

House Bill 446 (AS PASSED HOUSE AND SENATE)

By: Representatives Peake of the 141<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Willard of the 51<sup>st</sup>, England of the 116<sup>th</sup>, Cooper of the 43<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward,  
2 so as to provide for certain additional notice requirements for a proposed ward who resided  
3 in another state prior to the submission of a guardianship or conservatorship petition for such  
4 proposed ward; to require disclosure in petitions; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Title 29 of the Official Code of Georgia Annotated, relating to guardian and ward, is  
9 amended by revising subsection (b) of Code Section 29-4-10, relating to petitions for  
10 appointment of guardians and requirements for petitions, as follows:

11 "(b) The petition for appointment of a guardian shall set forth:

- 12 (1) A statement of the facts upon which the court's jurisdiction is based;
- 13 (2) The name, address, and county of domicile of the proposed ward, if known;
- 14 (3) The name, address, and county of domicile of the petitioner or petitioners and the  
15 petitioner's relationship to the proposed ward, if any, and, if different from the petitioner,  
16 the name, address, and county of domicile of the person nominated by the petitioner to  
17 serve as guardian and that person's relationship to the proposed ward, if any;
- 18 (4) A statement of the reasons the guardianship is sought, including the facts which  
19 support the claim of the need for a guardian;
- 20 (5) Any foreseeable limitations on the guardianship;
- 21 (6) Whether, to the petitioner's knowledge, there exists any living will, durable power  
22 of attorney for health care, advance directive for health care, order relating to  
23 cardiopulmonary resuscitation, or other instrument that deals with the management of the  
24 person of the proposed ward in the event of incapacity and the name and address of any  
25 fiduciary or agent named in the instrument;
- 26 (7) The names and addresses of the following whose whereabouts are known:

- 27 (A) The spouse of the proposed ward; and  
 28 (B) All children of the proposed ward; or  
 29 (C) If there are no adult children, then at least two adults in the following order of  
 30 priority:
- 31 (i) Lineal descendants of the proposed ward;
  - 32 (ii) Parents and siblings of the proposed ward; and
  - 33 (iii) Friends of the proposed ward;
- 34 (8) If known, the name and address of any individual nominated to serve as guardian by  
 35 the proposed ward, as described in paragraph (1) of subsection (b) of Code Section  
 36 29-4-3;
- 37 (9) If known, the name and address of any individual nominated to serve as guardian by  
 38 the proposed ward's spouse, adult child, or parent, as described in paragraph (2), (3),  
 39 or (4) of subsection (b) of Code Section 29-4-3;
- 40 (10) Whether any nominated guardian has consented or will consent to serve as guardian;
- 41 (11) If known, whether any nominated guardian is an owner, operator, or employee of  
 42 a long-term care or other caregiving institution or facility at which the proposed ward is  
 43 receiving care, and, if so, whether the nominated guardian is related to the proposed ward  
 44 by blood, marriage, or adoption;
- 45 (12) Whether an emergency guardian has been appointed for the proposed ward or a  
 46 petition for the appointment of an emergency guardian has been filed or is being filed;
- 47 (13) If known, a disclosure of any ownership or other financial interest that would cause  
 48 any nominated guardian to have a conflict of interest with the proposed ward;
- 49 (14) A specific listing of any of the additional powers, as described in subsection (b) of  
 50 Code Section 29-4-23, that are requested by the guardian and a statement of the  
 51 circumstances that would justify the granting of additional powers;
- 52 (15) Whether a guardian or conservator has been appointed in another state or whether  
 53 a petition for the appointment of a guardian or conservator is pending in another state;
- 54 (16) That to petitioner's knowledge, there has been no petition for guardianship denied  
 55 or dismissed within two years by any court of this state or, if so, that there has been a  
 56 significant change in the condition or circumstances of the individual, as shown by the  
 57 accompanying affidavits or evaluation; and
- 58 (17) Any state in which the proposed ward was physically present, including any period  
 59 of temporary absence, for at least six consecutive months immediately before the filing  
 60 of the petition or ending within the six months prior to the filing of the petition; and
- 61 (18) The reason for any omission in the petition for appointment of a guardian in the  
 62 event full particulars are lacking."

**SECTION 2.**

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Said title is further amended by revising subsection (b) of Code Section 29-5-10, relating to petitions for appointment of conservators and requirements for petitions, as follows:

“(b) The petition for appointment of a conservator shall set forth:

- (1) A statement of the facts upon which the court's jurisdiction is based;
- (2) The name, address, and county of domicile of the proposed ward, if known;
- (3) The name, address, and county of domicile of the petitioner or petitioners and the petitioner's relationship to the proposed ward, if any, and, if different from the petitioner, the name, address, and county of domicile of the person nominated by the petitioner to serve as conservator and that person's relationship to the proposed ward, if any;
- (4) A statement of the reasons the conservatorship is sought, including the facts which support the claim of the need for a conservator;
- (5) Any foreseeable limitations on the conservatorship;
- (6) Whether, to the petitioner's knowledge, there exists any power of attorney, trust, or other instrument that deals with the management of the property of the proposed ward in the event of incapacity and the name and address of any fiduciary or agent named in the instrument;
- (7) A description of all known assets, income, other sources of funds, liabilities, and expenses of the proposed ward;
- (8) The names and addresses of the following whose whereabouts are known:
  - (A) The spouse of the proposed ward; and
  - (B) All children of the proposed ward; or
  - (C) If there are no adult children, then at least two adults in the following order of priority:
    - (i) Lineal descendants of the proposed ward;
    - (ii) Parents and siblings of the proposed ward; and
    - (iii) Friends of the proposed ward;
- (9) If known, the name and address of any person nominated to serve as conservator by the proposed ward, as described in paragraph (1) of subsection (b) of Code Section 29-5-3;
- (10) If known, the name and address of any person nominated to serve as conservator by the proposed ward's spouse, adult child, or parent, as described in paragraphs (2) through (4) of subsection (b) of Code Section 29-5-3;
- (11) The name and address of any person nominated to serve as conservator by the petitioner;
- (12) Whether any nominated conservator has consented or will consent to serve as conservator;

100 (13) If known, whether any nominated conservator is an owner, operator, or employee  
 101 of a long-term care or other caregiving institution or facility at which the proposed ward  
 102 is receiving care, and, if so, whether the nominated conservator is related to the proposed  
 103 ward by blood, marriage, or adoption.

104 (14) Whether an emergency conservator has been appointed for the proposed ward or a  
 105 petition for the appointment of an emergency conservator has been filed or is being filed;

106 (15) If known, a disclosure of any ownership or other financial interest that would cause  
 107 any nominated conservator to have a conflict of interest with the proposed ward;

108 (16) A specific listing of any additional powers, as described in subsections (b) and (c)  
 109 of Code Section 29-5-23, that are requested by the conservator and a statement of the  
 110 circumstances which would justify the granting of additional powers;

111 (17) Whether a guardian or conservator has been appointed in another state or whether  
 112 a petition for the appointment of a guardian or conservator is pending in another state;

113 (18) That to petitioner's knowledge, there has been no petition for conservatorship denied  
 114 or dismissed within two years by any court of this state or, if so, that there has been a  
 115 significant change in the condition or circumstances of the individual, as shown by the  
 116 accompanying affidavits or evaluation; ~~and~~

117 (19) Any state in which the proposed ward was physically present, including any period  
 118 of temporary absence, for at least six consecutive months immediately before the filing  
 119 of the petition or ending within the six months prior to the filing of the petition; and

120 (20) The reason for any omission in the petition for appointment of conservator in the  
 121 event full particulars are lacking."

### 122 SECTION 3.

123 Said title is further amended by revising Code Section 29-9-7, relating to the judge's  
 124 discretion on notice, service, and additional time for proceedings, as follows:

125 "29-9-7.

126 (a) The probate judge may direct any additional service or notice or extend the time to  
 127 respond ~~with respect~~ to any proceedings covered by this title as the judge may determine  
 128 to be proper in the interest of due process and reasonable opportunity for any party or  
 129 interest to be heard.

130 (b) If a petition for appointment of a guardian or conservator is filed and the petition lists  
 131 any state in which the proposed ward was physically present, including any period of  
 132 temporary absence, for at least six consecutive months immediately before the filing of the  
 133 petition or ending within the six months prior to the filing of the petition pursuant to  
 134 paragraph (17) of subsection (b) of Code Section 29-4-10 or paragraph (19) of subsection  
 135 (b) of Code Section 29-5-10, in addition to any other notice requirements, notice shall be

136 given by the court to those persons who reside in such other state who are named in the  
137 petition pursuant to paragraphs (7) through (9) of subsection (b) of Code Section 29-4-10  
138 or paragraphs (8) through (10) of subsection (b) of Code Section 29-5-10 in such additional  
139 manner as the court determines might be reasonably calculated to give actual notice to such  
140 persons. Such additional manner may include the publication of notice in the county of  
141 such other state in which the proposed ward was physically present, including any period  
142 of temporary absence, for at least six consecutive months immediately before the filing of  
143 the petition."

144 **SECTION 4.**

145 All laws and parts of laws in conflict with this Act are repealed.