



Ohio Legislative Service Commission

Bill Analysis

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- Reps.** Stautberg and Letson, R. Hagan, Murray, Pillich, Ruhl, Thompson, Burke, DeGeeter, McClain, Huffman, Balderson, Garland, Derickson, McGregor, Weddington, O'Brien, Schuring, Patmon, Mecklenborg, Bupp, Stinziano, Amstutz, Antonio, Beck, Blair, Boose, Budish, Celebrezze, Celeste, Combs, Dovilla, Foley, Hackett, Hayes, Kozlowski, Maag, Mallory, Milkovich, Newbold, Phillips, Ramos, Slesnick, Stebelton, Terhar, Williams, Winburn, Batchelder
- Sens.** Balderson, Beagle, Brown, Burke, Cafaro, Gentile, Hite, Hughes, Jones, Kearney, Lehner, Manning, Niehaus, Obhof, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Seitz, Smith, Tavares, Wagoner

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ACT SUMMARY

- Authorizes a probate court to issue an emergency ex parte order freezing the financial assets of an individual for up to 72 hours if there is reason to believe the individual is missing or has gone or been taken to another state and if it is reasonably certain that the order is needed to prevent significant financial harm to the individual, and authorizes an extension of the order for up to 30 days following notice to the individual and a hearing.
- Requires that if, under Ohio's usual procedures for the appointment of a guardian, the person for whom the guardian is to be appointed is an adult, that adult must be a "qualified respondent" (a respondent subject to the jurisdiction of the Ohio probate court under the act).
- In a case involving an out-of-state respondent, requires an applicant for the appointment of a guardian or for the issuance of a protective order for an adult to give notice of the application to persons who would be entitled to notice if a proceeding were brought in the respondent's home state.

* This corrected version restores a phrase inadvertently omitted from page 5.

- Establishes rules for deciding whether an Ohio probate court should proceed with, stay, or dismiss a proceeding for the appointment of a guardian or issuance of a protective order when a proceeding is also filed in another state.
- Authorizes an Ohio probate court to communicate with, request information or action from, and provide information to or take action at the request of a court of another state regarding adult guardianship and protective proceedings.
- Provides for the taking of testimony in another state and the use of that testimony in adult guardianship and protective proceedings in Ohio.
- Delineates the jurisdiction of an Ohio probate court in adult guardianship and protective proceedings when Ohio is not the respondent's home state and permits the court to decline jurisdiction if it determines that another state's court is a more appropriate forum.
- Spells out the probate court's options in cases in which it has acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct as described in the act.
- Establishes procedures for the transfer of guardianship of an adult from Ohio to another state and from another state to Ohio.
- Authorizes the registration of an out-of-state guardianship or protective order in Ohio so that the order may be enforced in Ohio.
- Defines "financial harm" for purposes of the laws dealing with decedent's estates, guardians and conservators, and related subjects.
- Outright repeals the statute that governed when a ward moved from Ohio to another state or territory and had a guardian appointed in that state or territory.

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CONTENT AND OPERATION

Emergency order freezing financial assets of missing person

The act gives a probate court the authority, on its own motion or on application of an interested party, to issue an emergency ex parte order (an order without notice to the affected party) freezing the financial assets of an individual whom the court or applicant has reason to believe is missing or has gone or been taken to another state if it is reasonably certain that immediate action is required to prevent significant "financial harm" to the individual as defined below in "**Financial harm definition.**" The order may freeze the individual's assets for a period not exceeding 72 hours. If the individual is located, a written copy of the order must be served upon the individual as soon as possible after its issuance. The court, at its first opportunity, must enter upon its journal a record of the case and, with specificity, the reason for the action. For good cause shown, after notice to the individual and after a hearing, the court may extend the emergency order for a specified period of not more than 30 additional days.¹

The act specifies that the powers of the probate court described above are in addition to and not in derogation of any powers the court has under continuing law pertaining to emergency protective orders for minors and incompetents.²

Financial harm definition

The act defines "financial harm" for purposes of R.C. Chapters 2101. to 2131. (decedent's estates, guardians, conservators, and related subjects) to mean impairment of an individual's financial assets by unlawfully obtaining or exerting control over the individual's real or personal property in any of the following ways:³

¹ R.C. 2111.022(A).

² R.C. 2111.022(B).

³ R.C. 2111.01(H).

(1) Without the consent of the individual or the person authorized to give consent on the individual's behalf;

(2) Beyond the scope of the express or implied consent of the individual or the person authorized to give consent on the individual's behalf;

(3) By deception, threat, intimidation, fraud, or undue influence.

Introduction to Adult Guardianship and Protective Proceedings Jurisdiction Act

The act adopts the Adult Guardianship and Protective Proceedings Jurisdiction Act and provides that new R.C. Chapter 2112. may be cited by that name. As used in the act, a guardian, generally speaking, is a person, association, or corporation, or an agency under contract with the Department of Developmental Disabilities, appointed by a guardianship order of a probate court to have the care and management of the person, the estate, or both of an incompetent or minor. An incompetent is a person who is so mentally impaired as a result of a mental or physical illness, disability, mental retardation, or chronic substance abuse that the person cannot take proper care of the person's self or property or fails to provide for the person's family or others for whom the person is charged by law to provide, or any person confined to a correctional institution within this state.⁴

The person for whom a guardian is appointed is a ward. For purposes of the new chapter, a ward is any person who is 18 or older, who has been adjudicated incompetent, and for whom a guardian or the probate court, as superior guardian, is acting. A guardian of the person of a ward is a person appointed by the court to make decisions regarding the support, care, education, health, and welfare of the ward but does not include a guardian ad litem appointed to represent a minor or incompetent in court. A guardian of the ward's estate is a person appointed to administer the estate of a ward. "Person," except in the terms guardian of the person and protected person, means an individual, parent, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental agency or instrumentality, public corporation, or other legal or commercial entity.⁵

The act establishes procedures for the transfer of guardianship between Ohio and other states and addresses related issues concerning guardianship and protective proceedings. A guardianship proceeding is a judicial proceeding in which an order for

⁴ R.C. 2112.011, 2112.01(B) (incorporating by reference R.C. 2111.01(A)) and (R) (incorporating by reference R.C. 2111.01(D)).

⁵ R.C. 2112.01(E), (A), (C), (D), and (K).

the appointment of a guardian is sought or has been issued. A protective proceeding is a judicial proceeding in which a protective order is sought or has been issued. A protective order is an order appointing a guardian or other order under continuing law pertaining to emergency protective orders for minors and incompetents related to the management of an adult's person, property, or both, or an order described in "**Emergency order freezing financial assets of missing person,**" above related to the management of an individual's property. "State" means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, and any Indian tribe or band that is recognized by federal law or formally acknowledged by a state. For purposes of the new chapter, an Ohio probate court may treat a foreign country as if it were a state.⁶

Appointment for adult ward

The act provides that if, under Ohio's usual procedures for the appointment of a guardian, the person for whom the guardian is to be appointed is an adult, that adult must be a "qualified respondent" as described in R.C. 2112.21, new in the act. A respondent is an adult for whom a protective order or the appointment of a guardian is sought. R.C. 2112.21 does not define "qualified respondent," but it does establish the jurisdiction of an Ohio probate court when Ohio is not the respondent's home state (see "**Jurisdiction: In general,**" below). The respondent's home state is 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 an application for appointment of a guardian or the issuance of a protective order or, if there is no such state, 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 application.⁷

Notice to respondent's home state

Under the act, if an application for the appointment of a guardian or issuance of a protective order is brought in Ohio and Ohio was not the respondent's home state on the date that the application was filed, the applicant must give notice of the application to those persons who would be entitled to notice if a proceeding were brought in the home state. This notice is in addition to, and must be given in the same manner as, any notice that the applicant must otherwise give under Ohio law. This requirement applies

⁶ R.C. 2112.01(H), (M), (N), and (S) and 2112.02.

⁷ R.C. 2111.02(A) and 2112.01(I) and (P).

generally to applications for the appointment of a guardian or issuance of a protective order. It is not limited to the new proceedings established by the bill.⁸

Applications in multiple states

The act sets up rules that apply when an application for the appointment of a guardian or issuance of a protective order is filed in both Ohio and another state and neither application has been dismissed or withdrawn. If the Ohio probate court has jurisdiction under the act as described in "**Jurisdiction: In general**," below, it may proceed with the case unless a court in another state acquires jurisdiction under similar jurisdiction provisions before the Ohio court makes an appointment or issues an order. If the Ohio court does not have such jurisdiction, whether at the time the application is filed or at any time before the appointment or issuance of the order, it must stay the proceeding and communicate with the court in the other state. If the court in the other state has jurisdiction, the Ohio court must dismiss the application unless the court in the other state determines that the Ohio court is a more appropriate forum. These rules do not apply in emergency situations described in "**Jurisdiction: Special jurisdiction in emergencies**," below.⁹

Communications with courts in other states

The act authorizes an Ohio probate court to communicate with a court in another state concerning any proceeding under the new chapter, with or without the participation of the respondent, applicant, guardian, and other persons whom the court allows to participate in a guardianship or protective proceeding. The court must make a record of any communication unless the communication involves schedules, calendars, court records, or other administrative matters. A record is information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.¹⁰

The act authorizes an Ohio probate court, in a guardianship or protective proceeding, to request the appropriate court of another state to do any of the following:¹¹

- (1) Hold an evidentiary hearing;

⁸ R.C. 2112.01(M) and 2112.26.

⁹ R.C. 2112.27.

¹⁰ R.C. 2112.03 and 2112.01(J) and (O).

¹¹ R.C. 2112.04(A).

(2) Order a person in that state to produce evidence or give testimony pursuant to the 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 the proceeding;

(5) Forward to the Ohio probate court a certified copy of the transcript or other record of an evidentiary hearing or other proceeding and any evidence, evaluation, or assessment otherwise produced or prepared under (1), (2), (3), or (4), above;

(6) Issue any order necessary to assure the appearance in the proceeding of a respondent, a ward, an adult for whom a protective order has been issued,¹² or other person whose presence is necessary for the probate court to make a determination;

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

The act gives Ohio probate courts jurisdiction for the limited purpose of granting a request for, or making reasonable efforts to comply with a request for, similar assistance from a court of another state. It also permits the Ohio probate court to require an advance deposit for costs in an amount sufficient to obtain or provide the requested assistance.¹³

Evidence in guardianship and protective proceedings

The act allows the use, in a guardianship or protective proceeding, of any procedures that may otherwise be available in this state to obtain the testimony of a witness in another state. The probate 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. In addition, the act permits the testimony of an out-of-state witness by deposition or by telephone, audiovisual, or other electronic means. The court must cooperate with the court of the other state in designating an appropriate location for the deposition or testimony. The act prohibits the use of the best-evidence rule, which generally requires the introduction of original writings into evidence, to exclude documentary evidence sent by "technological means" from another state to an Ohio probate court. Finally, the act authorizes Ohio probate

¹² R.C. 2112.01(L).

¹³ R.C. 2112.04(B).

courts to adopt local rules of practice that promote the use of any device or procedure to facilitate the expeditious disposition of guardianship and protective cases.¹⁴

Jurisdiction

In general

Under the act, an Ohio probate court has jurisdiction to appoint a guardian or issue a protective order for a respondent if any of the following applies:

Home state: Ohio is the respondent's home state.¹⁵

Significant-connection state: On the date that the application is filed, Ohio is a significant-connection state, which is defined as a non-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, and either of the following applies:¹⁶

(1) The respondent does not have a home state, or a court of the respondent's home state has declined to exercise jurisdiction because Ohio is a more appropriate forum.

(2) 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 probate court makes the appointment or issues the order all of the following apply:

(a) An application for an appointment or order is not filed in the respondent's home state.

(b) An objection to the probate court's jurisdiction is not filed by a person required to be notified of the proceeding.

(c) The Ohio probate court concludes that the probate court is an appropriate forum as described in "**Jurisdiction: Declination of jurisdiction**," below.

In determining whether a respondent has a significant connection with a particular state, the probate court may consider any of the following:¹⁷

¹⁴ R.C. 2112.05.

¹⁵ R.C. 2112.21(A)(1).

¹⁶ R.C. 2112.21(A)(2) and 2112.01(Q).

¹⁷ R.C. 2112.21(B).

(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;

(4) The extent to which the respondent has ties to the state, including, but not limited to, voting registration, state or local tax return filing, vehicle registration, driver's license, social relationships, and receipt of services.

Appropriate forum: Ohio does not have jurisdiction as the respondent's home state or as a significant-connection state, the respondent's home state and all significant-connection states have declined to exercise jurisdiction because Ohio is the more appropriate forum, and jurisdiction in Ohio is consistent with the Ohio and U.S. Constitutions.¹⁸

Special jurisdiction: The requirements for special jurisdiction described in "**Jurisdiction: Special jurisdiction in emergencies**," below, are met.¹⁹

Special jurisdiction in emergencies

The act defines "emergency" as a circumstance that makes it reasonably certain that immediate action is required to prevent significant injury to a respondent's health, safety, welfare, or property and for which the appointment of a guardian or issuance of a protective order is necessary because no other person has authority and is willing to act on the respondent's behalf.²⁰

Under the act, an Ohio probate court that lacks jurisdiction as described above nevertheless has special jurisdiction to do any of the following:²¹

(1) Appoint a guardian in an emergency for a respondent who is physically present in Ohio;

(2) Issue a protective order in an emergency with respect to the adult or the real or tangible personal property located in Ohio;

¹⁸ R.C. 2112.21(A)(3).

¹⁹ R.C. 2112.21(A)(4).

²⁰ R.C. 2112.01(F).

²¹ R.C. 2112.22(A).

(3) Appoint a guardian for a ward or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to those described under "**Transfer of guardianship to another state**," below.

If an application for the appointment of a guardian in an emergency is brought in Ohio and Ohio was not the respondent's home state on the date the application was filed, the probate court must 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.²²

Continuing jurisdiction

Except as otherwise provided in the emergency situations described above, the act gives to a probate court that has appointed a guardian or issued a protective order under the new chapter exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own terms.²³

Declination of jurisdiction

An Ohio probate court that has jurisdiction to appoint a guardian or issue a protective order as described in "**Jurisdiction: In general**," above, may decline to exercise jurisdiction if the court determines at any time that a court of another state is a more appropriate forum. A court that declines to exercise jurisdiction must either dismiss or stay the proceeding. The court may impose any condition that it considers just and proper, including the condition that an application for the appointment of a guardian or issuance of a protective order be filed promptly in another state.²⁴

In determining whether it is an appropriate forum, the probate court must consider all relevant factors, including, but not limited to, the following:²⁵

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

²² R.C. 2112.22(B).

²³ R.C. 2112.23.

²⁴ R.C. 2112.24(A) and (B).

²⁵ R.C. 2112.24(C).

- (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;
- (9) The probate court's ability, if an appointment were made, to monitor the conduct of the guardian;
- (10) Any other factors that the probate court considers relevant.

Jurisdiction acquired through unjustifiable conduct

The act spells out the probate court's options in cases in which it has acquired jurisdiction to appoint a guardian or issue a protective order because of unjustifiable conduct. Unjustifiable conduct includes, but is not limited to, conduct by a person that attempts to create jurisdiction in Ohio by removing the adult from the adult's home state, secreting the adult, retaining the adult, or restraining or otherwise preventing the adult from returning to the adult's home state in order to prevent or deprive a court of the adult's home state from taking jurisdiction.²⁶

If at any time an Ohio probate court determines that it has acquired jurisdiction because of unjustifiable conduct, it may do any of the following:²⁷

- (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 to prevent a repetition of the unjustifiable conduct, including staying the proceeding until an application for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction;
- (3) Continue to exercise jurisdiction after considering all of the following:

²⁶ R.C. 2112.25(C).

²⁷ R.C. 2112.25(A).

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

(b) Whether the probate court is a more appropriate forum than the court of any other state under the factors set forth under "**Jurisdiction: Declination of jurisdiction**," above;

(c) Whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the normal jurisdictional standards described in "**Jurisdiction: In general**," above.

If the court determines that it has acquired jurisdiction because a party seeking to invoke the court's jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, but not limited to, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses. Except as otherwise provided by statute, the court may not assess fees, costs, or expenses of any kind against the state or a governmental subdivision, agency, or instrumentality of the state.²⁸

Transfer of guardianship to another state

Petition for transfer

The act creates a procedure for the transfer of a guardianship from Ohio to another state. A guardian appointed in Ohio may petition the probate court for a transfer. The guardian must give notice of the petition to the persons who would be entitled to notice of an application for the appointment of a guardian in Ohio. On its own motion or on request of the guardian, ward, protected person, or other person required to be notified of the petition, the court must hold a hearing on the petition.²⁹

Provisional order of transfer

The probate court must issue a provisional order transferring guardianship of the *person* and direct the guardian to petition for guardianship of the person in the other state if the court is satisfied that the guardianship will be accepted by the court in the other state and if it finds all of the following:³⁰

²⁸ R.C. 2112.25(B).

²⁹ R.C. 2112.31(A), (B), and (C).

³⁰ R.C. 2112.31(D).

(1) The ward 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 ward.

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

The probate court must issue a provisional order transferring guardianship of the *estate* and direct the guardian to petition for a guardianship of the estate in the other state if it is satisfied that the guardianship will be accepted by the court of the other state, and the probate court finds all of the following:³¹

(1) The ward is physically present in or is reasonably expected to move permanently to the other state, or the ward has a significant connection to the other state as described in "**Significant-connection state**" under "**Jurisdiction: In general**," above. The act repeats the factors that a court may consider in determining whether the respondent has a significant connection with a state.³²

(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 ward's property.

Final order of transfer

The Ohio court must issue a final order confirming the transfer and terminating the guardianship when it receives a provisional order from the court in the other state accepting the proceeding and the documents required to terminate a guardianship. The other state's provisional order must have been issued in a proceeding similar to that by which an Ohio court accepts a transfer of guardianship from another state as described in "**Transfer of guardianship to Ohio**," below.³³

³¹ R.C. 2112.31(E).

³² R.C. 2112.31(G).

³³ R.C. 2112.31(F).

Transfer of guardianship to Ohio

The act authorizes an Ohio probate court to confirm the transfer of a guardianship from another state to Ohio if the other state's proceedings are similar to those described above for the transfer of a guardianship from Ohio to another state. The guardian must petition the Ohio court to accept the guardianship of the person, the estate, or both. The petition must include a certified copy of the other state's provisional order of transfer. The guardian must give notice of the petition, in the same manner in which notice must be given in Ohio, to those persons who would be entitled to notice if the petition were an application for the appointment of a guardian or issuance of a protective order in both the transferring state and Ohio. On its own motion or on the request of the guardian, ward, protected person, or other person to whom the guardian must give notice of the petition, the court must hold a hearing on a petition.³⁴

The probate court must issue a provisional order granting the transfer unless the guardian is ineligible for appointment in Ohio or someone objects and establishes that transfer of the proceeding would be contrary to the interests of the ward or protected person. The court must issue a final order accepting the proceeding and appointing the guardian as a guardian in Ohio when it receives from the court in the other state a final order transferring the proceedings issued under provisions similar to those in the act for a transfer of guardianship from Ohio.³⁵

When an Ohio probate court grants a petition to transfer a guardianship to this state, it must recognize a guardianship order from the other state, including the determination of the incompetence of the ward and the appointment of the guardian. However, the Revised Code section providing for the transfer does not limit the probate court's authority under the law that governs guardianship and conservatorship in Ohio. If the Ohio court denies a petition to accept the transfer of a guardianship from another state, the guardian may still seek appointment as a guardian in Ohio under continuing law if the probate court has jurisdiction other than by reason of the provisional order of transfer.³⁶

Registration of guardianship order

The act authorizes a guardian appointed in another state to register the guardianship or protective order in Ohio. Once the order is registered, the guardian may exercise in Ohio all powers authorized in the order of appointment except those

³⁴ R.C. 2112.32(A), (B), and (C).

³⁵ R.C. 2112.32(D) and (E).

³⁶ R.C. 2112.32(F) and (G).

prohibited by Ohio law, including maintaining actions and proceedings in Ohio. A guardian who is not an Ohio resident is subject to any conditions imposed upon nonresident parties. An Ohio probate court may grant any relief available under Ohio statutes to enforce a registered order.³⁷

For a guardian to register an out-of-state order in Ohio, there must not be an application for the appointment of a guardian of the same type (person or estate) pending in Ohio, and the guardian must first give notice to the appointing court of an intent to register. To register a guardianship of the person, the guardian must file as a foreign judgment certified copies of the guardianship order and letters of office in the probate court of any appropriate county. To register a guardianship of the estate, the guardian must file as a foreign judgment certified copies of the guardianship or protective order, letters of office, and any bond in the probate court of any county in which property belonging to the ward or protected person is located.³⁸

Applicability of act

The act provides that R.C. 2112.01, 2112.011, 2112.02, 2112.03, 2112.04, 2112.05, 2112.31, 2112.32, 2112.41, 2112.42, and 2112.43 apply to guardianship and protective proceedings begun before the effective date of the act regardless of whether an order has been issued pursuant to those proceedings.³⁹

Former law

The act outright repeals the statute that governed when a ward removed from this state and had a foreign guardian. Under that former statute, if a ward for whom a guardian had been appointed in Ohio removed to another state or territory, and a guardian was there appointed, the Ohio guardian could have been removed and required to settle that guardian's account. That removal of the guardian could not have been made unless the guardian appointed in another state or territory applied to the Ohio probate court that made the former appointment and filed an exemplification from the record of the court making the foreign appointment containing all the entries and proceedings relating to the foreign guardian's appointment and giving bond, with a copy of the bond and letters of guardianship, all authenticated as required by the Act of Congress. Before the application was heard or action taken by the court, at least 30 days' written notice had to be served on the guardian appointed in Ohio specifying the object of the application and the time it was to be heard. The removal of a guardian in

³⁷ R.C. 2112.43.

³⁸ R.C. 2112.41 and 2112.42.

³⁹ Section 3.

favor of a foreign guardian was prohibited unless at the time of the hearing the state or territory in which the foreign guardian was appointed had a similar provision as to wards removing from that state or territory. The court was required to grant the application unless it made an affirmative finding that the removal of the Ohio guardian would not be in the interest of the ward. If on the hearing the court removed the guardian, it was required to make all suitable orders for discharging the guardian and to deliver to the foreign guardian all moneys and property in the possession or under the control of the resident guardian after the resident guardian's settlement.⁴⁰

HISTORY

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⁴⁰ Former R.C. 2111.41.

