

Article 3.

Transfer of General Guardianship, Guardianship of the Person, or Guardianship of the Estate.

§ 35B-30. Transfer of general guardianship, guardianship of the person, or guardianship of the estate to another state.

(a) A general guardian, guardian of the person, or guardian of the estate appointed in this State may petition the court to transfer the incompetency proceeding and the general guardianship, guardianship of the person, or guardianship of the estate to another state, respectively.

(b) Notice of a petition under subsection (a) of this section must be given to the persons that would be entitled to notice of a petition in this State for the adjudication of incompetence and the application for the appointment of a general guardian, guardian of the person, or guardian of the estate.

(c) On the court's own motion or on request of the general guardian, guardian of the person, or guardian of the estate, the incapacitated or protected person, or other person required to be notified of the petition, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court shall issue a provisional order granting a petition to transfer the incompetency proceeding and guardianship of the person and shall direct the guardian of the person to petition for guardianship of the person in the other state if the court is satisfied that the guardianship of the person will be accepted by the court in the other state and the court finds all of the following:

- (1) The incapacitated person is physically present in or is reasonably expected to move permanently to the other state.
- (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 incapacitated person.
- (3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

(e) The court shall issue a provisional order granting a petition to transfer the incompetency proceeding and a guardianship of the estate and shall direct the guardian of the estate to petition for guardianship of the estate 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 all of the following:

- (1) The protected person is physically present in or is reasonably expected to move permanently to the other state, or the protected person has a significant connection to the other state considering the factors in G.S. 35B-15(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 protected person.
- (3) Adequate arrangements will be made for management of the protected person's property.

(f) The court shall issue a provisional order granting a petition to transfer the incompetency proceeding and general guardianship and shall direct the general guardian to petition for general guardianship in the other state if the court is satisfied that the general guardianship will be accepted by the court of the other state and the court finds the existence of the factors set forth in subdivisions (1), (2), and (3) of subsection (d) and subdivisions (1), (2), and (3) of subsection (e) of this section.

(g) The court shall issue a final order confirming the transfer and terminating the incompetency proceeding and the general guardianship, guardianship of the person, or guardianship of the estate upon its receipt of all of the following:

- (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 G.S. 35B-31.
- (2) The documents required to terminate a general guardianship, guardianship of the person, or guardianship of the estate in this State. (2016-72, s. 1.)

§ 35B-31. Accepting guardianship, guardianship of the person, or guardianship of the estate transferred from another state.

(a) To confirm transfer of a general guardianship, guardianship of the person, or guardianship of the estate transferred to this State under provisions similar to G.S. 35B-30, the general guardian, guardian of the person, or guardian of the estate must petition the court in this State to accept the general guardianship, guardianship of the person, or guardianship of the estate. The petition must include a certified copy of the other state's provisional order of transfer.

(b) Notice of a petition under subsection (a) of this section must be given to those persons that would be entitled to notice if the petition were a petition for the adjudication of incompetence or the application for the appointment of a guardian of the person or general guardian or issuance of a protective order in both the transferring state and this State. The notice must be given in the same manner as notice is required to be given in this State.

(c) On the court's own motion or on request of the general guardian, guardian of the person, or guardian of the estate, the incapacitated or protected person, or other person required to be notified of the proceeding, the court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

(d) The court shall issue a provisional order granting a petition filed under subsection (a) of this section unless either of the following is true:

- (1) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the incapacitated or protected person.
- (2) The general guardian, guardian of the person, or guardian of the estate is ineligible for appointment in this State.

(e) The court shall issue a final order accepting the proceeding and appointing the general guardian, guardian of the person, or guardian of the estate as the general guardian, guardian of the person, or guardian of the estate in this State upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to G.S. 35B-30 transferring the proceeding to this State.

(f) Not later than 90 days after issuance of a final order accepting transfer of a general guardianship, guardianship of the person, or guardianship of the estate, the court shall determine whether the general guardianship, guardianship of the person, or guardianship of the estate needs to be modified to conform to the law of this State.

(g) In granting a petition under this section, the court shall recognize a general guardianship, guardianship of the person, or guardianship of the estate order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the general guardian, guardian of the person, or guardian of the estate.

(h) The denial by a court of this State of a petition to accept a general guardianship, guardianship of the person, or guardianship of the estate transferred from another state does not

affect the ability of the general guardian, guardian of the person, or guardian of the estate to seek appointment as general guardian, guardian of the person, or guardian of the estate in this State under Subchapter II of Chapter 35A of the General Statutes if the court has jurisdiction to make an appointment other than by reason of the provisional order of transfer. (2016-72, s. 1.)

§ **35B-32**: Reserved for future codification purposes.

§ **35B-33**: Reserved for future codification purposes.

§ **35B-34**: Reserved for future codification purposes.

§ **35B-35**: Reserved for future codification purposes.