

January 11, 2018

County Clerk

Kimberly S. Bushey  
County Clerk

Wisconsin Counties Association  
22 East Mifflin Street, Suite 900  
Madison, WI 53703

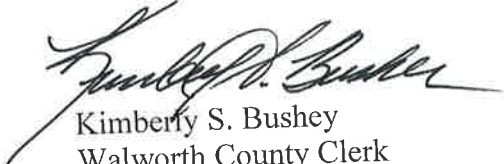
To Whom It May Concern:

Enclosed is the following Walworth County resolution:

Resolution No. 48-01/18 – Opposing 2017 Assembly Bill 629  
Incorporating the Uniform Adult Guardianship and Protective  
Proceedings Jurisdiction Act into Wisconsin and Authorizing  
Walworth County Corporation Counsel to Testify Against 2017  
Assembly Bill 629

The Walworth County Board of Supervisors requested that these resolutions be  
forwarded to your office at their January 09, 2018 County Board meeting.

Sincerely,



Kimberly S. Bushey  
Walworth County Clerk

KSB/ps

Enclosure

**Resolution No. 48 - 01/18**

**Opposing 2017 Assembly Bill 629 Incorporating the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act into Wisconsin and Authorizing Walworth County Corporation Counsel to Testify Against 2017 Assembly Bill 629**

1 Moved/Sponsored by: Executive Committee

2  
3 **WHEREAS**, in 2007, the National Conference of Commissioners of Uniform State Laws  
4 approved and recommended the Uniform Adult Guardianship and Protective Proceedings  
5 Jurisdiction Act (“UAGPPJA”) for enactment in all states; and,

6  
7 **WHEREAS**, UAGPPJA seeks to provide a uniform system to address and resolve problems that  
8 may arise in interstate guardianship matters by defining jurisdiction, creating procedures for  
9 transferring uncontroversial guardianships from or to another state, and establishing a system for  
10 courts in different states to communicate regarding interstate guardianship matters; and,

11  
12 **WHEREAS**, although 45 states have enacted some version of UAGPPJA, Wisconsin has not  
13 enacted any version of the UAGPPJA; and,

14  
15 **WHEREAS**, the Wisconsin Legislature is considering two proposed bills, 2017 AB 629 and  
16 2017 SB 518, which would incorporate UAGPPJA, with some modifications, into Wisconsin law  
17 and 2017 AB 629 is scheduled for a Public Hearing in front of the Committee on Mental Health  
18 for 11:00 a.m., on Tuesday, December 12, 2017; and,

19  
20 **WHEREAS**, 2017 AB 629 was reviewed and drafted in part by a committee of the Elder Law  
21 Section of the State Bar of Wisconsin, Walworth County Assistant Corporation Counsel Peter M.  
22 Navis participated in the Elder Law Section committee, and Walworth County Assistant  
23 Corporation Counsel Navis reports that there was insufficient time for the Elder Law Section  
24 committee to fully review and revise UAGPPJA to fit within the existing guardianship and  
25 protective placement framework in Wisconsin; and,

26  
27 **WHEREAS**, since July 2015, Walworth County, through its Corporation Counsel, has been  
28 involved in at least seven guardianship cases that implicated interstate guardianship rules with  
29 Illinois, Iowa, Ohio, New York, Florida, Arizona, and California, several of which featured  
30 contesting parties; and,

31  
32 **WHEREAS**, 2017 AB 629, as introduced, would repeal some provisions of Chapter 54,  
33 Wisconsin Statutes, amend some provisions of Chapter 54, Wisconsin Statutes, and create  
34 Chapter 53, Wisconsin Statutes, but does not address any aspects of Chapter 55, Wisconsin  
35 Statutes, which is often implicated in interstate guardianship cases; and,

36  
37 **WHEREAS**, 2017 AB 629, as introduced, would (1) create exclusive rules for determining  
38 personal jurisdiction for guardianship cases in Wisconsin, (2) create procedures to transfer an  
39 existing out-of-state guardianship into Wisconsin, and (3) create procedures to transfer an  
40 existing Wisconsin guardianship to another state; and,

1 **WHEREAS**, a careful review and thoughtful understanding of existing guardianship law in  
2 Wisconsin reveals that (1) the rules for personal jurisdiction in guardianship cases, via Wis. Stat.  
3 § 805.05(1) and In the Matter of the Guardianship of Jane E. P., 283 Wis. 2d 258 (2005), are  
4 well-established and do not require revision; (2) Wis. Stat. §§ 54.34(3), 54.38(1m), 54.44(1)(c),  
5 54.44(3)(b), 54.44(4)(c), 54.46(1m), and 54.46(1r), already provide the procedures for  
6 transferring an existing out-of-state guardianship into Wisconsin, and (3) current Wisconsin law  
7 does not provide for transferring an existing Wisconsin guardianship to another state; and,

8  
9 **WHEREAS**, 2017 AB 629, as introduced, creates new rules and procedures for personal  
10 jurisdiction and for transferring an existing out-of-state guardianship into Wisconsin that are not  
11 necessary and, insofar as transferring guardianships into Wisconsin, fails to adequately protect  
12 the interests of the public in their respective counties by not providing clear procedures on (1)  
13 who can object to the transfer; (2) if a hearing is required when an objection is made to the  
14 transfer; (3) the time period during which an objection to the transfer may be made; (4) ensuring  
15 that a petition for protective placement is filed when the ward will require protective placement;  
16 and (5) does not automatically require the appointment of a guardian ad litem to advise the court  
17 whether the proposed transfer is in the best interest of the ward, and, therefore, those provisions  
18 are deficient and not necessary in guardianship proceedings; and,

19  
20 **WHEREAS**, the provisions of 2017 AB 629, as introduced, creating procedures to transfer an  
21 existing Wisconsin guardianship to another state do not provide clear procedures on (1) who can  
22 object to the transfer; (2) if a hearing is required when an objection is made to the transfer; (3)  
23 the time period during which an objection to the transfer may be made; (4) protections for a ward  
24 under protective placement who is the subject of a proposed transfer; and (5) does not  
25 automatically require the appointment of a guardian ad litem to advise the court whether the  
26 proposed transfer is in the best interest of the ward, and therefore, those provisions are deficient  
27 in guardianship proceedings; and,

28  
29 **WHEREAS**, 2017 AB 629, as introduced, contains provisions that are deficient in protecting the  
30 due process rights of the ward, are unnecessary in light of appropriate, existing law, and, by the  
31 virtue of the same, will cause Walworth County to face unnecessary and unavoidable difficulties  
32 in handling interstate guardianship cases.

33  
34 **NOW, THEREFORE, BE IT RESOLVED** that the Walworth County Board of Supervisors  
35 hereby opposes 2017 AB 629, as introduced, as it creates rules that are unnecessary in light of  
36 existing guardianship law, that are deficient in protecting the due process rights of the subject  
37 individuals, and renders interstate guardianship cases more complicated than the current system.

38  
39 **BE IT FURTHER RESOLVED** that the Walworth County Board of Supervisors authorizes  
40 Walworth County Corporation Counsel to appear at the Public Hearing on 2017 AB 629 at 11:00  
41 a.m. on Tuesday, December 12, 2017, and to provide testimony in opposition to the bill on  
42 behalf of Walworth County.

43  
44 **BE IT FURTHER RESOLVED** that the Walworth County Board of Supervisors directs the  
45 County Clerk to forward a copy of this resolution to State Legislators representing Walworth

1 County, State Assembly Persons on the Assembly Committee on Mental Health, and the  
2 Wisconsin Counties Association.

3 *Nancy Russell*  
4  
5  
6 Nancy Russell  
7 County Board Chair

*Kimberly S. Bushey*  
Kimberly S. Bushey  
County Clerk

8  
9 County Board Meeting Date: January 9, 2018

10 Action Required: Majority Vote X Two-thirds Vote \_\_\_\_\_ Other \_\_\_\_\_  
11

Policy and Fiscal Note is attached.  
Reviewed and approved pursuant to Section 2-91 of the Walworth County Code of Ordinances:  
*David A. Bretl* *12/15/17*  
Date  
David A. Bretl  
County Administrator/Corporation Counsel  
*Nicole Andersen* *12/15/17*  
Date  
Nicole Andersen  
Deputy County Administrator - Finance  
If unsigned, exceptions shall be so noted by the County Administrator.

Resolution/Ordinance was:  
Adopted, Roll Call/U.C. Voice  
Rejected/Referred/Laid Over  
Ayes: \_\_\_\_\_ Noes: \_\_\_\_\_ Absent: \_\_\_\_\_  
Date January 9, 2018

**Policy and Fiscal Note**  
**Resolution No. 48 - 01/18**

**I. Title:** Opposing 2017 Assembly Bill 629 Incorporating the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act into Wisconsin and Authorizing Walworth County Corporation Counsel to Testify Against 2017 Assembly Bill 629

**II. Purpose and Policy Impact Statement:** The purpose of this advisory resolution is to oppose 2017 Assembly Bill 629 incorporating the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act into Wisconsin as well as authorize Walworth County Corporation Counsel to testify against 2017 Assembly Bill 629 on Tuesday, December 12, 2017.

**III. Budget and Fiscal Impact:** Passage of this resolution will have no fiscal impact on the county budget.

**IV. Referred to the following standing committees for consideration and date of referral:**

Committee: Executive Meeting Date: December 11, 2017


Vote: 5-0

Committee: Health and Human Services Board Meeting Date: December 13, 2017

Vote: 8-0

County Board Meeting Date: January 9, 2018

Policy and fiscal note has been reviewed and approved as an accurate statement of the probable policy and fiscal impacts associated with passage of the attached resolution.

 12/15/17  
\_\_\_\_\_  
Date  
David A. Bretl  
County Administrator/Corporation Counsel

 12/15/17  
\_\_\_\_\_  
Date  
Nicole Andersen  
Deputy County Administrator – Finance

If unsigned, exceptions shall be so noted by the County Administrator.