

MEMO

To: Drafting Committee to Revise or Amend the Uniform Guardianship and Protective Proceeding Act (UGPPA)
Cc: Observers for the Drafting Committee to Revise or Amend the UGPPA
From: David English (Chair) and Nina Kohn (Reporter)
Date: September 30, 2015
Re: Visual Guide to the September 2015 Draft Revision

I. OVERVIEW OF MEMO

This memo provides five charts, one for each Article of the UGPPA, that show how the sections of the 1997 Revised Act were reorganized or renamed in the September 2015 Draft Revision.

Where the provisions in both versions of the Act are the same in their order and in their title, the chart reports that there is “No change to number or title.” Where there is a change to the numbering but not the title, the new section number is noted and the chart reads “Same title.” The most common reason for reordering sections was to create parallelism among Articles 2, 3, and 4 to make the Act more user-friendly. Where the change in ordering was simply for this purpose, no special explanation is provided. By contrast, explanations for these changes are provided where the change was for a reason other than merely creating parallelism.

II. CHARTS OF REVISIONS BY ARTICLE

ARTICLE I: GENERAL PROVISIONS

| 1997 Act Section | Current Section | Explanation |
|--|---|---|
| SECTION 101. SHORT TITLE. | No change to number or title. | |
| SECTION 102. DEFINITIONS. | No change to number or title. | |
| SECTION 103. SUPPLEMENTAL GENERAL PRINCIPLES OF LAW APPLICABLE. | No change to number or title. | |
| SECTION 104. FACILITY OF TRANSFER. | SECTION 120. Same title. | Provision moved to the end of Article 1 because it only applies to minors; title modified to reflect this limitation. |
| SECTION 105. DELEGATION OF POWER BY PARENT OR GUARDIAN. | SECTION 209. DELEGATION OF POWERS BY PARENT OR GUARDIAN OF PROTECTED MINOR. SECTION 314: DELEGATION BY GUARDIAN. | Created specific delegation sections to allow duties to be tailored to the type of guardianship. |

| | | |
|---|--|---|
| SECTION 106. SUBJECT-MATTER JURISDICTION. | SECTION 104. Same title. | |
| SECTION 107. TRANSFER OF JURISDICTION. | SECTION 105. Same title. | |
| SECTION 108. VENUE. | SECTION 106. Same title. | |
| SECTION 109. PRACTICE IN COURT. | SECTION 107. Same title. | |
| SECTION 110. LETTERS OF OFFICE. | SECTION 108. Same title. | |
| SECTION 111. EFFECT OF ACCEPTANCE OF APPOINTMENT. | SECTION 109. Same title. | |
| SECTION 112. TERMINATION OF OR CHANGE IN GUARDIAN'S OR CONSERVATOR'S APPOINTMENT. | SECTION 110. ADDITIONAL OR SUCCESSOR APPOINTEE. SECTION 317. TERMINATION OR MODIFICATION OF GUARDIANSHIP. SECTION 431. TERMINATION OR MODIFICATION OF CONSERVATORSHIP. | The provisions in 112 which applied across types of appointments were kept in Article 1. The other provisions were merged into Section 317 and Section 431 to avoid confusion and to avoid the possibility of internally inconsistent language. |
| SECTION 113. NOTICE. | SECTION 112. GENERAL NOTICE REQUIREMENT. | Section renamed to reflect the fact that specific notice requirements can be found in subsequent articles. |
| SECTION 114. WAIVER OF NOTICE. | SECTION 113. Same title. | |
| SECTION 115. GUARDIAN AD LITEM. | SECTION 114. Same title. | |
| SECTION 116. REQUEST FOR NOTICE; INTERESTED PERSONS. | SECTION 115. Same title. | |
| SECTION 117. MULTIPLE APPOINTMENTS OR NOMINATIONS. | SECTION 116. Same title. | |

ARTICLE 2: GUARDIANSHIP OF MINOR

| 1997 Act Section | Current Section | Explanation |
|--|---|---|
| SECTION 201. APPOINTMENT AND STATUS OF GUARDIAN. | SECTION 201. APPOINTMENT AND STATUS OF GUARDIAN OF MINOR. | "Of Minor" language added to title for clarity. |
| SECTION 202. PARENTAL APPOINTMENT OF GUARDIAN. | SECTION 202. PARENTAL APPOINTMENT OF GUARDIAN OF MINOR. | "Of Minor" language added to title for clarity. |

| | | |
|---|--|---|
| SECTION 203. OBJECTION BY MINOR OR OTHERS TO PARENTAL APPOINTMENT. | No change to number or title. | |
| SECTION 204. JUDICIAL APPOINTMENT OF GUARDIAN: CONDITIONS FOR APPOINTMENT. | SECTION 204. JUDICIAL APPOINTMENT OF GUARDIAN OF MINOR: CONDITIONS FOR APPOINTMENT. | “Of Minor” language added to title for clarity. |
| SECTION 205. JUDICIAL APPOINTMENT OF GUARDIAN: PROCEDURE. | SECTION 205. JUDICIAL APPOINTMENT OF GUARDIAN OF MINOR: PROCEDURE. | “Of Minor” language added to title for clarity. |
| SECTION 206. JUDICIAL APPOINTMENT OF GUARDIAN: PRIORITY OF MINOR’S NOMINEE; LIMITED GUARDIANSHIP. | SECTION 206. JUDICIAL APPOINTMENT OF GUARDIAN OF MINOR: PRIORITY OF MINOR’S NOMINEE; LIMITED GUARDIANSHIP. | “Of Minor” language added to title for clarity. |
| SECTION 207. DUTIES OF GUARDIAN. | SECTION 207. DUTIES OF GUARDIAN OF PROTECTED MINOR. | “Of Protected Minor” language added to title for clarity. |
| SECTION 208. POWERS OF GUARDIAN. | SECTION 208. POWERS OF GUARDIAN OF PROTECTED MINOR. | “Of Protected Minor” language added to title for clarity. |
| SECTION 209. RIGHTS AND IMMUNITIES OF GUARDIAN. | SECTION 209. RIGHTS AND IMMUNITIES OF GUARDIAN OF PROTECTED MINOR. | “Of Protected Minor” language added to title for clarity. |
| SECTION 210. TERMINATION OF GUARDIANSHIP; OTHER PROCEEDINGS AFTER APPOINTMENT. | SECTION 210. TERMINATION OF GUARDIANSHIP OF PROTECTED MINOR; OTHER PROCEEDINGS AFTER APPOINTMENT. | “Of Protected Minor” language added to title for clarity. |

ARTICLE 3: GUARDIANSHIP OF INCAPACITATED PERSON (renamed “GUARDIANSHIP OF PERSONS NEEDING PROTECTION” in the September 2015 revision).

| 1997 Act Section | Current Section | Explanation |
|--|-------------------------------|---|
| SECTION 301. APPOINTMENT AND STATUS OF GUARDIAN. | No change to number or title. | |
| SECTION 302. APPOINTMENT OF GUARDIAN BY WILL OR OTHER WRITING. | Eliminated | Eliminated per discussion at spring 2015 meeting. |

| | | |
|---|--|--|
| SECTION 303. APPOINTMENT OF GUARDIAN BY WILL OR OTHER WRITING; EFFECTIVENESS; ACCEPTANCE; CONFIRMATION. | Eliminated | Eliminated per discussion at spring 2015 meeting. |
| SECTION 304. JUDICIAL APPOINTMENT OF GUARDIAN: PETITION | SECTION 302. ORIGINAL PETITION FOR APPOINTMENT OF GUARDIAN. | The term “judicial” was eliminated to reflect that in this revision all guardianships for adults must be approved by a court. |
| SECTION 305. JUDICIAL APPOINTMENT OF GUARDIAN: PRELIMINARIES TO HEARING. | SECTION 304. PRELIMINARIES TO HEARING; APPOINTMENT OF LAWYER; APPOINTMENT OF [VISITOR]. | The term “judicial” was eliminated to reflect that in this revision all guardianships for adults must be approved by a court. The title was then expanded to reference key provisions. |
| SECTION 306. JUDICIAL APPOINTMENT OF GUARDIAN: PROFESSIONAL EVALUATION. | SECTION 305. PROFESSIONAL EVALUATION. | The term “judicial” was eliminated to reflect that in this revision all guardianships for adults must be approved by a court. |
| SECTION 307. CONFIDENTIALITY OF RECORDS. | SECTION 306. Same title. | |
| SECTION 308. JUDICIAL APPOINTMENT OF GUARDIAN: PRESENCE AND RIGHTS AT HEARING. | SECTION 307. PRESENCE AND RIGHTS AT HEARING. | The term “judicial” was eliminated to reflect that in this revision all guardianships for adults must be approved by a court. |
| SECTION 309. NOTICE. | SECTION 303. Same title. | |
| SECTION 310. WHO MAY BE GUARDIAN: PRIORITIES. | SECTION 308. Same title. | |
| SECTION 311. FINDINGS; ORDER OF APPOINTMENT. | SECTION 309. ORDER OF APPOINTMENT. | Title changed to reflect the fact that this section details what the court must put in the order. What the court must find to grant a guardianship is set forth in Section 301. |
| SECTION 312. EMERGENCY GUARDIAN. | SECTION 310. Same title. | |
| SECTION 313. TEMPORARY SUBSTITUTE GUARDIAN. | SECTION 311. Same title. | |
| SECTION 314. DUTIES OF GUARDIAN. | SECTION 312. Same title. | |

| | | |
|--|--|---|
| SECTION 315. POWERS OF GUARDIAN. | SECTION 313. Same title. | |
| SECTION 316. RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS. | SECTION 315. COMPENSATION, RIGHTS AND IMMUNITIES OF GUARDIAN; LIMITATIONS. | “Compensation” added to title to reflect expanded provisions related to compensation. |
| SECTION 317. REPORTS; MONITORING OF GUARDIANSHIP. | SECTION 316. Same title. | |
| SECTION 318. TERMINATION OR MODIFICATION OF GUARDIANSHIP. | SECTION 317. Same title. | |

ARTICLE 4: PROTECTION OF PROPERTY OF PROTECTED PERSON ((renamed “CONSERVATORSHIP AND PROTECTION OF PROPERTY” in the September 2015 revision).

| 1997 Act Section | Current Section | Explanation |
|--|--|---|
| SECTION 401. PROTECTIVE PROCEEDING. | SECTION 401. APPOINTMENT AND STATUS OF CONSERVATOR; OTHER PROTECTIVE ORDER. | Title revised for clarity and parallelism with Article 3. |
| SECTION 402. JURISDICTION OVER BUSINESS AFFAIRS OF PROTECTED PERSON. | SECTION 104. SUBJECT MATTER JURISDICTION. | This revision merges the provisions of Section 402 into Section 104. |
| SECTION 403. ORIGINAL PETITION FOR APPOINTMENT OR PROTECTIVE ORDER. | SECTION 402. Same title. | |
| SECTION 404. NOTICE. | SECTION 403. Same title. | |
| SECTION 405. ORIGINAL PETITION: MINORS; PRELIMINARIES TO HEARING. | SECTION 404. PRELIMINARIES TO HEARING ON CONSERVATORSHIP FOR MINOR. | Title modified for clarity. |
| SECTION 406. ORIGINAL PETITION: PRELIMINARIES TO HEARING. | SECTION 405. PRELIMINARIES TO HEARING ON CONSERVATORSHIP FOR ALLEGED PERSON IN NEED OF PROTECTION; APPOINTMENT OF LAWYER; APPOINTMENT OF [VISITOR] | Title changed to include new person-first language, and key issues included in section. |
| SECTION 407. CONFIDENTIALITY OF RECORDS. | No change to number or title | |

| | | |
|---|--|--|
| SECTION 408. ORIGINAL PETITION: PROCEDURE AT HEARING. | SECTION 408. PRESENCE AND RIGHTS AT HEARING. | Title changed to parallel the parallel provision in Article 3 and to better reflect the section's content. |
| SECTION 409. ORIGINAL PETITION: ORDERS. | SECTION 410. ORDER OF APPOINTMENT. | Title changed to parallel the parallel provision in Article 3. |
| SECTION 410. POWERS OF COURT. | SECTION 411. Same title. | |
| SECTION 411. REQUIRED COURT APPROVAL. | SECTION 412. POWERS REQUIRNG COURT APPROVAL. | Title modified for clarity. |
| SECTION 412. PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS. | SECTION 413. Same title. | |
| SECTION 413. WHO MAY BE CONSERVATOR: PRIORITIES. | SECTION 409. Same title. | |
| SECTION 414. PETITION FOR ORDER SUBSEQUENT TO APPOINTMENT. | No change to number or title. | |
| SECTION 415. BOND. | SECTION 415. BOND; ASSET PROTECTION ARRANGEMENTS. | Title expanded to reflect provisions for protective arrangements other than bonds. |
| SECTION 416. TERMS AND REQUIREMENTS OF BOND. | No change to number or title. | |
| SECTION 417. COMPENSATION AND EXPENSES. | SECTION 417. COMPENSATION AND EXPENSES OF CONSERVATOR. | Title expanded for clarity. |
| SECTION 418. GENERAL DUTIES OF CONSERVATOR; PLAN. | No change to number or title. | |
| SECTION 419. INVENTORY; RECORDS. | No change to number or title. | |
| SECTION 420. REPORTS; APPOINTMENT OF [VISITOR]; MONITORING. | SECTION 423. Same title. | |
| SECTION 421. TITLE BY APPOINTMENT. | SECTION 424. Same title. | |
| SECTION 422. PROTECTED PERSON'S INTEREST INALIENABLE. | SECTION 425. Same title. | |
| SECTION 423. SALE, ENCUMBERANCE, OR OTHER TRANSACTION INVOLVING CONFLICT OF INTEREST. | SECTION 426. Same title. | |
| SECTION 424. PROTECTION OF PERSON DEALING WITH CONSERVATOR. | SECTION 427. Same title. | |

| | | |
|---|--|---|
| SECTION 425. POWERS OF CONSERVATOR IN ADMINISTRATION. | SECTION 420. Same title. | |
| SECTION 426. DELEGATION. | SECTION 421. DELEGATION BY CONSERVATOR. | Title expanded for clarity. |
| SECTION 427. PRINCIPLES OF DISTRIBUTION BY CONSERVATOR. | SECTION 422. Same title. | |
| SECTION 428. DEATH OF PROTECTED PERSON. | No change to number or title. | |
| SECTION 429. PRESENTATION AND ALLOWANCE OF CLAIMS. | No change to number or title. | |
| SECTION 430. PERSONAL LIABILITY OF CONSERVATOR. | No change to number or title. | |
| SECTION 431. TERMINATION OF PROCEEDINGS. | SECTION 431. TERMINATION OR MODIFICATION OF CONSERVATORSHIP. | Title expanded to include modification. |
| SECTION 432. REGISTRATION OF GUARDIANSHIP ORDERS. | SECTION 118. REGISTRATION OF ORDERS. | Moved to Article 1 because applies across guardianships and conservatorships. |
| SECTION 433. REGISTRATION OF PROTECTIVE ORDERS. | SECTION 118. REGISTRATION OF ORDERS. | Moved to Article 1 because applies across guardianships and conservatorships. |
| SECTION 434. EFFECT OF REGISTRATION. | SECTION 119. EFFECT OF REGISTRATION OF ORDERS. | Moved to Article 1 because applies across guardianships and conservatorships. |

ARTICLE 5: MISCELLANEOUS PROVISIONS

| 1997 Act Section | Current Section | Explanation |
|--|-------------------------------|-------------|
| SECTION 501. UNIFORMITY OF APPLICATION AND CONSTRUCTION. | No change to number or title. | |
| SECTION 502. SEVERABILITY CLAUSE. | No change to number or title. | |
| SECTION 503. EFFECTIVE DATE. | No change to number or title. | |
| SECTION 504. REPEAL. | No change to number or title. | |