

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: SB750ER

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Howell

3. Committee: Passed Both Houses

4. Title: Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA); established.

5. Summary: Establishes a mechanism for resolving multistate jurisdictional disputes regarding adult guardianships and conservatorships. Procedures are provided for determining which jurisdiction is the 'home state' having primary jurisdiction, transferring a guardianship or conservatorship to another state, registering orders, and addressing emergency situations. The Act has been adopted in 19 states and the District of Columbia.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Final (see Item #8)

8. Fiscal Implications: Article 2 of the UAGPPJA provides a mechanism for resolving multi-jurisdictional disputes in adult guardianship and conservatorship proceedings. Even if everyone is agreed that an already existing 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. Article 3 of the UAGPPJA is designed to provide an expedited process for making such transfers, thereby avoiding the need to relitigate incapacity and whether the guardian or conservator appointed in the first state was an appropriate selection. The Full Faith and Credit Clause of the United States Constitution require 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 is one. Article 4 of the UAGPPJA creates a registration procedure. Following registration of the guardianship or protective order in the second state, the guardian may exercise in the second state all powers authorized in the original state's order of appointment except for powers that cannot be legally exercised in the second state.

Section 203 of Article 2 is the principal provision governing jurisdiction, creating a three-level priority; the home state, followed by a significant-connection state, followed by other jurisdictions. However, regardless of whether it has jurisdiction under the general principles stated in Section 203, a court in the state where the respondent is currently physically present has jurisdiction to appoint a guardian in an emergency, and a court in a state where a respondent's

real or tangible personal property is located has jurisdiction to appoint a conservator or issue another type of protective order with respect to that property.

Given that this bill simply adopts the uniform practices crafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL), the Supreme Court of Virginia (SCV) does not anticipate any appreciable fiscal impact to agency operations.

9. Specific Agency or Political Subdivisions Affected: SCV

10. Technical Amendment Necessary: No

11. Other Comments: None

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