

HOUSE BILL No. 2644

AN ACT concerning conservators and guardians; relating to the appointment thereof; amending K.S.A. 59-3051, 59-3056, 59-3058, 59-3061, 59-3062, 59-3068 and 58-3069 and K.S.A. 2007 Supp. 59-3059, 59-3060 and 59-3083 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 59-3051 is hereby amended to read as follows: 59-3051. When used in the act for obtaining a guardian or a conservator, or both:

(a) “Adult with an impairment in need of a guardian or a conservator, or both” means a person 18 years of age or older, or a minor who is considered to be of the age of majority pursuant to K.S.A. 38-101, and amendments thereto, or upon whom the rights of majority have been conferred pursuant to K.S.A. 38-108, and amendments thereto, whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired such that the person lacks the capacity to manage such person’s estate, or to meet essential needs for physical health, safety or welfare, and who is in need of a guardian or a conservator, or both. No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be an adult with an impairment in need of a guardian under this act for that reason alone, nor considered to lack the capacity to meet essential needs for physical health, safety or welfare because of such person’s reliance upon such treatment.

(b) “Appropriate alternative” means any program or service, or the use of a legal device or representative, which enables a person with an impairment to adequately meet essential needs for physical health, safety or welfare, or to reasonably manage such person’s estate. Appropriate alternatives may include, but are not limited to, a power of attorney, a durable power of attorney, a power of attorney for health care decisions, a living will, a trust, a joint tenancy or a representative payee.

(c) “Conservatee” means a person who has a conservator.

(d) “Conservator” means an individual or a corporation who or which is appointed by the court to act on behalf of a conservatee and who or which is possessed of some or all of the powers and duties set out in K.S.A. 59-3078, and amendments thereto.

(e) “Guardian” means an individual or a corporation certified in accordance with K.S.A. 59-3070, and amendments thereto, who or which is appointed by a court to act on behalf of a ward, and who or which is possessed of some or all of the powers and duties set out in K.S.A. 59-3075, amendments thereto. “Guardian” does not mean a “natural guardian” unless specified.

(f) “In need of a guardian” means a person who because of both an impairment and the lack of appropriate alternatives for meeting essential needs, requires the appointment of a guardian.

(g) “In need of a conservator” means a person who because of both an impairment and the lack of appropriate alternatives for managing such person’s estate, requires the appointment of a conservator.

(h) “Manage such person’s estate” means making those determinations and taking those actions which are reasonably necessary in order for a person to receive and account for personal or business income, benefits and property, whether real, personal or intangible, and except for reasons of indigency, to purchase or otherwise obtain necessary goods or services, to pay debts and expenses, to sell, exchange or otherwise dispose of property, and to plan for future accumulation, conservation, utilization, investment, and other disposition of financial resources.

(i) “Meet essential needs for physical health, safety or welfare” means making those determinations and taking those actions which are reasonably necessary in order for a person to obtain or be provided with shelter, sustenance, personal hygiene or health care, and without which serious illness or injury is likely to occur.

(j) “Minor” means any person defined by K.S.A. 38-101, and amendments thereto, as being within the period of minority.

(k) “Minor with an impairment in need of a guardian or a conservator, or both” means a person under 18 years of age who otherwise meets the definition of an “adult with an impairment in need of a guardian or conservator, or both” and whose impairment is expected to continue beyond the age of 18.

(l) “Natural guardian” means both the biological or adoptive mother and father of a minor if neither parent has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction. If either parent of a minor is deceased, or has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction, then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.

(m) “Person who has been previously adjudged as impaired in another state” means a person who has been duly adjudged by a court of competent jurisdiction of any other state to be unable to meet essential needs for physical health, safety or welfare or to manage such person’s estate and for whom a guardian or a conservator, or other similarly empowered fiduciary, has been appointed by that court, but who now resides within Kansas or for whom plans have been made by such person’s guardian or other fiduciary to relocate the person to Kansas.

(n) “Person in need of an ancillary conservator” means a person not residing within Kansas, who has been duly adjudged by a court of competent jurisdiction of another state to be unable to manage such person’s estate and for whom a conservator or other fiduciary of the person’s estate has been appointed by that court, and who has property in Kansas for which a conservator is required.

(o) “Proposed ward” means a person for whom a petition for the appointment of a guardian pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, has been filed.

(p) “Proposed conservatee” means a person for whom a petition for the appointment of a conservator pursuant to K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062, and amendments thereto, has been filed.

(q) “Ward” means a person who has a guardian.

(r) The terms defined in K.S.A. 59-2946 and 59-29b46, and amendments thereto, have the meanings provided by those statutes.

(s) “*Personal or agency interest*” shall include, but not be limited to, details of any financial, agency or other transactions between a proposed guardian, guardian, proposed conservator or conservator and the proposed ward, ward, proposed conservatee or conservatee as applicable.

Sec. 2. K.S.A. 59-3056 is hereby amended to read as follows: 59-3056. An adult person for whom no guardian or conservator has been appointed, and who is not a proposed ward or a proposed conservatee may file in the district court of the county of residence of such person a verified petition requesting the appointment of a conservator for the petitioner. The petition shall include:

(a) The person’s name, age, date of birth, address of permanent residence and present address or whereabouts, if different from the person’s permanent residence;

(b) the factual basis upon which the person alleges the need for the appointment of a conservator;

(c) the name, ~~and age, date of birth, gender,~~ address, ~~and place of employment,~~ relationship to the ~~person~~ petitioner, if any, of the individual or corporation whom the ~~person~~ petitioner requests that the court appoint as ~~the~~ conservator, *and any personal or agency interest of the proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed conservatee*, and whether such individual or corporation should be required to file a bond. If the proposed conservator is under contract with the Kansas guardianship program, the petition shall state that fact;

(d) a request that the court make a determination that there is a need for the appointment of a conservator and that the court appoint a conservator;

(e) the names and addresses of the relatives nearest in kinship to the person;

(f) the general character and probable value of the real and personal property, including the amount and sources of income, of the person;

(g) the name, address of any existing fiduciary for the person and a description of that fiduciary relationship.

Sec. 3. K.S.A. 59-3058 is hereby amended to read as follows: 59-

3058. (a) (1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for an adult with an impairment in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated.

(2) If a petition is filed in the district court of a county other than the county of residence of the proposed ward or proposed conservatee, the court may consider whether it is in the best interests of the proposed ward or proposed conservatee or in the interests of justice for the proceedings to take place in that county.

(3) If the court finds it is not in the best interests of the proposed ward or proposed conservatee or in the interests of justice that the proceedings take place in that county and the proposed ward or proposed conservatee is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(4) If the court finds it is not in the best interests of the proposed ward or proposed conservatee or in the interests of justice that the proceedings take place in that county and the proposed ward or proposed conservatee is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or proposed conservatee's permanent residence;

(3) if the proposed ward or proposed conservatee is a nonresident of the county in which the petition is filed, a statement of why it is in the best interests of the proposed ward or proposed conservatee or in the interests of justice for the proceedings to take place in that county;

(4) if the proposed ward or proposed conservatee is under the age of 18 years, the factual circumstances under which the petitioner alleges that the minor should be considered to be of the age of majority pursuant to the provisions of K.S.A. 38-101, and amendments thereto, or concerning when and where the rights of majority were conferred upon the minor pursuant to the provisions of K.S.A. 38-108, and amendments thereto;

(5) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both;

(6) the factual basis upon which the petitioner makes that allegation;

(7) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(8) the name and address of any person or agency having custody of the proposed ward or proposed conservatee, or any other person or agency who has assumed responsibility for the proposed ward or proposed conservatee, and the circumstances under which the proposed ward or proposed conservatee came into such person's or agency's care or control;

(9) the name and address of any person or corporation acting for or nominated to act on behalf of the proposed ward or proposed conservatee pursuant to any power of attorney, trust or other fiduciary relationship established by any court order, and a description of that authority or relationship. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(10) a list and description of all court proceedings in which the proposed ward or *proposed* conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(11) in general terms, the location, type, and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(12) the names and addresses of witnesses by whom the truth of the petition may be proved;

(13) the name, *age, date of birth, gender, address, and place of employment*, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as ~~the~~ guardian or ~~as the~~ conservator, or both, *and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee*, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

(14) if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

(15) a request that the court make a determination that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063, 59-3064 and 59-3065, and amendments thereto, and that the court appoint a guardian or a conservator, or both, for the proposed ward or proposed conservatee.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of K.S.A. 59-3064, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to K.S.A. 59-3064, and amendments thereto.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 4. K.S.A. 2007 Supp. 59-3059 is hereby amended to read as follows: 59-3059. (a) (1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for a minor in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated.

(2) If a petition is filed in the district court of a county other than the county of residence of the minor, the court may consider whether it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county.

(3) If the court finds it is not in the best interests of the minor or in

the interests of justice that the proceedings take place in that county and the minor is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(4) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the minor's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the minor's permanent residence;

(3) if the minor is a nonresident of the county in which the petition is filed, a statement of why it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county;

(4) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is a minor in need of a guardian or conservator, or both;

(5) the factual basis upon which the petitioner makes that allegation;

(6) the names and addresses of any spouse of the minor, any natural guardian, any grandparent, any person nominated by a natural guardian to be the guardian or conservator, or both, any child or children of the minor, any permanent custodian appointed for the minor pursuant to K.S.A. 2007 Supp. 38-2269, and amendments thereto, any fiduciary appointed for the minor by any court order, and any other person or agency having or claiming a right to legal or physical custody of or visitation with the minor or who has assumed responsibility for or care of the minor, and the circumstances under which the minor came into such person's or agency's care or control. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7) a list and description of all court proceedings in which the minor is or has recently been a party, or is or has recently been the subject of, or was or may be a beneficiary of, or in which any rights of the minor were or may be determined or affected, including any proceedings concerning the custody of or visitation with the minor, any domestic relations matters, juvenile proceedings or adoptions, and the name and address of any attorney who represents or has represented the minor in any such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9) the names and addresses of witnesses by whom the truth of the petition may be proved;

(10) the name, age, date of birth, gender, address, ~~and~~ *place of employment*, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the court appoint as ~~the~~ guardian or ~~as the~~ conservator, or both, *and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee*;

(11) if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether

they should be required to act only in concert or only in concert with regard to specified matters; and

(12) a request that the court make a determination that the proposed ward or proposed conservatee is a minor in need of a guardian or a conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063 and 59-3065, and amendments thereto, and that the court appoint a guardian or a conservator, or both, for the minor.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 5. K.S.A. 2007 Supp. 59-3060 is hereby amended to read as follows: 59-3060. (a) (1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for a minor with an impairment in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated. If a petition is filed in the district court of a county other than the county of residence of the minor, the court may consider whether it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county.

(2) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a nonresident of the state of Kansas, the court may dismiss the matter immediately, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the state of residence. After the expiration of that period of time, or upon the filing of proceedings in the state of residence, the court shall dismiss the petition without prejudice.

(3) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the minor's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the minor's permanent residence;

(3) if the minor is a nonresident of the county in which the petition is filed, a statement of why it is in the best interests of the minor or in the interests of justice for the proceedings to take place in that county;

(4) a statement that it is the petitioner's belief that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both;

(5) the factual basis upon which the petitioner makes this allegation;

(6) the names and addresses of any spouse of the minor, any natural guardian, any grandparent, any person nominated by a natural guardian to be the guardian or conservator, or both, any child or children of the minor, any permanent custodian appointed for the minor pursuant to K.S.A. 2007 Supp. 38-2269, and amendments thereto, any fiduciary appointed for the minor by any court order, and any other person or agency having or claiming a right to legal or physical custody of or visitation with the minor or who has assumed responsibility for or care of the minor, and the circumstances under which the minor came into such person's or agency's care or control. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7) a list and description of all court proceedings in which the minor is or has recently been a party, or is or has recently been the subject of, or was or may be a beneficiary of, or in which any rights of the minor were or may be determined or affected, including any proceeding concerning the custody of or visitation with the minor, any domestic relations matters, juvenile proceedings or adoptions, and the name and address of any attorney who represents or has represented the minor in any such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9) the names and addresses of witnesses by whom the truth of the petition may be proved;

(10) the name, *age, date of birth, gender, address, and place of employment*, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the court appoint as ~~the~~ guardian or ~~as the~~ conservator, or both, *and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee*;

(11) if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

(12) a request that the court make a determination that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both, that the court enter one or more of the orders provided for in K.S.A. 59-3063, 59-3064 and 59-3065, and amendments thereto, that the court appoint a guardian or a conservator, or both, for the minor and that the court order that this appointment shall extend beyond the minor's 18th birthday.

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of K.S.A. 59-3064, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to K.S.A. 59-3064, and amendments thereto.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 6. K.S.A. 59-3061 is hereby amended to read as follows: 59-3061. (a) The guardian, conservator or other similarly empowered fiduciary appointed in any other state for a person who has been previously adjudged as impaired in another state may file in the district court of the county wherein the proposed ward or proposed conservatee may be found or wherein the petitioner plans to relocate the proposed ward or proposed conservatee, a verified petition requesting that the court give full faith and credit to the prior adjudication and appoint a guardian or a conservator, or both, in Kansas. The petition shall also declare that immediately upon such appointment, the petitioner will take the necessary action to terminate the proceedings in the other state.

(b) The petition shall include:

(1) The petitioner's name and address;

(2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or proposed conservatee's permanent residence;

(3) if the proposed ward or proposed conservatee is not already present within Kansas, the address and nature of the place located within Kansas to which the petitioner plans to relocate the proposed ward or

proposed conservatee if the court does appoint a guardian or conservator, or both, in Kansas;

(4) the place where and the date upon which the petitioner was appointed as the guardian, conservator or other similarly empowered fiduciary for the proposed ward or proposed conservatee and a statement that this appointment remains in full force and effect;

(5) the factual basis upon which the petitioner alleges the need for the appointment of a guardian or conservator, or both, in Kansas;

(6) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(7) the name and address of any person or corporation acting for or nominated to act on behalf of the proposed ward or proposed conservatee pursuant to any power of attorney, trust or other fiduciary relationship established by any court order, other than the appointment in the other state of the petitioner as the guardian, conservator or other similarly empowered fiduciary for the proposed ward or proposed conservatee, and a description of that authority or relationship. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8) a list and description of all court proceedings in which the proposed ward or *proposed* conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9) in general terms, the location, type and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(10) the names and addresses of the witnesses by whom the truth of the petition may be proved;

(11) the name, *age, date of birth, gender, address, and place of employment*, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as ~~the~~ guardian or ~~as the~~ conservator, or both, *and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee*, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

(12) if the petitioner suggests the appointment of co-guardians or co-conservators, or both, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-guardians or co-conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters;

(13) a declaration that, immediately upon the appointment of a guardian or conservator in this state, the petitioner will take the necessary action to terminate the proceedings in the other state; and

(14) a request that the court make a determination that the proposed ward or proposed conservatee is a person who has been previously adjudged as impaired in another state, that the court enter one or more of the orders provided for in K.S.A. 59-3063 and 59-3065, and amendments thereto, and that the court appoint a guardian or conservator, or both, for the proposed ward or proposed conservatee in Kansas.

(c) Any such petition shall be accompanied by a duly authenticated copy of the order of adjudication and appointment and documents showing the continuing authority of the petitioner in the other state.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 7. K.S.A. 59-3062 is hereby amended to read as follows: 59-3062. (a) The conservator or other similarly empowered fiduciary appointed in any other state for a person in need of an ancillary conservator may file in the district court of any county in which any property of the proposed conservatee is situated a verified petition requesting the appointment of an ancillary conservator in Kansas.

(b) The petition shall include:

(1) The petitioner's name and address, and a statement that the petitioner is the conservator or other similarly empowered fiduciary appointed in another state, and that this appointment remains in full force and effect;

(2) the proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed conservatee's permanent residence;

(3) a statement that the proposed conservatee is a person in need of an ancillary conservator;

(4) the factual basis upon which the petitioner alleges the need for an ancillary conservatorship in this state;

(5) the names and addresses of any spouse, adult children and adult grandchildren of the proposed conservatee, and those of any parent and adult siblings of the proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the proposed conservatee. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(6) the name and address of any person or corporation acting for or nominated to act on behalf of the proposed conservatee in this state pursuant to any power of attorney, trust or other fiduciary relationship established by any court order, and a description of that authority or relationship. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(7) the location and value of the property within Kansas for which an ancillary conservatorship is being sought;

(8) the names and addresses of witnesses by whom the truth of the petition may be proved;

(9) the name, *age, date of birth, gender, address and, place of employment*, relationship to the proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as the ancillary conservator, *and any personal or agency interest of the proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed conservatee*, and if the suggested ancillary conservator is under contract with the Kansas guardianship program, that fact;

(10) if the petitioner suggests the appointment of co-ancillary conservators, a statement of the reasons why such appointment is sought and whether the petitioner suggests that the co-ancillary conservators, if appointed, should be able to act independently or whether they should be required to act only in concert or only in concert with regard to specified matters; and

(11) a request that the court make a determination that the proposed conservatee is a person in need of an ancillary conservator, that the court enter one or more of the orders provided for in K.S.A. 59-3063 and 59-3065, and amendments thereto, and that the court appoint an ancillary conservator for the proposed conservatee in this state.

(c) The petition shall be accompanied by a duly authenticated copy of the order of adjudication and appointment and documents showing the continuing authority of the petitioner in the other state.

(d) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto.

Sec. 8. K.S.A. 59-3068 is hereby amended to read as follows: 59-3068. (a) The court in appointing a guardian or conservator shall give priority in the following order to:

- (1) The nominee of the proposed ward or proposed conservatee, if such nomination is made within any durable power of attorney;
- (2) the nominee of a natural guardian;
- (3) the nominee of a minor who is the proposed ward or proposed conservatee, if the minor is over 14 years of age;
- (4) the nominee of the spouse, adult child or other close family member of the proposed ward or proposed conservatee; or
- (5) the nominee of the petitioner.

(b) (1) The court, in appointing a guardian or conservator, shall consider the workload, capabilities and potential conflicts of interest of the proposed guardian or conservator, or both, before making such appointment, and the court shall give particular attention in making such appointment to the number of other cases in which the proposed guardian or conservator, other than a corporation, is currently serving as guardian or conservator, or both, particularly if that number is more than 15 or more wards or conservatees, or both.

(2) *If the proposed guardian or proposed conservator is a person who provides care or other services, or is an employee of an agency, partnership or corporation, which provides care or other services to persons with a disability similar in nature to the condition or conditions which contribute to the impairment of the ward or conservatee, then that person or employee may be appointed as the guardian or conservator only when the person or employee:*

(A) *Is the spouse, parent, grandparent, child, grandchild, sibling, niece, nephew, aunt or uncle of the ward or conservatee, and the court is satisfied that the person or employee is aware of issues of conflict of interest and, for persons appointed on or after January 1, 2009, has completed the basic instructional program referenced in subsection (j) of K.S.A. 59-3069, and amendments thereto;*

(B) *does not personally provide nor supervise the providing of care or other services to the ward or conservatee, and the person or employee is not in a position to be called upon to advocate for the agency, partnership or corporation, in opposition to the interests of the ward or conservatee; or*

(C) *is the only person readily available to be appointed and the court is satisfied that the person or employee is aware of issues of conflict of interest and, for persons appointed on or after January 1, 2009, has completed the basic instructional program referenced in subsection (j) of K.S.A. 59-3069, and amendments thereto.*

(3) *Nothing in this section shall prohibit a guardian or conservator from collecting a reasonable fee, as approved by the court, for carrying out the duties and responsibilities as guardian or conservator. Nothing in this section shall prohibit a guardian or a conservator associated with the Kansas guardianship program from receiving a stipend from that program.*

(c) In appointing a guardian for a person who is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing, the court shall consider, but shall not be limited to, the appointment of an individual as guardian who is sympathetic to and willing to support this system of healing.

(d) *For purposes of this section, “employee” shall include any student, trainee or other classification of persons providing services to any agency, partnership or corporation, whether compensated or not.*

Sec. 9. K.S.A. 59-3069 is hereby amended to read as follows: 59-3069. (a) When the court appoints an individual or a corporation as a guardian, the court shall require that the individual or a representative on behalf of the corporation file with the court an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto.

(b) When the court appoints an individual or a corporation as a conservator, except as provided for in subsections (c), (d) or (e), or in K.S.A. 59-3055, and amendments thereto, the court shall require that the individual or a representative on behalf of the corporation file with the court a bond in the amount of 125% of the combined value of the tangible and intangible personal property in the conservatee’s estate and the total of

any annual income from any source which the conservator may be expected to receive on behalf of the conservatee, minus any reasonably expected expenses, conditioned upon the faithful discharge of all the duties of the conservator's trust according to law, and with sufficient sureties as the court may determine necessary or appropriate.

(c) When the court appoints an individual or a corporation as a conservator pursuant to a request for a voluntary conservatorship as provided for in K.S.A. 59-3056, and amendments thereto, and the person for whom the voluntary conservatorship is established has requested that the individual or corporation appointed not be required to file a bond, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(d) If, at the time of the appointment of a conservator, there is no property in the possession of the conservatee requiring a conservatorship, but the court finds that there is likely to be such at some point in time, the court may waive the filing of a bond and order that the conservator shall immediately file a report with the court upon either the conservator coming into possession of any property of the conservatee, or if the conservatee becomes entitled to receive any property which the conservator believes should be placed within the conservatorship. Upon the filing of such a report, the court, following any hearing the court may determine appropriate, may require the conservator to file a bond as provided for herein.

(e) If the conservator appointed is the individual or corporation suggested by a testator or settlor as provided for in K.S.A. 59-3054, and amendments thereto, and the testator or settlor has provided by will or trust that no bond should be required of such conservator, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(f) If the conservator is a bank having trust authority or a trust company organized and having its principal place of business within the state of Kansas, the court may waive the filing of a bond.

(g) If the conservator appointed is under contract with the Kansas guardianship program, the department of social and rehabilitation services shall act as surety on the bond. The court shall order that a certified copy of the order appointing a conservator who is under contract with the Kansas guardianship program be sent to the director of the Kansas guardianship program.

(h) If the individual appointed as ~~the~~ guardian or as ~~the~~ conservator, or both, resides outside of Kansas, the court shall require that person, and in the case of a corporation being appointed as ~~the~~ guardian or ~~the~~ conservator, or both, the court shall require a representative of the corporation, to appoint, in writing, a resident agent pursuant to K.S.A. 59-1706, and amendments thereto.

(i) Upon the filing of the required oath or bond, and appointment and consent of a resident agent, the court shall issue letters of guardianship to the guardian or letters of conservatorship to the conservator, or both. The court may order that a certified copy of these letters be sent to such persons or agencies as the court specifies.

(j) Every individual appointed as guardian or conservator on or after January 1, 2009, shall file with the court evidence of completion of a basic instructional program concerning the duties and responsibilities of a guardian or conservator prior to the issuance of letters of guardianship or conservatorship. The court shall have the authority to require any guardian or conservator appointed prior to January 1, 2009, to complete the basic instructional program and provide evidence thereof to the court. The materials comprising the basic instructional program shall be prepared by the judicial council.

Sec. 10. K.S.A. 2007 Supp. 59-3083 is hereby amended to read as follows: 59-3083. (a) The guardian or conservator appointed by the court pursuant to either K.S.A. 59-3057 or 59-3067, and amendments thereto, annually, and at other times as the court may specify, shall file with the court, in such form as the supreme court may require by rule, or in the absence of such rule or in supplement thereto, as the court may require, reports and accountings concerning the status of the ward or conservatee, the estate of the ward or conservatee, and the actions of the guardian or conservator.

(b) The guardian or conservator, or both, shall file a special report or accounting with the court upon the occurrence of any of the following:

- (1) A change of address of the guardian or conservator;
- (2) a change of residence or placement of the ward or conservatee;
- (3) a significant change in the health or impairment of the ward or conservatee;
- (4) the acquisition by the ward of any real property, or the receipt or accumulation of other property or income by the ward or by the guardian on behalf of the ward, which causes the total value of the ward's estate to equal or exceed \$10,000; ~~or~~

(5) the death of the ward or conservatee; *or*

(6) *a change in the circumstances of the guardian, conservator, ward or conservatee that may constitute a conflict of interest. A conflict of interest occurs where the guardian or conservator has some personal or agency interest that could be perceived as self-serving or adverse to the position or best interest of the ward or conservatee.*

(c) Upon the death of the guardian or conservator, or upon the guardian or conservator being adjudged in this state to be an adult with an impairment in need of a guardian or a conservator, or both, or being similarly adjudged in any other state, a representative on behalf of the guardian or conservator, as the court may allow, shall file a final report or accounting on behalf of that guardian or conservator.

(d) If the guardian or conservator is under contract with the Kansas guardianship program, the court shall order that the guardian or conservator file with the Kansas guardianship program a copy of each report or accounting filed with the court.

(e) At the termination of the guardianship, or upon the resignation, impairment, death or removal of the guardian, the guardian or a representative on behalf of the guardian, as the court may allow, shall file with the court a final report concerning the status of the ward and of the actions and recommendations of the guardian.

(f) At the termination of the conservatorship, or upon the resignation, impairment, death or removal of the conservator, the conservator or a representative on behalf of the conservator, as the court may allow, shall file with the court a final report and accounting concerning the status of the conservatee, of the conservatee's estate, and of the actions and recommendations of the conservator. The conservator, the conservator's estate and the conservator's surety shall not be finally discharged until such final report and accounting is filed, and the accounting allowed and settled as provided for in K.S.A. 59-3086, and amendments thereto. The conservator's surety, in the surety's discretion, may file any report or accounting it deems appropriate, or perform the duties of the conservator upon the resignation, death, impairment or removal of the conservator, subject to the authority of the standby conservator, if a standby conservator has been appointed by the court pursuant to K.S.A. 59-3074, and amendments thereto.

Sec. 11. K.S.A. 59-3051, 59-3056, 59-3058, 59-3061, 59-3062, 59-3068 and 59-3069 and K.S.A. 2007 Supp. 59-3059, 59-3060 and 59-3083 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.