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## The Arc Blog

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### *Transferring Guardianship Across State Lines*

Posted on [December 17, 2015](#) by [The Arc](#)

By [Scott C. Suzuki, Esq.](#), [Special Needs Alliance](#)

Many individuals with intellectual or developmental disabilities are capable of making their own decisions, with or without support, and do not need a guardian. If, however, a person with disabilities has a guardian, there are likely to be complications that should be considered before one or both of them relocate to a different state. It may, in fact, be a good time to consider whether a more limited guardianship, power of attorney or supported decision-making might suffice.

Laws governing guardianship sometimes differ significantly from one state to the next, and depending on the jurisdiction, you could find yourself bogged down in red tape for months. The definition of capacity varies, as do limits on a guardian's authority and numerous other factors. Sorting through the details is sufficiently complicated

that it would be a good idea to consult with special needs attorneys from *each state involved* to make the transfer as smooth as possible.

When transferring a guardianship between states, it is important to determine whether the states have adopted the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA). To date, 42 states, Puerto Rico, and Washington, D.C. have enacted the statute (click [here](#) for an up-to-date tally). Jurisdictions that have adopted this act will generally recognize the legal findings and guardianship orders issued by other states that have adopted UAGPPJA. The act includes a number of safeguards to ensure that when a person under guardianship moves between states, the move is made for appropriate reasons. In relevant part, the UAGPPJA requires that:

the relocation is in the best interests of the person under guardianship;  
plans to support the person under guardianship in the new home are reasonable and sufficient ;  
no parties oppose the move; and  
the relocation is permanent.

Under UAGPPJA, the guardian requests permission from courts in both the originating and new home states to begin proceedings, and the back-and-forth process becomes largely clerical, streamlining the process. There are exceptions, though. The use of different legal terms by the states involved can slow operations, but veteran attorneys can usually plow through the semantics. And sometimes, jurisdictions retain the right to add steps. When my home state of Hawaii adopted UAGPPJA, the legislature gave courts the discretion to hold evidentiary hearings.

In instances where both states have *not* approved reciprocity, complications can multiply. Guardians may need to petition the court in the originating state to allow the transfer to take place and may have to start guardianship proceedings from scratch in the new state. Fees could mount for attorneys, medical experts, and others, and the new court may ultimately disagree with previous findings. In the meantime, guardians must continue submitting reports and accountings to the first state. I know of a situation in which the process took two years and involved considerable expense.

The Special Needs Alliance (SNA), with highly experienced [member attorneys](#) in most states, is an excellent resource if you re considering a relocation. SNA attorneys can advise you concerning not only the requirements for transferring guardianship, but also regarding differences in public programs and the availability of local services. If you re thinking of moving across state lines, it s best to begin planning as early as possible.

*The [Special Needs Alliance \(SNA\)](#) is a national non-profit comprised of attorneys who assist individuals with special needs, their families and the professionals who serve them. SNA is partnering with The Arc to provide educational resources, build public awareness, and advocate for policies on behalf of people with intellectual/developmental disabilities and their families. The views expressed in the blog are those of the author.*

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## About The Arc

The Arc has been advocating for and serving people with developmental disabilities since 1950.

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### 3 THOUGHTS ON “TRANSFERRING GUARDIANSHIP ACROSS STATE LINES”

*Tina T Fisk*

Si



[December 27, 2015 at 8:56 pm](#)

I found the following information very helpful as movement to another state is being considered.

*conservailander*

Si



[January 5, 2016 at 12:36 am](#)

I have conservatorship over my adult daughter who lives in a group home near me in Calif. I would like to move us both to Va. where my other daughter can support us as we age. Here in Calif. my disabled daughter comes under the auspices of A Regional Center. Do they have something comparable in Va.? This is a big job and altho I can turn to my Regional Center for help I d like to get as much information as I can so we can work this together.

Kim McCarty



Si

January 14, 2016 at 1:25 am

My sons guardianship was established in The State of IL before he graduated from high school. He is intellectually challenged and we recently relocated to Surprise, AZ.

Q: Is the Guardianship from Illinois valid in Surprise, AZ?

Q: Will there have to be a petition to the court for a new guardianship with a Successor guardianship?

Comments are closed.

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