

Guardianship and Conservatorship in Iowa

Issues in Substitute Decision-Making

Which State Can Make Decisions about Guardianships and Conservatorships

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The Standard for Deciding when Iowa has Jurisdiction over Adult Guardianships and Conservatorships

This information is found in the section of the Iowa Code called the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. Iowa has the power to appoint a guardian or conservator if Iowa is the “home state” of the respondent to a guardianship or conservatorship petition. Home state is defined as either:

- 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 a petition for appointment of guardianship or conservatorship; or
- 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 a petition for guardianship or conservatorship.

If the respondent does not have a home state or the court in the respondent’s home state decides not to exercise jurisdiction, the state of Iowa has jurisdiction if it has a “significant connection” with the respondent. In determining whether there is a significant connection, the court considers all the following:

- The location of the respondent’s family and other persons required to be notified of the guardianship or conservatorship proceeding.
- The length of time the respondent was physically present in the state and the duration of any absence.
- The location of the respondent’s property.
- 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.

The court can appoint a guardian in the event of an emergency. The court can issue protective orders dealing with real or personal property located in Iowa. Finally, the court can also consider petitions for the transfer of existing guardianships or conservatorships from other states.

The court can decline to exercise jurisdiction if jurisdiction was obtained as a result of unjustifiable conduct by one of the parties. The court can decline jurisdiction if it decides that another state is a more appropriate forum.

The Standard for Allowing the Transfer of a Guardianship or Conservatorship to Another State

The court may transfer a guardianship or conservatorship to another state if the Iowa guardian or conservator asks the court for a transfer. The court must order the transfer of a guardianship if the court believes the other state will accept the guardianship and if all the following are true:

- The incapacitated person is physically present in or is reasonably expected to move permanently to the other state.
- 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.
- Plans for care and services for the incapacitated person in the other state are reasonable and sufficient.

The court must order the transfer of a conservatorship if the court believes the other state will accept the conservatorship and if all the following are true:

- 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.
- 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.
- Adequate arrangements will be made for management of the protected person's property.

The Standard for Accepting the Transfer of a Guardianship or Conservatorship from Another State

The court can accept a transfer of a guardianship or conservatorship from another state upon the petition of a guardian or conservator. A certified copy of the other state's order of transfer must be included with the petition. The court must grant the petition unless either of the following applies:

- 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.
- The guardian or conservator is ineligible for appointment in this state.

Registration of Guardianships and Conservatorships in Iowa

If there is no petition for the appointment of a guardian or conservator pending in Iowa, a guardian or conservator appointed in another state may register the guardianship or conservatorship order in Iowa after giving notice to the out of state appointing court. Upon registration of the guardianship or conservatorship order, the guardian or conservator may exercise all the powers authorized by the out of state order of appointment (except as prohibited by the laws of the state of Iowa).

These materials are a general summary of the law. They are not meant to completely explain all that you should know about guardianship and conservatorship. You should see a lawyer to get complete, correct and up-to-date legal advice. Iowa's law on guardianship and conservatorship is found in Iowa's Probate Code starting at section 633.551.

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