

Session of 2025

## HOUSE BILL No. 2359

By Committee on Judiciary

Requested by Nancy Strouse on behalf of the Kansas Judicial Council.

2-7

AN ACT concerning guardians and conservators; enacting the uniform adult guardianship and protective proceedings jurisdiction act and the uniform guardianship, conservatorship and other protective arrangements act; amending K.S.A. 9-1215, 17-2263, 17-2264, 21-5417, 38-2217, 44-513a, 44-1601, 58-662, 58-24a15, 59-1701, 59-2949, 59-2951, 59-2960, 59-29b49, 59-29b51, 73-507, 76-729, 76-12b04 and 77-201 and K.S.A. 2024 Supp. 58-656, 58-4802, 58-4814, 58a-103, 59-2401a, 59-2946, 59-2948, 59-29b46, 59-29b48, 59-29b60, 59-29c03 and 75-652 and repealing the existing sections; also repealing K.S.A. 59-2701, 59-2702, 59-2703, 59-2704, 59-2705, 59-2706, 59-2707, 59-2708, 59-3050, 59-3054, 59-3057, 59-3063, 59-3064, 59-3066, 59-3071, 59-3072, 59-3074, 59-3076, 59-3079, 59-3081, 59-3082, 59-3084, 59-3085, 59-3087, 59-3088, 59-3089, 59-3090, 59-3091, 59-3092, 59-3093, 59-3095 and 59-3096 and K.S.A. 2024 Supp. 59-3051, 59-3052, 59-3053, 59-3055, 59-3056, 59-3058, 59-3059, 59-3060, 59-3061, 59-3062, 59-3065, 59-3067, 59-3068, 59-3069, 59-3070, 59-3073, 59-3075, 59-3077, 59-3078, 59-3080, 59-3083, 59-3086, 59-3094 and 59-3097.

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

New Section 1. Sections 1 through 23, and amendments thereto, may be cited as the uniform adult guardianship and protective proceedings jurisdiction act (2007).

New Sec. 2. As used in this act:

(a) "Adult" means an individual who has attained 18 years of age or an emancipated individual under 18 years of age.

(b) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under section 93, and amendments thereto.

(c) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under section 72, and amendments thereto.

(d) "Guardianship order" means an order appointing a guardian.

(e) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian is sought or has been issued.

1 New Sec. 23. (a) This act applies to guardianship and protective  
2 proceedings begun on or after January 1, 2026.

3 (b) Sections 1 through 6 and 16 through 22, and amendments thereto,  
4 apply to proceedings begun before January 1, 2026, regardless of whether  
5 a guardianship or protective order has been issued.

6 New Sec. 24. Sections 24 through 135, and amendments thereto, may  
7 be cited as the Kansas uniform guardianship, conservatorship and other  
8 protective arrangements act.

9 New Sec. 25. As used in this act:

10 (a) "Adult" means an individual at least 18 years of age or an  
11 emancipated individual under 18 years of age.

12 (b) "Adult subject to conservatorship" means an adult for whom a  
13 conservator has been appointed under this act.

14 (c) "Adult subject to guardianship" means an adult for whom a  
15 guardian has been appointed under this act.

16 (d) "Claim" includes a claim against an individual or conservatorship  
17 estate, whether arising in contract, tort or otherwise.

18 (e) "Conservator" means a person appointed by a court to make  
19 decisions with respect to the property or financial affairs of an individual  
20 subject to conservatorship. "Conservator" includes a co-conservator.

21 (f) "Conservatorship estate" means the property subject to  
22 conservatorship under this act.

23 (g) "Full conservatorship" means a conservatorship that grants the  
24 conservator all powers available under this act.

25 (h) "Full guardianship" means a guardianship that grants the guardian  
26 all powers available under this act.

27 (i) "Guardian" means a person appointed by the court to make  
28 decisions with respect to the personal affairs of an individual. "Guardian"  
29 includes a co-guardian but does not include a guardian ad litem.

30 (j) "Guardian ad litem" means a person appointed to inform the court  
31 about, and to represent, the needs and best interest of an individual.

32 (k) "Individual subject to conservatorship" means an adult or minor  
33 for whom a conservator has been appointed under this act.

34 (l) "Individual subject to guardianship" means an adult or minor for  
35 whom a guardian has been appointed under this act.

36 (m) "Less restrictive alternative" means an approach to meeting an  
37 individual's needs which restricts fewer rights of the individual than would  
38 the appointment of a guardian or conservator. "Less restrictive alternative"  
39 includes supported decision making, appropriate technological assistance,  
40 appointment of a representative payee and appointment of an agent by the  
41 individual, including appointment under a power of attorney for healthcare  
42 or power of attorney for finances.

43 (n) "Letters of office" means a record issued by a court certifying a

"Expressly and with informed consent" means consent voluntarily given with sufficient knowledge of the subject matter involved, including a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, to enable the person giving consent to make an understanding and enlightened decision without any element of force, fraud, deceit, duress or other form of constraint or coercion.

(h)

(l) "Hydration" means water or fluid administered in any manner.

1 guardian's or conservator's authority to act.

2 (o) "Limited conservatorship" means a conservatorship that grants the  
3 conservator less than all powers available under this act, grants powers  
4 over only certain property or otherwise restricts the powers of the  
5 conservator.

6 (p) "Limited guardianship" means a guardianship that grants the  
7 guardian less than all powers available under this act or otherwise restricts  
8 the powers of the guardian.

9 (q) "Minor" means an unemancipated individual under 18 years of  
10 age.

11 (r) "Minor subject to conservatorship" means a minor for whom a  
12 conservator has been appointed under this act.

13 (s) "Minor subject to guardianship" means a minor for whom a  
14 guardian has been appointed under this act.

15 (t) "Parent" does not include an individual whose parental rights have  
16 been terminated.

17 (u) "Person" means an individual, estate, business or nonprofit entity,  
18 public corporation, government or governmental subdivision, agency or  
19 instrumentality or other legal entity.

20 (v) "Property" includes tangible and intangible property.

21 (w) "Protective arrangement instead of conservatorship" means a  
22 court order entered under section 121, and amendments thereto.

23 (x) "Protective arrangement instead of guardianship" means a court  
24 order entered under section 120, and amendments thereto.

25 (y) "Record," used as a noun, means information that is inscribed on a  
26 tangible medium or that is stored in an electronic or other medium and is  
27 retrievable in perceivable form.

28 (z) "Respondent" means an individual for whom appointment of a  
29 guardian or conservator or a protective arrangement instead of  
30 guardianship or conservatorship is sought.

31 (aa) "Sign" means, with present intent to authenticate or adopt a  
32 record:

33 (1) To execute or adopt a tangible symbol; or

34 (2) to attach to or logically associate with the record an electronic  
35 symbol, sound or process.

36 (bb) "Standby guardian" means a person appointed by the court under  
37 section 57, and amendments thereto.

38 (cc) "State" means a state of the United States, the District of  
39 Columbia, Puerto Rico, the United States Virgin Islands or any territory or  
40 insular possession subject to the jurisdiction of the United States. "State"  
41 includes a federally recognized Indian tribe.

42 (dd) "Supported decision making" means assistance from one or more  
43 persons of an individual's choosing in understanding the nature and

(v) "Nutrition" means sustenance administered in any manner.

(y) "Person legally incapable of making health care decisions" means any person who:

(1) (A) Has been declared legally unable to make decisions affecting medical treatment or care; and

(B) in the reasonable medical judgment of the attending physician, is unable to make decisions affecting medical treatment or other health care services; or

(2) is a minor.

(cc) "Reasonable medical judgment" means a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

And by redesignating subelements accordingly

1 the adult and all persons entitled to the notice under section 73(e)(2), and  
2 amendments thereto, or a subsequent order and no objection has been  
3 filed.

4 (f) In exercising a guardian's power under subsection (a)(3) to make  
5 healthcare decisions, the guardian shall:

6 (1) Involve the adult in decision making to the extent reasonably  
7 feasible, including, when practicable, by encouraging and supporting the  
8 adult in understanding the risks and benefits of healthcare options;

9 (2) act in accordance with any declaration of the adult made pursuant  
10 to the provisions of K.S.A. 65-28,101 through 65-28,109, and amendments  
11 thereto; and

12 (3) take into account:

13 (A) The risks and benefits of treatment options; and

14 (B) the current and previous wishes and values of the adult, if known  
15 or reasonably ascertainable by the guardian.

16 New Sec. 78. (a) A guardian for an adult ~~may~~ not initiate the  
17 commitment of the adult to a mental health facility except in accordance  
18 with the care and treatment act for mentally ill persons, K.S.A. 59-2945 et  
19 seq., and amendments thereto.

shall

20 (b) A guardian for an adult ~~may~~ not restrict the ability of the adult to  
21 communicate, visit or interact with others, including receiving visitors and  
22 making or receiving telephone calls, personal mail or electronic  
23 communications, including through social media, or participating in social  
24 activities, unless:

shall

25 (1) Authorized by the court by specific order;

26 (2) a protective order or a protective arrangement instead of  
27 guardianship is in effect that limits contact between the adult and a person;  
28 or

29 (3) the guardian has good cause to believe restriction is necessary  
30 because interaction with a specified person poses a risk of significant  
31 physical, psychological or financial harm to the adult and the restriction is:

32 (A) For a period of not more than seven business days if the person  
33 has a family or pre-existing social relationship with the adult; or

34 (B) for a period of not more than 60 days if the person does not have  
35 a family or pre-existing social relationship with the adult.

shall

36 (c) A guardian for an adult ~~may~~ not consent, on behalf of the adult, to:

37 (1) Any psychosurgery, removal of any bodily organ or amputation of  
38 any limb, unless such surgery, removal or amputation has been approved  
39 in advance by the court, except in an emergency and when necessary to  
40 preserve the life of the adult or to prevent serious and irreparable  
41 impairment to the physical health of the adult;

42 (2) the sterilization of the adult, unless approved by the court  
43 following a due process hearing held for the purposes of determining

1 whether to approve such, and during which hearing the adult is represented  
2 by an attorney appointed by the court;

3 (3) the performance of any experimental biomedical or behavioral  
4 procedure on the adult, or for the adult to be a participant in any  
5 biomedical or behavioral experiment, without the prior review and  
6 approval of such by either an institutional review board as provided for in  
7 title 45, part 46 of the code of federal regulations, or if such regulations do  
8 not apply, then by a review committee established by the agency,  
9 institution or treatment facility at which the procedure or experiment is  
10 proposed to occur, composed of members selected for the purposes of  
11 determining whether the proposed procedure or experiment:

12 (A) Does not involve any significant risk of harm to the physical or  
13 mental health of the adult, or the use of aversive stimulants, and is  
14 intended to preserve the life or health of the adult or to assist the adult to  
15 develop or regain skills or abilities; or

16 (B) involves a significant risk of harm to the physical or mental  
17 health of the adult, or the use of an aversive stimulant, but that the  
18 conducting of the proposed procedure or experiment is intended either to  
19 preserve the life of the adult, or to significantly improve the quality of life  
20 of the adult, or to assist the adult to develop or regain significant skills or  
21 abilities, and that the guardian has been fully informed concerning the  
22 potential risks and benefits of the proposed procedure or experiment or of  
23 any aversive stimulant proposed to be used, and as to how and under what  
24 circumstances the aversive stimulant may be used, and has specifically  
25 consented to such;

26 (4) the withholding or withdrawal of life-saving or life-sustaining  
27 medical care, treatment, services or procedures, except:

28 (A) In accordance with the provisions of any declaration of the adult  
29 made pursuant to the provisions of K.S.A. 65-28,101 through 65-28,109,  
30 and amendments thereto; ~~or~~

31 (B) if the adult, prior to the court's appointment of a guardian, has  
32 executed a durable power of attorney for healthcare decisions pursuant to  
33 K.S.A. 58-625, et seq., and amendments thereto, and that durable power of  
34 attorney has not previously been revoked by the adult, and it includes any  
35 provision relevant to the withholding or withdrawal of life-saving or life-  
36 sustaining medical care, treatment, services or procedures, then the  
37 guardian shall ~~have the authority to~~ act as provided for in that power of  
38 attorney, even if the guardian has revoked or amended that power of  
39 attorney pursuant to the authority of K.S.A. 58-627, and amendments  
40 thereto; or

41 ~~(C) in the circumstances where the adult's treating physician certifies~~  
42 ~~in writing to the guardian that the adult is in a persistent vegetative state or~~  
43 ~~is suffering from an illness or other medical condition for which further~~

Strike in lines 30 & 37

Strike in lines 41-43

1 treatment, other than for the relief of pain, would not likely prolong the life  
 2 of the adult other than by artificial means, nor would be likely to restore to  
 3 the adult any significant degree of capabilities beyond those the adult  
 4 currently possesses, and which opinion is concurred in by either a second  
 5 physician or by any medical ethics or similar committee to which the  
 6 healthcare provider has access established for the purposes of reviewing  
 7 such circumstances and the appropriateness of any type of physician's  
 8 order which would have the effect of withholding or withdrawing life-  
 9 saving or life-sustaining medical care, treatment, services or procedures.  
 10 The court shall review the written certification within 72 hours at a due  
 11 process hearing during which the adult is represented by an attorney  
 12 appointed by the court. The court may request that the state protection and  
 13 advocacy agency as provided by K.S.A. 65-5603(a)(10) or K.S.A. 74-  
 14 5515(a)(2)(A) and (B), and amendments thereto, or 42 U.S.C. 15043, 42  
 15 U.S.C. 10805 or 29 U.S.C. 794e represent the adult. Upon completion of  
 16 the hearing, if the court finds by clear and convincing evidence that the  
 17 adult meets the conditions set forth in this section, the court shall approve  
 18 the written certification. If the court does not find by clear and convincing  
 19 evidence that the adult meets the conditions set forth in this section, then  
 20 the written certification shall not be approved.

21 (d) A guardian for an adult may not exercise any control or authority  
 22 over the adult's estate, unless specifically authorized by the court. Any  
 23 guardian who is granted such authority must prepare an inventory and  
 24 provide notice of the inventory as provided in section 104, and  
 25 amendments thereto. The court may assign such authority to the guardian  
 26 and may waive the requirement of the posting of a bond, only if:

27 (1) Initially, the combined value of any funds and assets owned by the  
 28 adult equals \$25,000 or less; and

29 (2) either the court requires the guardian to report to the court the  
 30 commencement of the exercising of such authority, or requires the  
 31 guardian to obtain court authorization to commence the exercise of such  
 32 authority, as the court shall specify; and

33 (3) the court also requires the guardian, whenever the combined value  
 34 of such funds and property exceeds \$25,000, to:

35 (A) File a guardian's plan as provided for in section 79, and  
 36 amendments thereto, that contains elements similar to those that would be  
 37 contained in a conservator's plan as provided for in section 103, and  
 38 amendments thereto;

39 (B) petition the court for appointment of a conservator; or

40 (C) notify the court as the court shall specify that the value of the  
 41 adult's estate has equaled or exceeded \$25,000, if the court has earlier  
 42 appointed a conservator but did not issue letters of conservatorship  
 43 pending such notification;

in accordance with subsection (d) or (e)

Insert Attachment A

And by redesignating subelements accordingly

shall



(1) It shall be presumed that every person under guardianship has directed such person's guardian to direct the person's healthcare providers to provide such person with nutrition or hydration or both to a degree that is sufficient to sustain life. No court, guardian or any person shall have the authority to make a decision on behalf of an adult who is legally incapable of making healthcare decisions to withhold or withdraw nutrition or hydration or both from such adult except if:

(A) The adult, when legally capable of making healthcare decisions, executed, expressly and with informed consent, a written directive specifically authorizing the withholding or withdrawal of nutrition or hydration or both under the adult's current circumstances. Such directive shall include, but not be limited to, a declaration or a durable power of attorney for healthcare decisions described in subsection (c)(4); or

(B) the adult's treating physician certifies in writing that, in the physician's reasonable medical judgment:

(i) The provision of nutrition or hydration or both to the adult would hasten death; or

(ii) the adult would be incapable of digesting or absorbing the nutrition or hydration or both so that its provision would not contribute to sustaining the adult's life;

(2) (A) Prior to withholding or withdrawing nutrition or hydration or both under paragraph (1)(B), a motion shall be filed with the court with the written certification from the adult's treating physician.

(B) Notice of such filing shall be provided to the adult subject to guardianship, any attorney representing the adult subject to guardianship and any other whom the court determines at the time of filing of the petition.

(C) The court shall appoint an attorney for the adult. The court may request that the state protection and advocacy agency as provided by K.S.A. 65-5603(a)(10) or 74-5515, and amendments thereto, or 42 U.S.C. § 15043, 42 U.S.C. § 10805 or 29 U.S.C. § 794e, represent the adult.

(D) The court shall hold a hearing within 72 hours or as soon thereafter as the court is available.

(E) The court shall not authorize withholding or withdrawing nutrition or hydration or both unless the court finds by clear and convincing evidence that:

(i) The provision of nutrition or hydration or both to the adult would hasten death; or

(ii) the adult would be incapable of digesting or absorbing the nutrition or hydration or both so that its provision would not contribute to sustaining the adult's life.

(3) (A) A cause of action for injunctive relief may be maintained:

(i) Against any person who is reasonably believed to be about to violate or who is in the course of violating this subsection; or

(ii) to secure a court determination, notwithstanding the position of a guardian, that the adult legally incapable of making healthcare decisions, when legally capable of making such decisions, executed expressly and with informed consent, a written directive to withdraw or withhold hydration or nutrition or both in the applicable circumstances. Such written directive shall be presumed valid unless there is clear and convincing evidence to the contrary.

(B) The action may be brought by any person who is:

(i) The spouse, parent, child or sibling of the person;

(ii) a current healthcare provider of the person;

(iii) the guardian of the person;

(iv) the state protection and advocacy agency as provided by K.S.A. 65-5603(a)(10) or 74-5515, and amendments thereto, or 42 U.S.C. § 15043, 42 U.S.C. § 10805 or 29 U.S.C. § 794e; or

- (v) a public official with appropriate jurisdiction to enforce the laws of this state.
- (C) Pending the final determination of the court, the court shall direct that nutrition or hydration or both be provided to such person unless the court determines that paragraph (3)(A) is applicable.
- (e) (1) No court, guardian or any person shall have the authority to make a decision on behalf of an adult who is legally incapable of making healthcare decisions to withhold or withdraw life-saving or life-sustaining medical care, treatment, services or procedures from such adult except if:
  - (A) The adult, when legally capable of making healthcare decisions, executed, expressly and with informed consent, a written directive specifically authorizing the withholding or withdrawing of life-saving or life-sustaining medical care, treatment, services or procedures from such adult under the adult's current circumstances. Such directive shall include, but not be limited to, a declaration or a durable power of attorney for healthcare decisions described in subsection (c)(4); or
  - (B) (i) The adult's treating physician certifies in writing to the guardian that the adult is suffering from a severe illness and that life sustaining medical care is objectively futile and would only prolong the dying process; and
  - (ii) such opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the healthcare provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order that would have the effect of withholding or withdrawing life-saving or life-sustaining medical care.
- (2) (A) Prior to withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures under paragraph (1)(B), a motion shall be filed with the court with the written certification from the adult's treating physician.
- (B) Notice of such filing shall be provided to the adult subject to guardianship, any attorney representing the adult subject to guardianship and any other whom the court determines at the time of filing of the petition.
- (C) The court shall appoint an attorney for the adult. The court may request that the state protection and advocacy agency as provided by K.S.A. 65-5603(a)(10) or 74-5515, and amendments thereto, or 42 U.S.C. § 15043, 42 U.S.C. § 10805 or 29 U.S.C. § 794e, represent the adult.
- (D) The court shall hold a hearing within 72 hours or as soon thereafter as the court is available.
- (E) The court shall not authorize withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures unless the court finds by clear and convincing evidence that:
  - (i) The adult is suffering from a severe illness and that life sustaining medical care is objectively futile and would only prolong the dying process; and
  - (ii) such opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the healthcare provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order that would have the effect of withholding or withdrawing life-saving or life-sustaining medical care.



1 (e) A guardian for an adult ~~may~~ not access digital assets of the adult  
2 ~~except if~~ authorized by the court pursuant to K.S.A. 2024 Supp. 58-4814,  
3 and amendments thereto.

shall

unless

4 New Sec. 79. (a) Not later than 60 days after appointment and when  
5 there is a significant change in circumstances, or the guardian seeks to  
6 deviate significantly from the existing guardian's plan, a guardian for an  
7 adult shall file with the court a plan for the care of the adult. The plan must  
8 be based on the needs of the adult and take into account the best interest of  
9 the adult as well as the adult's preferences, values and prior directions, to  
10 the extent known to or reasonably ascertainable by the guardian. The  
11 guardian shall include in the plan:

12 (1) The living arrangement, services and supports the guardian  
13 expects to arrange, facilitate or continue for the adult;

14 (2) social and educational activities the guardian expects to facilitate  
15 on behalf of the adult;

16 (3) any person with whom the adult has a close personal relationship  
17 or relationship involving regular visitation and any plan the guardian has  
18 for facilitating visits with the person;

19 (4) the anticipated nature and frequency of the guardian's visits and  
20 communication with the adult;

21 (5) goals for the adult, including any goal related to the restoration of  
22 the adult's rights, and how the guardian anticipates achieving the goals;

23 (6) whether the adult has an existing plan and, if so, whether the  
24 guardian's plan is consistent with the adult's plan; and

25 (7) a statement or list of the amount the guardian proposes to charge  
26 for each service the guardian anticipates providing to the adult.

27 (b) A guardian shall give notice of the filing of the guardian's plan  
28 under subsection (a), together with a copy of the plan, to the adult subject  
29 to guardianship, any attorney representing the adult subject to  
30 guardianship, a person entitled to notice under section 73(e), and  
31 amendments thereto, or a subsequent order, and any other person the court  
32 determines. The notice must include a statement of the right to object to  
33 the plan and must be given at the time of the filing.

34 (c) An adult subject to guardianship and any person entitled under  
35 subsection (b) to receive notice and a copy of the guardian's plan may  
36 object to the plan in writing no later than 21 days after the filing.

37 (d) The court shall review the guardian's plan filed under subsection  
38 (a) and determine whether to approve the plan or require a new plan. In  
39 deciding whether to approve the plan, the court shall consider an objection  
40 under subsection (c) and whether the plan is consistent with the guardian's  
41 duties and powers under sections 76 and 77, and amendments thereto. The  
42 court shall review an initial guardian's plan at the review hearing  
43 scheduled under section 73(b), and amendments thereto. When reviewing