



The N.C. Coalition on Aging

2015 Priority Issue

Improve N.C.'s Ability to Address Guardianship Transfer

Issue:

Lack of legislation on jurisdictional issues regarding adult guardianship is costing the State and families undue legal expenses and additional unnecessary frustration for family caregivers.

The Coalition's Position:

To meet the growing complexities associated with cross border guardianship cases, adopt *The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* to address problems with interstate guardianship.

Background:

Families move around more than they used to and because health care facilities may serve patients from several states, cross-border guardianship cases are increasing. Conflicts are most likely when family members live in more than one state or own property in more than one state.

There is currently a *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* adopted by 40 states, the District of Columbia and Puerto Rico. Elements of The Act establish ways to resolve multi-state adult guardianship jurisdictional issues. It is a simple, jurisdictional fix that requires no additional funds.

Currently, North Carolina law includes only incomplete provisions on transfer of a case across state lines. There is no procedure to transfer a case *out of North Carolina* into another state – only provisions to move the person's personal property to a new state if the person lives there. While North Carolina law does have a procedure for transferring a guardianship *into the state*, it is at the clerk's discretion, and in practice, a full hearing re-litigating the case may be required.

Current North Carolina law has no provision for registration. However, it does allow for appointment of an "ancillary guardian" in North Carolina when a person is under guardianship of another state but authority is needed to address real or personal property located in North Carolina. This does not address authority for health care/personal decisions.

The underlying idea of the Act is that the jurisdictional procedures would be the same in all states, allowing for an efficient flow of cases not impeded by state differences. Therefore, it would be best to adopt the Act's procedures for transfer and recognition, and enact the initial jurisdiction procedures as well.