THE JUDICIARY, STATE OF HAWAII

Testimony to the House Committee on Finance
The Honorable Marcus R. Oshiro, Chair
The Honorable Marilyn B. Lee, Vice Chair

Thursday, February 25, 2010, 11:00 a.m.
State Capitol, Conference Room 308

by
Thomas R. Keller
Administrative Director of the Courts

WRITTEN TESTIMONY ONLY

Bill No. and Title: House Bill No. 2248, H.D. 1, Relating to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

Purpose: Establishes rules to determine which state has jurisdiction in guardianship and conservatorship cases where person has contacts with more than one state.

Judiciary's Position:

The Judiciary takes no position on the merits of House Bill No. 2248, H.D. 1, however, respectfully offers the following comments and concerns:

This bill may not be necessary and may subject families and guardians to increased (and needless) complexity and procedure.

Currently, families are able to seek protection for challenged minors before they turn 18 years of age, thus providing seamless protection. This bill appears to not allow that as it defines an "incapacitated person" as an adult (p.2, lines 8-9).

In addition, we also have concerns with regard to its potential negative impact to judicial operations. As currently drafted, this measure would require changes to court policies, procedures, and rules. In light of the furloughs and budget shortages caused by the current

economic downturn, the Judiciary is concerned that the additional work this measure might create would consume valuable and limited staff resources.

We respectfully request that this Committee hold the bill to allow the Judiciary time to perform a more in-depth review of the need for these procedures. However, if the bill is passed out of Committee, then we request that the effective date be amended to January 1, 2012. We note that only 13 states have enacted this legislation as of this year.

Thank you for the opportunity to testify on this measure.

TESTIMONY OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION

ON H.B. No. 2248, H.D. 1

RELATING TO THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT.

BEFORE THE HOUSE COMMITTEE ON FINANCE

DATE: Thursday, February 25, 2010, at 11:00 a.m.
Conference Room 308, State Capitol

PERSON(S) TESTIFYING: KEVIN SUMIDA
Commission to Promote Uniform Legislation

WEB Address: http://www.capitol.hawaii.gov/emailtestimony

Chair Oshiro and Members of the Committee:

I am testifying on behalf of the Commission to Promote Uniform Legislation, which supports passage of the Uniform Adult Guardianship And Protective Proceedings Jurisdiction Act ("UAGPPJA").

The Act deals primarily with jurisdictional, transfer and enforcement issues relating to adult guardianships and protective proceedings. There are a number of reasons why states should adopt this Act, including that the UAGPPJA:

- Provides procedures to resolve interstate jurisdiction controversies;
- Facilitates transfers of guardianship cases among jurisdictions;
- Provides for recognition and enforcement of a guardianship or protective proceeding orders; and
- Facilitates communication and cooperation between courts of different jurisdictions.

The UAGPPJA will provide uniformity and reduce conflicts among the states. Further information is contained in the UAGPPJA Summary that is attached. To date, thirteen states and the District of Columbia have adopted the UAGPPJA. It is supported by the Alzheimer's Association, Conference of Chief Justices, National Association of Elder Law Attorneys, National College of Probate Judges, and National Guardianship Association. In light of present budgetary concerns, the Commission is not opposed to delaying the effective date of the act to give affected agencies sufficient time to properly implement the salutary purposes of this important legislation.

Thank you for the opportunity to testify on this bill.

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

The Uniform Guardianship and Protective Proceedings Act (UGPPA), which was last revised in 1997, is a comprehensive act addressing all aspects of guardianships and protective proceedings for both minors and adults. The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) has a much narrower scope, dealing only with jurisdiction and related issues. The new UAGPPJA addresses many problems relating to multiple jurisdiction, transfer, and out of state recognition. It has been endorsed by the National Guardianship Foundation and the National College of Probate Judges. Endorsement by the American Bar Association is expected at the ABA's 2008 Mid-Year Meeting.

Due to increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing. Even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over from scratch in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The UAGPPJA will, when enacted, help effectively to address these problems.

The Problem of Multiple Jurisdiction

Because the U.S. has 50 plus guardianship systems, problems of determining jurisdiction are frequent. Questions of which state has jurisdiction to appoint a guardian or conservator can arise between an American state and another country. But more frequently problems arise because the individual has contacts with more than one American state. In nearly all American states, a guardian may be appointed by a court in a state in which the individual is domiciled or is physically present.

In nearly all American states, a conservator may be appointed by a court in a state in which the individual is domiciled or has property. Contested cases in which courts in more than one state have jurisdiction are becoming more common. Sometimes these cases arise because the adult is physically located in a state other than the adult's domicile. Sometimes the case arises because of uncertainty as to the adult's domicile, particularly if the adult owns a vacation home in another state. There is a need for an effective mechanism for resolving multi-jurisdictional disputes.

The Problem of Transfer

Oftentimes, problems arise even absent a dispute. Even if everyone is agreed that a guardianship or conservatorship should be moved to another state, few states have streamlined procedures for transferring a proceeding to another state or for accepting such a transfer. In most states, all of the procedures for an original appointment must be repeated, a time consuming and expensive prospect.

The Problem of Out-of-State Recognition

The Full Faith and Credit Clause of the U.S. Constitution requires that court orders in one state be honored in another state. But there are exceptions to the full faith and

credit doctrine, of which guardianship and protective proceedings law is one. Sometimes, guardianship or protective proceedings must be initiated in a second state because of the refusal of financial institutions, care facilities, and the courts to recognize a guardianship or protective order issued in another state.

The Proposed Uniform Law and the Child Custody Analogy

Similar problems of jurisdiction existed for many years in the U.S. in connection with child custody determinations. If one parent lived in one state and the other parent lived in another state, frequently courts in more that one state had jurisdiction to enter custody orders. But the Uniform Law Commission has approved two uniform acts that have effectively minimized the problem of multiple court jurisdiction in child custody matters: the Uniform Child Custody Jurisdiction Act (UCCJA), approved in 1968, succeeded by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), approved in 1997. The drafters of the UAGPPJA have elected to model Article 2 and portions of Article 1 of their Act after these child custody analogues. However, the UAGPPJA applies only to adult proceedings. The UAGPPJA is limited to adults in part because most jurisdictional issues involving guardianships for minors are subsumed by the UCCJEA.

The Objectives and Key Concepts of the Proposed UAGPPJA

The UAGPPJA is organized into five articles. Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states. Article 2 is the heart of the Act, specifying which court has jurisdiction to appoint a guardian or conservator. Its overall objective is to locate jurisdiction in one and only one state except in cases of emergency or in situations where the individual owns property located in multiple states. Article 3 specifies a procedure for transferring guardianship or conservatorship proceedings from one state to another. Article 4 deals with enforcement of guardianship and protective orders in other states. Article 5 contains boilerplate provisions common to all uniform acts.

Key Definitions and Terminology (Section 102)

To determine which court has primary jurisdiction under the UAGPPJA, the key factors are to determine the individual's "home state" and "significant-connection state." A "home state" is the state in which the individual was physically present for at least six consecutive months immediately before the commencement of the guardianship or protective proceeding (Section 102(6)). A "significant-connection state," which is a potentially broader concept, means the state in which the individual has a significant connection other than mere physical presence, and where substantial evidence concerning the individual is available (Section 102(15)). Factors that may be considered in deciding whether a particular respondent has a significant connection include:

- the location of the respondent's family and others required to be notified of the guardianship or protective proceeding;
- the length of time the respondent was at any time physically present in the state and the duration of any absences;
- the location of the respondent's property; and
- the extent to which the respondent has other ties to the state such as voting registration, filing of state or local tax returns, vehicle registration, driver's

license, social relationships, and receipt of services.

States differ on terminology for the person appointed by the court to handle the personal and financial affairs of a minor or incapacitated adult. Under the UGPPA and in a majority of American states, a "guardian" is appointed to make decisions regarding the person of an "incapacitated person." A "conservator" is appointed in a "protective proceeding" to manage the property of a "protected person." But in many states, only a "guardian" is appointed, either a guardian of the person or guardian of the estate, and in a few states, the terms guardian and conservator are used but with different meanings. The UAGPPJA adopts the terminology as used in the UGPPA. States employing different terms or the same terms but with different meanings may amend the Act to conform to local usage.

Jurisdiction (Article 2)

Section 203 is the principal provision governing jurisdiction, creating a three-level priority; the home state, followed by a significant-connection state, followed by other jurisdictions:

- *Home State*: The home state has primary jurisdiction to appoint a guardian or conservator or enter another protective order, a priority that continues for up to six months following a move to another state.
- *Significant-connection State*: A significant-connection state has jurisdiction if: individual has not had a home state within the past six month or the home states is declined jurisdiction. To facilitate appointments in the average case where jurisdiction is not in dispute, a significant-connection state also has jurisdiction if no proceeding has been commenced in the respondent's home state or another significant-connection state, no objection to the court's jurisdiction has been filed, and the court concludes that it is a more appropriate forum than the court in another state.
- *Another State*: A court in another state has jurisdiction if the home state and all significant-connection states have declined jurisdiction or the individual does not have a home state or significant-connection state.

Section 204 addresses special cases. Regardless of whether it has jurisdiction under the general principles stated in Section 203, a court in the state where the individual is currently physically present has jurisdiction to appoint a guardian in an emergency, and a court in a state where an individual's real or tangible personal property is located has jurisdiction to appoint a conservator or issue another protective order with respect to that property. In addition, a court not otherwise having jurisdiction under Section 203 has jurisdiction to consider a petition to accept the transfer of an already existing guardianship or conservatorship from another state.

The remainder of Article 2 elaborates on these core concepts. Section 205 provides that once a court has jurisdiction, this jurisdiction continues until the proceeding is terminated or transferred. Section 206 authorizes a court to decline jurisdiction if it determines that the court of another state is a more appropriate forum, and specifies the factors to be taken into account in making this determination. Section 207 authorizes a court to decline jurisdiction or fashion another appropriate remedy if jurisdiction was acquired because of unjustifiable conduct. Section 208 prescribes special notice requirements if a proceeding is brought in a state other than the

respondent's home state. Section 209 specifies a procedure for resolving jurisdictional issues if petitions are pending in more than one state. The UAGPPJA also includes provisions regarding communication between courts in different states and taking testimony in another state (Sections 104-106).

Transfer to Another State (Article 3)

Article 3 specifies a procedure for transferring a guardianship or conservatorship to another state. To make the transfer, court orders are necessary both from the court transferring the case and from the court accepting the case. Generally, to transfer the case, the transferring court must find that the individual will move permanently to another state, that adequate arrangements have been made for the individual or the individual's property in the other state, and that the court is satisfied the case will be accepted by the court in the new state. To assure continuity, the court in the original state cannot dismiss the local proceeding until the order from the other state accepting the case is filed with the original court. To expedite the transfer process, the court in the accepting state must give deference to the transferring court's finding of incapacity and selection of the guardian or conservator. Much of Article 3 is based on the pioneering work of the National Probate Court Standards, a 1993 joint project of the National College of Probate Judges and the National Center for State Courts.

Out of State Enforcement (Article 4)

To facilitate enforcement of guardianship and protective orders in other states, Article 4 authorizes a guardian or conservator to register these orders in other states. Upon registration, the guardian or conservator may exercise all powers authorized in the order except as prohibited by the laws of the registration state. The Act also addresses enforcement of international orders. To the extent the foreign order violates fundamental principles of human rights, Section 104 permits a court of an American state that has enacted the Act to recognize an order entered in another country to the same extent as if it were an order entered in another U.S. state.

Conclusion

The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act will help to resolve many guardianship issues such as original jurisdiction, registration, transfer, and out-of-state enforcement. It provides procedures that will help to considerably reduce the cost of guardianship and protective proceeding cases from state to state. It should be enacted as soon as possible in every jurisdiction.

National Guardianship Foundation

P.O. Box 5704 - Harrisburg, PA 17110 - (717) 238-4689 phone - (717) 238-9985 fax
www.guardianship.org

May 7, 2007

National Conference of Commissioners on
Uniform State Laws (NCCUSL)
c/o David G. Nixon, Chairman
211 E. Ontario Street
Suite 1300
Chicago, IL 60611

Dear Mr. Nixon:

The National Guardianship Foundation (NGF) Board of Trustees met in late April and voted unanimously to endorse the attached resolution related to the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Should you have any questions, please don't hesitate to contact me directly. Thank you for your hard work on this important issue.

Sincerely,

Denise R. Calabrese

Denise R. Calabrese
Executive Director

cc: NGF President Gary Beagle
NGA Executive Director Terry Hammond
David English

NATIONAL GUARDIANSHIP FOUNDATION

RESOLUTION IN SUPPORT OF:

THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

WHEREAS population mobility has left courts facing many dilemmas and challenges concerning which of several states have jurisdiction over guardianship and protective proceedings;

WHEREAS the National Conference of Commissioners on Uniform State Laws endeavors to carry forward the groundbreaking work of the National College of Probate Judges in its National Probate Court Standards on interstate jurisdiction transfers by drafting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act;

WHEREAS this Uniform Act, if enacted, will fulfill a key recommendation of the 2001 Wingspan National Guardianship Conference by providing procedures to resolve interstate jurisdiction controversies and to facilitate transfers of guardianship cases among jurisdictions;

WHEREAS the Act provides for the recognition and enforcement of a guardianship or protective proceedings orders, and facilitates the communication and cooperation between Courts of different jurisdictions concerning guardianship or protective proceedings;

NATIONAL COLLEGE OF PROBATE JUDGES

RESOLUTION IN SUPPORT OF:

THE UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

WHEREAS guardianship and protective proceedings for adults has left Courts facing many dilemmas and challenges concerning jurisdiction over these proceedings,

WHEREAS the National College of Probate Judges has performed groundbreaking work on this issue in the National Probate Court Standards for some time in order to provide statutory direction for this complex problem,

WHEREAS the National Conference of Commissioners on Uniform State Laws endeavors to carry forward this work by drafting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act,

WHEREAS the Act provides for the recognition and enforcement of a guardianship or protective proceedings order of a foreign country, provides for a process of communication and cooperation between Courts of different jurisdictions concerning guardianship or protective proceedings, provides that a court on its own motion may order the testimony of a person to be taken across state lines and may prescribe the manner in which and terms upon which the testimony is taken,

WHEREAS the Act provides for a method of determining the appropriate initial forum for such proceedings, for a method of obtaining an order to transfer jurisdiction over such proceedings to another state, and for the recognition and registration of guardianship or protective orders across state lines,

WHEREAS the application and construction of this Uniform Act, if enacted, will promote uniformity of the law with respect to jurisdictional issues of guardianship and protective proceedings for adults among states that enact it,

WHEREAS the National College of Probate Judges is involved in the process of drafting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act with the help of the American Association of Retired Persons, National Guardianship Association, and the National Association of Elder Law Attorneys,

WHEREAS this Uniform Act, if enacted, will fulfill a key recommendation of the 2001 Wingspan National Guardianship Conference by providing procedures to resolve interstate jurisdiction controversies and to facilitate transfers of guardianship cases among jurisdictions.

WHEREAS the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, if enacted, can effectively address the dilemmas and challenges concerning jurisdiction of guardianship and protective proceedings for adults,

THEREFORE BE IT RESOLVED that the National College of Probate Judges supports the efforts of the National Conference of Commissioners on Uniform State Laws in its effort to create the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

alzheimer's association

the compassion to care, the leadership to conquer

Adult Guardianship Jurisdiction Case Statement

Position

The Alzheimer's Association supports the adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) by all states.

Background

Due to the impact of dementia on a person's ability to make decisions and in the absence of other advanced directives, people with Alzheimer's disease may need the assistance of a guardian. Advocating for the adoption of a more uniform and efficient adult guardianship system will help remove uncertainty for individuals with dementia in crisis and help them reach appropriate resolution faster.

Adult guardianship jurisdiction issues commonly arise in situations involving snowbirds, transferred/long-distance caregiving arrangements, interstate health markets, wandering, and even the occasional incidence of elderly kidnapping. The process of appointing a guardian is handled in state courts. The U.S. has 55 different adult guardianship systems, and the only data available is from 1987, which estimated 400,000 adults in the U.S. have a court-appointed guardian. Even though no current data exists, demographic trends suggest that today this number probably is much higher.

Proposed Legislation

Often, jurisdiction in adult guardianship cases is complicated because multiple states, each with its own adult guardianship system, may have an interest in the case. Consequently, it may be unclear which state court has jurisdiction to decide the guardianship issue. In response to this common jurisdictional confusion, the Uniform Law Commission developed UAGPPJA. The legislation establishes a uniform set of rules for determining jurisdiction, and thus, simplifies the process for determining jurisdiction between multiple states in adult guardianship cases. It also establishes a framework that allows state court judges in different states to communicate with each other about adult guardianship cases.

To effectively apply UAGPPJA in a case, all states involved must have adopted UAGPPJA. Thus, UAGPPJA only will work if a large number of states adopt it. In order for a state court system to follow UAGPPJA, the state legislature must first pass UAGPPJA into law. Currently, only Alaska, Colorado, Delaware and Utah have enacted UAGPPJA. Our goal in the next year is to significantly increase the number of states that adopt UAGPPJA.

The more states that enact UAGPPJA in identical format, the simpler the adult guardianship process will become. In an ideal future, enactment of UAGPPJA by all states will allow the question of jurisdiction in adult guardianship situations to be settled more easily and provide predictable outcomes in adult guardianship cases.

Existing Problems of Jurisdiction

To explain why the jurisdictional issues related to adult guardianship are critical for individuals with dementia, here are a few common scenarios:

Scenario #1 Transferred Caregiving Arrangements: Jane cares for her mother who has dementia in their home in Texas. A Texas court has appointed Jane as her mother's legal guardian. Unfortunately, Jane's husband loses his job, and Jane and her family move to Missouri. Neither Texas nor Missouri have enacted UAGPPJA. Upon arriving in Missouri, Jane attempts to transfer her Texas guardianship decision to Missouri, but she is told by the court she must refile for guardianship under Missouri law because Missouri does not recognize adult guardianship rights made in other states. This duplication of effort burdens families both financially and emotionally.

Scenario #2 Snowbirds: Alice and Bob are an elderly couple who are residents of New York, but they spend their winters at a rental apartment in Florida. Alice has Alzheimer's disease, and Bob is her primary caregiver. In January, Bob unexpectedly passes away. When Steve, the couple's son, arrives in Florida, he realizes that his mother is incapable of making her own decisions and needs to return with him to his home in Nebraska. Florida, New York and Nebraska have not adopted UAGPPJA. Steve decides to institute a guardianship proceeding in Florida. The Florida court claims it does not have jurisdiction because neither Alice nor Steve have their official residence in Florida. Steve next tries to file for guardianship in Nebraska, but the Nebraska court tells Steve that it does not have jurisdiction because Alice has never lived in Nebraska, and a New York court must make the guardianship ruling. If these three states adopted UAGPPJA, the Florida court initially could have communicated with the New York court to determine which court had jurisdiction.

Scenario #3 Interstate Health Markets (local medical centers accessed by persons from multiple states): Jack, a northern Indiana man with dementia, is brought to a hospital in Chicago because he is having chest pains. As it turns out, he is having a heart attack. While recuperating in the Chicago hospital, it becomes apparent to a hospital social worker that Jack's dementia has progressed, and he now needs a guardian. Unfortunately, Jack does not have any immediate family, and his extended family lives at a distance. The social worker attempts to initiate a guardianship proceeding in Indiana. However, she is told that because Jack does not intend to return to Indiana, she must file for guardianship in Illinois. The Illinois court then refuses guardianship because Jack does not have residency in Illinois. Even though the Indiana court is located within miles of the Illinois state line, no official channel exists for the two state courts to communicate about adult guardianship because neither state has enacted UAGPPJA.

The final example demonstrates how the process for resolving a jurisdictional adult guardianship issue is simplified if the states involved have adopted UAGPPJA:

> **Scenario #4 Long-Distance Caregiving:** Sarah, an elderly woman living in Utah, falls and breaks her hip. She and her family decide it is best that she recover from her injuries at her daughter's home in Colorado. During Sarah's stay in Colorado, her daughter, Lisa, realizes her mother's cognition is impaired, and she is no longer capable of making independent decisions. Lisa decides to petition for guardianship in Colorado. Thankfully, both Colorado and Utah have adopted UAGPPJA, and the Colorado court can easily communicate with the Utah court. Following the rules established in UAGPPJA, the Colorado court asks the Utah court if any petitions for guardianship for Sarah have been filed in Utah. The Utah court determines that no outstanding petitions exist and informs Colorado that it may take jurisdiction in the case. Thus, although Utah is Sarah's home state, Colorado may make the guardianship determination.

The situations described above demonstrate that adult guardianship issues frequently can intersect with the needs of people with Alzheimer's disease and their families. Not surprisingly, complicated adult guardianship issues often percolate in situations where people failed to engage in comprehensive end of life planning.

As the Alzheimer's Association works towards increasing awareness of the need for advanced planning, advocating for a more workable adult guardianship systems is important. The current systems are barriers to addressing end of life issues, in part, due to the disorganized array of state adult guardianship laws and the lack of communication between states. Simplifying one aspect of the adult guardianship system by enacting UAGPPJA may encourage more states to dedicate increased resources to meaningful end of life systems change.

Contact Information

For more information on the Alzheimer's Association's efforts to pass UAGPPJA in your state, please contact: Laura Boone, State Policy Specialist, Alzheimer's Association, 202.638.8668, laura.boone@alz.org.

Conference of Chief Justices
Conference of State Court Administrators

Association Services
300 Newport Avenue
Williamsburg, Virginia 23185
(757) 259-1841
FAX: (757) 259-1520

CCJ PRESIDENT
Honorable Margaret H. Marshall
Chief Justice
Supreme Judicial Court of Massachusetts
John Adams Courthouse
One Pemberton Square, Suite 2200
Boston, Massachusetts 02108-1735
(617) 557-1131
(617) 557-1291 (fax)

COSCA PRESIDENT
Stephanie J. Cole
Administrative Director of the Courts
Alaska Court System
303 K Street
Anchorage, Alaska 99501
(907) 264-0547
(907) 264-0581 (fax)

September 29, 2008

The Honorable Martha Lee Walters
President, The National Conference of Commissioners on Uniform State Laws
111 N. Wabash Avenue, Suite 1010
Chicago, Illinois 60602

Dear Ms. Walters:

At the 60th Annual Meeting of the Conference of Chief Justices and Conference of State Court Administrators, the Conferences adopted the attached resolution on July 30, 2008. The resolution, **In Support of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act** was recommended for adoption by the

We share a copy of this resolution with you for your information and the information of your membership. This resolution reflects the policy position of the Conferences.

If you need additional information or assistance, please feel free to contact us or Kay Farley or Jose Dimas at the National Center for State Courts. Ms. Farley can be reached at (703) 841-5601 or kfarley@ncsc.org. Mr. Dimas can be reached at (703) 841-5610 or jdimas@ncsc.org.

Sincerely,

Margaret Marshall

Chief Justice Margaret H. Marshall
President
Conference of Chief Justices

Stephanie J. Cole

Ms. Stephanie J. Cole
President
Conference of State Court Administrators

Conference of Chief Justices
Conference of State Court Administrators

Resolution 5

In Support of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act

WHEREAS, the Conference of Chief Justices and the Conference of State Court Administrators recognize both the challenges for guardianship and protective proceedings when the parties have connections to multiple states and the benefits of clear and uniform jurisdiction rules in these multi-state cases; and

WHEREAS, the establishment of procedures to resolve interstate jurisdictional problems and facilitate transfers of guardianship cases among jurisdictions were key recommendations of the 2001 Wingspan National Guardianship Conference; and

WHEREAS, the Uniform Laws Commission, previously known as the National Conference of Commissioners of Uniform State Laws, convened a committee of experts and drafted the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) to address existing problems; and

WHEREAS, the UAGPPJA (1) provides for a process of communication and cooperation between courts in different jurisdictions; (2) specifies which court has jurisdiction to appoint a guardian or conservator; (3) limits jurisdiction to the courts of one and only one state except in cases of emergency or in situations where the individual owns property in multiple states; (4) establishes a procedure for transferring a guardianship or conservatorship case from one state to another; (5) facilitates enforcement of guardianship and protective orders in other states by authorizing registration of orders; and (6) provides for registered orders to be entitled to full faith and credit; and

WHEREAS, adoption and implementation of the UAGPPJA will effectively address current jurisdictional problems and result in uniformity in both state law and practice;

NOW, THEREFORE, BE IT RESOLVED that the Conferences commend the work of the Uniform Laws Commission in developing this model legislation and recommend that states consider adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.

Adopted as proposed by the CCJ/COSCA Courts, Children and Families Committee July 30, 2008.