

HCS SCS SB 213 -- INCAPACITATED PERSONS AND THE UNIFORM ADULT
GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

SPONSOR: Schaefer (Barnes)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary
by a vote of 10 to 0.

This substitute changes the laws regarding incapacitated persons
and authorizes Missouri to enter into the Uniform Adult
Guardianship and Protective Proceedings Jurisdiction Act.

INCAPACITATED PERSONS

Any child, parent, or sibling of a deceased person may petition a
court to order an autopsy or postmortem examination to be
performed if the deceased person was incapable of giving consent
prior to his or her death due to injury, illness, or mental
capacity.

The substitute changes the specified information that must be
stated in a petition for a person to appoint himself or herself
or another qualified person as the guardian of an incapacitated
person.

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS
JURISDICTION ACT

The act:

- (1) Allows a court to treat a foreign country as if it were a
state for the purpose of the act;
- (2) Allows a court to communicate with an out-of-state court
concerning a guardianship or protective proceeding;
- (3) Allows a court to request an out-of-state court to:
 - (a) Hold an evidentiary hearing;
 - (b) Order an individual to produce evidence or give testimony;
 - (c) Order that an evaluation or assessment be made of a
respondent;
 - (d) Order any appropriate investigation of an individual
involved in a guardianship or protective proceeding;
 - (e) Forward to the court of this state a certified copy of the
transcript or other record of an evidentiary hearing or any other

proceeding any evidence otherwise produced and any evaluation or assessment prepared in compliance with a court order;

(f) 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; and

(g) Issue an order authorizing the release of medical, financial, criminal, or other relevant information in that state, including specified protected health information;

(4) Allows testimony taken in another state from a witness who is located in another state to be offered by deposition or other means allowable;

(5) Permits a court to allow a witness located in another state to be deposed or to testify by telephone, audiovisual, or other electronic means;

(6) Specifies when a court of this state has jurisdiction to appoint a guardian or to issue a protective order for a respondent;

(7) Specifies that when a court of this state is otherwise lacking jurisdiction it has special jurisdiction for specified guardianship actions;

(8) Specifies that a court which has appointed a guardian or issued a protective order has exclusive and continuing jurisdiction over the proceeding until it is terminated by the court or the appointment or order expires by its own term;

(9) Allows a court to decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum;

(10) Allows a guardian or conservator to petition the court to transfer the guardianship or conservatorship to another state;

(11) Specifies that if a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this state, the guardian may register, after giving notice to the appointing court of an intent to register, the guardianship order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, a certified copy of the order and letter of office;

(12) Specifies that if a conservator has been appointed in another state and a petition for a protective order is not

pending in this state, the conservator may register, after giving notice to the appointing court of an intent to register, the protective order in this state by filing as a foreign judgment in a court, in any appropriate county of this state, a certified copy of the order and letter of office and any bond; and

(13) Specifies that upon registration of a guardianship or protective order from another state, the guardian or conservator may exercise in this state all powers authorized in the order of appointment except those powers prohibited under the laws of this state.

FISCAL NOTE: No impact on state funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill will adopt guardianship laws that conform with other states and will allow Missouri to communicate with other states regarding guardianship proceedings.

Testifying for the bill were Representative Jones (117) for Senator Schaefer; The Missouri Bar; and Alzheimer's Association.

OPPOSERS: There was no opposition voiced to the committee.