

AN ACT

*Codification  
District of  
Columbia  
Official Code*

2001 Edition

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 21 of the District of Columbia Official Code to enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, to facilitate the movement of adult guardianships, conservatorships, and other protective proceedings between the District and other states by providing procedures for communication and cooperation between the Superior Court of the District of Columbia and courts of other states, procedures for resolving multi-jurisdictional disputes, procedures for transferring guardianships and conservatorships between the District and other states, and procedures under which a guardianship or other protective order issued in another state may be registered in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act of 2008”.

Sec. 2. Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new chapter heading at the end to read as follows:

“24. Adult Guardianship and Protective Proceedings Jurisdiction; Uniform Act . . . 21-2401.01”.

(b) A new Chapter 24 is added to read as follows

“CHAPTER 24

“ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION;  
UNIFORM ACT.

“Subchapter I. General Provisions.

“Section

“21-2401.01. Short title.

“21-2401.02. Definitions.

“21-2401.03. International application of chapter.

“21-2401.04. Communication between courts.

“21-2401.05. Cooperation between courts.

“21-2401.06. Taking testimony in another state.

“Subchapter II. Jurisdiction.

“21-2402.01. Definitions; significant connection factors.

“21-2402.02. Exclusive basis.

“21-2402.03. Jurisdiction.

“21-2402.04. Special jurisdiction.

“21-2402.05. Exclusive and continuing jurisdiction.

“21-2402.06. Appropriate forum.

“21-2402.07. Jurisdiction declined by reason of conduct.

“21-2402.08. Notice of proceeding.

“21-2402.09. Proceedings in more than one state.

“Subchapter III. Transfer of Guardianship or Conservatorship.

“21-2403.01. Transfer of guardianship or conservatorship to another state.

“21-2403.02. Accepting guardianship or conservatorship transferred from another state.

“Subchapter IV. Registration and Recognition of Orders from Other States.

“21-2404.01. Registration of guardianship orders.

“21-2404.02. Registration of protective orders.

“21-2404.03. Effect of registration.

“Subchapter V. Miscellaneous Provisions.

“21-2405.01. Uniformity of application and construction.

“21-2405.02. Relation to Electronic Signatures in Global and National Commerce Act.

“21-2405.03. Transitional provision.

“Subchapter I. General Provisions.

“§ 21-2401.01. Short title.

“This chapter may be cited as the “Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act”.

“§ 21-2401.02. Definitions.

“For the purposes of this chapter, the term:

“(1) “Adult” means an individual who has attained 18 years of age.

“(2) “Conservator” means a person appointed by the court to administer the property of an adult, including a person appointed under §§ 21-2001 to 21-2077.

“(3) “Guardian” means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under §§ 21-2001 to 21-2077.

“(4) “Guardianship order” means an order appointing a guardian.

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

“(6) “Incapacitated person” means an adult for whom a guardian has been appointed.

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

“(8) “Person,” except in the term “incapacitated person” or “protected person”, means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

“(9) “Protected person” means an adult for whom a protective order has been issued.

“(10) “Protective order” means an order appointing a conservator or other order related to management of an adult’s property.

“(11) “Protective proceeding” means a judicial proceeding in which a protective order is sought or has been issued.

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

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

“(14) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

“(15) “Superior Court” means the Superior Court of the District of Columbia.  
“§ 21-2401.03. International application of chapter.

“The Superior Court may treat a foreign country as if it were a state for the purpose of applying this subchapter and Subchapters II, III, and V.

“§ 21-2401.04. Communication between courts.

“(a) The Superior Court may communicate with a court in another state concerning a proceeding arising under this chapter. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection (b) of this section, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.

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

“§ 21-2401.05. Cooperation between courts.

“(a) In a guardianship or protective proceeding in the District of Columbia, the Superior Court may request the appropriate court of another state to do any of the following:

“(1) Hold an evidentiary hearing;

“(2) Order a person in that state to produce evidence or give testimony pursuant to procedures of that state;

“(3) Order that an evaluation or assessment be made of the respondent;

“(4) Order any appropriate investigation of a person involved in a proceeding;

“(5) Forward to the Superior Court a certified copy of the transcript or other record of a hearing under paragraph (1) of this subsection or any other proceeding, any evidence otherwise produced under paragraph (2) of this subsection, and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4) of this subsection;

“(6) Issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; or

“(7) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including protected health information as defined in 45 C.F.R. § 164.504.

“(b) If a court of another state in which a guardianship or protective proceeding is pending requests assistance of the kind provided in subsection (a) of this section, the Superior Court has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

“§ 21-2401.06. Taking testimony in another state.

“(a) In a guardianship or protective proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in the District of Columbia for testimony taken in another state. The Superior Court, on its own motion, may order that the testimony of a witness be taken in another state and may prescribe the manner in which and the terms upon which the testimony is to be taken.

“(b) In a guardianship or protective proceeding, the Superior Court may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. The Superior Court shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

“(c) Documentary evidence transmitted from another state to the Superior Court by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the best evidence rule.

“Subchapter II. Jurisdiction.

“§ 21-2402.01. Definitions; significant connection factors.

“(a) For the purposes of this subchapter, the term:

“(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:

“(A) The state in which the respondent was physically present,

including any period of temporary absence, for at least 6 consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian; or

“(B) If none, the state in which the respondent was physically present, including any period of temporary absence, for at least 6 consecutive months ending within the 6 months prior to the filing of the petition.

“(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 §§ 21-2402.03 and 20-2403.01(e) whether a respondent has a significant connection with a particular state, the Superior Court shall consider:

“(1) The location of the respondent’s family and other persons required to be notified of the guardianship or protective proceeding;

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

“(3) The location of the respondent’s property; and

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

“§ 21-2402.02. Exclusive basis.

“This subchapter provides the exclusive jurisdictional basis for the Superior Court to appoint a guardian or issue a protective order for an adult.

“§ 21-2402.03. Jurisdiction.

“The Superior Court has jurisdiction to appoint a guardian or issue a protective order for a respondent if:

“(1) The District of Columbia is the respondent’s home state;

“(2) On the date the petition is filed, the District of Columbia is a significant-connection state and:

“(A) The respondent does not have a home state or a court of the respondent’s home state has declined to exercise jurisdiction because the District of Columbia is a more appropriate forum; or

“(B) The respondent has a home state, a petition for an appointment or order is not pending in a court of that state or another significant-connection state, and, before the Superior Court makes the appointment or issues the order:

“(i) A petition for an appointment or order is not filed in the respondent’s home state;

“(ii) An objection to the Superior Court’s jurisdiction is not filed by a person required to be notified of the proceeding; and

“(iii) The Superior Court concludes that it is an appropriate forum under the factors set forth in § 21-2402.06;

“(3) The District of Columbia does not have jurisdiction under either paragraph (1) or (2) of this subsection, the respondent’s home state and all significant-connection states have declined to exercise jurisdiction because the District is the more appropriate forum, and jurisdiction in the District is consistent with Title 11 and the Constitution of the United States; or

“(4) The requirements for special jurisdiction under § 21-2402.04 are met.  
“§ 21-2402.04. Special jurisdiction.

“(a) Even if the Superior Court lacks jurisdiction under § 21-2402.03, the court has special jurisdiction to do any of the following:

“(1) Appoint a guardian in an emergency for a term not exceeding 90 days for a respondent who is physically present in the District of Columbia;

“(2) Issue a protective order with respect to real or tangible personal property located in the District of Columbia;

“(3) Appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to § 21-2403.01.

“(b) If a petition for the appointment of a guardian in an emergency is brought in the District of Columbia and the District was not the respondent’s home state on the date the petition was filed, the Superior Court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

“§ 21-2402.05. Exclusive and continuing jurisdiction.

“Except as otherwise provided in § 21-2402.04, a court that has appointed a guardian or issued a protective order consistent with this chapter has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.

“§ 21-2402.06. Appropriate forum.

“(a) Even if the Superior Court has jurisdiction under § 21-2402.03 to appoint a guardian or issue a protective order, the court may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

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

“(c) In determining whether it is an appropriate forum, the Superior Court shall consider all relevant factors, including:

“(1) Any expressed preference of the respondent;

“(2) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or

exploitation;

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

“(4) The distance of the respondent from the court in each state;

“(5) The financial circumstances of the respondent’s estate;

“(6) The nature and location of the evidence;

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

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

“(9) If an appointment were made, the court’s ability to monitor the conduct of the guardian or conservator.

“§ 21-2402.07. Jurisdiction declined by reason of conduct.

“(a) If at any time the Superior Court determines that it acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct, the court may:

“(1) Decline to exercise jurisdiction;

“(2) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety, and welfare of the respondent or the protection of the respondent’s property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or

“(3) Continue to exercise jurisdiction after considering:

“(A) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court’s jurisdiction;

“(B) Whether it is a more appropriate forum than the court of any other state under the factors set forth in § 21-2402.06(c); and

“(C) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of § 21-2402.03.

“(b) If the Superior Court determines that it acquired jurisdiction to appoint a guardian or issue a protective order because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, it may assess against that party necessary and reasonable expenses, including attorney’s fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. The court may not assess fees, costs, or expenses of any kind against the District of Columbia or a governmental subdivision, agency, or instrumentality of the District unless authorized by law other than this chapter.

“§ 21-2402.08. Notice of proceeding.

“If a petition for the appointment of a guardian or issuance of a protective order is brought in the District of Columbia and the District was not the respondent’s home state on the

date the petition was filed, in addition to complying with the notice requirements of the District, notice of the petition shall be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice shall be given in the same manner as notice is required to be given in the District.

“§ 21-2402.09. Proceedings in more than one state.

“Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in the District of Columbia under § 21-2402.04(a)(1) or (2), if a petition for the appointment of a guardian or issuance of a protective order is filed in the District and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

“(1) If the Superior Court has jurisdiction under § 21-2402.03, it may proceed with the case unless a court in another state acquires jurisdiction under provisions similar to § 21-2402.03 before the appointment or issuance of the order.

“(2) If the Superior Court does not have jurisdiction under § 21-2402.03, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the Superior Court shall stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the Superior Court shall dismiss the petition unless the court in the other state determines that the Superior Court is a more appropriate forum.

“Subchapter III. Transfer of Guardianship or Conservatorship.

“§ 21-2403.01. Transfer of guardianship or conservatorship to another state.

“(a) A guardian or conservator appointed in the District of Columbia may petition the Superior Court to transfer the guardianship or conservatorship to another state.

“(b) Notice of a petition under subsection (a) of this section shall be given to the persons that would be entitled to notice of a petition in the District of Columbia for the appointment of a guardian or conservator.

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

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

“(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; and



“(3) Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

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

“(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 § 21-2402.01(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; and

“(3) Adequate arrangements will be made for management of the protected person’s property.

“(f) The Superior Court shall issue a final order confirming the transfer and terminating the guardianship or conservatorship upon 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 § 21-2403.02; and

“(2) The documents required to terminate a guardianship or conservatorship in the District of Columbia.

“§ 21-2403.02. Accepting guardianship or conservatorship transferred from another state.

“(a) To confirm transfer of a guardianship or conservatorship transferred to the District of Columbia under provisions similar to § 21-2403.01, the guardian or conservator shall petition the Superior Court to accept the guardianship or conservatorship. The petition shall include a certified copy of the other state’s provisional order of transfer.

“(b) Notice of a petition under subsection (a) of this section shall be given to those persons that would be entitled to notice if the petition were a petition for the appointment of a guardian or issuance of a protective order in both the transferring state and the District of Columbia. The notice shall be given in the same manner as notice is required to be given in the District.

“(c) On the Superior Court’s own motion or on request of the guardian or conservator, the incapacitated or protected person, or other person required to be notified of the proceeding, the Superior Court shall hold a hearing on a petition filed pursuant to subsection (a) of this section.

“(d) The Superior Court shall issue a provisional order granting a petition filed under subsection (a) of this section unless:

“(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; or

“(2) The guardian or conservator is ineligible for appointment in the District of

Columbia.

“(e) The Superior Court shall issue a final order accepting the proceeding and appointing the guardian or conservator as guardian or conservator in the District of Columbia upon its receipt from the court from which the proceeding is being transferred of a final order issued under provisions similar to § 21-2403.01 transferring the proceeding to the District.

“(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the Superior Court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of the District of Columbia.

“(g) In granting a petition under this section, the Superior Court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person’s incapacity and the appointment of the guardian or conservator.

“(h) The denial by the Superior Court of a petition to accept a guardianship or conservatorship transferred from another state does not affect the ability of the guardian or conservator to seek appointment as guardian or conservator in the District of Columbia under §§ 21-2001 to 21-2077 if the Superior Court has jurisdiction to make an appointment other than by reason of the provisional order of transfer.

“Subchapter IV. Registration and Recognition of Orders from Other States.

“§ 21-2404.01. Registration of guardianship orders.

“If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in the District of Columbia, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register, may register the guardianship order in the District by filing as a foreign judgment in the Superior Court certified copies of the order and letters of office.

“§ 21-2404.02. Registration of protective orders.

“If a conservator has been appointed in another state and a petition for a protective order is not pending in the District of Columbia, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in the District by filing as a foreign judgment in the Superior Court certified copies of the order and letters of office and of any bond.

“§ 21-2404.03. Effect of registration.

“(a) Upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in the District of Columbia all powers authorized in the order of appointment except as prohibited under the laws of the District, including maintaining actions and proceedings in the District and, if the guardian or conservator is not a resident of the District, subject to any conditions imposed upon nonresident parties.

“(b) The Superior Court may grant any relief available under this chapter and other law of the District of Columbia to enforce a registered order.

“Subchapter V. Miscellaneous Provisions.

“§ 21-2405.01. Uniformity of application and construction.

“In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

“§ 21-2405.02. Relation to Electronic Signatures in Global and National Commerce Act.

“This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 *et seq.*), but does not modify, limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. § 7003(b)).

“§ 21-2405.03. Transitional provision.

“(a) This chapter applies to guardianship and protective proceedings begun on or after the effective date of this chapter.

“(b) Subchapters I, III, and IV and §§ 21-2405.01 and 21-2405.02 apply to proceedings begun before the effective date of this chapter, regardless of whether a guardianship or protective order has been issued.”.

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 4. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved

**ENROLLED ORIGINAL**

December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia