the estate."

217 **SECTION 21.**

218 Said title is further amended by adding a new Code section to Article 5 of Chapter 5, relating
 219 to conservator's bond and other obligations, to read as follows:

220 "29-5-49.1.

221 With respect to a conservatorship order from another state that has been registered with and
 222 recorded by a court of this state under Code Section 29-11-31, in addition to any action
 223 such court of this state may take under this article or under subsection (b) of Code Section

224 29-11-32, such court of this state may communicate with the appointing court in such other
 225 state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any
 226 proceeding relating to the conservatorship initiated in this state under this article, stating
 227 the reasons therefor."

228 **SECTION 22.**

229 Said title is further amended by revising Code Section 29-5-138, relating to submission to
 230 jurisdiction personally of foreign conservator, as follows:

231 "29-5-138.

232 (a) A foreign conservator submits personally to the jurisdiction of the courts of this state
 233 in any proceeding relating to the conservatorship by:

234 (1) Receiving payment of money or taking delivery of personal property in this state
 235 belonging to the ward; ~~or~~

236 (2) Doing any act as a conservator in this state that would have given this state
 237 jurisdiction over the actor as an individual; or

238 (3) Registering the conservatorship order in this state pursuant to Code Section 29-11-31.

239 (b) With respect to a conservatorship order from another state that has been registered with
 240 and recorded by a court of this state under Code Section 29-11-31, in addition to any action
 241 such court of this state may take under this part or under subsection (b) of Code Section
 242 29-11-32, such court of this state may communicate with the appointing court in such other
 243 state under subsection (a) of Code Section 29-11-4 to inform such appointing court of any
 244 proceeding relating to the conservatorship initiated in this state under subsection (a) of this
 245 Code section, stating the reasons therefor."

246 **SECTION 23.**

247 Said title is further amended by revising Code Section 29-5-139, relating to interested parties'
 248 right to compel foreign conservator to act with equity and good conscience, as follows:

249 "29-5-139.

250 (a) Any resident of this state who is interested as a creditor, heir, putative heir, or will
 251 beneficiary of a ward for whom a foreign conservator represents has been appointed may
 252 apply to the proper court to compel the foreign conservator to protect that interest
 253 according to equity and good conscience before selling the ward's assets or removing the
 254 ward's assets beyond the limits of this state.

255 (b) With respect to a conservatorship order from another state that has been registered with
 256 and recorded by a court of this state under Code Section 29-11-31, in addition to any action
 257 such court of this state may take under this part or under subsection (b) of Code Section
 258 29-11-32, such court of this state may communicate with the appointing court in such other

259 state under subsection (a) of Code Section 29-11-4 to inform such appointing court of the
 260 application to compel such foreign conservator to protect an interest under subsection (a)
 261 of this Code section, stating the reasons therefor."

262 **SECTION 24.**

263 Said title is further amended by revising Code Section 29-9-1, relating to the application of
 264 Chapter 9 of Title 29, as follows:

265 "29-9-1.

266 Except as otherwise specifically provided by law, the provisions of this chapter shall apply
 267 to any proceeding in the court that arises under this title. Compliance with the provisions
 268 of this chapter shall be deemed to be sufficient for proceedings in the court arising under
 269 this title, except as otherwise provided in Chapter 11 of Title 9 ~~and~~, Chapter 9 of Title 15,
 270 and Chapter 11 of this title."

271 **SECTION 25.**

272 Said title is further amended by revising Code Section 29-9-2, relating to appointment of
 273 guardian ad litem, representation of persons not sui juris; limited appointment, and
 274 identification of parties in all petitions, as follows:

275 "29-9-2.

276 (a)(1) The court, in its discretion, may at any time appoint a guardian ad litem to
 277 represent the interests of a minor, a proposed ward, or a ward in proceedings relating to
 278 the guardianship or conservatorship of that individual. However, the appointment of a
 279 guardian ad litem does not supersede any specific requirement for that individual to be
 280 served either by personal service or in the manner provided by subsection (a) of Code
 281 Section 15-9-17, and the guardian ad litem may not waive personal service for that
 282 individual.

283 ~~(b)(2)~~ Except as provided in ~~subsection (a) of this Code section~~ paragraph (1) of this
 284 subsection, when a person who is entitled to notice under any provision of this title is not
 285 sui juris, the interests of ~~that~~ such person shall be represented in the proceeding by a
 286 guardian ad litem; provided, however, that the court may determine for the purpose of the
 287 particular proceeding that the natural guardian, if any, or the testamentary guardian, if
 288 any, or the duly constituted conservator, if any, or the duly constituted guardian, if any,
 289 has no conflict of interest and thus may represent for the purpose of the proceeding a
 290 person who is not sui juris. Service upon or notice to a guardian ad litem shall constitute
 291 service upon or notice to ~~that~~ such person who is not sui juris, and except as provided in
 292 subsection (a) of Code Section 15-9-17, no additional service upon or notice to ~~that~~ such
 293 person shall be required. Waivers, acknowledgments, consents, answers, objections, or

294 other documents executed by a guardian ad litem shall, except as otherwise provided in
 295 Code Section 15-9-17, be binding upon the person represented. The guardian ad litem
 296 may represent a single person or more than one person or a class of persons with common
 297 or nonadverse interests.

298 ~~(e)~~(3) Whenever a guardian ad litem is appointed, the court may limit the appointment,
 299 may remove the guardian ad litem, or may at any time for cause appoint a successor
 300 guardian ad litem.

301 ~~(d)~~(4)(A) In every petition filed in the court, the petitioner shall identify each person
 302 who requires a guardian ad litem and the name and address of any person who is acting
 303 as conservator or guardian of the party. A copy of the letters appointing the conservator
 304 or guardian shall be attached to the petition or the petition shall allege such facts as
 305 shall show the authority of such conservator or guardian to act; ~~provided, however, that,~~
 306 (B) The authority of a conservator or guardian to act may be established under
 307 subparagraph (A) of this paragraph by showing:

308 (i) Compliance by a foreign guardian of a minor with the filing requirements of
 309 subsection (b) of Code Section 29-2-74 or of Code Section 29-2-76;

310 (ii) Compliance by a foreign conservator of the property of a minor with the filing
 311 requirements of subsection (b) of Code Section 29-3-115 or of Code Section
 312 29-3-117;

313 (iii) Compliance by a foreign guardian of an adult with the filing requirements of
 314 subsection (b) of Code Section 29-4-95 or of Code Section 29-4-97;

315 (iv) Compliance by a foreign conservator of the property of an adult with the filing
 316 requirements of subsection (b) of Code Section 29-5-135 or of Code Section
 317 29-5-137; or

318 (v) The registration and recording of a guardianship order or conservatorship order
 319 from another state under Article 4 of Chapter 11 of this title.

320 (C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, the
 321 court may take judicial notice of the issuance of the letters or appointing such
 322 conservator or guardian, and of the authority of such conservator or guardian to act, in
 323 the manner provided by Chapter 2 of Title 24.

324 (b) A person who is appointed as counsel for a ward, proposed ward, or alleged
 325 incapacitated person is not eligible to be appointed as guardian ad litem for the same
 326 individual, and a person who is appointed as guardian ad litem for a ward, proposed ward,
 327 or alleged incapacitated person is not eligible to be appointed as counsel for the same
 328 individual."

329

SECTION 26.

330 Said title is further amended by revising Code Section 29-9-3, relating to counsel as guardian
 331 ad litem prohibited and guardian ad litem as counsel prohibited, as follows:

332 "29-9-3.

333 ~~A person who is appointed as counsel for a ward, proposed ward, or alleged incapacitated~~
 334 ~~person is not eligible to be appointed as guardian ad litem for the same individual, and a~~
 335 ~~person who is appointed as guardian ad litem for a ward, proposed ward, or alleged~~
 336 ~~incapacitated person is not eligible to be appointed as counsel for the same individual.~~

337 (a) Except as otherwise ordered by the court under paragraph (2) of subsection (a) of Code
 338 Section 29-4-10, under paragraph (2) of subsection (a) of Code Section 29-5-10, or under
 339 subsection (b) of Code Section 29-11-16, and except as otherwise provided in
 340 subsection (a) of Code Section 9-12-135, all costs of court under Code Sections 15-9-60
 341 and 15-9-126 or other applicable law and all compensation, fees, and expenses awarded by
 342 the court under subsections (a) and (b) of Code Section 29-9-15, under Code Section
 343 29-9-16, or under subsection (b) of Code Section 29-9-18, may be assessed and shall be
 344 paid as directed by the court in the exercise of its sound discretion and as the court may
 345 deem to be in the best interest of the minor, proposed ward, or ward who is the subject of
 346 the particular proceeding as provided in subsections (b) and (c) of this Code section.

347 (b) In any proceeding for the appointment of a guardian or conservator pursuant to the
 348 provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title, the costs, compensation, fees, and
 349 expenses provided for by subsection (a) of this Code section, the court shall consider the
 350 following in determining allocation of fees and costs set out in subsection (a) of this Code
 351 section:

352 (1) The estate of the minor or ward for whom a guardian or conservator is appointed in
 353 such proceeding;

354 (2) The conduct of the petitioners in any such proceeding in which no guardianship order
 355 or conservatorship order is entered by the court;

356 (3) If the judge who actually presided over the hearing includes a finding in the order
 357 that the party against whom such costs, compensation, fees, and expenses are cast
 358 pursuant to paragraph (1) or (2) of this subsection appears to lack sufficient assets to
 359 defray such costs, compensation, fees, and expenses shall be paid by the county of the
 360 court exercising jurisdiction over any such proceeding;

361 (4) The conduct of any party or other person subject to the jurisdiction of the court who
 362 has been the perpetrator of abuse, neglect, or exploitation against the person or property
 363 of the minor, proposed ward, or ward, provided that the judge who actually presided over
 364 the hearing includes a finding in the order determining that such abuse, neglect, or

365 exploitation against the person or property of the minor, proposed ward, or ward has
366 occurred and identifying the perpetrator thereof; or
367 (5) Any property, fund, or proceeds recovered on behalf of or in favor of a minor or ward
368 in accordance with an order of the court assessing such costs, compensation, fees, and
369 expenses against such property, fund, or proceeds.

370 (c) In all proceedings pursuant to the provisions of Chapter 2, 3, 4, 5, 7, or 11 of this title
371 other than for the appointment of a guardian or conservator, the costs, compensation, fees,
372 and expenses provided for by subsection (a) of this Code section may be assessed and shall
373 be paid as directed by the court in the exercise of its sound discretion and as the court may
374 deem to be in the best interest of the minor, proposed ward, or ward who is the subject of
375 the particular proceeding, as follows:

376 (1) From the estate of the minor or ward for whom a guardian or conservator has been
377 appointed in any such proceeding, if the court finds that the proceeding was brought in
378 the best interest of the minor or ward;

379 (2) By the petitioners or movants in any such proceeding;

380 (3) From a guardian or conservator or from the surety on such guardian's or conservator's
381 bond, subject to other applicable law governing the liability of sureties on such bonds, in
382 any such proceeding, if:

383 (A) Such guardian or conservator admits to a violation of any obligation of such
384 guardian or conservator in such guardian's or conservator's representative capacity
385 under this title or other applicable law;

386 (B) The court finds that such guardian or conservator has committed a breach of
387 fiduciary duty or has threatened to commit a breach of fiduciary duty;

388 (C) The court revokes or suspends such guardian's letters of guardianship or such
389 conservator's letters of conservatorship or imposes sanctions upon such guardian or
390 conservator in such proceeding; or

391 (D) The court otherwise finds that such guardian or conservator has committed
392 misconduct or has acted contrary to the best interest of the minor or ward;

393 (4) By the county of the court exercising jurisdiction over any such proceeding, provided
394 that the judge who actually presided over the hearing includes a finding in the order that
395 the party against whom such costs, compensation, fees, and expenses are cast pursuant
396 to paragraph (1), (2), (3), or (5) of this subsection appears to lack sufficient assets to
397 defray such costs, compensation, fees, and expenses;

398 (5) By any party or other person subject to the jurisdiction of the court who has been the
399 perpetrator of abuse, neglect, or exploitation against the person or property of the minor,
400 proposed ward, or ward, provided that the judge who actually presided over the hearing
401 includes a finding in the order determining that such abuse, neglect, or exploitation

402 against the person or property of the minor, proposed ward, or ward has occurred and
 403 identifying the perpetrator thereof; or
 404 (6) From any property, fund, or proceeds recovered on behalf of or in favor of a minor
 405 or ward in accordance with an order of the court assessing such costs, compensation, fees,
 406 and expenses against such property, fund, or proceeds.
 407 (d) An award of costs, compensation, fees, and expenses under this Code section may be
 408 enforced by a judgment, writ of fieri facias, execution, or attachment for contempt."

409 **SECTION 27.**

410 Said title is further amended by revising subsection (c) of and adding a new subsection to
 411 Code Section 29-9-11, relating to verification of petitions and returns and consolidation and
 412 transfer of proceedings, as follows:

413 "(c) If the petition for the appointment of a guardian or a conservator of a minor ~~or a~~
 414 ~~proposed ward~~ is originally filed in the court of the county in which the minor ~~or proposed~~
 415 ~~ward~~ is found, on motion of either party, if found by such court to be appropriate, the case
 416 may be transferred to the court of the county of the minor's ~~or proposed ward's~~ domicile.
 417 (d) If the petition for the appointment of a guardian or a conservator of a proposed ward
 418 is originally filed in the court of the county in which the proposed ward is found or in
 419 which jurisdiction is otherwise proper under Code Section 29-11-12, on motion of either
 420 party, if found by such court to be appropriate and unless otherwise provided by Chapter
 421 11 of this title, the case may be transferred to the court of the county of the proposed ward's
 422 domicile."

423 **SECTION 28.**

424 Said title is further amended by revising Code Section 29-9-13.1, relating to authentication
 425 of documents, as follows:

426 "29-9-13.1.
 427 Whenever it is required that a document ~~which~~ that is to be filed in the court be
 428 authenticated or exemplified, such requirement shall be met by complying with the
 429 provisions of Code Section 24-9-922 and paragraphs (1) through (4) of Code Section
 430 24-9-902, and such full faith and credit shall be given to the document as is provided in
 431 such Code sections."

432 **SECTION 29.**

433 Said title is further amended by revising Code Section 29-9-15, relating to compensation for
 434 legal counsel or guardian ad litem, as follows:

435 "29-9-15.

436 ~~Any legal counsel or guardian ad litem who is appointed by the court in a guardianship or~~
 437 ~~conservatorship proceeding shall be awarded reasonable fees commensurate with the tasks~~
 438 ~~performed and time devoted to the proceeding, including any appeals.~~

439 (a) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3,
 440 4, 5, 7, or 11 of this title, unless voluntarily waived, the court shall award reasonable fees
 441 and expenses, commensurate with the tasks performed and time devoted to the proceeding,
 442 including any appeals, to any legal counsel or guardian ad litem who is appointed by the
 443 court pursuant to the provisions of said chapters or Code Section 29-9-2.

444 (b) In connection with any proceeding brought pursuant to the provisions of Chapter 2, 3,
 445 4, 5, 7, or 11 of this title, unless voluntarily waived, the court may award reasonable fees
 446 and expenses, commensurate with the tasks performed and time devoted to the proceeding,
 447 including any appeals, to any legal counsel who is retained by or on behalf of a minor, a
 448 proposed ward, a ward, the petitioner(s), or any other party to any proceeding brought
 449 pursuant to the provisions of said chapters. As directed by the court in the exercise of its
 450 sound discretion and as the court may deem to be in the best interest of the minor, proposed
 451 ward, or ward who is the subject of the particular proceeding.

452 (c) All fees and expenses awarded under subsection (a) or (b) of this Code section shall
 453 be assessed and paid in accordance with the provisions of Code Section 29-9-3."

454 **SECTION 30.**

455 Said title is further amended by revising Code Section 29-9-16, relating to compensation to
 456 physicians, psychologists, or licensed clinical social workers, as follows:

457 "29-9-16.

458 (a) For the evaluation or examination required by subsection (d) of Code Section 29-4-11
 459 or, subsection (c) of Code Section 29-4-15, subsection (b) of Code Section 29-4-42,
 460 subsection (d) of Code Section 29-5-11, subsection (c) of Code Section 29-5-15, or
 461 subsection (b) of Code Section 29-5-71, the evaluating physician, psychologist, or licensed
 462 clinical social worker shall receive a reasonable fee commensurate with the task performed,
 463 plus actual expenses.

464 (b) ~~For the~~ In the event the attendance of the evaluating physician, psychologist, or
 465 licensed clinical social worker shall be required by the court for a hearing under subsection
 466 (d) of Code Section 29-4-12 or, subsection (a) of Code Section 29-4-16, subsection (b) of
 467 Code Section 29-4-42, subsection (d) of Code Section 29-5-12, subsection (a) of Code
 468 Section 29-5-16, or subsection (b) of Code Section 29-5-71, other than pursuant to a
 469 subpoena requested by a party to the proceeding, the evaluating physician, psychologist,

470 or licensed clinical social worker shall receive ~~an amount not to exceed \$75.00~~ a reasonable
 471 fee commensurate with the task performed, plus actual expenses.

472 (c) All fees and expenses payable under subsection (a) or (b) of this Code section shall be
 473 assessed by the court and paid in accordance with the provisions of Code Section 29-9-3."

474 **SECTION 31.**

475 Said title is further amended by revising Code Section 29-9-18, relating to sealing of records
 476 on conservatorship or guardianship, as follows:

477 "29-9-18.

478 (a) All of the records relating to any minor or adult guardianship or conservatorship ~~that~~
 479 ~~is granted under this title and all of the records relating to any adult guardianship or~~
 480 conservatorship transferred or accepted under Article 3 of Chapter 11 of this title shall be
 481 kept sealed, except for a record of the names and addresses of the minor, ward, and
 482 guardian or conservator and their legal counsel of record and the ~~date~~ dates of filing,
 483 ~~granting, and terminating, transferring, and accepting~~ the guardianship or conservatorship.
 484 The sealed records may be examined by the ward and the ward's legal counsel; the minor,
 485 the minor's parents, and the minor's legal counsel; the guardian or conservator and the
 486 ~~guardian~~ guardian's or conservator's legal counsel; and any surety for the guardian or
 487 conservator and legal counsel for the surety at any time.

488 (b) ~~Except as otherwise provided in subsection (b) of Code Section 29-11-5 and in~~
 489 subsection (c) of this Code section, a request by other interested parties to examine the
 490 sealed records shall be by petition to the court, and the ward and guardian or conservator
 491 shall have at least 30 days' prior written notice of a hearing on the petition; provided,
 492 however, that for good cause shown to the court, the court may shorten such notice period
 493 or grant the petition without notice. The matter shall come before the court in chambers.
 494 The order allowing access shall be granted upon a finding that the public interest in
 495 granting access to the sealed records clearly outweighs the harm otherwise resulting to the
 496 privacy of the person in interest, and the court shall limit the portion of the file to which
 497 access is granted to that which is required to meet the legitimate needs of the petitioner.
 498 The court, in its discretion, may assess and award costs, compensation, fees, and expenses
 499 for a proceeding under this subsection in accordance with the provisions of Code Section
 500 29-9-3.

501 (c) To the extent reasonably required to facilitate any communication or fulfill any request
 502 to take any action pursuant to Chapter 11 of this title, a court of this state may disclose the
 503 records referred to in subsection (a) of this Code section to a court of another state."

504 **SECTION 32.**

505 Said title is further amended by revising Code Section 29-11-30, relating to registration of
 506 guardianship order from another state, as follows:

507 "29-11-30.

508 (a) If a guardian has been appointed in another state and a petition for the appointment of
 509 a guardian is not pending in this state, the guardian appointed in the other state, after giving
 510 notice to the appointing court of an intent to register, may register the guardianship order
 511 in this state by filing as a foreign judgment in a court, in any appropriate county of this
 512 state, certified copies of the order and letters of office.

513 (b) Upon registration of a guardianship order from another state in the manner provided
 514 in subsection (a) of this Code section, the probate court of this state in which such
 515 guardianship order is registered shall:

516 (1) Record the certified copies of the order and letters of office in the book required to
 517 be kept by subparagraph (a)(8)(B) of Code Section 15-9-37; and

518 (2) Treat the registered and recorded order as a filed foreign judgment as provided in
 519 Code Section 9-12-132.

520 (c)(1) The provisions of this Code section shall apply only if the other state has adopted
 521 the 'Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act' in
 522 substantially the same form as this chapter.

523 (2) The provisions of paragraph (2) of subsection (b) of this Code section shall apply
 524 only if the other state has adopted the 'Uniform Enforcement of Foreign Judgments Law'
 525 in substantially the same form as Article 6 of Chapter 12 of Title 9."

526 **SECTION 33.**

527 Said title is further amended by revising Code Section 29-11-31, relating to registration of
 528 conservatorship order from another state, as follows:

529 "29-11-31.

530 (a) If a conservator has been appointed in another state and a petition for a conservatorship
 531 order is not pending in this state, the conservator appointed in the other state, after giving
 532 notice to the appointing court of an intent to register, may register the conservatorship order
 533 in this state by filing as a foreign judgment in a court of this state, in any county in which
 534 property belonging to the protected person is located, certified copies of the order and
 535 letters of office and of any bond.

536 (b) Upon registration of a conservatorship order from another state in the manner provided
 537 in subsection (a) of this Code section, the probate court of this state in which such
 538 conservatorship order is registered shall:

539 (1) Record the certified copies of the order and letters of office in the book required to
 540 be kept by subparagraph (a)(8)(B) of Code Section 15-9-37;

541 (2) Record the certified copy of any bond in the books required to be kept by
 542 subparagraph (a)(8)(C) of Code Section 15-9-37 and by subsection (c) of Code Section
 543 29-5-40; and

544 (3) Treat the registered and recorded order as a filed foreign judgment as provided in
 545 Code Section 9-12-132.

546 (c)(1) The provisions of this Code section shall apply only if the other state has adopted
 547 the 'Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act' in
 548 substantially the same form as this chapter.

549 (2) The provisions of paragraph (3) of subsection (b) of this Code section shall apply
 550 only if the other state has adopted the 'Uniform Enforcement of Foreign Judgments Law'
 551 in substantially the same form as Article 6 of Chapter 12 of Title 9."

552 **SECTION 34.**

553 Said title is further amended by revising Code Section 29-11-32, relating to exercise of
 554 powers authorized and enforcement, as follows:

555 "29-11-32.

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

561 (b) A court of this state may grant any relief available under this chapter, Article 4 of
 562 Chapter 4 of this title, Part 4 of Article 9 of Chapter 4 of this title, Article 5 of Chapter 5
 563 of this title, Part 4 of Article 13 of Chapter 5 of this title, and other law of this state to
 564 enforce a registered and recorded order.

565 (c)(1) The provisions of subsections (a) and (b) of Code Section 9-12-133 shall not apply
 566 to this article.

567 (2) Unless otherwise required by this chapter, service of notice shall not be required
 568 under this article as a condition precedent to the registration and recording of a
 569 guardianship order from another state under Code Section 29-11-30 or of a
 570 conservatorship order from another state under Code Section 29-11-31; provided,
 571 however, that the judge of a court of this state may direct such service or notice of such
 572 registration and recording as the judge may determine to be proper."

573 **SECTION 35.**

574 Title 9 of the Official Code of Georgia Annotated, relating to civil practice, is amended by
 575 adding a new subsection to Code Section 9-12-133, relating to filing of foreign judgment, to
 576 read as follows:

577 "(d) The provisions of subsections (a) and (b) of this Code section shall not apply to the
 578 registration of a guardianship order or conservatorship order from another state under
 579 Article 4 of Chapter 11 of Title 29."

580 **SECTION 36.**

581 Said title is further amended by adding a new subsection to Code Section 9-12-134, relating
 582 to appeal or stay of foreign judgment, to read as follows:

583 "(c) With respect to a guardianship order or conservatorship order from another state
 584 registered and recorded under Article 4 of Chapter 11 of Title 29, nothing in subsection (a)
 585 or (b) of this Code section shall prevent an appropriate court from taking any action
 586 permitted by subsection (d) of Code Section 29-4-70, subsection (d) of Code Section
 587 29-5-110, or Articles 1 and 2 of Chapter 11 of Title 29."

588 **SECTION 37.**

589 Said title is further amended by revising Code Section 9-12-135, relating to clerk's fees for
 590 filing foreign judgments, as follows:

591 "9-12-135.

592 (a) A person filing a foreign judgment shall pay to the clerk of court the same sums as in
 593 civil cases in superior court as provided in Code Section 15-6-77; provided, however, that
 594 a person registering a guardianship order or conservatorship order from another state under
 595 Article 4 of Chapter 11 of Title 29 shall pay to the probate court in which such order is
 596 registered the same sums as in adult guardianship matters in probate court as provided in
 597 paragraph (1) of subsection (g) of Code Section 15-9-60.

598 (b) Fees for other enforcement proceedings shall be as otherwise provided by law."

599 **SECTION 38.**

600 Chapter 9 of Title 15 of the Official Code of Georgia Annotated, relating to the probate
 601 courts, is amended by revising subsection (a) of Code Section 15-9-34, relating to contempt
 602 powers, as follows:

603 "(a) The judge of the probate court shall have power to enforce obedience to all lawful
 604 orders of his or her court, including a guardianship order or conservatorship order from
 605 another state that has been registered with and recorded by the probate court under Article

606 4 of Chapter 11 of Title 29, by attachment for contempt under the same rules as are
607 provided for other courts."

608 **SECTION 39.**

609 Said chapter is further amended by adding a new subsection to Code Section 15-9-35,
610 relating to the power to cite absconding fiduciaries, to read as follows:

611 "(c) With respect to a guardianship order or conservatorship order from another state that
612 has been registered with and recorded by the probate court under Article 4 of Chapter 11
613 of Title 29, in addition to any action such court may take under subsection (a) of this Code
614 section or under subsection (b) of Code Section 29-11-32, the judge of the probate court
615 may communicate with the appointing court in such other state under subsection (a) of
616 Code Section 29-11-4 to inform such appointing court of the citation to appear issued by
617 such judge under subsection (a) of this Code section, stating the reasons therefor."

618 **SECTION 40.**

619 Said chapter is further amended by revising subparagraphs (a)(8)(B) and (a)(8)(C) of Code
620 Section 15-9-37, relating to duties of clerks or probate judges acting as clerks, as follows:

621 "(B) Record of all letters of administration and, letters of conservatorship, letters of
622 guardianship, letters testamentary, and other letters of office of fiduciaries issued by or
623 registered with the court;

624 (C) Record of all bonds given by administrators, conservators, executors, and
625 guardians, and other fiduciaries appointed by the court or for whom a guardianship
626 order or conservatorship order has been registered with and recorded by the court under
627 Article 4 of Chapter 11 of Title 29;"

628 **SECTION 41.**

629 Title 53 of the Official Code of Georgia Annotated, relating to wills, trusts, and
630 administration of estates, is amended by revising subsections (a), (b), and (d) of Code Section
631 53-11-2, relating to "guardian" defined, persons represented, appointment, successors, and
632 guardian named in petitions, as follows:

633 "(a) As used in this Code section, the term 'guardian' means the guardian ad litem
634 appointed by the probate court who may represent a single party or more than one party or
635 a class of parties with common or nonadverse interests; provided, however, that the court
636 may determine for the purpose of the particular proceeding that the natural guardian, if any,
637 or the testamentary guardian, if any, or the duly constituted ~~guardian~~ conservator of the
638 property, if any, or the duly constituted guardian of the person, if any, has no conflict of

639 interest and thus may represent for the purpose of the proceeding a party who is not sui
640 juris, who is unborn, or who is unknown.

641 (b) When a party to a proceeding in the probate court is not sui juris, is unborn, or is
642 unknown, ~~that~~ such party shall be represented in the proceeding by a guardian. Service
643 upon or notice to a guardian shall constitute service upon or notice to the party represented,
644 and except as provided in subsection (a) of Code Section 15-9-17, no additional service
645 upon or notice to such party shall be required. Waivers, acknowledgments, consents,
646 answers, objections, or other documents executed by the guardian shall, except as
647 otherwise provided in Code Section 15-9-17, be binding upon the party represented."

648 "(d)(1) In every petition filed in the probate court, the petitioner shall specify the name
649 of each party who requires a guardian and the name and address of any person who is
650 acting as guardian of the party. A copy of the letters appointing the guardian shall be
651 attached to the petition or the petition shall allege such facts as shall show the authority
652 of such guardian to act; ~~provided, however, that,~~

653 (2) The authority of a guardian to act may be established under paragraph (1) of this
654 subsection by showing:

655 (i) Compliance by a foreign guardian of a minor with the filing requirements of
656 subsection (b) of Code Section 29-2-74 or of Code Section 29-2-76;

657 (ii) Compliance by a foreign conservator of the property of a minor with the filing
658 requirements of subsection (b) of Code Section 29-3-115 or of Code Section
659 29-3-117;

660 (iii) Compliance by a foreign guardian of an adult with the filing requirements of
661 subsection (b) of Code Section 29-4-95 or of Code Section 29-4-97;

662 (iv) Compliance by a foreign conservator of the property of an adult with the filing
663 requirements of subsection (b) of Code Section 29-5-135 or of Code Section
664 29-5-137; or

665 (v) The registration and recording of a guardianship order or conservatorship order
666 from another state under Article 4 of Chapter 11 of Title 29.

667 (3) Notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the
668 probate court may take judicial notice of the issuance of such letters or of such authority
669 the letters appointing such conservator or guardian, and of the authority of such
670 conservator or guardian to act, in the manner provided by Chapter 2 of Title 24."

671 **SECTION 42.**

672 Said title is further amended by revising subsection (a) of Code Section 53-13-20, relating
673 to access to digital assets by conservator, as follows:

674 "(a) After an opportunity for a hearing under ~~paragraph (2)~~ of subsection (b) or (c) of Code
675 Section 29-3-22 or ~~paragraph (2)~~ of under subsection (b) or (c) of Code Section 29-5-23,
676 the court may grant a conservator access to the digital assets of a protected person."

677 **SECTION 43.**

678 This Act shall become effective on January 1, 2020.

679 **SECTION 44.**

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