

By: Rodriguez of Bexar

H.B. No. 2998

A BILL TO BE ENTITLED

AN ACT

relating to adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 3, Estates Code, is amended by adding Chapter 1254 to read as follows:

CHAPTER 1254. UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1254.001. SHORT TITLE. This chapter may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Sec. 1254.002. DEFINITIONS. In this chapter:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Conservator" means a person appointed by the court of another state to administer the property of an adult.

(3) "Guardian" means:

(A) if used in reference to a guardianship in this state, a person appointed by the court to make decisions regarding the person of an adult or to administer the property of an adult. The term includes:

(i) a person appointed guardian of the person of an adult ward under Chapter 1101;

1 (ii) a person appointed guardian of the
2 estate of an adult ward under Chapter 1101; and

3 (iii) a person appointed guardian of both
4 the person and estate of an adult ward under Chapter 1101; or

5 (B) if used in reference to a guardianship in
6 another state, a person appointed by the court of that state to make
7 decisions regarding the person of an adult.

8 (4) "Guardianship order" means an order appointing a
9 guardian.

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

13 (6) "Incapacitated adult" means an adult for whom a
14 guardian has been appointed.

15 (7) "Party" means the respondent, petitioner,
16 guardian, conservator, or any other person allowed by the court to
17 participate in a guardianship or protective proceeding.

18 (8) "Person," except in the term protected person,
19 means an individual, corporation, business trust, estate, trust,
20 partnership, limited liability company, association, joint
21 venture, public corporation, government or governmental
22 subdivision, agency, or instrumentality, or other legal or
23 commercial entity.

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

26 (10) "Protective order" means an order appointing a
27 conservator or other order related to management of an adult's

1 property.

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

4 (12) "Record" means information that is inscribed on a
5 tangible medium or that is stored in an electronic or other medium
6 and is retrievable in perceivable form.

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

9 (14) "State" means a state of the United States, the
10 District of Columbia, Puerto Rico, the United States Virgin
11 Islands, a federally recognized Indian tribe, or any territory or
12 insular possession subject to the jurisdiction of the United
13 States.

14 Sec. 1254.003. INTERNATIONAL APPLICATION OF CHAPTER. A
15 court of this state may treat a foreign country as if it were a state
16 for the purpose of applying this subchapter and Subchapters B, C,
17 and E.

18 Sec. 1254.004. COMMUNICATION BETWEEN COURTS. (a) A court
19 of this state may communicate with a court in another state
20 concerning a proceeding arising under this chapter. The court may
21 allow the parties to participate in the communication. Except as
22 otherwise provided in Subsection (b), the court shall make a record
23 of the communication. The record may be limited to the fact that
24 the communication occurred.

25 (b) Courts may communicate concerning schedules, calendars,
26 court records, and other administrative matters without making a
27 record.

1 Sec. 1254.005. COOPERATION BETWEEN COURTS. (a) In a
2 guardianship proceeding in this state, a court of this state may
3 request the appropriate court of another state to do any of the
4 following:

5 (1) hold an evidentiary hearing;

6 (2) order a person in that state to produce evidence or
7 give testimony pursuant to procedures of that state;

8 (3) order that an evaluation or assessment be made of
9 the respondent;

10 (4) order any appropriate investigation of a person
11 involved in a proceeding;

12 (5) forward to the court of this state a certified copy
13 of the transcript or other record of a hearing under Subdivision (1)
14 or any other proceeding, any evidence otherwise produced under
15 Subdivision (2), any evaluation or assessment prepared in
16 compliance with an order under Subdivision (3), and the results of
17 any investigation conducted in compliance with an order under
18 Subdivision (4);

19 (6) issue any order necessary to assure the appearance
20 in the proceeding of a person whose presence is necessary for the
21 court to make a determination, including the respondent or the
22 adult ward; or

23 (7) issue an order authorizing the release of medical,
24 financial, criminal, or other relevant information in that state,
25 including protected health information that is subject to 45 C.F.R.
26 Section 164.504.

27 (b) If a court of another state in which a guardianship or

1 protective proceeding is pending requests assistance of the kind
2 provided in Subsection (a), a court of this state has jurisdiction
3 for the limited purpose of granting the request or making
4 reasonable efforts to comply with the request.

5 Sec. 1254.006. TAKING TESTIMONY IN ANOTHER STATE. (a) In a
6 guardianship proceeding, in addition to other procedures that may
7 be available, testimony of a witness who is located in another state
8 may be offered by deposition or other means allowable in this state
9 for testimony taken in another state. The court on its own motion
10 may order that the testimony of a witness be taken in another state
11 and may prescribe the manner in which and the terms on which the
12 testimony is to be taken.

13 (b) In a guardianship proceeding, a court in this state may
14 permit a witness located in another state to be deposed or to
15 testify by telephone or audiovisual or other electronic means. A
16 court of this state shall cooperate with the court of the other
17 state in designating an appropriate location for the deposition or
18 testimony.

19 (c) Documentary evidence transmitted from another state to
20 a court of this state by technological means that do not produce an
21 original writing may not be excluded from evidence on an objection
22 based on the best evidence rule.

23 Sec. 1254.007. CONFLICT WITH OTHER PROVISIONS OF TITLE. To
24 the extent of any conflict between a provision of this chapter and
25 any other provision of this title, the provision of this chapter
26 controls.

27 Sec. 1254.008. CERTAIN PROVISIONS OF TITLE NOT APPLICABLE.

Chapter 1002 does not apply to this chapter.

SUBCHAPTER B. JURISDICTION

Sec. 1254.051. DEFINITIONS; SIGNIFICANT-CONNECTION FACTORS. (a) In this subchapter:

(1) "Emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety, or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf.

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

(3) "Significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under Sections 1254.053 and 1254.101(e) whether a respondent has a significant connection with a particular state, the court shall consider:

(1) the location of the respondent's family and other

1 persons required to be notified of the guardianship proceeding;

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

4 (3) the location of the respondent's property; and

5 (4) the extent to which the respondent has ties to the
6 state such as voting registration, state or local tax return
7 filing, vehicle registration, driver's license, social
8 relationship, and receipt of services.

9 Sec. 1254.052. EXCLUSIVE BASIS. Notwithstanding any other
10 provision of this title, this subchapter provides the exclusive
11 jurisdictional basis for a court of this state to appoint a guardian
12 of the person or estate, or both, for an adult.

13 Sec. 1254.053. JURISDICTION. A court of this state has
14 jurisdiction to appoint a guardian of the person or estate, or both,
15 for a respondent if:

16 (1) this state is the respondent's home state;

17 (2) on the date the application is filed, this state is
18 a significant-connection state and:

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

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

27 (i) a petition for an appointment of a

guardian or issuance of a protective order is not filed in the respondent's home state;

(ii) an objection to the court's jurisdiction is not filed by a person required to be notified of the proceeding; and

(iii) the court in this state concludes that it is an appropriate forum under the factors set forth in Section 1254.056;

(3) this state does not have jurisdiction under either Subdivision (1) or (2), the respondent's home state and all significant-connection states have declined to exercise jurisdiction because this state is the more appropriate forum, and jurisdiction in this state is consistent with provisions of the Texas Constitution and the United States Constitution; or

(4) the requirements for special jurisdiction under Section 1254.054 are met.

Sec. 1254.054. SPECIAL JURISDICTION. (a) A court of this state lacking jurisdiction under Section 1254.053(1), (2), or (3) has special jurisdiction to do any of the following:

(1) appoint a guardian of the person in an emergency for a term not to exceed 90 days for a respondent who is physically present in this state;

(2) appoint a guardian of the estate with respect to real or tangible personal property located in this state; or

(3) appoint a guardian of the person, guardian of the estate, or guardian of both the person and estate, as applicable, for an incapacitated adult or protected person for whom a

1 provisional order to transfer the proceeding from another state has
2 been issued under procedures similar to Section 1254.101.

3 (b) If an application for the appointment of a guardian of
4 the person in an emergency is brought in this state and this state
5 was not the respondent's home state on the date the application was
6 filed, the court shall dismiss the proceeding at the request of the
7 court of the home state, if any, whether dismissal is requested
8 before or after the emergency appointment.

9 Sec. 1254.055. EXCLUSIVE AND CONTINUING JURISDICTION.
10 Except as otherwise provided in Section 1254.054, a court that has
11 appointed a guardian of the person or estate, or both, consistent
12 with this chapter has exclusive and continuing jurisdiction over
13 the proceeding until it is terminated by the court or the
14 appointment expires by its own terms.

15 Sec. 1254.056. APPROPRIATE FORUM. (a) A court of this
16 state having jurisdiction under Section 1254.053 to appoint a
17 guardian of the person or estate, or both, may decline to exercise
18 its jurisdiction if it determines at any time that a court of
19 another state is a more appropriate forum.

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

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

1 (1) any expressed preference of the respondent;

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

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

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

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

12 (6) the nature and location of the evidence;

13 (7) the ability of the court in each state to decide
14 the issue expeditiously and the procedures necessary to present
15 evidence;

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

18 (9) if an appointment were made, the court's ability to
19 monitor the conduct of the guardian of the person or estate, or
20 both.

21 Sec. 1254.057. JURISDICTION DECLINED BY REASON OF CONDUCT.

22 (a) If at any time a court of this state determines that it acquired
23 jurisdiction to appoint a guardian of the person or estate, or both,
24 for an adult because of unjustifiable conduct, the court may:

25 (1) decline to exercise jurisdiction;

26 (2) exercise jurisdiction for the limited purpose of
27 fashioning an appropriate remedy to ensure the health, safety, and

1 welfare of the respondent or the protection of the respondent's
2 property or prevent a repetition of the unjustifiable conduct,
3 including staying the proceeding until a petition for the
4 appointment of a guardian or issuance of a protective order is filed
5 in a court of another state having jurisdiction; or

6 (3) continue to exercise jurisdiction after
7 considering:

8 (A) the extent to which the respondent and all
9 persons required to be notified of the proceedings have acquiesced
10 in the exercise of the court's jurisdiction;

11 (B) whether it is a more appropriate forum than
12 the court of any other state under the factors set forth in Section
13 1254.056(c); and

14 (C) whether the court of any other state would
15 have jurisdiction under factual circumstances in substantial
16 conformity with the jurisdictional standards of Section 1254.053.

17 (b) If a court of this state determines that it acquired
18 jurisdiction to appoint a guardian of the person or estate, or both,
19 for an adult because a party seeking to invoke its jurisdiction
20 engaged in unjustifiable conduct, it may assess against that party
21 necessary and reasonable expenses, including attorney's fees,
22 investigative fees, court costs, communication expenses, witness
23 fees and expenses, and travel expenses. The court may not assess
24 fees, costs, or expenses of any kind against this state or a
25 governmental subdivision, agency, or instrumentality of this state
26 unless authorized by law other than this chapter.

27 Sec. 1254.058. NOTICE OF PROCEEDING. If an application for

1 the appointment of a guardian of the person or estate, or both, for
2 an adult is brought in this state and this state was not the
3 respondent's home state on the date the application was filed, in
4 addition to complying with the notice requirements of this state,
5 notice of the application must be given to those persons who would
6 be entitled to notice of the application if a proceeding were
7 brought in the respondent's home state. The notice must be given in
8 the same manner as notice is required to be given in this state.

9 Sec. 1254.059. PROCEEDINGS IN MORE THAN ONE STATE. Except
10 for an application for the appointment of a guardian of the person
11 in an emergency or the appointment of a guardian of the estate
12 limited to property located in this state under Section
13 1254.054(a)(1) or (2), if an application for the appointment of a
14 guardian is filed in this state and a petition for the appointment
15 of a guardian or issuance of a protective order is filed in another
16 state and neither the application nor petition has been dismissed
17 or withdrawn, the following rules apply:

18 (1) If the court in this state has jurisdiction under
19 Section 1254.053, it may proceed with the case unless a court in
20 another state acquires jurisdiction under provisions similar to
21 Section 1254.053 before the appointment.

22 (2) If the court in this state does not have
23 jurisdiction under Section 1254.053, whether at the time the
24 application is filed or at any time before the appointment, the
25 court shall stay the proceeding and communicate with the court in
26 the other state. If the court in the other state has jurisdiction,
27 the court in this state shall dismiss the application unless the

1 court in the other state determines that the court in this state is
2 a more appropriate forum.

3 SUBCHAPTER C. TRANSFER OF GUARDIANSHIP OR CONSERVATORSHIP

4 Sec. 1254.101. TRANSFER OF GUARDIANSHIP TO ANOTHER STATE.

5 (a) A guardian of the person or estate, or both, of an adult ward
6 appointed in this state may petition the court to transfer the
7 guardianship of the person or estate, or both, to another state.

8 (b) Notice of a petition under Subsection (a) must be given
9 to the persons that would be entitled to notice of an application in
10 this state for the appointment of a guardian of the person or
11 estate, or both, for an adult ward.

12 (c) On the court's own motion or on request of the guardian
13 of the person or estate, or both, of an adult ward, as applicable,
14 the adult ward, or another person required to be notified of the
15 petition, the court shall hold a hearing on a petition filed
16 pursuant to Subsection (a).

17 (d) The court shall issue a provisional order granting a
18 petition to transfer a guardianship of the person and shall direct
19 the guardian of the person to petition for guardianship in the other
20 state if the court is satisfied that the guardianship of the person
21 will be accepted by the court in the other state and the court finds
22 that:

23 (1) the adult ward for whom a guardian of the person
24 has been appointed is physically present in or is reasonably
25 expected to move permanently to the other state;

26 (2) an objection to the transfer has not been made or,
27 if an objection has been made, the objector has not established that

the transfer would be contrary to the interests of the adult ward;
and

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

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

(1) the adult ward for whom a guardian of the estate
has been appointed is physically present in or is reasonably
expected to move permanently to the other state, or the adult ward
has a significant connection to the other state considering the
factors in Section 1254.051(b);

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

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

(f) The court shall issue a final order confirming the
transfer and terminating the guardianship of the person or estate,
or both, of the adult ward, as applicable, on its receipt of:

(1) a provisional order accepting the proceeding from
the court to which the proceeding is to be transferred which is
issued under provisions similar to Section 1254.102; and

1 (2) the documents required to terminate in this state
2 a guardianship of the person or estate, or both, of an adult ward,
3 as applicable.

4 Sec. 1254.102. ACCEPTING GUARDIANSHIP OR CONSERVATORSHIP
5 TRANSFERRED FROM ANOTHER STATE. (a) To confirm transfer of a
6 guardianship or conservatorship transferred to this state under
7 provisions similar to Section 1254.101, the guardian or conservator
8 must petition the court in this state to accept the guardianship or
9 conservatorship. The petition must include a certified copy of the
10 other state's provisional order of transfer.

11 (b) Notice of a petition under Subsection (a) must be given
12 to those persons that would be entitled to notice if the petition
13 were a petition or application for the appointment of a guardian or
14 issuance of a protective order in both the transferring state and
15 this state. The notice must be given in the same manner as notice is
16 required to be given in this state.

17 (c) On the court's own motion or on request of the guardian
18 or conservator, the incapacitated adult or protected person, or
19 another person required to be notified of the proceeding, the court
20 shall hold a hearing on a petition filed pursuant to Subsection (a).

21 (d) The court shall issue a provisional order granting a
22 petition filed under Subsection (a) unless:

23 (1) an objection is made and the objector establishes
24 that transfer of the proceeding would be contrary to the interests
25 of the incapacitated adult or protected person; or

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

1 guardian of both the person and estate of the adult is not pending
2 in this state, the guardian appointed in the other state, after
3 giving notice to the appointing court of an intent to register, may
4 register the guardianship order in this state by filing as a foreign
5 judgment in a court, in any appropriate county of this state,
6 certified copies of the order and letters of office.

7 Sec. 1254.152. REGISTRATION OF PROTECTIVE ORDERS. If a
8 conservator has been appointed in another state and an application
9 for the appointment of a guardian of the estate or guardian of both
10 the person and estate of the adult is not pending in this state, the
11 conservator appointed in the other state, after giving notice to
12 the appointing court of an intent to register, may register the
13 protective order in this state by filing as a foreign judgment in a
14 court of this state, in any county in which property belonging to
15 the protected person is located, certified copies of the order and
16 letters of office and of any bond.

17 Sec. 1254.153. EFFECT OF REGISTRATION. (a) On
18 registration of a guardianship or protective order from another
19 state, the guardian or conservator may exercise in this state all
20 powers authorized in the order of appointment except as prohibited
21 under the laws of this state, including maintaining actions and
22 proceedings in this state and, if the guardian or conservator is not
23 a resident of this state, subject to any conditions imposed on
24 nonresident parties.

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

SUBCHAPTER E. MISCELLANEOUS PROVISIONS

Sec. 1254.201. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Sec. 1254.202. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

SECTION 2. The heading to Chapter 1253, Estates Code, is amended to read as follows:

CHAPTER 1253. INTERSTATE GUARDIANSHIPS INVOLVING MINORS

SECTION 3. Sections [1253.001](#) and [1253.002](#), Estates Code, are amended to read as follows:

Sec. 1253.001. APPLICATION TO TRANSFER GUARDIANSHIP TO FOREIGN JURISDICTION. A guardian of the person or estate of a minor ward may apply to the court that has jurisdiction over the guardianship to transfer the guardianship to a court in a foreign jurisdiction to which the ward has permanently moved.

Sec. 1253.002. NOTICE OF APPLICATION. Notice of an application to transfer a guardianship under this subchapter shall be:

(1) served personally on the minor ward; and

(2) given to the foreign court to which the guardianship is to be transferred.

SECTION 4. Sections 1253.003(a) and (b), Estates Code, are amended to read as follows:

(a) On the court's own motion or on the motion of the minor ward or any interested person, the court shall hold a hearing to consider an application to transfer a guardianship under this subchapter.

(b) The court shall transfer a guardianship to a foreign court if the court determines the transfer is in the best interests of the minor ward. The transfer of the guardianship must be made contingent on the acceptance of the guardianship in the foreign jurisdiction.

SECTION 5. Sections 1253.051 and 1253.052, Estates Code, are amended to read as follows:

Sec. 1253.051. APPLICATION FOR RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP. A guardian appointed by a foreign court to represent a minor [~~an incapacitated person~~] who is residing in this state or intends to move to this state may file an application with a court in which the minor ward resides or intends to reside to have the guardianship transferred to the court. The application must have attached a certified copy of all papers of the guardianship filed and recorded in the foreign court.

Sec. 1253.052. NOTICE OF APPLICATION. Notice of an application for receipt and acceptance of a foreign guardianship under this subchapter shall be:

(1) served personally on the minor ward; and

(2) given to the foreign court from which the guardianship is to be transferred.

SECTION 6. Sections 1253.053(c) and (d), Estates Code, are amended to read as follows:

(c) The court shall grant the application if the transfer of the guardianship from the foreign jurisdiction is in the best interests of the minor ward.

(d) In granting the application, the court shall give full faith and credit to the provisions of the foreign guardianship order concerning the determination of the minor ward's incapacity and the rights, powers, and duties of the guardian.

SECTION 7. Sections 1253.056 and 1253.101, Estates Code, are amended to read as follows:

Sec. 1253.056. CONSTRUCTION WITH OTHER LAW. The denial of an application for receipt and acceptance of a guardianship under this subchapter does not affect the right of a guardian appointed by a foreign court to file an application to be appointed guardian of the minor [~~incapacitated person~~] under Section 1101.001.

Sec. 1253.101. DELAY OF CERTAIN GUARDIANSHIP PROCEEDINGS. A court in which a guardianship proceeding involving a minor is filed and in which venue of the proceeding is proper may delay further action in the proceeding in that court if:

(1) another guardianship proceeding involving a matter at issue in the proceeding filed in the court is subsequently filed in a court in a foreign jurisdiction; and

(2) venue of the proceeding in the foreign court is

1 proper.

2 SECTION 8. Section 1253.102(b), Estates Code, is amended to
3 read as follows:

4 (b) In making a determination under Subsection (a), the
5 court may consider:

6 (1) the interests of justice;

7 (2) the best interests of the minor ward or proposed
8 minor ward;

9 (3) the convenience of the parties; and

10 (4) the preference of the minor ward or proposed minor
11 ward, if the ward or proposed ward is at least 12 years of age [~~or~~
12 ~~older~~].

13 SECTION 9. Sections 1253.103 and 1253.151, Estates Code,
14 are amended to read as follows:

15 Sec. 1253.103. NECESSARY ORDERS. A court that delays
16 further action in a guardianship proceeding under Section 1253.101
17 may issue any order the court considers necessary to protect the
18 proposed minor ward or the proposed minor ward's estate.

19 Sec. 1253.151. DETERMINATION OF ACQUISITION OF
20 JURISDICTION IN THIS STATE DUE TO UNJUSTIFIABLE CONDUCT. If at any
21 time a court of this state determines that it acquired jurisdiction
22 of a proceeding for the appointment of a guardian of the person or
23 estate, or both, of a minor ward or proposed minor ward because of
24 unjustifiable conduct, the court may:

25 (1) decline to exercise jurisdiction;

26 (2) exercise jurisdiction for the limited purpose of
27 fashioning an appropriate remedy to ensure the health, safety, and

1 welfare of the minor ward or proposed minor ward or the protection
2 of the minor ward's or proposed minor ward's property or prevent a
3 repetition of the unjustifiable conduct, including staying the
4 proceeding until a petition for the appointment of a guardian or
5 issuance of a protective order is filed in a court of another state
6 having jurisdiction; or

7 (3) continue to exercise jurisdiction after
8 considering:

9 (A) the extent to which the minor ward or
10 proposed minor ward and all persons required to be notified of the
11 proceedings have acquiesced in the exercise of the court's
12 jurisdiction;

13 (B) whether the court of this state is a more
14 appropriate forum than the court of any other state after
15 considering the factors described by Section 1253.102(b); and

16 (C) whether the court of any other state would
17 have jurisdiction under the factual circumstances of the matter.

18 SECTION 10. Section 1253.152(a), Estates Code, is amended
19 to read as follows:

20 (a) If a court of this state determines that it acquired
21 jurisdiction of a proceeding for the appointment of a guardian of
22 the person or estate, or both, of a minor ward or proposed minor
23 ward because a party seeking to invoke the court's jurisdiction
24 engaged in unjustifiable conduct, the court may assess against that
25 party necessary and reasonable expenses, including attorney's
26 fees, investigative fees, court costs, communication expenses,
27 witness fees and expenses, and travel expenses.

1 SECTION 11. (a) Chapter 1254, Estates Code, as added by
2 this Act, applies to proceedings for guardianship instituted on or
3 after the effective date of this Act.

4 (b) Subchapters A, C, D, and E, Chapter 1254, Estates Code,
5 as added by this Act, apply to proceedings for guardianship
6 instituted before the effective date of this Act, regardless of
7 whether a guardianship of the person or estate, or both, for an
8 adult ward has been created by a court.

9 SECTION 12. The changes in law made by this Act to Sections
10 1253.001, 1253.002, 1253.003, 1253.051, 1253.052, 1253.053,
11 1253.056, 1253.101, 1253.102, 1253.103, 1253.151, and 1253.152,
12 Estates Code, apply only to a guardianship proceeding filed on or
13 after the effective date of this Act. A guardianship proceeding
14 filed before the effective date of this Act is governed by the law
15 in effect on the date the proceeding was filed, and the former law
16 is continued in effect for that purpose.

17 SECTION 13. This Act takes effect September 1, 2015.