

As Amended by House Committee

Session of 2025

HOUSE BILL No. 2359

By Committee on Judiciary

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

2-7

1 AN ACT concerning guardians and conservators; enacting the uniform
2 adult guardianship and protective proceedings jurisdiction act and the
3 uniform guardianship, conservatorship and other protective
4 arrangements act; amending K.S.A. 9-1215, 17-2263, 17-2264, 21-
5 5417, 38-2217, 44-513a, 44-1601, 58-662, 58-24a15, 59-1701, 59-
6 2949, 59-2951, 59-2960, 59-29b49, 59-29b51, 73-507, 76-729, 76-
7 12b04 and 77-201 and K.S.A. 2024 Supp. 58-656, 58-4802, 58-4814,
8 58a-103, 59-2401a, 59-2946, 59-2948, 59-29b46, 59-29b48, 59-29b60,
9 59-29c03 and 75-652 and repealing the existing sections; also repealing
10 K.S.A. 59-2701, 59-2702, 59-2703, 59-2704, 59-2705, 59-2706, 59-
11 2707, 59-2708, 59-3050, 59-3054, 59-3057, 59-3063, 59-3064, 59-
12 3066, 59-3071, 59-3072, 59-3074, 59-3076, 59-3079, 59-3081, 59-
13 3082, 59-3084, 59-3085, 59-3087, 59-3088, 59-3089, 59-3090, 59-
14 3091, 59-3092, 59-3093, 59-3095 and 59-3096 and K.S.A. 2024 Supp.
15 59-3051, 59-3052, 59-3053, 59-3055, 59-3056, 59-3058, 59-3059, 59-
16 3060, 59-3061, 59-3062, 59-3065, 59-3067, 59-3068, 59-3069, 59-
17 3070, 59-3073, 59-3075, 59-3077, 59-3078, 59-3080, 59-3083, 59-
18 3086, 59-3094 and 59-3097.

19

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

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

24 New Sec. 2. As used in this act:

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

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

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

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

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

1 (f) "Incapacitated person" means an adult for whom a guardian has
2 been appointed.

3 (g) "Party" means the respondent, petitioner, guardian, conservator or
4 any other person allowed by the court to participate in a guardianship or
5 protective proceeding.

6 (h) "Person," except in the term "incapacitated person" or "protected
7 person," means an individual, corporation, business trust, estate, trust,
8 partnership, limited liability company, association, joint venture, public
9 corporation, government or governmental subdivision, agency or
10 instrumentality, or any other legal or commercial entity.

11 (i) "Protected person" means an adult for whom a protective order has
12 been issued.

13 (j) "Protective order" means an order appointing a conservator or
14 other order related to management of an adult's property.

15 (k) "Protective proceeding" means a judicial proceeding in which a
16 protective order is sought or has been issued.

17 (l) "Record" means information that is inscribed on a tangible
18 medium or that is stored in an electronic or other medium and is
19 retrievable in perceivable form.

20 (m) "Respondent" means an adult for whom a protective order or the
21 appointment of a guardian is sought.

22 (n) "State" means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, a federally
24 recognized Indian tribe or any territory or insular possession subject to the
25 jurisdiction of the United States.

26 New Sec. 3. A court of this state may treat a foreign country as if it
27 were a state for the purpose of applying sections 1 through 17 and sections
28 21 through 23, and amendments thereto.

29 New Sec. 4. (a) A court of this state may communicate with a court in
30 another state concerning a proceeding arising under this act. The court may
31 allow the parties to participate in the communication. Except as otherwise
32 provided in subsection (b), the court shall make a record of the
33 communication. The record may be limited to the fact that the
34 communication occurred.

35 (b) Courts may communicate concerning schedules, calendars, court
36 records and other administrative matters without making a record.

37 New Sec. 5. (a) In a guardianship or protective proceeding in this
38 state, a court of this state may request the appropriate court of another state
39 to do any of the following:

40 (1) Hold an evidentiary hearing;

41 (2) order a person in that state to produce evidence or give testimony
42 pursuant to procedures of that state;

43 (3) order that an evaluation or assessment be made of the respondent;

1 (4) order any appropriate investigation of a person involved in a
2 proceeding;

3 (5) forward to the court of this state a certified copy of the transcript
4 or other record of a hearing under paragraph (1) or any other proceeding,
5 any evidence otherwise produced under paragraph (2) and any evaluation
6 or assessment prepared in compliance with an order under paragraph (3) or
7 (4);

8 (6) issue any order necessary to assure the appearance in the
9 proceeding of a person whose presence is necessary for the court to make a
10 determination, including the respondent or the incapacitated or protected
11 person; and

12 (7) issue an order authorizing the release of medical, financial,
13 criminal or other relevant information in that state, including protected
14 health information as defined in 45 C.F.R 160.103.

15 (b) If a court of another state in which a guardianship or protective
16 proceeding is pending requests assistance of the kind provided in
17 subsection (a), a court of this state has jurisdiction for the limited purpose
18 of granting the request or making reasonable efforts to comply with the
19 request.

20 New Sec. 6. (a) In a guardianship or protective proceeding, in
21 addition to other procedures that may be available, testimony of a witness
22 who is located in another state may be offered by deposition or other
23 means allowable in this state for testimony taken in another state. The
24 court on its own motion may order that the testimony of a witness be taken
25 in another state and may prescribe the manner in which and the terms upon
26 which the testimony is to be taken.

27 (b) In a guardianship or protective proceeding, a court in this state
28 may permit a witness located in another state to be deposed or to testify by
29 telephone or audiovisual or other electronic means. A court of this state
30 shall cooperate with the court of the other state in designating an
31 appropriate location for the deposition or testimony.

32 New Sec. 7. (a) As used in sections 7 through 15, and amendments
33 thereto:

34 (1) "Emergency" means a circumstance that likely will result in
35 substantial harm to a respondent's health, safety or welfare, and for which
36 the appointment of a guardian is necessary because no other person has
37 authority and is willing to act on the respondent's behalf;

38 (2) "home state" means the state in which the respondent was
39 physically present, including any period of temporary absence, for at least
40 six consecutive months immediately before the filing of a petition for a
41 protective order or the appointment of a guardian, or if none, the state in
42 which the respondent was physically present, including any period of
43 temporary absence, for at least six consecutive months ending within the

1 six months prior to the filing of the petition; and

2 (3) "significant-connection state" means a state, other than the home
3 state, with which a respondent has a significant connection other than mere
4 physical presence and in which substantial evidence concerning the
5 respondent is available.

6 (b) In determining under sections 9 and 16(e), and amendments
7 thereto, whether a respondent has a significant connection with a particular
8 state, the court shall consider:

9 (1) The location of the respondent's family and other persons required
10 to be notified of the guardianship or protective proceeding;

11 (2) the length of time the respondent at any time was physically
12 present in the state and the duration of any absence;

13 (3) the location of the respondent's property; and

14 (4) the extent to which the respondent has ties to the state such as
15 voting registration, state or local tax return filing, vehicle registration,
16 driver's license, social relationship and receipt of services.

17 New Sec. 8. Sections 7 through 15, and amendments thereto,
18 provides the exclusive jurisdictional basis for a court of this state to
19 appoint a guardian or issue a protective order for an adult.

20 New Sec. 9. A court of this state has jurisdiction to appoint a guardian
21 or issue a protective order for a respondent if:

22 (a) This state is the respondent's home state;

23 (b) on the date the petition is filed, this state is a significant-
24 connection state and:

25 (1) The respondent does not have a home state or a court of the
26 respondent's home state has declined to exercise jurisdiction because this
27 state is a more appropriate forum; or

28 (2) the respondent has a home state, a petition for an appointment or
29 order is not pending in a court of that state or another significant-
30 connection state, and, before the court makes the appointment or issues the
31 order:

32 (A) A petition for an appointment or order is not filed in the
33 respondent's home state;

34 (B) an objection to the court's jurisdiction is not filed by a person
35 required to be notified of the proceeding; and

36 (C) the court in this state concludes that it is an appropriate forum
37 under the factors set forth in section 12, and amendments thereto;

38 (c) this state does not have jurisdiction under either subsection (a) or
39 (b), the respondent's home state and all significant-connection states have
40 declined to exercise jurisdiction because this state is the more appropriate
41 forum and jurisdiction in this state is consistent with the constitutions of
42 this state and the United States; or

43 (d) the requirements for special jurisdiction under section 10, and

1 amendments thereto, are met.

2 New Sec. 10. (a) A court of this state lacking jurisdiction under
3 section 9(a), (b) or (c), and amendments thereto, has special jurisdiction to
4 do any of the following:

5 (1) Appoint a guardian in an emergency for a term not exceeding 90
6 days for a respondent who is physically present in this state;

7 (2) issue a protective order with respect to real or tangible personal
8 property located in this state;

9 (3) appoint a guardian or conservator for an incapacitated or protected
10 person for whom a provisional order to transfer the proceeding from
11 another state has been issued under procedures similar to section 16, and
12 amendments thereto.

13 (b) If a petition for the appointment of a guardian in an emergency is
14 brought in this state and this state was not the respondent's home state on
15 the date the petition was filed, the court shall dismiss the proceeding at the
16 request of the court of the home state, if any, whether dismissal is
17 requested before or after the emergency appointment.

18 New Sec. 11. Except as otherwise provided in section 10, and
19 amendments thereto, a court that has appointed a guardian or issued a
20 protective order consistent with this act has exclusive and continuing
21 jurisdiction over the proceeding until it is terminated by the court or the
22 appointment or order expires by its own terms.

23 New Sec. 12. (a) A court of this state having jurisdiction under
24 section 9, and amendments thereto, to appoint a guardian or issue a
25 protective order may decline to exercise its jurisdiction if it determines at
26 any time that a court of another state is a more appropriate forum.

27 (b) If a court of this state declines to exercise its jurisdiction under
28 subsection (a), it shall either dismiss or stay the proceeding. The court may
29 impose any condition the court considers just and proper, including the
30 condition that a petition for the appointment of a guardian or issuance of a
31 protective order be filed promptly in another state.

32 (c) In determining whether it is an appropriate forum, the court shall
33 consider all relevant factors, including:

34 (1) Any expressed preference of the respondent;

35 (2) whether abuse, neglect or exploitation of the respondent has
36 occurred or is likely to occur and which state could best protect the
37 respondent from the abuse, neglect or exploitation;

38 (3) the length of time the respondent was physically present in or was
39 a legal resident of this or another state;

40 (4) the distance of the respondent from the court in each state;

41 (5) the financial circumstances of the respondent's estate;

42 (6) the nature and location of the evidence;

43 (7) the ability of the court in each state to decide the issue

1 expeditiously and the procedures necessary to present evidence;

2 (8) the familiarity of the court of each state with the facts and issues
3 in the proceeding; and

4 (9) if an appointment were made, the court's ability to monitor the
5 conduct of the guardian or conservator.

6 New Sec. 13. (a) If at any time a court of this state determines that it
7 acquired jurisdiction to appoint a guardian or issue a protective order
8 because of unjustifiable conduct, the court may:

9 (1) Decline to exercise jurisdiction;

10 (2) exercise jurisdiction for the limited purpose of fashioning an
11 appropriate remedy to ensure the health, safety and welfare of the
12 respondent or the protection of the respondent's property or prevent a
13 repetition of the unjustifiable conduct, including staying the proceeding
14 until a petition for the appointment of a guardian or issuance of a
15 protective order is filed in a court of another state having jurisdiction; or

16 (3) continue to exercise jurisdiction after considering:

17 (A) The extent to which the respondent and all persons required to be
18 notified of the proceedings have acquiesced in the exercise of the court's
19 jurisdiction;

20 (B) whether it is a more appropriate forum than the court of any other
21 state under the factors set forth in section 12(c), and amendments thereto;
22 and

23 (C) whether the court of any other state would have jurisdiction under
24 factual circumstances in substantial conformity with the jurisdictional
25 standards of section 9, and amendments thereto.

26 (b) If a court of this state determines that it acquired jurisdiction to
27 appoint a guardian or issue a protective order because a party seeking to
28 invoke its jurisdiction engaged in unjustifiable conduct, it may assess
29 against that party necessary and reasonable expenses, including attorney
30 fees, investigative fees, court costs, communication expenses, witness fees
31 and expenses and travel expenses. The court may not assess fees, costs or
32 expenses of any kind against this state or a governmental subdivision,
33 agency or instrumentality of this state unless authorized by law other than
34 this act.

35 New Sec. 14. If a petition for the appointment of a guardian or
36 issuance of a protective order is brought in this state and this state was not
37 the respondent's home state on the date the petition was filed, in addition
38 to complying with the notice requirements of this state, notice of the
39 petition must be given to those persons who would be entitled to notice of
40 the petition if a proceeding were brought in the respondent's home state.
41 The notice must be given in the same manner as notice is required to be
42 given in this state.

43 New Sec. 15. Except for a petition for the appointment of a guardian

1 in an emergency or issuance of a protective order limited to property
2 located in this state under section 10(a)(1) or (2), and amendments thereto,
3 if a petition for the appointment of a guardian or issuance of a protective
4 order is filed in this state and in another state and neither petition has been
5 dismissed or withdrawn, the following rules apply:

6 (a) If the court in this state has jurisdiction under section 9, and
7 amendments thereto, it may proceed with the case unless a court in another
8 state acquires jurisdiction under provisions similar to section 9, and
9 amendments thereto, before the appointment or issuance of the order.

10 (b) If the court in this state does not have jurisdiction under section 9,
11 and amendments thereto, whether at the time the petition is filed or at any
12 time before the appointment or issuance of the order, the court shall stay
13 the proceeding and communicate with the court in the other state. If the
14 court in the other state has jurisdiction, the court in this state shall dismiss
15 the petition unless the court in the other state determines that the court in
16 this state is a more appropriate forum.

17 New Sec. 16. (a) A guardian or conservator appointed in this state
18 may petition the court to transfer the guardianship or conservatorship to
19 another state.

20 (b) Notice of a petition under subsection (a) must be given to the
21 persons that would be entitled to notice of a petition in this state for the
22 appointment of a guardian or conservator.

23 (c) On the court's own motion or on request of the guardian or
24 conservator, the incapacitated or protected person, or other person required
25 to be notified of the petition, the court shall hold a hearing on a petition
26 filed pursuant to subsection (a).

27 (d) The court shall issue an order provisionally granting a petition to
28 transfer a guardianship and shall direct the guardian to petition for
29 guardianship in the other state if the court is satisfied that the guardianship
30 will be accepted by the court in the other state and the court finds that:

31 (1) The incapacitated person is physically present in or is reasonably
32 expected to move permanently to the other state;

33 (2) an objection to the transfer has not been made or, if an objection
34 has been made, the objector has not established that the transfer would be
35 contrary to the interests of the incapacitated person; and

36 (3) plans for care and services for the incapacitated person in the
37 other state are reasonable and sufficient.

38 (e) The court shall issue a provisional order granting a petition to
39 transfer a conservatorship and shall direct the conservator to petition for
40 conservatorship in the other state if the court is satisfied that the
41 conservatorship will be accepted by the court of the other state and the
42 court finds that:

43 (1) The protected person is physically present in or is reasonably

1 expected to move permanently to the other state, or the protected person
2 has a significant connection to the other state considering the factors in
3 section 7(b), and amendments thereto;

4 (2) an objection to the transfer has not been made or, if an objection
5 has been made, the objector has not established that the transfer would be
6 contrary to the interests of the protected person; and

7 (3) adequate arrangements will be made for management of the
8 protected person's property.

9 (f) The court shall issue a final order confirming the transfer and
10 terminating the guardianship or conservatorship upon its receipt of:

11 (1) A provisional order accepting the proceeding from the court to
12 which the proceeding is to be transferred which is issued under provisions
13 similar to section 17, and amendments thereto; and

14 (2) the documents required to terminate a guardianship or
15 conservatorship in this state.

16 New Sec. 17. (a) To confirm transfer of a guardianship or
17 conservatorship transferred to this state under provisions similar to section
18 16, and amendments thereto, the guardian or conservator must petition the
19 court in this state to accept the guardianship or conservatorship. The
20 petition must include a certified copy of the other state's provisional order
21 of transfer.

22 (b) Notice of a petition under subsection (a) must be given to those
23 persons that would be entitled to notice if the petition were a petition for
24 the appointment of a guardian or issuance of a protective order in both the
25 transferring state and this state. The notice must be given in the same
26 manner as notice is required to be given in this state.

27 (c) On the court's own motion or on request of the guardian or
28 conservator, the incapacitated or protected person, or other person required
29 to be notified of the proceeding, the court shall hold a hearing on a petition
30 filed pursuant to subsection (a).

31 (d) The court shall issue an order provisionally granting a petition
32 filed under subsection (a) unless:

33 (1) An objection is made and the objector establishes that transfer of
34 the proceeding would be contrary to the interests of the incapacitated or
35 protected person; or

36 (2) the guardian or conservator is ineligible for appointment in this
37 state.

38 (e) The court shall issue a final order accepting the proceeding and
39 appointing the guardian or conservator as guardian or conservator in this
40 state upon its receipt from the court from which the proceeding is being
41 transferred of a final order issued under provisions similar to section 16,
42 and amendments thereto, transferring the proceeding to this state.

43 (f) Not later than 90 days after issuance of a final order accepting

1 transfer of a guardianship or conservatorship, the court shall determine
2 whether the guardianship or conservatorship needs to be modified to
3 conform to the law of this state.

4 (g) In granting a petition under this section, the court shall recognize
5 a guardianship or conservatorship order from the other state, including the
6 determination of the incapacitated or protected person's incapacity and the
7 appointment of the guardian or conservator.

8 (h) The denial by a court of this state of a petition to accept a
9 guardianship or conservatorship transferred from another state does not
10 affect the ability of the guardian or conservator to seek appointment as
11 guardian or conservator in this state under sections 24 through 135, and
12 amendments thereto, if the court has jurisdiction to make an appointment
13 other than by reason of the provisional order of transfer.

14 New Sec. 18. If a guardian has been appointed in another state and a
15 petition for the appointment of a guardian is not pending in this state, the
16 guardian appointed in the other state, after giving notice to the appointing
17 court of an intent to register, may register the guardianship order in this
18 state by filing as a foreign judgment in a court, in any appropriate county
19 of this state, certified copies of the order and letters of office.

20 New Sec. 19. If a conservator has been appointed in another state and
21 a petition for a protective order is not pending in this state, the conservator
22 appointed in the other state, after giving notice to the appointing court of
23 an intent to register, may register the protective order in this state by filing
24 as a foreign judgment in a court of this state, in any county in which
25 property belonging to the protected person is located, certified copies of
26 the order and letters of office and of any bond.

27 New Sec. 20. (a) Upon registration of a guardianship or protective
28 order from another state, the guardian or conservator may exercise in this
29 state all powers authorized in the order of appointment except as
30 prohibited under the laws of this state, including maintaining actions and
31 proceedings in this state and, if the guardian or conservator is not a
32 resident of this state, subject to any conditions imposed upon nonresident
33 parties.

34 (b) A court of this state may grant any relief available under this act
35 and other law of this state to enforce a registered order.

36 New Sec. 21. In applying and construing this uniform act,
37 consideration must be given to the need to promote uniformity of the law
38 with respect to its subject matter among states that enact it.

39 New Sec. 22. This act modifies, limits or supersedes the electronic
40 signatures in global and national commerce act, 15 U.S.C. § 7001 et seq.,
41 but does not modify, limit or supersede section 101(c) of that act, 15
42 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices
43 described in section 103(b) of that act, 15 U.S.C. § 7003(b).

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

31 (h) "Full conservatorship" means a conservatorship that grants the
32 conservator all powers available under this act.

33 ~~(h)~~(i) "Full guardianship" means a guardianship that grants the
34 guardian all powers available under this act.

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

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

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

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

1 ~~(h)~~**(n)** "Individual subject to guardianship" means an adult or minor
2 for whom a guardian has been appointed under this act.

3 ~~(m)~~**(o)** "Less restrictive alternative" means an approach to meeting a
4 individual's needs which restricts fewer rights of the individual than would
5 the appointment of a guardian or conservator. "Less restrictive alternative"
6 includes supported decision making, appropriate technological assistance,
7 appointment of a representative payee and appointment of an agent by the
8 individual, including appointment under a power of attorney for healthcare
9 or power of attorney for finances.

10 ~~(n)~~**(p)** "Letters of office" means a record issued by a court certifying a
11 guardian's or conservator's authority to act.

12 ~~(o)~~**(q)** "Limited conservatorship" means a conservatorship that grants
13 the conservator less than all powers available under this act, grants powers
14 over only certain property or otherwise restricts the powers of the
15 conservator.

16 ~~(p)~~**(r)** "Limited guardianship" means a guardianship that grants the
17 guardian less than all powers available under this act or otherwise restricts
18 the powers of the guardian.

19 ~~(q)~~**(s)** "Minor" means an unemancipated individual under 18 years of
20 age.

21 ~~(r)~~**(t)** "Minor subject to conservatorship" means a minor for whom a
22 conservator has been appointed under this act.

23 ~~(s)~~**(u)** "Minor subject to guardianship" means a minor for whom a
24 guardian has been appointed under this act.

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

26 ~~(t)~~**(w)** "Parent" does not include an individual whose parental rights
27 have been terminated.

28 ~~(u)~~**(x)** "Person" means an individual, estate, business or nonprofit
29 entity, public corporation, government or governmental subdivision,
30 agency or instrumentality or other legal entity.

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

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

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

38 **(2) is a minor.**

39 ~~(v)~~**(z)** "Property" includes tangible and intangible property.

40 ~~(w)~~**(aa)** "Protective arrangement instead of conservatorship" means a
41 court order entered under section 121, and amendments thereto.

42 ~~(x)~~**(bb)** "Protective arrangement instead of guardianship" means a
43 court order entered under section 120, and amendments thereto.

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

5 ~~(y)~~**(dd)** "Record," used as a noun, means information that is inscribed
6 on a tangible medium or that is stored in an electronic or other medium
7 and is retrievable in perceivable form.

8 ~~(z)~~**(ee)** "Respondent" means an individual for whom appointment of a
9 guardian or conservator or a protective arrangement instead of
10 guardianship or conservatorship is sought.

11 ~~(aa)~~**(ff)** "Sign" means, with present intent to authenticate or adopt a
12 record:

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

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

16 ~~(bb)~~**(gg)** "Standby guardian" means a person appointed by the court
17 under section 57, and amendments thereto.

18 ~~(ee)~~**(hh)** "State" means a state of the United States, the District of
19 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
20 insular possession subject to the jurisdiction of the United States. "State"
21 includes a federally recognized Indian tribe.

22 ~~(dd)~~**(ii)** "Supported decision making" means assistance from one or
23 more persons of an individual's choosing in understanding the nature and
24 consequences of potential personal and financial decisions, which enables
25 the individual to make the decisions, and in communicating a decision
26 once made if consistent with the individual's wishes.

27 New Sec. 26. Unless displaced by a particular provision of this act,
28 the principles of law and equity supplement its provisions.

29 New Sec. 27. (a) Except to the extent jurisdiction is precluded by the
30 uniform child custody jurisdiction and enforcement act, K.S.A. 23-37,101
31 through 23-37,405, and amendments thereto, the district court has
32 jurisdiction over a guardianship for a minor domiciled or present in this
33 state. The court has jurisdiction over a conservatorship or protective
34 arrangement instead of conservatorship for a minor domiciled or having
35 property in this state.

36 (b) The district court has jurisdiction over a guardianship,
37 conservatorship or protective arrangement under section 120 or 121, and
38 amendments thereto, for an adult as provided in the uniform adult
39 guardianship and protective proceedings jurisdiction act, sections 1
40 through 23, and amendments thereto.

41 (c) After notice is given in a proceeding for a guardianship,
42 conservatorship or protective arrangement under section 120 or 121, and
43 amendments thereto, and until termination of the proceeding, the court in

1 which the petition is filed has:

- 2 (1) Exclusive jurisdiction to determine the need for the guardianship,
3 conservatorship or protective arrangement;
4 (2) exclusive jurisdiction to determine how property of the
5 respondent must be managed, expended or distributed to or for the use of
6 the respondent, an individual who is dependent in fact on the respondent or
7 other claimant;
8 (3) nonexclusive jurisdiction to determine the validity of a claim
9 against the respondent or property of the respondent or a question of title
10 concerning the property; and
11 (4) if a guardian or conservator is appointed, exclusive jurisdiction
12 over issues related to administration of the guardianship or
13 conservatorship.

14 (d) A court that appoints a guardian or conservator, or authorizes a
15 protective arrangement under section 120 or 121, and amendments thereto,
16 has exclusive and continuing jurisdiction over the proceeding until the
17 court terminates the proceeding or the appointment or protective
18 arrangement expires by its terms.

19 New Sec. 28. (a) This section does not apply to a guardianship or
20 conservatorship for an adult that is subject to the transfer provisions of
21 section 16 or 17, and amendments thereto.

22 (b) After appointment of a guardian or conservator, the court that
23 made the appointment may transfer the proceeding to a court in another
24 county in this state or another state if transfer is in the best interest of the
25 individual subject to the guardianship or conservatorship.

26 (c) If a proceeding for a guardianship or conservatorship is pending in
27 another state or a foreign country and a petition for guardianship or
28 conservatorship for the same individual is filed in a court in this state, the
29 court shall notify the court in the other state or foreign country and, after
30 consultation with that court, assume or decline jurisdiction, whichever is in
31 the best interest of the respondent.

32 (d) A guardian or conservator appointed in another state or country
33 may petition the court for appointment as a guardian or conservator in this
34 state for the same individual if jurisdiction in this state is or will be
35 established. The appointment may be made on proof of appointment in the
36 other state or foreign country and presentation of a certified copy of the
37 part of the court record in the other state or country specified by the court
38 in this state.

39 (e) Notice of hearing on a petition under subsection (d), together with
40 a copy of the petition, must be given to the respondent, if the respondent is
41 at least 12 years of age at the time of the hearing, and to the persons that
42 would be entitled to notice if the procedures for appointment of a guardian
43 or conservator under this act were applicable. The court shall make the

1 appointment unless it determines the appointment would not be in the best
2 interest of the respondent.

3 (f) Not later than 14 days after appointment under subsection (e), the
4 guardian or conservator shall give a copy of the order of appointment to
5 the individual subject to guardianship or conservatorship, if the individual
6 is at least 12 years of age, and to all persons given notice of the hearing on
7 the petition.

8 New Sec. 29. (a) Except as provided in subsection (e), venue for a
9 guardianship proceeding for a minor is in:

10 (1) The county in which the minor resides or is present at the time the
11 proceeding commences; or

12 (2) the county in which another proceeding concerning the custody or
13 parental rights of the minor is pending.

14 (b) Except as provided in subsection (e), venue for a guardianship
15 proceeding or protective arrangement instead of guardianship for an adult
16 is in:

17 (1) The county in which the respondent resides;

18 (2) if the respondent has been admitted to an institution by court
19 order, the county in which the court is located; or

20 (3) if the proceeding is for appointment of an emergency guardian for
21 an adult, the county in which the respondent is present.

22 (c) Except as provided in subsection (e), venue for a conservatorship
23 proceeding or protective arrangement instead of conservatorship is in:

24 (1) The county in which the respondent resides, whether or not a
25 guardian has been appointed in another county or other jurisdiction; or

26 (2) if the respondent does not reside in this state, in any county in
27 which property of the respondent is located.

28 (d) If proceedings under this act are brought in more than one county,
29 the court of the county in which the first proceeding is brought has the
30 exclusive right to proceed unless the court determines that venue is
31 properly in another court or the interest of justice otherwise requires
32 transfer of the proceeding.

33 (e) If proceedings under this act are brought in a county other than as
34 provided in subsections (a), (b) or (c), the court may determine that venue
35 is proper if it is in the best interest of the respondent and in the interest of
36 justice for the proceedings to take place in that county.

37 New Sec. 30. (a) The petitioner and the respondent shall each be
38 afforded an opportunity to appear at the trial, to testify and to present and
39 cross-examine witnesses. If the trial has been consolidated with a trial
40 being held pursuant to either the care and treatment act for mentally ill
41 persons or the care and treatment act for persons with an alcohol or
42 substance abuse problem, persons not necessary for the conduct of the
43 proceedings may be excluded as provided for in those acts. The trial shall

1 be conducted in as informal a manner as may be consistent with orderly
2 procedure. The court shall have the authority to receive all relevant and
3 material evidence which may be offered, including the testimony or
4 written report, findings or recommendations of any professional or other
5 person who has examined or evaluated the respondent and the testimony
6 and written findings and recommendations of any court liaison appointed
7 pursuant to section 67, and amendments thereto. Such evidence shall not
8 be privileged for the purpose of this trial.

9 (b) If proceedings for a guardianship, conservatorship or protective
10 arrangement under section 120 or 121, and amendments thereto, for the
11 same individual are commenced or pending in the same court, the
12 proceedings may be consolidated.

13 (c) A respondent may demand a jury trial in a proceeding under this
14 act on the issue of whether a basis exists for appointment of a guardian or
15 conservator.

16 New Sec. 31. (a) The court shall issue letters of office to a guardian
17 on filing by the guardian of:

18 (1) An acceptance of appointment;

19 (2) an oath or affirmation as required by K.S.A. 59-1702, and
20 amendments thereto;

21 (3) evidence of completion of a basic instructional program
22 concerning the duties and responsibilities of a guardian; and

23 (4) a personal information sheet containing any personal identifying
24 information about the guardian required by the court. Such information
25 shall not be disclosed to the public.

26 (b) The court shall issue letters of office to a conservator on filing by
27 the conservator of:

28 (1) An acceptance of appointment;

29 (2) an oath or affirmation as required by K.S.A. 59-1702, and
30 amendments thereto;

31 (3) any required bond or compliance with any other asset-protection
32 arrangement required by the court;

33 (4) evidence of completion of a basic instructional program
34 concerning the duties and responsibilities of a conservator; and

35 (5) a personal information sheet containing any personal identifying
36 information about the conservator required by the court. Such information
37 shall not be disclosed to the public.

38 (c) Limitations on the powers of a guardian or conservator or on the
39 property subject to conservatorship must be stated on the letters of office.
40 If the court appoints co-guardians or co-conservators, the letters of office
41 must specify whether such co-guardians or co-conservators may act
42 independently, whether they must act jointly, or under what circumstances
43 or with regard to what matters they may act independently or must act

1 jointly.

2 (d) The court at any time may limit the powers conferred on a
3 guardian or conservator. The court shall issue new letters of office to
4 reflect the limitation. The court shall give notice of the limitation to the
5 guardian or conservator, individual subject to guardianship or
6 conservatorship, each parent of a minor subject to guardianship or
7 conservatorship and any other person the court determines.

8 (e) The judicial council shall prepare a basic instructional program
9 concerning the duties and responsibilities of a guardian and a conservator.
10 The court shall have the authority to require any guardian or conservator
11 appointed prior to January 1, 2026, to complete the basic instructional
12 program and provide evidence thereof to the court.

13 New Sec. 32. (a) On acceptance of appointment, a guardian or
14 conservator submits to personal jurisdiction of the court in this state in any
15 proceeding relating to the guardianship or conservatorship.

16 (b) Every guardian or conservator that resides outside the state of
17 Kansas shall appoint a resident agent by executing an appointment of
18 resident agent that specifically identifies the person or entity that will act
19 as the resident agent. A resident agent may be either:

20 (1) An individual resident in this state; or

21 (2) a corporation, limited partnership, limited liability partnership,
22 limited liability company or business trust that has its principal place of
23 business in this state.

24 (c) Every resident agent for a guardian or conservator shall:

25 (1) Maintain contact with and remain aware of the current address
26 and phone number of the guardian or conservator;

27 (2) accept service of process and other communications directed to
28 the guardian or conservator; and

29 (3) forward to the guardian or conservator documents sent by the
30 court, the secretary of state or any other state agency.

31 (d) Every resident agent shall accept the appointment as resident
32 agent by executing an acceptance of appointment that specifically
33 identifies the name of the guardian or conservator and expresses the
34 appointed resident agent's agreement to fulfill their role, as described in
35 this section.

36 (e) For purposes of this section, the terms guardian and conservator
37 shall include co-guardians and co-conservators, temporary substitute
38 guardians and conservators, standby guardians and conservators, successor
39 guardians and conservators and emergency guardians and conservators.

40 New Sec. 33. (a) The court at any time may appoint a co-guardian or
41 co-conservator who may act when that co-guardian or co-conservator
42 complies with section 31(a) or (b), and amendments thereto, respectively.

43 (b) If the court appoints co-guardians or co-conservators, the court

1 shall specify in the letters of office whether such co-guardians or co-
2 conservators may act independently, whether they must act jointly, or
3 under what circumstances or with regard to what matters they may act
4 independently or must act jointly.

5 New Sec. 34. (a) The court at any time may appoint a successor
6 guardian or successor conservator to serve immediately or when a
7 designated event occurs, including the absence, impairment, resignation or
8 death of the guardian or conservator.

9 (b) A person entitled under section 52 or 65, and amendments thereto,
10 to petition the court to appoint a guardian may petition the court to appoint
11 a successor guardian. A person entitled under section 84, and amendments
12 thereto, to petition the court to appoint a conservator may petition the court
13 to appoint a successor conservator.

14 (c) A successor guardian or successor conservator appointed to serve
15 when a designated event occurs may act as guardian or conservator when:

16 (1) The event occurs; and

17 (2) the successor complies with section 31(a) or (b), and amendments
18 thereto, respectively.

19 (d) A successor guardian or successor conservator has the
20 predecessor's powers unless otherwise provided by the court.

21 New Sec. 35. (a) Any corporation organized under the Kansas general
22 corporation code may act as guardian for an individual found to be in need
23 of a guardian under the Kansas uniform guardianship, conservatorship and
24 other protective arrangements act, sections 24 through 135, and
25 amendments thereto, if the corporation has been certified by the secretary
26 for children and families as a suitable agency to perform the duties of a
27 guardian.

28 (b) The secretary for children and families shall establish criteria for
29 determining whether a corporation should be certified as a suitable agency
30 to perform the duties of a guardian. The criteria shall be designed for the
31 protection of the ward and shall include, but not be limited to, the
32 following:

33 (1) Whether the corporation is capable of performing the duties of a
34 guardian;

35 (2) whether the staff of the corporation is accessible and available to
36 wards and to other persons concerned about their well-being and is
37 adequate in number to properly perform the duties and responsibilities of a
38 guardian;

39 (3) whether the corporation is a stable organization which is likely to
40 continue in existence for some time; and

41 (4) whether the corporation will agree to submit such reports and
42 answer such questions as the secretary may require in monitoring
43 corporate guardianships.

1 (c) Application for certification under this section shall be made to
2 the secretary for children and families in such manner as the secretary may
3 direct. The secretary for children and families may suspend or revoke
4 certification of a corporation under this section, after notice and hearing,
5 upon a finding that such corporation has failed to comply with the criteria
6 established by rules and regulations under subsection (b). Such corporation
7 shall not be appointed as a guardian during the period of time the
8 certificate is suspended or revoked.

9 (d) No corporation shall be eligible for appointment as provided for
10 in sections 55 and 71, and amendments thereto, as the guardian of any
11 person if such corporation provides care, treatment or housing to that
12 person or is the owner, part owner or operator of any adult care home,
13 lodging establishment or institution utilized for the care, treatment or
14 housing of that person.

15 (e) The secretary for children and families may adopt rules and
16 regulations necessary to administer the provisions of this section.

17 New Sec. 36. (a) Appointment of a guardian or conservator
18 terminates on the death or removal of the guardian or conservator, or when
19 the court under subsection (b) approves a resignation of the guardian or
20 conservator.

21 (b) A guardian or conservator must petition the court for approval to
22 resign. The petition may include a request that the court appoint a
23 successor. Notice of the petition must be given to the person subject to
24 guardianship or conservatorship and any other person the court
25 determines. Resignation of a guardian or conservator is effective on the
26 date the resignation is approved by the court.

27 (c) Death, removal or resignation of a guardian or conservator does
28 not affect liability for a previous act or the obligation to account for:

29 (1) An action taken on behalf of the individual subject to
30 guardianship or conservatorship; or

31 (2) the individual's funds or other property.

32 New Sec. 37. (a) Except as otherwise provided in sections 53, 57, 66,
33 85 and 123, and amendments thereto, if notice of a hearing under this act
34 is required, the movant shall give notice of the date, time and place of the
35 hearing to the person to be notified unless otherwise ordered by the court
36 for good cause. Except as otherwise provided in this act, notice must be
37 given in compliance with K.S.A. 59-2208, and amendments thereto, at
38 least 14 days before the hearing.

39 (b) Proof of notice of a hearing under this act must be made before or
40 at the hearing and filed in the proceeding.

41 (c) Notice of a hearing under this act must be in at least 16-point font,
42 in plain language, and, to the extent feasible, in a language in which the
43 person to be notified is proficient.

1 New Sec. 38. A respondent, individual subject to guardianship,
2 individual subject to conservatorship or individual subject to a protective
3 arrangement under section 120 or 121, and amendments thereto, may not
4 waive notice under this act. Any other person may waive notice in a record
5 signed by the person or person's attorney and filed in the proceeding.

6 New Sec. 39. The court at any time may appoint a guardian ad litem
7 for an individual if the court determines the individual's interest otherwise
8 would not be adequately represented. If no conflict of interest exists, a
9 guardian ad litem may be appointed to represent multiple individuals or
10 interests. The guardian ad litem may not be the same individual as the
11 attorney representing the respondent. The court shall state the duties of the
12 guardian ad litem and the reasons for the appointment in the order of
13 appointment.

14 New Sec. 40. (a) A person may file with the court a request for notice
15 under this act if the person is:

16 (1) Not otherwise entitled to notice; and

17 (2) interested in the welfare of a respondent, individual subject to
18 guardianship or conservatorship or individual subject to a protective
19 arrangement under section 120 or 121, and amendments thereto.

20 (b) A request under subsection (a) must include a statement showing
21 the interest of the person making the request and the address of the person
22 or an attorney for the person to whom notice is to be given.

23 (c) If the court approves a request under subsection (a), the court shall
24 give notice of the approval to the guardian or conservator, if one has been
25 appointed, or the respondent if no guardian or conservator has been
26 appointed.

27 New Sec. 41. (a) Before accepting appointment as a guardian or
28 conservator, a person shall disclose to the court whether the person:

29 (1) Is or has been a debtor in a bankruptcy, insolvency or receivership
30 proceeding;

31 (2) has been convicted of:

32 (A) A felony;

33 (B) a crime involving dishonesty, neglect, violence or use of physical
34 force; or

35 (C) other crime relevant to the functions the individual would assume
36 as guardian or conservator;

37 (3) has committed an act of physical, mental or emotional abuse or
38 neglect or sexual abuse as validated by the Kansas department for children
39 and families pursuant to K.S.A. 38-2226, and amendments thereto; or

40 (4) has been found to have committed an act of abuse, neglect or
41 exploitation of an adult as contained in the register of reports under K.S.A.
42 39-1434, and amendments thereto.

43 (b) A guardian or conservator that engages or anticipates engaging a

1 service provider the guardian or conservator knows has been convicted of
2 a felony, a crime involving dishonesty, neglect, violence or use of physical
3 force, or other crime relevant to the functions the service provider is being
4 engaged to perform promptly shall disclose that knowledge to the court in
5 writing.

6 (c) If a conservator engages or anticipates engaging a service provider
7 under section 47, and amendments thereto, to manage finances of the
8 individual subject to conservatorship and knows the service provider is or
9 has been a debtor in a bankruptcy, insolvency or receivership proceeding,
10 the conservator promptly shall disclose that knowledge to the court in
11 writing.

12 New Sec. 42. (a) Unless otherwise compensated or reimbursed, an
13 attorney for a respondent in a proceeding under this act is entitled to
14 reasonable compensation for services and reimbursement of reasonable
15 expenses from the property of the respondent.

16 (b) Unless otherwise compensated or reimbursed, an attorney or other
17 person whose services resulted in an order beneficial to an individual
18 subject to guardianship or conservatorship or for whom a protective
19 arrangement under section 120 or 121, and amendments thereto, was
20 ordered is entitled to reasonable compensation for services and
21 reimbursement of reasonable expenses from the property of the individual.

22 (c) The court must approve compensation and expenses payable
23 under this section before payment. Approval is not required before a
24 service is provided or an expense is incurred. The costs may be taxed to
25 the property of the respondent or individual subject to guardianship or
26 conservatorship or for whom a protective arrangement under section 120
27 or 121, and amendments thereto, was ordered, to those bound by law to
28 support such person, to other parties whenever it would be just and
29 equitable to do so, or to the county of residence of the respondent or
30 individual subject to guardianship or conservatorship or for whom a
31 protective arrangement under section 120 or 121, and amendments thereto,
32 was ordered as the court having venue shall direct.

33 (d) If the court dismisses a petition under this act and determines the
34 petition was filed in bad faith, the court may assess the cost of any court-
35 ordered professional evaluation or court liaison and attorney fees against
36 the petitioner or the petitioner's counsel.

37 (e) In any contested proceeding the court, in its discretion, may
38 require one or more parties to give security for the costs of the proceeding
39 or, in lieu of such security, to file a poverty affidavit as provided for in the
40 code of civil procedure.

41 (f) Any district court receiving a statement of costs from another
42 district court shall approve the same for payment out of the general fund of
43 its county except that it may refuse to approve the same for payment only

1 on the grounds that the respondent or person under guardianship or
2 conservatorship is not a resident of that county. In such case it shall
3 transmit the statement of costs to the secretary of the department for
4 children and families who shall determine the question of residence and
5 certify those findings to each district court. If the claim for costs is not
6 paid within 30 days after such certification, an action may be maintained
7 thereon by the claimant county in the district court of the claimant county
8 against the debtor county. The findings made by the secretary of the
9 department for children and families as to the residence of the respondent
10 or person subject to guardianship or conservatorship shall be applicable
11 only to the assessment of costs. Any county of residence which pays from
12 its general fund court costs to the district court of another county may
13 recover the same in any court of competent jurisdiction from the estate of
14 the respondent or person subject to guardianship or conservatorship or
15 from those bound by law to support the respondent or person subject to
16 guardianship or conservatorship, unless the court finds that the
17 proceedings in which such costs were incurred were instituted without
18 good cause and not in good faith.

19 New Sec. 43. (a) Subject to court approval, a guardian is entitled to
20 reasonable compensation for services as guardian and to reimbursement
21 for room, board, clothing and other appropriate expenses advanced for the
22 benefit of the individual subject to guardianship.

23 (b) Subject to court approval, a conservator is entitled to reasonable
24 compensation for services and reimbursement for appropriate expenses
25 from the property of the individual subject to conservatorship.

26 (c) In determining reasonable compensation for a guardian or
27 conservator, the court, or a conservator in determining reasonable
28 compensation for a guardian as provided in subsection (a), shall consider:

29 (1) The necessity and quality of the services provided;

30 (2) the experience, training, professional standing and skills of the
31 guardian or conservator;

32 (3) the difficulty of the services performed, including the degree of
33 skill and care required;

34 (4) the conditions and circumstances under which a service was
35 performed, including whether the service was provided outside regular
36 business hours or under dangerous or extraordinary conditions;

37 (5) the effect of the services on the individual subject to guardianship
38 or conservatorship;

39 (6) the extent to which the services provided were or were not
40 consistent with the guardian's plan under section 79, and amendments
41 thereto, or conservator's plan under section 103, and amendments thereto;
42 and

43 (7) the fees customarily paid to a person that performs a like service

1 in the community.

2 (d) A guardian or conservator need not use personal funds of the
3 guardian or conservator for the expenses of the individual subject to
4 guardianship or conservatorship.

5 (e) If an individual subject to guardianship or conservatorship seeks
6 to modify or terminate the guardianship or conservatorship or remove the
7 guardian or conservator, the court may order compensation to the guardian
8 or conservator for time spent opposing modification, termination or
9 removal only to the extent the court determines the opposition was
10 reasonably necessary to protect the interest of the individual subject to
11 guardianship or conservatorship.

12 (f) Nothing in this section shall prohibit a guardian or a conservator
13 associated with the Kansas guardianship program from receiving a stipend
14 from that program.

15 New Sec. 44. A guardian or conservator is not personally liable to
16 another person solely because of the guardianship or conservatorship for
17 an act or omission of the individual subject to guardianship or
18 conservatorship.

19 New Sec. 45. (a) A guardian or conservator may petition the court for
20 instruction concerning fiduciary responsibility or ratification of a
21 particular act related to the guardianship or conservatorship.

22 (b) Upon the filing of a petition under this section, the court may
23 appoint counsel for the individual subject to guardianship or
24 conservatorship.

25 (c) On notice and hearing on a petition under subsection (a), the court
26 may give an instruction and issue an appropriate order.

27 New Sec. 46. (a) A person must recognize the authority of a guardian
28 or conservator to act on behalf of an individual subject to guardianship or
29 conservatorship unless:

30 (1) The person has actual knowledge or a reasonable belief that the
31 letters of office of the guardian or conservator are invalid or the
32 conservator or guardian is exceeding or improperly exercising authority
33 granted by the court;

34 (2) the person has actual knowledge that the individual subject to
35 guardianship or conservatorship is subject to physical or financial abuse,
36 neglect, exploitation or abandonment by the guardian or conservator or a
37 person acting for or with the guardian or conservator; or

38 (3) the person makes, or has actual knowledge that another person
39 has made, a report under K.S.A. 39-1402 or 39-1431, and amendments
40 thereto, stating a good-faith belief that the individual subject to
41 guardianship or conservatorship is subject to physical or financial abuse,
42 neglect, exploitation or abandonment by the guardian or conservator or a
43 person acting for or with the guardian or conservator.

1 (b) A person that refuses to accept the authority of a guardian or
2 conservator must, within 10 days of the refusal, report the refusal and the
3 reason for refusal to the court. Upon receiving the report, the clerk of the
4 district court shall forward the report to the presiding judge who shall
5 consider whether further action is appropriate. A report of a refusal under
6 this section shall be treated in the same manner as a grievance under
7 section 50, and amendments thereto.

8 (c) A guardian or conservator may petition the court to require a third
9 party to accept a decision made by the guardian or conservator on behalf
10 of the individual subject to guardianship or conservatorship.

11 New Sec. 47. (a) A guardian or conservator may retain a third person
12 to provide any service to an individual subject to guardianship or
13 conservatorship if retaining such third person, hereinafter referred to as a
14 service provider, is consistent with the guardian's or conservator's fiduciary
15 duties and the guardian's plan under section 79, and amendments thereto,
16 or conservator's plan under section 103, and amendments thereto.

17 (b) In retaining a service provider under subsection (a), the guardian
18 or conservator shall exercise reasonable care, skill and caution in:

19 (1) Selecting the service provider;

20 (2) establishing the scope and terms of the service provider's work in
21 accordance with the guardian's plan under section 79, and amendments
22 thereto, or the conservator's plan under section 103, and amendments
23 thereto;

24 (3) monitoring the service provider's performance and compliance
25 with the scope and terms of work; and

26 (4) redressing an act or omission of the service provider which would
27 constitute a breach of the guardian's or conservator's duties if done by the
28 guardian or conservator.

29 (c) In providing services under this section, a service provider shall
30 exercise reasonable care to comply with the scope and terms of the work
31 and use reasonable care in the performance of the work.

32 (d) A service provider who agrees to provide services under
33 subsection (a) submits to the personal jurisdiction of the courts of this state
34 in an action involving the service provider's performance.

35 (e) A guardian or conservator that retains and monitors a service
36 provider in compliance with this section is not liable for the decision, act
37 or omission of the service provider.

38 New Sec. 48. (a) The court may appoint a temporary substitute
39 guardian for an individual subject to guardianship for a period not
40 exceeding six months if:

41 (1) A proceeding to remove a guardian for the individual is pending;
42 or

43 (2) the court finds a guardian is not effectively performing the

1 guardian's duties and the welfare of the individual requires immediate
2 action.

3 (b) The court may appoint a temporary substitute conservator for an
4 individual subject to conservatorship for a period not exceeding six
5 months if:

6 (1) A proceeding to remove a conservator for the individual is
7 pending; or

8 (2) the court finds that a conservator for the individual is not
9 effectively performing the conservator's duties and the welfare of the
10 individual or the conservatorship estate requires immediate action.

11 (c) Except as otherwise ordered by the court, a temporary substitute
12 guardian or temporary substitute conservator appointed under this section
13 has the powers stated in the order of appointment of the guardian or
14 conservator. The authority of the existing guardian or conservator is
15 suspended for as long as the temporary substitute guardian or conservator
16 has authority.

17 (d) (1) The court shall give notice of appointment of a temporary
18 substitute guardian or temporary substitute conservator, not later than five
19 days after the appointment, to:

20 (A) The individual subject to guardianship or conservatorship;

21 (B) the affected guardian or conservator; and

22 (C) in the case of a minor, each parent of the minor and any person
23 currently having care or custody of the minor.

24 (2) If the individual subject to guardianship or conservatorship is not
25 represented by an attorney, the court shall appoint an attorney under the
26 same conditions as in sections 54 and 68, and amendments thereto. The
27 court shall set the matter for hearing if any person entitled to notice so
28 requests.

29 (e) The court may remove a temporary substitute guardian or
30 temporary substitute conservator at any time. The temporary substitute
31 guardian or temporary substitute conservator shall make any report the
32 court requires.

33 New Sec. 49. (a) If a guardian has been appointed in another state for
34 an individual, and a petition for guardianship for the individual is not
35 pending in this state, the guardian appointed in the other state, after giving
36 notice to the appointing court, may register the guardianship order in this
37 state by filing as a foreign judgment, in a court of an appropriate county of
38 this state, certified copies of the order and letters of office.

39 (b) If a conservator has been appointed in another state for an
40 individual, and a petition for conservatorship for the individual is not
41 pending in this state, the conservator appointed for the individual in the
42 other state, after giving notice to the appointing court, may register the
43 conservatorship in this state by filing as a foreign judgment, in a court of a

1 county in which property belonging to the individual subject to
2 conservatorship is located, certified copies of the order of conservatorship,
3 letters of office and any bond or other asset-protection arrangement
4 required by the court.

5 (c) On registration under this section of a guardianship or
6 conservatorship order from another state, the guardian or conservator may
7 exercise in this state all powers authorized in the order except as
8 prohibited by this act and law of this state other than this act. If the
9 guardian or conservator is not a resident of this state, the guardian or
10 conservator may maintain an action or proceeding in this state subject to
11 any condition imposed by this state on an action or proceeding by a
12 nonresident party.

13 (d) The court may grant any relief available under this act and law of
14 this state other than this act to enforce an order registered under this
15 section. However, absent a transfer pursuant to section 28, and
16 amendments thereto, jurisdiction remains with the court that established
17 the guardianship or conservatorship.

18 New Sec. 50. (a) An individual who is subject to guardianship or
19 conservatorship, or person interested in the welfare of an individual
20 subject to guardianship or conservatorship, who reasonably believes the
21 guardian or conservator is breaching the guardian's or conservator's
22 fiduciary duty or otherwise acting in a manner inconsistent with this act
23 may file a grievance in a record with the court. The clerk of the district
24 court shall forward the grievance to the presiding judge.

25 (b) Subject to subsection (c), after receiving a grievance under
26 subsection (a), the court:

27 (1) Shall review the grievance and, if necessary to determine the
28 appropriate response, court records related to the guardianship or
29 conservatorship;

30 (2) shall schedule a hearing if the individual subject to guardianship
31 or conservatorship is an adult and the grievance supports a reasonable
32 belief that:

33 (A) Removal of the guardian and appointment of a successor may be
34 appropriate under section 81, and amendments thereto;

35 (B) termination or modification of the guardianship may be
36 appropriate under section 82, and amendments thereto;

37 (C) removal of the conservator and appointment of a successor may
38 be appropriate under section 112, and amendments thereto; or

39 (D) termination or modification of the conservatorship may be
40 appropriate under section 113, and amendments thereto; and

41 (3) may take any action supported by the evidence, including:

42 (A) Ordering the guardian or conservator to provide the court a
43 report, accounting, inventory, updated plan or other information;

- 1 (B) appointing a guardian ad litem;
- 2 (C) appointing an attorney for the individual subject to guardianship
- 3 or conservatorship; or
- 4 (D) holding a hearing.

5 (c) The court may decline to act under subsection (b) if a similar
6 grievance was filed within the six months preceding the filing of the
7 current grievance and the court followed the procedures of subsection (b)
8 in considering the earlier grievance.

9 New Sec. 51. (a) A person becomes a guardian for a minor only on
10 appointment by the court.

11 (b) After a hearing under section 53, and amendments thereto, the
12 court may appoint a guardian for a minor who does not have a guardian if
13 the court finds the appointment is in the minor's best interest and:

14 (1) Each parent of the minor, after being fully informed of the nature
15 and consequences of guardianship, consents;

16 (2) all parental rights have been terminated;

17 (3) there is clear and convincing evidence that the parents of the
18 minor are unwilling, unable or unfit to exercise the powers the court is
19 granting the guardian; or

20 (4) there is clear and convincing evidence that highly unusual or
21 extraordinary circumstances exist that cause the court to appoint the
22 guardian over the objection of a parent of the minor.

23 New Sec. 52. (a) A person interested in the welfare of a minor,
24 including the minor, may file a verified petition for appointment of a
25 guardian for the minor.

26 (b) A petition under subsection (a) must state the petitioner's name,
27 principal residence, current street address if different, relationship to the
28 minor, interest in the appointment, the name and address of any attorney
29 representing the petitioner and, to the extent known, the following:

30 (1) The minor's name, age, principal residence, current street address
31 if different and address of the dwelling in which it is proposed the minor
32 will reside if the appointment is made;

33 (2) the names and current street addresses of the minor's parents;

34 (3) the name and address, if known, of each person that had primary
35 care or custody of the minor for at least 60 days during the two years
36 immediately before the filing of the petition or for at least 730 days during
37 the five years immediately before the filing of the petition;

38 (4) the name and address of any attorney for the minor and any
39 attorney for each parent of the minor;

40 (5) the reason guardianship is sought and would be in the best interest
41 of the minor;

42 (6) the name and address of any proposed guardian and the reason the
43 proposed guardian should be selected;

1 (7) the name, address and relationship of any other person entitled to
2 notice under section 53, and amendments thereto;

3 (8) if the minor has property other than personal effects, a general
4 statement of the minor's property with an estimate of its value;

5 (9) whether the minor needs an interpreter, translator or other form of
6 support to communicate effectively with the court or understand court
7 proceedings;

8 (10) whether any parent of the minor needs an interpreter, translator
9 or other form of support to communicate effectively with the court or
10 understand court proceedings; and

11 (11) identify any other proceeding concerning the care or custody of
12 the minor that is pending in any court in this state or another jurisdiction.

13 (c) The petition shall contain, or be accompanied by an affidavit
14 which contains, the information required by K.S.A. 23-37,209, and
15 amendments thereto.

16 New Sec. 53. (a) When a petition is filed under section 52, and
17 amendments thereto, the court shall schedule a hearing, and the petitioner
18 shall:

19 (1) Serve notice of the date, time and place of the hearing, together
20 with a copy of the petition, personally on each of the following that is not
21 the petitioner:

22 (A) The minor, if the minor will be 12 years of age or older at the
23 time of the hearing;

24 (B) each parent of the minor or, if there is none, the adult nearest in
25 kinship who can be found with reasonable diligence;

26 (C) any adult with whom the minor resides;

27 (D) each person that had primary care or custody of the minor for at
28 least 60 days during the two years immediately before the filing of the
29 petition or for at least 730 days during the five years immediately before
30 the filing of the petition; and

31 (E) any other person the court determines should receive personal
32 service of notice; and

33 (2) give notice under section 37, and amendments thereto, of the date,
34 time and place of the hearing, together with a copy of the petition, to:

35 (A) Any person nominated as guardian by the minor, if the minor is
36 12 years of age or older;

37 (B) any nominee of a parent;

38 (C) each grandparent and adult sibling of the minor who can be found
39 with reasonable diligence;

40 (D) any guardian or conservator acting for the minor in any
41 jurisdiction; and

42 (E) any other person the court determines.

43 (b) Notice required by subsection (a) must include a statement of the

1 right to request appointment of an attorney for the minor or object to
2 appointment of a guardian and a description of the nature, purpose and
3 consequences of appointment of a guardian.

4 (c) The court may not grant a petition for guardianship of a minor if
5 notice substantially complying with subsection (a)(1) is not served on:

- 6 (1) the minor, if the minor is 12 years of age or older; and
- 7 (2) each parent of the minor, unless the court finds by clear and
8 convincing evidence that the parent cannot with due diligence be located
9 and served or the parent waived, in a record, the right to notice.

10 (d) If a petitioner is unable to serve notice under subsection (a)(1) on
11 a parent of a minor or alleges that the parent waived, in a record, the right
12 to notice under this section, the court may appoint a court liaison who
13 shall:

- 14 (1) Interview the petitioner and the minor;
- 15 (2) if the petitioner alleges the parent cannot be located, ascertain
16 whether the parent cannot be located with due diligence; and
- 17 (3) investigate any other matter relating to the petition the court
18 directs.

19 New Sec. 54. (a) The court shall appoint an attorney to represent a
20 minor who is the subject of a proceeding under section 52, and
21 amendments thereto, if:

- 22 (1) Requested by the minor and the minor is 12 years of age or older;
- 23 (2) recommended by a guardian ad litem; or
- 24 (3) the court determines the minor needs representation.

25 (b) An attorney appointed under subsection (a) shall:

- 26 (1) Make a reasonable effort to ascertain the minor's wishes;
- 27 (2) advocate for the minor's wishes to the extent reasonably
28 ascertainable; and
- 29 (3) if the minor's wishes are not reasonably ascertainable, advocate
30 for the minor's best interest.

31 (c) A minor who is the subject of a proceeding under section 52, and
32 amendments thereto, may retain an attorney to represent the minor in the
33 proceeding.

34 (d) The court shall appoint an attorney to represent a parent of a
35 minor who is the subject of a proceeding under section 52, and
36 amendments thereto, if the court determines the parent needs
37 representation.

38 New Sec. 55. (a) The court may require a minor who is the subject of
39 a hearing under section 53, and amendments thereto, to attend and
40 participate in the hearing. If the court orders the minor to attend the
41 hearing but later rescinds that order, the court shall enter in the record of
42 the proceedings the facts upon which the court found that the presence of
43 the minor should be excused.

1 (b) Unless excused by the court for good cause, the person proposed
2 to be appointed as guardian for a minor shall attend a hearing under
3 section 53, and amendments thereto.

4 (c) The minor who is the subject of a hearing under section 53, and
5 amendments thereto, has the right to attend the hearing. Each parent of a
6 minor who is the subject of a hearing under section 53, and amendments
7 thereto, has the right to attend the hearing.

8 (d) A person may request permission to participate in a hearing under
9 section 53, and amendments thereto. The court may grant the request, with
10 or without hearing, on determining that it is in the best interest of the
11 minor who is the subject of the hearing. The court may impose appropriate
12 conditions on the person's participation.

13 New Sec. 56. (a) After a hearing under section 53, and amendments
14 thereto, the court may appoint a guardian for a minor, if appointment is
15 proper under section 51, and amendments thereto, dismiss the proceeding
16 or take other appropriate action.

17 (b) In appointing a guardian under subsection (a), the following rules
18 apply:

19 (1) The court shall appoint a person nominated as guardian by a
20 parent of the minor in a will or other record unless the court finds the
21 appointment is contrary to the best interest of the minor.

22 (2) If multiple parents have nominated different persons to serve as
23 guardian, the court shall appoint the nominee whose appointment is in the
24 best interest of the minor, unless the court finds that appointment of none
25 of the nominees is in the best interest of the minor.

26 (3) If a guardian is not appointed under paragraph (1) or (2), the court
27 shall appoint the person nominated by the minor if the minor is 12 years of
28 age or older unless the court finds that appointment is contrary to the best
29 interest of the minor, in which case, the court shall appoint as guardian a
30 person whose appointment is in the best interest of the minor.

31 (c) An order granting a guardianship for a minor must state that each
32 parent of the minor is entitled to notice that:

33 (1) The guardian has changed the residence or school of the minor
34 subject to guardianship;

35 (2) the court has modified or limited the powers of the guardian; or

36 (3) the court has removed the guardian.

37 (d) An order granting a guardianship for a minor must identify any
38 person, in addition to a parent of the minor, who is entitled to notice of the
39 events listed in subsection (c).

40 (e) The appointment of a guardian under this section shall not be
41 construed to relieve a parent of any obligation imposed by law for the
42 support, maintenance, care, treatment, habilitation or education of that
43 parent's minor child.

1 New Sec. 57. (a) A standby guardian appointed under this section
2 may act as guardian, with all duties and powers of a guardian under
3 sections 59 and 60, and amendments thereto, when no parent of the minor
4 is willing or able to exercise the duties and powers granted to the guardian.

5 (b) A parent of a minor, in a signed record, may nominate a person to
6 be appointed by the court as standby guardian for the minor. The parent, in
7 a signed record, may revoke or amend the nomination at any time before
8 the court appoints a standby guardian.

9 (c) The court may appoint a standby guardian for a minor on:

10 (1) Petition by a parent of the minor or a person nominated under
11 subsection (b); and

12 (2) finding that no parent of the minor likely will be able or willing to
13 care for or make decisions with respect to the minor not later than two
14 years after the appointment.

15 (d) A petition under subsection (c)(1) must include the same
16 information required under section 52, and amendments thereto, for the
17 appointment of a guardian for a minor.

18 (e) On filing a petition under subsection (c)(1), the petitioner shall:

19 (1) Serve a copy of the petition personally on:

20 (A) The minor, if the minor is 12 years of age or older, and the
21 minor's attorney, if any;

22 (B) each parent of the minor;

23 (C) the person nominated as the standby guardian; and

24 (D) any other person the court determines; and

25 (2) include with the copy of the petition served under paragraph (1) a
26 statement of the right to request appointment of an attorney for the minor
27 or to object to appointment of the standby guardian, and a description of
28 the nature, purpose and consequences of appointment of a standby
29 guardian.

30 (f) A person entitled to notice under subsection (e), not later than 30
31 days after service of the petition and statement, may object to appointment
32 of the standby guardian by filing an objection with the court and giving
33 notice of the objection to each other person entitled to notice under
34 subsection (e).

35 (g) If an objection is filed under subsection (f), the court shall hold a
36 hearing to determine whether a standby guardian should be appointed and,
37 if so, the person that should be appointed. If no objection is filed, the court
38 may make the appointment.

39 (h) The court may not grant a petition for a standby guardian of the
40 minor if notice substantially complying with subsection (e) is not served
41 on:

42 (1) The minor, if the minor is 12 years of age or older; and

43 (2) each parent of the minor, unless the court finds by clear and

1 convincing evidence that the parent, in a record, waived the right to notice
2 or cannot be located and served with due diligence.

3 (i) If a petitioner is unable to serve notice under subsection (e) on a
4 parent of the minor or alleges that a parent of the minor waived the right to
5 notice under this section, the court may appoint a court liaison who shall:

6 (1) Interview the petitioner and the minor;

7 (2) if the petitioner alleges the parent cannot be located and served,
8 ascertain whether the parent cannot be located with due diligence; and

9 (3) investigate any other matter relating to the petition the court
10 directs.

11 (j) If the court finds under subsection (c) that a standby guardian
12 should be appointed, the following rules apply:

13 (1) The court shall appoint the person nominated under subsection (b)
14 unless the court finds that the appointment is contrary to the best interest
15 of the minor.

16 (2) If the parents have nominated different persons to serve as
17 standby guardian, the court shall appoint the nominee whose appointment
18 is in the best interest of the minor, unless the court finds that appointment
19 of none of the nominees is in the best interest of the minor.

20 (k) An order appointing a standby guardian under this section must
21 state that each parent of the minor is entitled to notice, and identify any
22 other person entitled to notice, if:

23 (1) The standby guardian assumes the duties and powers of the
24 guardian;

25 (2) the standby guardian changes the residence or school of the
26 minor;

27 (3) the court modifies or limits the powers of the standby guardian; or

28 (4) the court removes the standby guardian.

29 (l) Before assuming the duties and powers of a guardian, a standby
30 guardian must file with the court an acceptance of appointment as guardian
31 and give notice of the acceptance to:

32 (1) Each parent of the minor, unless the parent, in a record, waived
33 the right to notice or cannot be located and served with due diligence;

34 (2) the minor, if the minor is 12 years of age or older; and

35 (3) any person, other than the parent, having care or custody of the
36 minor.

37 (m) A person that receives notice under subsection (k) or any other
38 person interested in the welfare of the minor may file with the court an
39 objection to the standby guardian's assumption of duties and powers of a
40 guardian. The court shall hold a hearing if the objection supports a
41 reasonable belief that the conditions for assumption of duties and powers
42 have not been satisfied.

43 New Sec. 58. (a) On its own, or on verified petition by a person

1 interested in a minor's welfare, the court may appoint an emergency
2 guardian for the minor if the court finds a sufficient factual basis to
3 establish probable cause that:

4 (1) Appointment of an emergency guardian is necessary to prevent
5 imminent and substantial harm to the minor's health, safety or welfare; and

6 (2) no other person has authority and willingness to act in the
7 circumstances.

8 (b) The duration of authority of an emergency guardian for a minor
9 may not exceed 30 days, and the emergency guardian may exercise only
10 the powers specified in the order of appointment. The emergency
11 guardian's authority may be extended up to three times for not more than
12 30 days per extension if the court finds good cause and that the conditions
13 for appointment of an emergency guardian in subsection (a) continue.

14 (c) Except as otherwise provided in subsection (d), reasonable notice
15 of the date, time and place of a hearing on a petition for appointment of an
16 emergency guardian for a minor must be given to:

17 (1) The minor, if the minor is 12 years of age or older;

18 (2) any attorney appointed under section 54, and amendments thereto;

19 (3) each parent of the minor;

20 (4) any person, other than a parent, having care or custody of the
21 minor; and

22 (5) any other person the court determines.

23 (d) The court may appoint an emergency guardian for a minor
24 without notice under subsection (c) and without a hearing only if the court
25 finds from an affidavit or testimony that the minor's health, safety or
26 welfare will be substantially harmed before a hearing with notice on the
27 appointment can be held. If the court appoints an emergency guardian
28 without notice to an unrepresented minor or the attorney for a represented
29 minor, notice of the appointment must be given not later than 48 hours
30 after the appointment to the individuals listed in subsection (c). Not later
31 than seven days after the appointment, the court shall hold a hearing on the
32 appropriateness of the appointment.

33 (e) Appointment of an emergency guardian under this section, with or
34 without notice, is not a determination that a basis exists for appointment of
35 a guardian under section 51, and amendments thereto.

36 (f) The emergency guardian shall make any report the court requires.

37 (g) The court may remove an emergency guardian appointed under
38 this section at any time.

39 New Sec. 59. (a) A guardian for a minor is a fiduciary. Except as
40 otherwise limited by the court, a guardian for a minor has the duties and
41 responsibilities of a parent regarding the minor's support, care, education,
42 health, safety and welfare. A guardian shall act in the minor's best interest
43 and exercise reasonable care, diligence and prudence.

1 (b) A guardian for a minor shall:

2 (1) Be personally acquainted with the minor and maintain sufficient
3 contact with the minor to know the minor's abilities, limitations, needs,
4 opportunities and physical and mental health;

5 (2) take reasonable care of the minor's personal effects and bring a
6 proceeding for a conservatorship, or protective arrangement instead of
7 conservatorship, if necessary to protect other property of the minor;

8 (3) if authorized by the court under section 61, and amendments
9 thereto, expend funds of the minor which have been received by the
10 guardian for the minor's current needs for support, care, education, health,
11 safety and welfare;

12 (4) conserve any funds of the minor not expended under paragraph
13 (3) for the minor's future needs, but if a conservator is appointed for the
14 minor, pay the funds at least quarterly to the conservator to be conserved
15 for the minor's future needs;

16 (5) report the condition of the minor and account for funds and other
17 property of the minor in the guardian's possession or subject to the
18 guardian's control, as required by court rule or ordered by the court on
19 application of a person interested in the minor's welfare;

20 (6) inform the court of any change in the minor's dwelling or address;
21 and

22 (7) in determining what is in the minor's best interest, take into
23 account the minor's preferences to the extent actually known or reasonably
24 ascertainable by the guardian.

25 New Sec. 60. (a) Except as otherwise limited by court order, a
26 guardian of a minor has the powers a parent otherwise would have
27 regarding the minor's support, care, education, health, safety and welfare.

28 (b) Except as otherwise limited by court order, a guardian for a minor
29 may:

30 (1) If authorized by the court under section 61, and amendments
31 thereto, apply for and receive funds and benefits otherwise payable for the
32 support of the minor to the minor's parent, guardian or custodian under a
33 statutory system of benefits or insurance or any private contract, devise,
34 trust, conservatorship or custodianship;

35 (2) unless inconsistent with a court order entitled to recognition in
36 this state, take custody of the minor and establish the minor's place of
37 dwelling and, on authorization of the court, establish or move the minor's
38 dwelling outside this state;

39 (3) if the minor is not subject to conservatorship, commence a
40 proceeding, including an administrative proceeding, or take other
41 appropriate action to compel a person to support the minor or make a
42 payment for the benefit of the minor; and

43 (4) consent to health or other care, treatment or service for the minor.

1 (c) The court may authorize a guardian for a minor to consent to the
2 adoption of the minor if the minor does not have a parent.

3 (d) A guardian for a minor may consent to the marriage of the minor
4 if authorized by the court, and the guardianship shall terminate upon such
5 marriage.

6 New Sec. 61. A guardian for a minor may not exercise any control or
7 authority over the minor's estate, unless specifically authorized by the
8 court. Any guardian who is granted such authority must prepare an
9 inventory and provide notice of the inventory as provided in section 104,
10 and amendments thereto. The court may assign such authority to the
11 guardian and may waive the requirement of the posting of a bond, only if:

12 (a) Initially, the combined value of any funds and assets owned by the
13 minor equals \$25,000 or less;

14 (b) either the court requires the guardian to report to the court the
15 commencement of the exercising of such authority, or requires the
16 guardian to obtain court authorization to commence the exercise of such
17 authority, as the court shall specify; and

18 (c) the court also requires the guardian, whenever the combined value
19 of such funds and property exceeds \$25,000, to:

20 (1) File a guardian's plan as provided for in section 63, and
21 amendments thereto, that contains elements similar to those that would be
22 contained in a conservator's plan as provided for in section 103, and
23 amendments thereto;

24 (2) petition the court for appointment of a conservator; or

25 (3) notify the court as the court shall specify that the value of the
26 minor's estate has equaled or exceeded \$25,000, if the court has earlier
27 appointed a conservator but did not issue letters of conservatorship
28 pending such notification.

29 New Sec. 62. (a) Guardianship under this act for a minor terminates:

30 (1) On the minor's death, adoption, emancipation or attainment of
31 majority; or

32 (2) when the court finds that the standard in section 51, and
33 amendments thereto, for appointment of a guardian is not satisfied, unless
34 the court finds that:

35 (A) Termination of the guardianship would be harmful to the minor;
36 and

37 (B) the minor's interest in the continuation of the guardianship
38 outweighs the interest of any parent of the minor in restoration of the
39 parent's right to make decisions for the minor.

40 (b) A minor subject to guardianship or a person interested in the
41 welfare of the minor may petition the court to terminate the guardianship,
42 modify the guardianship, remove the guardian and appoint a successor
43 guardian or remove a standby guardian and appoint a different standby

1 guardian.

2 (c) A petitioner under subsection (b) shall give notice of the hearing
3 on the petition to the minor, if the minor is 12 years of age or older and is
4 not the petitioner, the guardian, each parent of the minor and any other
5 person the court determines.

6 (d) The court shall follow the priorities in section 56(b), and
7 amendments thereto, when selecting a successor guardian for a minor.

8 (e) Not later than 30 days after appointment of a successor guardian
9 for a minor, the court shall give notice of the appointment to the minor
10 subject to guardianship, if the minor is 12 years of age or older, each
11 parent of the minor and any other person the court determines.

12 (f) When terminating a guardianship for a minor under this section,
13 the court may issue an order providing for transitional arrangements that
14 will assist the minor with a transition of custody and is in the best interest
15 of the minor.

16 (g) A removed guardian for a minor shall cooperate with a successor
17 guardian to facilitate transition of the guardian's responsibilities and
18 protect the best interest of the minor.

19 (h) Not later than 30 days after entering an order under this section,
20 the court or the court's designee shall give notice of the order to the minor
21 subject to guardianship and any person entitled to notice under section 56,
22 and amendments thereto, or a subsequent order.

23 New Sec. 63. (a) At any time, the court may require the guardian of a
24 minor, or the guardian of a minor may choose, to develop and file with the
25 court a plan of care for the minor. Any such plan must be based on the
26 needs of the minor and take into account the best interest of the minor as
27 well as the minor's preferences, to the extent known to or reasonably
28 ascertainable by the guardian. The guardian may include in the plan:

29 (1) Where the minor will reside and attend school;

30 (2) whether the parents of the minor will have contact or visitation
31 with the minor;

32 (3) whether the parents of the minor will have access to medical,
33 educational or other records of the minor;

34 (4) whether the parents of the minor will retain any rights to decision
35 making regarding the minor's healthcare, education or other matters;

36 (5) any other provisions the guardian deems appropriate; and

37 (6) any other provisions the court requires.

38 (b) The guardian for a minor shall give notice of the filing of the
39 guardian's plan under subsection (a), together with a copy of the plan, to
40 the minor if the minor is 12 years of age or older, any attorney representing
41 the minor in the guardianship proceeding or any other proceeding
42 concerning the care or custody of the minor identified in the petition, each
43 parent of the minor, a person entitled to notice under section 56(d), and

1 amendments thereto, or a subsequent order, and any other person the court
2 determines. The notice shall include a statement of the right to object to
3 the plan and shall be given at the time of the filing.

4 (c) The minor, a parent of the minor and any person entitled under
5 subsection (b) to receive notice and a copy of the guardian's plan may
6 object to the plan in writing not later than 21 days after the filing.

7 (d) The court shall review the guardian's plan filed under subsection
8 (a) and determine whether to approve the plan, modify the plan or require
9 a new plan. In deciding whether to approve the plan, the court shall
10 consider an objection under subsection (c) and whether the plan is
11 consistent with the guardian's duties and powers under sections 59 and 60,
12 and amendments thereto. The court may not approve the plan until 30 days
13 after the filing.

14 (e) After the guardian's plan filed under this section is approved by
15 the court, the guardian shall provide a copy of the plan to the minor if the
16 minor is 12 years of age or older, to any attorney representing the minor in
17 the guardianship proceeding or any other proceeding concerning the care
18 or custody of the minor identified in the petition, to each parent of the
19 minor, to any person entitled to notice under section 56(d), and
20 amendments thereto, or a subsequent order, and any other person the court
21 determines.

22 New Sec. 64. (a) On petition and after notice and hearing, the court
23 may:

24 (1) Appoint a guardian for an adult if the court finds by clear and
25 convincing evidence that:

26 (A) The respondent lacks the ability to meet essential requirements
27 for physical health, safety or self-care because the respondent is unable to
28 receive and evaluate information or make or communicate decisions, even
29 with appropriate supportive services, technological assistance or supported
30 decision making; and

31 (B) the respondent's identified needs cannot be met by a protective
32 arrangement instead of guardianship or other less restrictive alternative; or

33 (2) with appropriate findings, treat the petition as one for a
34 conservatorship under sections 83 through 118, and amendments thereto,
35 or a protective arrangement under sections 119 through 130, and
36 amendments thereto, issue any appropriate order or dismiss the
37 proceeding.

38 (b) The court shall grant a guardian appointed under subsection (a)
39 only those powers necessitated by the demonstrated needs and limitations
40 of the respondent and issue orders that will encourage development of the
41 respondent's maximum self-determination and independence. The court
42 may not establish a full guardianship if a limited guardianship, protective
43 arrangement instead of guardianship or other less restrictive alternatives

1 would meet the needs of the respondent.

2 New Sec. 65. (a) A person interested in an adult's welfare, including
3 the adult for whom the order is sought, may file a verified petition for
4 appointment of a guardian for the adult.

5 (b) A petition under subsection (a) must state the petitioner's name,
6 principal residence, current street address if different, relationship to the
7 respondent, interest in the appointment, the name and address of any
8 attorney representing the petitioner and, to the extent known, the
9 following:

10 (1) The respondent's name, age, principal residence, current street
11 address if different and address of the dwelling in which it is proposed the
12 respondent will reside if the petition is granted;

13 (2) the name and address of the respondent's:

14 (A) Spouse or, if the respondent has none, an adult with whom the
15 respondent has shared household responsibilities for more than six months
16 in the 12-month period immediately before the filing of the petition;

17 (B) adult children, adult stepchildren, adult grandchildren and each
18 parent and adult sibling of the respondent, or, if none, at least one adult
19 nearest in kinship to the respondent who can be found with reasonable
20 diligence; and

21 (C) adult former stepchildren with whom the respondent had an
22 ongoing relationship in the two-year period immediately before the filing
23 of the petition;

24 (3) the name and current address of each of the following, if
25 applicable:

26 (A) A person primarily responsible for care of the respondent;

27 (B) any attorney currently representing the respondent;

28 (C) any representative payee appointed by the social security
29 administration for the respondent;

30 (D) a guardian or conservator acting for the respondent in this state or
31 in another jurisdiction;

32 (E) a trustee or custodian of a trust or custodianship of which the
33 respondent is a beneficiary;

34 (F) any fiduciary for the respondent appointed by the department of
35 veterans affairs and any curator appointed under K.S.A. 73-507, and
36 amendments thereto;

37 (G) an agent designated under a power of attorney for healthcare in
38 which the respondent is identified as the principal;

39 (H) an agent designated under a power of attorney for finances in
40 which the respondent is identified as the principal;

41 (I) a person nominated as guardian by the respondent;

42 (J) a person nominated as guardian by the respondent's parent or
43 spouse in a will or other signed record; and

1 (K) a person known to have routinely assisted the respondent with
2 decision making during the six months immediately before the filing of the
3 petition;

4 (4) (A) The proposed guardian's name, age, date of birth, gender,
5 address, place of employment and relationship to the respondent, if any;

6 (B) the reason the proposed guardian should be selected;

7 (C) any potential conflict of interest including any personal or agency
8 interest of the proposed guardian that may be perceived as self-serving or
9 adverse to the position or best interest of the respondent; and

10 (D) whether the proposed guardian is under contract with the Kansas
11 guardianship program;

12 (5) the reason a guardianship is necessary, including a description of:

13 (A) The nature and extent of the respondent's alleged need;

14 (B) any protective arrangement instead of guardianship or other less
15 restrictive alternatives for meeting the respondent's alleged need which
16 have been considered or implemented;

17 (C) if no protective arrangement instead of guardianship or other less
18 restrictive alternatives have been considered or implemented, the reason
19 they have not been considered or implemented; and

20 (D) the reason a protective arrangement instead of guardianship or
21 other less restrictive alternative is insufficient to meet the respondent's
22 alleged need;

23 (6) whether the petitioner seeks a limited guardianship or full
24 guardianship;

25 (7) if the petitioner seeks a full guardianship, the reason a limited
26 guardianship or protective arrangement instead of guardianship is not
27 appropriate;

28 (8) if a limited guardianship is requested, the powers to be granted to
29 the guardian;

30 (9) the name and current address, if known, of any person with whom
31 the petitioner seeks to limit the respondent's contact;

32 (10) if the respondent has property other than personal effects, a
33 general statement of the respondent's property, with an estimate of its
34 value, including any insurance or pension, and the source and amount of
35 other anticipated income or receipts; and

36 (11) whether the respondent needs an interpreter, translator or other
37 form of support to communicate effectively with the court or understand
38 court proceedings.

39 New Sec. 66. (a) On filing of a petition under section 65, and
40 amendments thereto, for appointment of a guardian for an adult, the court
41 shall set a date, time and place for hearing the petition.

42 (b) A copy of a petition under section 65, and amendments thereto,
43 and notice of a hearing on the petition must be served personally on the

1 respondent. The notice must inform the respondent of the respondent's
2 rights at the hearing, including the right to an attorney and to attend the
3 hearing. The notice must include a description of the nature, purpose and
4 consequences of granting the petition. The court may not grant the petition
5 if notice substantially complying with this subsection is not served on the
6 respondent. The court may order any of the following persons to serve the
7 notice upon the respondent:

- 8 (1) The petitioner or the attorney for the petitioner;
- 9 (2) the attorney appointed by the court to represent the respondent;
- 10 (3) any law enforcement officer; or
- 11 (4) any other person whom the court finds to be a proper person to
12 serve this notice.

13 (c) In a proceeding on a petition under section 65, and amendments
14 thereto, the notice required under subsection (b) must be given to the
15 persons required to be listed in the petition under section 65(b)(1) through
16 (3), and amendments thereto, and any other person interested in the
17 respondent's welfare the court determines. Failure to give notice under this
18 subsection does not preclude the court from appointing a guardian.

19 (d) After the appointment of a guardian, notice of a hearing on a
20 petition for any other order under sections 64 through 82, and amendments
21 thereto, together with a copy of the petition, must be given to:

- 22 (1) The adult subject to guardianship;
- 23 (2) the guardian; and
- 24 (3) any other person the court determines.

25 New Sec. 67. (a) On receipt of a petition under section 65, and
26 amendments thereto, for appointment of a guardian for an adult, the court
27 may appoint a court liaison. The court liaison must be an individual with
28 training or experience in the type of abilities, limitations and needs alleged
29 in the petition.

30 (b) (1) A court liaison appointed under subsection (a) shall interview
31 the respondent in person and, in a manner the respondent is best able to
32 understand:

33 (A) Explain, in general, the petition and the nature and purpose of the
34 proceeding, including the potential loss of rights as a result of the
35 proceeding; and

36 (B) obtain the respondent's views about the appointment sought by
37 the petitioner, including views about a proposed guardian, the guardian's
38 proposed powers and duties and the scope and duration of the proposed
39 guardianship.

40 (2) These explanations and discussions are not intended to be a
41 substitute for the attorney appointed to represent the respondent to inform
42 the respondent of the respondent's rights and the nature and purpose of the
43 proceeding.

1 (c) The court liaison appointed under subsection (a) may be assigned
2 any or all of the following duties, in the discretion of the presiding judge:

3 (1) Interview the petitioner and proposed guardian, if any;

4 (2) visit the respondent's present dwelling and any dwelling in which
5 it is reasonably believed the respondent will live if the appointment is
6 made;

7 (3) obtain information from any physician or other provider known to
8 have treated, advised or assessed the respondent's relevant physical or
9 mental condition, to the extent that such information has not already been
10 provided to the court; and

11 (4) investigate the allegations in the petition and any other matter
12 relating to the petition as directed by the court, including, but not limited
13 to, the respondent's family relationships, past conduct, the nature and
14 extent of any property or income of the respondent, whether the
15 respondent is likely to injure self or others and other matters as the court
16 may specify.

17 (d) A court liaison appointed under subsection (a) shall file a report
18 with the court at least 10 days prior to the hearing on the petition, or other
19 hearing as directed by the court. Unless otherwise ordered by the court,
20 such report must include:

21 (1) A summary of self-care and independent-living tasks the
22 respondent can manage without assistance or with existing supports, could
23 manage with the assistance of appropriate supportive services,
24 technological assistance or supported decision making, and cannot
25 manage;

26 (2) a recommendation regarding the appropriateness of guardianship,
27 including whether a protective arrangement instead of guardianship or
28 other less restrictive alternative for meeting the respondent's needs is
29 available and:

30 (A) If a guardianship is recommended, whether it should be full or
31 limited; and

32 (B) if a limited guardianship is recommended, the powers to be
33 granted to the guardian;

34 (3) a statement of the qualifications of the proposed guardian and
35 whether the respondent approves or disapproves of the proposed guardian;

36 (4) a statement whether the proposed dwelling meets the respondent's
37 needs and whether the respondent has expressed a preference as to
38 residence;

39 (5) a statement whether the respondent is able to attend a hearing at
40 the location court proceedings typically are held;

41 (6) a statement whether the respondent is able to participate in a
42 hearing and which identifies any technology or other form of support that
43 would enhance the respondent's ability to participate; and

1 (7) any other matter the court directs.

2 (e) The costs of an investigation by a court liaison shall be assessed
3 as provided for in section 42, and amendments thereto.

4 New Sec. 68. (a) The court shall appoint an attorney to represent the
5 respondent, regardless of the respondent's ability to pay. The court shall
6 give preference in the appointment of an attorney to any attorney who has
7 represented the respondent in other matters if the court has knowledge of
8 that prior representation or to an attorney whom the respondent has
9 requested. Any appointment made by the court shall terminate after the
10 guardian's plan has been approved and after any appeal from the
11 appointment of a guardian, unless the court continues the appointment by
12 further order. Thereafter, an attorney may be appointed by the court if
13 requested, in writing, by the adult subject to guardianship, the guardian, or
14 upon the court's own motion.

15 (b) An attorney representing the respondent in a proceeding for
16 appointment of a guardian for an adult shall:

17 (1) Make reasonable efforts to ascertain the respondent's wishes;

18 (2) advocate for the respondent's wishes to the extent reasonably
19 ascertainable; and

20 (3) if the respondent's wishes are not reasonably ascertainable,
21 advocate for the result that is the least restrictive in type, duration and
22 scope, consistent with the respondent's interests.

23 (c) An attorney representing the respondent shall interview the
24 respondent in person and, in a manner the respondent is best able to
25 understand:

26 (1) Explain to the respondent the substance of the petition, the nature,
27 purpose and effect of the proceeding, the respondent's rights at the hearing
28 on the petition and the general powers and duties of a guardian;

29 (2) determine the respondent's views about the appointment sought by
30 the petitioner, including views about a proposed guardian, the guardian's
31 proposed powers and duties and the scope and duration of the proposed
32 guardianship; and

33 (3) inform the respondent that all costs and expenses of the
34 proceeding, including respondent's attorney fees, may be paid from the
35 respondent's assets.

36 New Sec. 69. (a) Upon the filing of the petition or any other time at
37 or before the hearing, if the contents of the petition or evidence at the
38 hearing support a prima facie case of the need for a guardian, the court
39 shall order an examination and evaluation of the respondent to be
40 conducted through a general hospital, psychiatric hospital, community
41 mental health center, community developmental disability organization or
42 by a licensed physician, psychiatrist, psychologist, physician assistant,
43 nurse practitioner, social worker or other professional appointed by the

1 court who is qualified to evaluate the respondent's alleged cognitive and
2 functional abilities and limitations and will not be advantaged or
3 disadvantaged by a decision to grant the petition or otherwise have a
4 conflict of interest.

5 (b) Unless otherwise specified by the court, the report of the
6 examination and evaluation submitted to the court shall contain:

7 (1) The respondent's name, age and date of birth;

8 (2) a description of the respondent's physical and mental condition;

9 (3) a description of the nature and extent of the respondent's cognitive
10 and functional abilities and limitations, including adaptive behaviors and
11 social skills, and, as appropriate, educational and developmental potential;

12 (4) a summary of self-care and independent-living tasks the
13 respondent can manage without assistance or with existing supports, could
14 manage with the assistance of appropriate supportive services,
15 technological assistance or supported decision making, and cannot
16 manage;

17 (5) a prognosis for any improvement and, as appropriate, any
18 recommendation for treatment or rehabilitation;

19 (6) a list and description of any prior assessments, evaluations or
20 examinations of the respondent, including the dates thereof, which were
21 relied upon in the preparation of this evaluation;

22 (7) the date and location where this examination and evaluation
23 occurred, and the name or names of the professional or professionals
24 performing the examination and evaluation and such professional's
25 qualifications;

26 (8) a statement by the professional that the professional has
27 personally completed an independent examination and evaluation of the
28 respondent, and that the report submitted to the court contains the results
29 of that examination and evaluation, and the professional's opinion with
30 regard to the issues of whether or not the respondent is in need of a
31 guardian and whether there are barriers to the respondent's attendance and
32 participation at the hearing on the petition; and

33 (9) the signature of the professional who prepared the report.

34 (c) The professional shall file with the court, at least five days prior to
35 the date of the trial, such professional's written report concerning the
36 examination and evaluation ordered by the court. The report shall be made
37 available by the court to counsel for all parties.

38 (d) In lieu of entering an order for an examination and evaluation as
39 provided for in this section, the court may determine that the report
40 accompanying the petition is in compliance with the requirements of this
41 section and that no further examination or evaluation should be required,
42 unless the respondent, or such person's attorney, requests such an
43 examination and evaluation in writing. Any such request shall be filed with

1 the court, and a copy thereof delivered to the petitioner, at least four days
2 prior to the date of the trial. Accompanying the request shall be a statement
3 of the reasons why an examination and evaluation is requested and the
4 name and address of a qualified professional or facility willing and able to
5 conduct this examination and evaluation. If the court orders a further
6 examination and evaluation, the court may continue the trial and fix a new
7 date, time and place of the trial at a time not to exceed 30 days from the
8 date of the filing of the request.

9 New Sec. 70. (a) Except as otherwise provided in subsection (b), a
10 hearing under section 66, and amendments thereto, may not proceed unless
11 the respondent attends the hearing. If it is not reasonably feasible for the
12 respondent to attend a hearing at the location court proceedings typically
13 are held, the court shall make reasonable efforts to hold the hearing at an
14 alternative location convenient to the respondent or allow the respondent
15 to attend the hearing using real-time audio-visual technology.

16 (b) A hearing under section 66, and amendments thereto, may
17 proceed without the respondent in attendance if the court finds by clear
18 and convincing evidence that:

19 (1) The respondent is choosing not to attend the hearing after having
20 been fully informed of the right to attend and the potential consequences
21 of failing to do so; or

22 (2) there is no practicable way for the respondent to attend and
23 participate in the hearing even with appropriate supportive services and
24 technological assistance.

25 (c) The respondent may be assisted in a hearing under section 66, and
26 amendments thereto, by a person or persons of the respondent's choosing,
27 assistive technology or an interpreter or translator, or a combination of
28 these supports. If assistance would facilitate the respondent's participation
29 in the hearing, but is not otherwise available to the respondent, the court
30 shall make reasonable efforts to provide it.

31 (d) The respondent has a right to retain an attorney to represent the
32 respondent at a hearing under section 66, and amendments thereto.

33 (e) At a hearing held under section 66, and amendments thereto, the
34 respondent may:

35 (1) Present evidence and subpoena witnesses and documents;

36 (2) examine witnesses, including any court-appointed evaluator and
37 the court liaison; and

38 (3) otherwise participate in the hearing.

39 (f) Unless excused by the court for good cause, a proposed guardian
40 shall attend a hearing under section 66, and amendments thereto.

41 (g) A hearing under section 66, and amendments thereto, must be
42 closed on request of the respondent and a showing of good cause.

43 (h) Any person may request to participate in a hearing under section

1 66, and amendments thereto. The court may grant the request, with or
2 without a hearing, on determining that the best interest of the respondent
3 will be served. The court may impose appropriate conditions on the
4 person's participation.

5 New Sec. 71. (a) The existence of a proceeding for or the existence of
6 a guardianship for an adult is a matter of public record unless the court
7 seals the record after:

8 (1) The respondent or individual subject to guardianship requests the
9 record be sealed; and

10 (2) either:

11 (A) The petition for guardianship is dismissed; or

12 (B) the guardianship is terminated.

13 (b) (1) The following court records are a matter of public record
14 unless sealed by the court:

15 (A) Letters of guardianship;

16 (B) orders suspending or removing a guardian; and

17 (C) orders terminating a guardianship.

18 (2) All other court records of a guardianship proceeding are not a
19 matter of public record except as further provided.

20 (3) The following persons are entitled to access court records of the
21 proceeding and resulting guardianship, including the guardian's plan under
22 section 79, and amendments thereto, and report under section 80, and
23 amendments thereto:

24 (A) An adult subject to a proceeding for a guardianship, whether or
25 not a guardian is appointed;

26 (B) an attorney designated by the adult;

27 (C) a person entitled to notice under section 73(e), and amendments
28 thereto, or a subsequent order; and

29 (D) a licensed attorney, abstractor or title insurance agent.

30 (4) A person not otherwise entitled to access court records under this
31 subsection for good cause may request permission from the court for
32 access to court records of the guardianship, including the guardian's report
33 and plan. The court shall grant access if access is in the best interest of the
34 respondent or adult subject to guardianship or furthers the public interest
35 and does not endanger the welfare or financial interests of the adult.

36 (c) A report under section 67, and amendments thereto, of a court
37 liaison or a professional evaluation under section 69, and amendments
38 thereto, is confidential and must be sealed on filing, but is available to:

39 (1) The court;

40 (2) the individual who is the subject of the report or evaluation,
41 without limitation as to use;

42 (3) the petitioner, court liaison and petitioner's and respondent's
43 attorneys, for purposes of the proceeding;

1 (4) unless the court orders otherwise, an agent appointed under a
2 power of attorney for healthcare or power of attorney for finances in which
3 the respondent is the principal; and

4 (5) any other person if it is in the public interest or for a purpose the
5 court orders for good cause.

6 New Sec. 72. (a) Except as otherwise provided in subsection (c), the
7 court in appointing a guardian for an adult shall consider persons qualified
8 to be guardian in the following order of priority:

9 (1) A guardian, other than a temporary or emergency guardian,
10 currently acting for the respondent in another jurisdiction;

11 (2) a person nominated as guardian by the respondent, including the
12 respondent's most recent nomination made in a power of attorney;

13 (3) an agent appointed by the respondent under a power of attorney
14 for healthcare;

15 (4) a spouse of the respondent;

16 (5) a family member or other individual who has shown special care
17 and concern for the respondent; and

18 (6) a person nominated as guardian by the spouse, adult child or other
19 close family member of the respondent.

20 (b) If two or more persons have equal priority under subsection (a),
21 the court shall select as guardian the person the court considers best
22 qualified. In determining the best qualified person, the court shall consider
23 the person's relationship with the respondent, the person's skills, the
24 expressed wishes of the respondent, the extent to which the person and the
25 respondent have similar values and preferences and the likelihood the
26 person will be able to perform the duties of a guardian successfully.

27 (c) The court, acting in the best interest of the respondent, may
28 decline to appoint as guardian a person having priority under subsection
29 (a) and appoint a person having a lower priority or no priority.

30 (d) In determining whether the appointment of a proposed guardian is
31 in the best interest of the respondent, the court shall consider the number
32 of other cases in which the proposed guardian, other than a corporation, is
33 currently serving as guardian, particularly if that number is more than 15.

34 (e) The following persons shall not be appointed as guardian unless
35 the court finds by clear and convincing evidence that the person is the best
36 qualified person available for appointment and the appointment is in the
37 best interest of the respondent:

38 (1) A person that provides paid services to the respondent, or an
39 individual who is employed by a person that provides paid services to the
40 respondent, or is the spouse, parent or child of an individual who provides
41 or is employed to provide paid services to the respondent;

42 (2) an owner, operator or employee of any entity at which the
43 respondent is receiving care; and

1 (3) a person who provides care or other services, or is an employee of
2 an agency, partnership or corporation that provides care or other services
3 to persons with needs similar to those of the respondent.

4 New Sec. 73. (a) A court order appointing a guardian for an adult
5 must:

6 (1) Include a specific finding that clear and convincing evidence
7 established that the identified needs of the respondent cannot be met by a
8 protective arrangement instead of guardianship or other less restrictive
9 alternative, including use of appropriate supportive services, technological
10 assistance or supported decision making; and

11 (2) include a specific finding that clear and convincing evidence
12 established the respondent was given proper notice of the hearing on the
13 petition.

14 (b) A court order establishing a full guardianship for an adult must
15 state the basis for granting a full guardianship and include specific findings
16 that support the conclusion that a limited guardianship would not meet the
17 functional needs of the adult subject to guardianship.

18 (c) A court order establishing a limited guardianship for an adult must
19 state the specific powers granted to the guardian.

20 (d) A court order appointing a guardian for an adult must include the
21 date of a review hearing to be set 90 days after the order of appointment is
22 entered. At that hearing, the court shall review the guardian's plan filed
23 pursuant to section 79, and amendments thereto.

24 (e) The court, as part of an order establishing a guardianship for an
25 adult, shall identify any person that subsequently is entitled to:

26 (1) Notice of the rights of the adult under section 74(b), and
27 amendments thereto;

28 (2) notice of a change in the primary dwelling of the adult;

29 (3) notice that the guardian will be unavailable to visit the adult for
30 more than two months or unavailable to perform the guardian's duties for
31 more than one month;

32 (4) a copy of the guardian's plan under section 79, and amendments
33 thereto, and the guardian's report under section 80, and amendments
34 thereto;

35 (5) access to court records relating to the guardianship;

36 (6) notice of the death or significant change in the condition of the
37 adult;

38 (7) notice of a petition or hearing to limit or modify the powers of the
39 guardian or that the court has limited or modified the powers of the
40 guardian; and

41 (8) notice of a petition or hearing to remove the guardian or that the
42 court has removed the guardian.

43 (f) A spouse and adult children of an adult subject to guardianship are

1 entitled to notice under subsection (e) unless the court determines notice
2 would be contrary to the preferences or prior directions of the adult subject
3 to guardianship or not in the best interest of the adult.

4 New Sec. 74. (a) Not later than 14 days after the appointment, a
5 guardian appointed under section 72, and amendments thereto, shall give
6 the adult subject to guardianship and all other persons given notice under
7 section 66, and amendments thereto, a copy of the order of appointment.

8 (b) Not later than 30 days after appointment of a guardian under
9 section 72, and amendments thereto, the court or the court's designee shall
10 give to the adult subject to guardianship, the guardian and any other person
11 entitled to notice under section 72(e), and amendments thereto, or a
12 subsequent order a statement of the rights of the adult subject to
13 guardianship and procedures to seek relief if the adult is denied those
14 rights. The statement must be in at least 16-point font, in plain language
15 and, to the extent feasible, in a language in which the adult subject to
16 guardianship is proficient. The statement must notify the adult subject to
17 guardianship of the right to:

18 (1) Seek termination or modification of the guardianship, or removal
19 of the guardian, and choose an attorney to represent the adult in these
20 matters;

21 (2) file a grievance against the guardian under section 50, and
22 amendments thereto;

23 (3) be involved in decisions affecting the adult, including decisions
24 about the adult's care, dwelling, activities or social interactions, to the
25 extent reasonably feasible, and that the adult retains the right to vote and
26 the right to marry;

27 (4) be involved in healthcare decision making to the extent
28 reasonably feasible and supported in understanding the risks and benefits
29 of healthcare options to the extent reasonably feasible;

30 (5) be notified at least 14 days before a change in the adult's primary
31 dwelling or permanent move to a nursing home, mental health facility or
32 other facility that places restrictions on the individual's ability to leave or
33 have visitors unless the change or move is proposed in the guardian's plan
34 under section 79, and amendments thereto, or authorized by the court by
35 specific order;

36 (6) object to a change or move described in paragraph (5) and the
37 process for objecting;

38 (7) communicate, visit or interact with others, including receiving
39 visitors, and making or receiving telephone calls, personal mail or
40 electronic communications, including through social media, unless:

41 (A) The guardian has been authorized by the court by specific order
42 to restrict communications, visits or interactions;

43 (B) a protective order or protective arrangement instead of

1 guardianship is in effect that limits contact between the adult and a person;
2 or

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

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

9 (ii) for a period of not more than 60 days if the person does not have
10 a family or pre-existing social relationship with the adult;

11 (8) receive a copy of the guardian's plan under section 79, and
12 amendments thereto, and the guardian's report under section 80, and
13 amendments thereto; and

14 (9) object to the guardian's plan or report.

15 (c) Any person required to provide notice under this section shall file
16 proof of service of such notice with the court.

17 New Sec. 75. (a) On its own after a petition has been filed under
18 section 65, and amendments thereto, or on verified petition by a person
19 interested in an adult's welfare, the court may appoint an emergency
20 guardian for the adult if the court finds a sufficient factual basis to
21 establish probable cause that:

22 (1) Appointment of an emergency guardian is necessary to prevent
23 imminent and substantial harm to the adult's physical health, safety or
24 welfare;

25 (2) no other person has authority and willingness to act in the
26 circumstances; and

27 (3) a basis for appointment of a guardian under section 64, and
28 amendments thereto, exists.

29 (b) The duration of authority of an emergency guardian for an adult
30 may not exceed 30 days, and the emergency guardian may exercise only
31 the powers specified in the order of appointment. The emergency
32 guardian's authority may be extended up to three times for not more than
33 30 days per extension if the court finds good cause and that the conditions
34 for appointment of an emergency guardian in subsection (a) continue.

35 (c) Immediately upon filing of a petition for appointment of an
36 emergency guardian for an adult, the court shall appoint an attorney to
37 represent the respondent in the proceeding. Except as otherwise provided
38 in subsection (d), reasonable notice of the date, time, and place of a
39 hearing on the petition must be given to the respondent, the respondent's
40 attorney and any other person the court determines.

41 (d) The court may appoint an emergency guardian for an adult
42 without notice to the adult and any attorney for the adult only if the court
43 finds from an affidavit or testimony that the respondent's physical health,

1 safety or welfare will be substantially harmed before a hearing with notice
2 on the appointment can be held. If the court appoints an emergency
3 guardian without giving notice under subsection (c), the court must:

4 (1) Give notice of the appointment not later than 48 hours after the
5 appointment to:

6 (A) The respondent;

7 (B) the respondent's attorney; and

8 (C) any other person the court determines; and

9 (2) hold a hearing on the appropriateness of the appointment not later
10 than five days after the appointment.

11 (e) Appointment of an emergency guardian under this section is not a
12 determination that a basis exists for appointment of a guardian under
13 section 64, and amendments thereto.

14 (f) The court may remove an emergency guardian appointed under
15 this section at any time. The emergency guardian shall make any report the
16 court requires.

17 New Sec. 76. (a) A guardian for an adult is a fiduciary. A guardian
18 shall strive to assure that the personal, civil and human rights of the
19 individual subject to guardianship are protected. Except as otherwise
20 limited by the court, a guardian for an adult shall make decisions regarding
21 the support, care, education, health and welfare of the adult subject to
22 guardianship to the extent necessitated by the adult's limitations and in
23 accordance with the guardian's plan under section 79, and amendments
24 thereto.

25 (b) A guardian for an adult shall promote the self-determination of the
26 adult and, to the extent reasonably feasible, include the adult in decision
27 making, and encourage the adult to participate in decisions, act on the
28 adult's own behalf, and develop or regain the capacity to manage the
29 adult's personal affairs. In furtherance of this duty, the guardian shall:

30 (1) Become or remain personally acquainted with the adult and
31 maintain sufficient contact with the adult, including through regular
32 visitation, to know the adult's abilities, limitations, needs, opportunities
33 and physical and mental health;

34 (2) to the extent reasonably feasible, identify the values and
35 preferences of the adult and involve the adult in decisions affecting the
36 adult, including decisions about the adult's care, dwelling, activities or
37 social interactions; and

38 (3) make reasonable efforts to identify and facilitate supportive
39 relationships and services for the adult.

40 (c) A guardian for an adult at all times shall exercise reasonable care,
41 diligence and prudence when acting on behalf of or making decisions for
42 the adult. In furtherance of this duty, the guardian shall:

43 (1) Take reasonable care of the personal effects and service or support

1 animals of the adult and bring a proceeding for a conservatorship or
2 protective arrangement instead of conservatorship if necessary to protect
3 the adult's property;

4 (2) if authorized by the court under section 78, and amendments
5 thereto, expend funds and other property of the adult received by the
6 guardian for the adult's current needs for support, care, education, health
7 and welfare;

8 (3) conserve any funds and other property of the adult not expended
9 under paragraph (2) for the adult's future needs, but if a conservator has
10 been appointed for the adult, pay the funds and other property at least
11 quarterly to the conservator to be conserved for the adult's future needs;
12 and

13 (4) monitor the quality of services, including long-term care services,
14 provided to the adult.

15 (d) In making a decision for an adult subject to guardianship, the
16 guardian shall make the decision the guardian reasonably believes the
17 adult would make if the adult were able unless doing so would
18 unreasonably harm or endanger the welfare or personal or financial
19 interests of the adult. To determine the decision the adult subject to
20 guardianship would make if able, the guardian shall consider the adult's
21 previous or current directions, preferences, opinions, cultural practices,
22 religious beliefs, values and actions, to the extent actually known or
23 reasonably ascertainable by the guardian.

24 (e) If a guardian for an adult cannot make a decision under subsection
25 (d) because the guardian does not know and cannot reasonably determine
26 the decision the adult probably would make if able, or the guardian
27 reasonably believes the decision the adult would make would
28 unreasonably harm or endanger the welfare or personal or financial
29 interests of the adult, the guardian shall act in accordance with the best
30 interest of the adult. In determining the best interest of the adult, the
31 guardian shall consider:

32 (1) Information received from professionals and persons that
33 demonstrate sufficient interest in the welfare of the adult;

34 (2) other information the guardian believes the adult would have
35 considered if the adult were able to act; and

36 (3) other factors a reasonable person in the circumstances of the adult
37 would consider, including consequences for others.

38 (f) A guardian for an adult shall notify the court immediately if the
39 condition of the adult has changed so that the adult is capable of exercising
40 rights previously removed.

41 New Sec. 77. (a) Except as limited by court order, a guardian for an
42 adult may:

43 (1) If authorized by the court under section 78, and amendments

1 thereto, apply for and receive funds and benefits for the support of the
2 adult, unless a conservator is appointed for the adult and the application or
3 receipt is within the powers of the conservator;

4 (2) establish the adult's place of dwelling;

5 (3) consent to health, including mental health, or other care, treatment
6 or service for the adult;

7 (4) if a conservator for the adult has not been appointed, commence a
8 proceeding including an administrative proceeding, or take other
9 appropriate action to compel another person to support the adult or pay
10 funds for the adult's benefit; and

11 (5) receive personally identifiable healthcare information regarding
12 the adult.

13 (b) The court by specific order may authorize a guardian for an adult
14 to consent to the adoption of the adult.

15 (c) The court by specific order may authorize a guardian for an adult
16 to litigate as petitioner or respondent an action for divorce, dissolution or
17 annulment of marriage of the individual subject to guardianship, including
18 negotiation of a settlement thereof.

19 (d) In determining whether to authorize a power under subsection (b)
20 or (c), the court shall consider whether the underlying act would be in
21 accordance with the adult's preferences, values and prior directions and
22 whether the underlying act would be in the adult's best interest.

23 (e) In exercising a guardian's power under subsection (a)(2) to
24 establish the adult's place of dwelling, the guardian shall:

25 (1) Select a residential setting the guardian believes the adult would
26 select if the adult were able, in accordance with the decision-making
27 standard in section 76(d) and (e), and amendments thereto. If the guardian
28 does not know and cannot reasonably determine what setting the adult
29 subject to guardianship probably would choose if able, or the guardian
30 reasonably believes the decision the adult would make would
31 unreasonably harm or endanger the welfare or personal or financial
32 interests of the adult, the guardian shall choose in accordance with section
33 76(e), and amendments thereto, a residential setting that is consistent with
34 the adult's best interest;

35 (2) in selecting among residential settings, give priority to a
36 residential setting in a location that will allow the adult to interact with
37 persons important to the adult and meet the adult's needs in the least
38 restrictive manner reasonably feasible unless to do so would be
39 inconsistent with the decision-making standard in section 76(d) and (e),
40 and amendments thereto;

41 (3) not later than 30 days after a change in the dwelling of the adult:

42 (A) Give notice of the change to the court, the adult and any person
43 identified as entitled to the notice in the court order appointing the

1 guardian or a subsequent order; and

2 (B) include in the notice the address and nature of the new dwelling
3 and state whether the adult received advance notice of the change and
4 whether the adult objected to the change;

5 (4) establish or move the permanent place of dwelling of the adult to
6 a nursing home, mental health facility or other facility that places
7 restrictions on the adult's ability to leave or have visitors only if:

8 (A) The establishment or move is in the guardian's plan under section
9 79, and amendments thereto;

10 (B) the court authorizes the establishment or move; or

11 (C) the guardian gives notice of the establishment or move at least 14
12 days before the establishment or move to the adult and all persons entitled
13 to notice under section 73(e)(2), and amendments thereto, or a subsequent
14 order, and no objection is filed;

15 (5) establish or move the place of dwelling of the adult outside this
16 state only if consistent with the guardian's plan and authorized by the court
17 by specific order; and

18 (6) take action that would result in the sale of or surrender of the lease
19 to the primary dwelling of the adult only if:

20 (A) The action is specifically included in the guardian's plan under
21 section 79, and amendments thereto;

22 (B) the court authorizes the action by specific order; or

23 (C) notice of the action was given at least 14 days before the action to
24 the adult and all persons entitled to the notice under section 73(e)(2), and
25 amendments thereto, or a subsequent order and no objection has been
26 filed.

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

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

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

35 (3) take into account:

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

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

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

43 (b) A guardian for an adult ~~may~~ **shall** not restrict the ability of the

1 adult to communicate, visit or interact with others, including receiving
2 visitors and making or receiving telephone calls, personal mail or
3 electronic communications, including through social media, or
4 participating in social activities, unless:

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

6 (2) a protective order or a protective arrangement instead of
7 guardianship is in effect that limits contact between the adult and a person;
8 or

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

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

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

16 (c) A guardian for an adult ~~may~~ **shall** not consent, on behalf of the
17 adult, to:

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

23 (2) the sterilization of the adult, unless approved by the court
24 following a due process hearing held for the purposes of determining
25 whether to approve such, and during which hearing the adult is represented
26 by an attorney appointed by the court;

27 (3) the performance of any experimental biomedical or behavioral
28 procedure on the adult, or for the adult to be a participant in any
29 biomedical or behavioral experiment, without the prior review and
30 approval of such by either an institutional review board as provided for in
31 title 45, part 46 of the code of federal regulations, or if such regulations do
32 not apply, then by a review committee established by the agency,
33 institution or treatment facility at which the procedure or experiment is
34 proposed to occur, composed of members selected for the purposes of
35 determining whether the proposed procedure or experiment:

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

40 (B) involves a significant risk of harm to the physical or mental
41 health of the adult, or the use of an aversive stimulant, but that the
42 conducting of the proposed procedure or experiment is intended either to
43 preserve the life of the adult, or to significantly improve the quality of life

1 of the adult, or to assist the adult to develop or regain significant skills or
2 abilities, and that the guardian has been fully informed concerning the
3 potential risks and benefits of the proposed procedure or experiment or of
4 any aversive stimulant proposed to be used, and as to how and under what
5 circumstances the aversive stimulant may be used, and has specifically
6 consented to such;

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

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

12 (B) if the adult, prior to the court's appointment of a guardian, has
13 executed a durable power of attorney for healthcare decisions pursuant to
14 K.S.A. 58-625, et seq., and amendments thereto, and that durable power of
15 attorney has not previously been revoked by the adult, and it includes any
16 provision relevant to the withholding or withdrawal of life-saving or life-
17 sustaining medical care, treatment, services or procedures, then the
18 guardian shall ~~have the authority to~~ act as provided for in that power of
19 attorney, even if the guardian has revoked or amended that power of
20 attorney pursuant to the authority of K.S.A. 58-627, and amendments
21 thereto; or

22 (C) ~~in the circumstances where the adult's treating physician certifies~~
23 ~~in writing to the guardian that the adult is in a persistent vegetative state or~~
24 ~~is suffering from an illness or other medical condition for which further~~
25 ~~treatment, other than for the relief of pain, would not likely prolong the life~~
26 ~~of the adult other than by artificial means, nor would be likely to restore to~~
27 ~~the adult any significant degree of capabilities beyond those the adult~~
28 ~~currently possesses, and which opinion is concurred in by either a second~~
29 ~~physician or by any medical ethics or similar committee to which the~~
30 ~~healthcare provider has access established for the purposes of reviewing~~
31 ~~such circumstances and the appropriateness of any type of physician's~~
32 ~~order which would have the effect of withholding or withdrawing life-~~
33 ~~saving or life-sustaining medical care, treatment, services or procedures.~~
34 ~~The court shall review the written certification within 72 hours at a due~~
35 ~~process hearing during which the adult is represented by an attorney~~
36 ~~appointed by the court. The court may request that the state protection and~~
37 ~~advocacy agency as provided by K.S.A. 65-5603(a)(10) or K.S.A. 74-~~
38 ~~5515(a)(2)(A) and (B), and amendments thereto, or 42 U.S.C. 15043, 42~~
39 ~~U.S.C. 10805 or 29 U.S.C. 794c represent the adult. Upon completion of~~
40 ~~the hearing, if the court finds by clear and convincing evidence that the~~
41 ~~adult meets the conditions set forth in this section, the court shall approve~~
42 ~~the written certification. If the court does not find by clear and convincing~~
43 ~~evidence that the adult meets the conditions set forth in this section, then~~

1 ~~the written certification shall not be approved in accordance with~~
2 ~~subsection (d) or (e).~~

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

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

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

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

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

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

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

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

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

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

43 (i) The provision of nutrition or hydration or both to the adult

1 would hasten death; or

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

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

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

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

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

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

17 (ii) a current healthcare provider of the adult;

18 (iii) the guardian of the adult;

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

22 (v) a public official with appropriate jurisdiction to enforce the
23 laws of this state.

24 (C) Pending the final determination of the court, the court shall
25 direct that nutrition or hydration or both be provided to such adult
26 unless the court determines that paragraph (3)(A) is applicable.

27 (e) (1) No court, guardian or any person shall have the authority
28 to make a decision on behalf of an adult who is legally incapable of
29 making healthcare decisions to withhold or withdraw life-saving or
30 life-sustaining medical care, treatment, services or procedures from
31 such adult except if:

32 (A) The adult, when legally capable of making healthcare
33 decisions, executed, expressly and with informed consent, a written
34 directive specifically authorizing the withholding or withdrawing of
35 life-saving or life-sustaining medical care, treatment, services or
36 procedures from such adult under the adult's current circumstances.
37 Such directive shall include, but not be limited to, a declaration or a
38 durable power of attorney for healthcare decisions described in
39 subsection (c)(4); or

40 (B) (i) The adult's treating physician certifies in writing to the
41 guardian that the adult is suffering from a severe illness and that life-
42 sustaining medical care is objectively futile and would only prolong
43 the dying process; and

1 (ii) such opinion is concurred in by either a second physician or
2 by any medical ethics or similar committee to which the healthcare
3 provider has access established for the purposes of reviewing such
4 circumstances and the appropriateness of any type of physician's
5 order that would have the effect of withholding or withdrawing life-
6 saving or life-sustaining medical care.

7 (2) (A) Prior to withholding or withdrawal of life-saving or life-
8 sustaining medical care, treatment, services or procedures under
9 paragraph (1)(B), a motion shall be filed with the court with the
10 written certification from the adult's treating physician.

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

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

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

22 (E) The court shall not authorize withholding or withdrawal of
23 life-saving or life-sustaining medical care, treatment, services or
24 procedures unless the court finds by clear and convincing evidence
25 that:

26 (i) The adult is suffering from a severe illness and that life-
27 sustaining medical care is objectively futile and would only prolong
28 the dying process; and

29 (ii) such opinion is concurred in by either a second physician or
30 by any medical ethics or similar committee to which the healthcare
31 provider has access established for the purposes of reviewing such
32 circumstances and the appropriateness of any type of physician's
33 order that would have the effect of withholding or withdrawing life-
34 saving or life-sustaining medical care.

35 (f) A guardian for an adult ~~may~~ shall not exercise any control or
36 authority over the adult's estate, unless specifically authorized by the court.
37 Any guardian who is granted such authority ~~must~~ shall prepare an
38 inventory and provide notice of the inventory as provided in section 104,
39 and amendments thereto. The court may assign such authority to the
40 guardian and may waive the requirement of the posting of a bond, only if:

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

43 (2) either the court requires the guardian to report to the court the

1 commencement of the exercising of such authority, or requires the
2 guardian to obtain court authorization to commence the exercise of such
3 authority, as the court shall specify; and

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

6 (A) File a guardian's plan as provided for in section 79, and
7 amendments thereto, that contains elements similar to those that would be
8 contained in a conservator's plan as provided for in section 103, and
9 amendments thereto;

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

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

15 ~~(e)(g)~~ A guardian for an adult ~~may~~ **shall** not access digital assets of
16 the adult ~~except if~~ **unless** authorized by the court pursuant to K.S.A. 2024
17 Supp. 58-4814, and amendments thereto.

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

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

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

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

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

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

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

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

41 (b) A guardian shall give notice of the filing of the guardian's plan
42 under subsection (a), together with a copy of the plan, to the adult subject
43 to guardianship, any attorney representing the adult subject to

1 guardianship, a person entitled to notice under section 73(e), and
2 amendments thereto, or a subsequent order, and any other person the court
3 determines. The notice must include a statement of the right to object to
4 the plan and must be given at the time of the filing.

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

8 (d) The court shall review the guardian's plan filed under subsection
9 (a) and determine whether to approve the plan or require a new plan. In
10 deciding whether to approve the plan, the court shall consider an objection
11 under subsection (c) and whether the plan is consistent with the guardian's
12 duties and powers under sections 76 and 77, and amendments thereto. The
13 court shall review an initial guardian's plan at the review hearing
14 scheduled under section 73(b), and amendments thereto. When reviewing
15 subsequent guardian's plans, the court has discretion whether to set the
16 matter for hearing but may not approve the plan until 30 days after the
17 filing.

18 (e) After the guardian's plan filed under this section is approved by
19 the court, the guardian shall provide a copy of the plan to the adult subject
20 to guardianship, any attorney representing the adult subject to
21 guardianship, a person entitled to notice under section 73(e), and
22 amendments thereto, or a subsequent order, and any other person the court
23 determines.

24 New Sec. 80. (a) A guardian for an adult shall file with the court at
25 least annually and at any other time the court directs a report in a record
26 regarding the condition of the adult and accounting for funds and other
27 property in the guardian's possession or subject to the guardian's control.

28 (b) A report under subsection (a) must state or contain:

29 (1) The mental, physical and social condition of the adult;

30 (2) the living arrangements of the adult during the reporting period;

31 (3) a summary of the supported decision making, technological
32 assistance, medical services, educational and vocational services and other
33 supports and services provided to the adult and the guardian's opinion as to
34 the adequacy of the adult's care;

35 (4) a summary of the guardian's visits with the adult, including the
36 frequency of the visits;

37 (5) action taken on behalf of the adult;

38 (6) the extent to which the adult has participated in decision making;

39 (7) if the adult is living in a mental health facility or living in a
40 facility that provides the adult with healthcare or other personal services,
41 whether the guardian considers the facility's current plan for support, care,
42 treatment or habilitation consistent with the adult's preferences, values,
43 prior directions and best interest;

1 (8) anything of more than de minimis value which the guardian, any
2 individual who resides with the guardian, or the spouse, parent, child or
3 sibling of the guardian has received from an individual providing goods or
4 services to the adult;

5 (9) any circumstance that may constitute a conflict of interest
6 between the guardian and the adult. A conflict of interest occurs where the
7 guardian has some personal, business or agency interest that could be
8 perceived as self-serving or adverse to the position or best interest of the
9 adult, including, but not limited to, being paid for providing caregiver
10 services to the adult;

11 (10) if a guardian has been granted financial authority under section
12 ~~78(e)~~ **78(e)**, and amendments thereto, an accounting that lists property
13 included in the adult's estate and the receipts, disbursements, liabilities and
14 distributions during the period for which the report is made;

15 (11) a copy of the guardian's most recently approved plan under
16 section 79, and amendments thereto, and a statement whether the guardian
17 has deviated from the plan and, if so, how the guardian has deviated and
18 why;

19 (12) plans for future care and support of the adult;

20 (13) a recommendation as to the need for continued guardianship and
21 any recommended change in the scope of the guardianship, including
22 whether the condition of the adult has changed so that the adult is capable
23 of exercising rights previously removed; and

24 (14) whether any co-guardian or successor guardian appointed to
25 serve when a designated event occurs is alive and able to serve.

26 (c) A guardian for an adult shall file a special report with the court
27 upon the occurrence of any of the following:

28 (1) A change of address of the guardian;

29 (2) a change of residence or placement of the adult;

30 (3) a significant change in the health or impairment of the adult;

31 (4) the acquisition by the adult of any real property, or the receipt or
32 accumulation of other property or income by the adult or by the guardian
33 on behalf of the adult, which causes the total value of the adult's estate to
34 equal or exceed \$25,000;

35 (5) the death of the adult; or

36 (6) a change in the circumstances of the guardian or the adult that
37 may constitute a conflict of interest. A conflict of interest occurs where the
38 guardian has some personal, business or agency interest that could be
39 perceived as self-serving or adverse to the position or best interest of the
40 adult.

41 (d) The court may appoint a court liaison to review a report submitted
42 under this section or a guardian's plan submitted under section 79, and
43 amendments thereto, interview the guardian or adult subject to

1 guardianship or investigate any other matter involving the guardianship.

2 (e) Notice of the filing under this section of a guardian's report or
3 special report, together with a copy of the report, must be given to the
4 adult subject to guardianship, a person entitled to notice under section
5 73(e), and amendments thereto, or a subsequent order, and any other
6 person the court determines. The notice and report must be given not later
7 than 14 days after the filing.

8 (f) The court shall establish procedures for monitoring a report
9 submitted under this section and review each report at least annually to
10 determine whether:

11 (1) The report provides sufficient information to establish the
12 guardian has complied with the guardian's duties;

13 (2) the guardianship should continue; and

14 (3) the guardian's requested fees, if any, should be approved.

15 (g) If the court determines that there is reason to believe a guardian
16 for an adult has not complied with the guardian's duties or the
17 guardianship should be modified or terminated, the court:

18 (1) Shall notify the adult, the guardian and any other person entitled
19 to notice under section 73(e), and amendments thereto, or a subsequent
20 order;

21 (2) may require additional information from the guardian;

22 (3) may appoint a court liaison to interview the adult or guardian or
23 investigate any matter involving the guardianship; and

24 (4) consistent with sections 81 and 82, and amendments thereto, may
25 hold a hearing to consider removal of the guardian, termination of the
26 guardianship or a change in the powers granted to the guardian or terms of
27 the guardianship.

28 (h) If the court has reason to believe fees requested by a guardian for
29 an adult are not reasonable, the court shall hold a hearing to determine
30 whether to adjust the requested fees.

31 (i) A guardian for an adult may petition the court for approval of a
32 report filed under this section. The court after review may approve the
33 report. If the court approves the report, there is a rebuttable presumption
34 the report is accurate as to a matter adequately disclosed in the report.

35 New Sec. 81. (a) The court may remove a guardian for an adult for
36 failure to perform the guardian's duties or for other good cause and appoint
37 a successor guardian to assume the duties of guardian.

38 (b) The court shall hold a hearing to determine whether to remove a
39 guardian for an adult and appoint a successor guardian on:

40 (1) Petition of the adult, guardian or person interested in the welfare
41 of the adult, which contains allegations that, if true, would support a
42 reasonable belief that removal of the guardian and appointment of a
43 successor guardian may be appropriate, but the court may decline to hold a

1 hearing if a petition based on the same or substantially similar facts was
2 filed during the preceding six months;

3 (2) communication from the adult, guardian or person interested in
4 the welfare of the adult which supports a reasonable belief that removal of
5 the guardian and appointment of a successor guardian may be appropriate;

6 (3) determination by the court that a hearing would be in the best
7 interest of the adult; or

8 (4) determination by the court that the guardian's annual reports are
9 delinquent or deficient as filed.

10 (c) Notice of a petition under subsection (b)(1) or a hearing under this
11 section must be given to the adult subject to guardianship, the guardian, a
12 person entitled to notice under section 73(e), and amendments thereto, or a
13 subsequent order, and any other person the court determines.

14 (d) If the adult subject to guardianship is not represented by an
15 attorney, the court shall appoint an attorney under the same conditions as
16 in section 68, and amendments thereto. The court shall award reasonable
17 attorney fees to the attorney for the adult as provided in section 42, and
18 amendments thereto.

19 (e) In selecting a successor guardian for an adult, the court shall
20 follow the priorities under section 72, and amendments thereto.

21 (f) Not later than 30 days after appointing a successor guardian, the
22 court or the court's designee shall give notice of the appointment to the
23 adult subject to guardianship and any person entitled to notice under
24 section 73(e), and amendments thereto, or a subsequent order.

25 New Sec. 82. (a) An adult subject to guardianship, the guardian for
26 the adult or a person interested in the welfare of the adult may petition for:

27 (1) Termination of the guardianship on the ground that a basis for
28 appointment under section 64, and amendments thereto, does not exist or
29 termination would be in the best interest of the adult or for other good
30 cause; or

31 (2) modification of the guardianship on the ground that the extent of
32 protection or assistance granted is not appropriate or for other good cause.

33 (b) The court shall hold a hearing to determine whether termination
34 or modification of a guardianship for an adult is appropriate on:

35 (1) Petition under subsection (a) which contains allegations that, if
36 true, would support a reasonable belief that termination or modification of
37 the guardianship may be appropriate, but the court may decline to hold a
38 hearing if a petition based on the same or substantially similar facts was
39 filed during the preceding six months;

40 (2) communication from the adult, guardian or person interested in
41 the welfare of the adult which supports a reasonable belief that termination
42 or modification of the guardianship may be appropriate, including because
43 the functional needs of the adult or supports or services available to the

1 adult have changed;

2 (3) a report from a guardian or conservator which indicates that
3 termination or modification may be appropriate because the functional
4 needs of the adult or supports or services available to the adult have
5 changed or a protective arrangement instead of guardianship or other less
6 restrictive alternative for meeting the adult's needs is available; or

7 (4) a determination by the court that a hearing would be in the best
8 interest of the adult.

9 (c) Notice of a petition under subsection (b)(1) or of a hearing under
10 this section must be given to the adult subject to guardianship, the
11 guardian, a person entitled to notice under section 73(e), and amendments
12 thereto, or a subsequent order, and any other person the court determines.

13 (d) After the hearing, the court shall order termination unless it is
14 proven that a basis for appointment of a guardian under section 64, and
15 amendments thereto, continues to exist.

16 (e) The court shall modify the powers granted to a guardian for an
17 adult if the powers are excessive or inadequate due to a change in the
18 abilities or limitations of the adult, the adult's supports or other
19 circumstances.

20 (f) Unless the court otherwise orders for good cause, before
21 terminating or modifying a guardianship for an adult, the court shall
22 follow the same procedures to safeguard the rights of the adult which
23 apply to a petition for guardianship.

24 (g) An adult subject to guardianship who seeks to terminate or
25 modify the terms of the guardianship has the right to choose an attorney to
26 represent the adult in the matter. If the adult is not represented by an
27 attorney, the court shall appoint an attorney under the same conditions as
28 in section 68, and amendments thereto. The court shall award reasonable
29 attorney fees to the attorney for the adult as provided in section 42, and
30 amendments thereto.

31 (h) Not later than 30 days after entering an order under this section,
32 the court or the court's designee shall give notice of the order to the adult
33 subject to guardianship and any person entitled to notice under section
34 73(e), and amendments thereto, or a subsequent order.

35 New Sec. 83. (a) On petition and after notice and hearing, the court
36 may appoint a conservator for the property or financial affairs of a minor if
37 the court finds by a preponderance of evidence that the minor owns funds
38 or other property exceeding \$25,000 in value derived from court
39 settlements, death transfers or sources other than the minor's employment
40 earnings or accounts established under the uniform transfers to minors act,
41 and either:

42 (1) The minor owns funds or other property requiring management or
43 protection that otherwise cannot be provided;

1 (2) the minor has or may have financial affairs that may be put at
2 unreasonable risk or hindered because of the minor's age; or

3 (3) appointment is necessary or desirable to obtain or provide funds
4 or other property needed for the support, care, education, health or welfare
5 of the minor.

6 (b) On petition and after notice and hearing, the court may appoint a
7 conservator for the property or financial affairs of an adult if the court
8 finds by clear and convincing evidence that:

9 (1) The adult is unable to manage property or financial affairs
10 because:

11 (A) Of a limitation in the adult's ability to receive and evaluate
12 information or make or communicate decisions, even with the use of
13 appropriate supportive services, technological assistance or supported
14 decision making; or

15 (B) the adult is missing, detained or unable to return to the United
16 States;

17 (2) appointment is necessary to:

18 (A) Avoid harm to the adult or significant dissipation of the property
19 of the adult; or

20 (B) obtain or provide funds or other property needed for the support,
21 care, education, health or welfare of the adult or of an individual entitled to
22 the adult's support; and

23 (3) the adult's identified needs cannot be met by a protective
24 arrangement instead of conservatorship or other less restrictive alternative.

25 (c) The court shall grant a conservator only those powers necessitated
26 by demonstrated limitations and needs of the adult and issue orders that
27 will encourage development of the adult's maximum self-determination
28 and independence. The court may not establish a full conservatorship if a
29 limited conservatorship, protective arrangement instead of conservatorship
30 or other less restrictive alternative would meet the needs of the adult.

31 New Sec. 84. (a) The following may file a verified petition for the
32 appointment of a conservator:

33 (1) The individual for whom the order is sought;

34 (2) a person interested in the estate, financial affairs or welfare of the
35 individual, including a person that would be adversely affected by lack of
36 effective management of property or financial affairs of the individual; or

37 (3) the guardian for the individual.

38 (b) A petition under subsection (a) must state the petitioner's name,
39 principal residence, current street address if different, relationship to the
40 respondent, interest in the appointment, the name and address of any
41 attorney representing the petitioner and, to the extent known, the
42 following:

43 (1) The respondent's name, age, principal residence, current street

- 1 address if different and, if different, address of the dwelling in which it is
2 proposed the respondent will reside if the petition is granted;
- 3 (2) the name and address of the respondent's:
- 4 (A) Spouse or, if the respondent has none, an adult with whom the
5 respondent has shared household responsibilities for more than six months
6 in the 12-month period before the filing of the petition;
- 7 (B) adult children, adult stepchildren, adult grandchildren and each
8 parent and adult sibling of the respondent, or, if none, at least one adult
9 nearest in kinship to the respondent who can be found with reasonable
10 diligence; and
- 11 (C) adult former stepchildren with whom the respondent had an
12 ongoing relationship during the two years immediately before the filing of
13 the petition;
- 14 (3) the name and current address of each of the following, if
15 applicable:
- 16 (A) A person primarily responsible for the care or custody of the
17 respondent;
- 18 (B) any attorney currently representing the respondent;
- 19 (C) the representative payee appointed by the social security
20 administration for the respondent;
- 21 (D) a guardian or conservator acting for the respondent in this state or
22 another jurisdiction;
- 23 (E) a trustee or custodian of a trust or custodianship of which the
24 respondent is a beneficiary;
- 25 (F) the fiduciary appointed for the respondent by the department of
26 veterans affairs and any curator appointed under K.S.A. 73-507, and
27 amendments thereto;
- 28 (G) an agent designated under a power of attorney for healthcare in
29 which the respondent is identified as the principal;
- 30 (H) an agent designated under a power of attorney for finances in
31 which the respondent is identified as the principal;
- 32 (I) a person known to have routinely assisted the respondent with
33 decision making in the six-month period immediately before the filing of
34 the petition; and
- 35 (J) if the individual for whom a conservator is sought is a minor:
- 36 (i) An adult not otherwise listed with whom the minor resides; and
37 (ii) each person not otherwise listed that had primary care or custody
38 of the minor for at least 60 days during the two years immediately before
39 the filing of the petition or for at least 730 days during the five years
40 immediately before the filing of the petition;
- 41 (4) (A) The name, age, date of birth, gender, address, place of
42 employment and relationship to the respondent, if any, of the proposed
43 conservator;

1 (B) the reason the proposed conservator should be selected; and

2 (C) any potential conflict of interest including any personal or agency
3 interest of the proposed conservator that may be perceived as self-serving
4 or adverse to the position or best interest of the respondent;

5 (5) a general statement of the respondent's property with an estimate
6 of its value, including any insurance or pension, and the source and
7 amount of other anticipated income or receipts;

8 (6) the reason conservatorship is necessary, including a description
9 of:

10 (A) The nature and extent of the respondent's alleged need;

11 (B) if the petition alleges the respondent is missing, detained or
12 unable to return to the United States, the relevant circumstances, including
13 the time and nature of the disappearance or detention and any search or
14 inquiry concerning the respondent's whereabouts;

15 (C) any protective arrangement instead of conservatorship or other
16 less restrictive alternative for meeting the respondent's alleged need which
17 has been considered or implemented;

18 (D) if no protective arrangement or other less restrictive alternatives
19 have been considered or implemented, the reason it has not been
20 considered or implemented; and

21 (E) the reason a protective arrangement or other less restrictive
22 alternative is insufficient to meet the respondent's need;

23 (7) whether the petitioner seeks a limited conservatorship or a full
24 conservatorship;

25 (8) if the petitioner seeks a full conservatorship, the reason a limited
26 conservatorship or protective arrangement instead of conservatorship is
27 not appropriate;

28 (9) if the petition is for a limited conservatorship, a description of the
29 property to be placed under the conservator's control and any requested
30 limitation on the authority of the conservator;

31 (10) whether the respondent needs an interpreter, translator or other
32 form of support to communicate effectively with the court or understand
33 court proceedings; and

34 (11) the name and address of an attorney representing the petitioner,
35 if any.

36 New Sec. 85. (a) On filing of a petition under section 84, and
37 amendments thereto, for appointment of a conservator, the court shall set a
38 date, time and place for a hearing on the petition.

39 (b) A copy of a petition under section 84, and amendments thereto,
40 and notice of a hearing on the petition must be served personally on the
41 respondent. If the respondent's whereabouts are unknown or personal
42 service cannot be made, service on the respondent must be made by
43 substituted service, as ordered by the court. The notice must inform the

1 respondent of the respondent's rights at the hearing, including the right to
2 an attorney and to attend the hearing. The notice must include a
3 description of the nature, purpose and consequences of granting the
4 petition. The court may not grant a petition for appointment of a
5 conservator if notice substantially complying with this subsection is not
6 served on the respondent. The court may order any of the following
7 persons to serve the notice upon the respondent:

- 8 (1) The petitioner or the attorney for the petitioner;
- 9 (2) the attorney appointed by the court to represent the respondent;
- 10 (3) any law enforcement officer; or
- 11 (4) any other person whom the court finds to be a proper person to
12 serve this notice.

13 (c) In a proceeding on a petition under section 84, and amendments
14 thereto, the notice required under subsection (b) must be given to the
15 persons required to be listed in the petition under section 84(b)(1) through
16 (3), and amendments thereto, and any other person interested in the
17 respondent's welfare the court determines. Failure to give notice under this
18 subsection does not preclude the court from appointing a conservator.

19 (d) After the appointment of a conservator, notice of a hearing on a
20 petition for any other order under sections 83 through 118, and
21 amendments thereto, together with a copy of the petition, must be given to:

- 22 (1) The individual subject to conservatorship, if the individual is 12
23 years of age or older and not missing, detained or unable to return to the
24 United States;
- 25 (2) the conservator; and
- 26 (3) any other person the court determines.

27 New Sec. 86. While a petition under section 84, and amendments
28 thereto, is pending, after preliminary hearing and without notice to others,
29 the court may issue an order to preserve and apply property of the
30 respondent as required for the support of the respondent or an individual
31 who is in fact dependent on the respondent. The court may appoint an
32 emergency conservator to assist in implementing the order.

33 New Sec. 87. (a) If the respondent in a proceeding to appoint a
34 conservator is a minor, the court may appoint a court liaison to investigate
35 a matter related to the petition or inform the minor or a parent of the minor
36 about the petition or a related matter.

37 (b) If the respondent in a proceeding to appoint a conservator is an
38 adult, the court may appoint a court liaison. The duties and reporting
39 requirements of the court liaison are limited to the relief requested in the
40 petition. The court liaison must be an individual with training or
41 experience in the type of abilities, limitations and needs alleged in the
42 petition.

- 43 (c) (1) A court liaison appointed under subsection (b) for an adult

1 shall interview the respondent in person and in a manner the respondent is
2 best able to understand:

3 (A) Explain, in general, the petition, and the nature and purpose of
4 the proceeding, including the potential loss of rights as a result of the
5 proceeding; and

6 (B) obtain the respondent's views about the appointment sought by
7 the petitioner, including views about a proposed conservator, the
8 conservator's proposed powers and duties and the scope and duration of
9 the proposed conservatorship.

10 (2) These explanations and discussions are not intended to be a
11 substitute for the attorney appointed to represent the respondent to inform
12 the respondent of the respondent's rights and the nature and purpose of the
13 proceeding.

14 (d) A court liaison appointed under subsection (b) for an adult may be
15 assigned any or all of the following duties, in the discretion of the
16 presiding judge:

17 (1) Interview the petitioner and proposed conservator, if any;

18 (2) review financial records of the respondent, if relevant to the court
19 liaison's recommendation under subsection (e)(1);

20 (3) investigate whether the respondent's needs could be met by a
21 protective arrangement instead of conservatorship or other less restrictive
22 alternative and, if so, identify the arrangement or other less restrictive
23 alternative; and

24 (4) investigate the allegations in the petition and any other matter
25 relating to the petition as directed by the court, including, but not limited
26 to, the respondent's family relationships, past conduct, the nature and
27 extent of any property or income of the respondent, whether the
28 respondent is likely to injure self or others and other matters as the court
29 may specify.

30 (e) A court liaison appointed under subsection (b) for an adult shall
31 file a report with the court at least 10 days prior to the hearing on the
32 petition or other hearing as directed by the court. Unless otherwise ordered
33 by the court, such report must include:

34 (1) A recommendation:

35 (A) Regarding the appropriateness of conservatorship, or whether a
36 protective arrangement instead of conservatorship or other less restrictive
37 alternative for meeting the respondent's needs is available;

38 (B) if a conservatorship is recommended, whether it should be full or
39 limited; and

40 (C) if a limited conservatorship is recommended, the powers to be
41 granted to the conservator, and the property that should be placed under
42 the conservator's control;

43 (2) a statement of the qualifications of the proposed conservator and

1 whether the respondent approves or disapproves of the proposed
2 conservator;

3 (3) a statement whether the respondent is able to attend a hearing at
4 the location court proceedings typically are held;

5 (4) a statement whether the respondent is able to participate in a
6 hearing and which identifies any technology or other form of support that
7 would enhance the respondent's ability to participate; and

8 (5) any other matter the court directs.

9 (d) The costs of an investigation by a court liaison shall be assessed
10 as provided for in section 42, and amendments thereto.

11 New Sec. 88. (a) Unless the respondent in a proceeding for
12 appointment of a conservator is represented by an attorney, the court shall
13 appoint an attorney to represent the respondent, regardless of the
14 respondent's ability to pay. The court shall give preference in the
15 appointment of an attorney to any attorney who has represented the
16 respondent in other matters if the court has knowledge of that prior
17 representation or to an attorney whom the respondent has requested. Any
18 appointment made by the court shall terminate after the conservator's plan
19 has been approved and after any appeal from the appointment of a
20 conservator, unless the court continues the appointment by further order.
21 Thereafter, an attorney may be appointed by the court if requested, in
22 writing, by the adult subject to conservatorship, the conservator or upon
23 the court's own motion.

24 (b) An attorney representing the respondent in a proceeding for
25 appointment of a conservator shall:

26 (1) Make reasonable efforts to ascertain the respondent's wishes;

27 (2) advocate for the respondent's wishes to the extent reasonably
28 ascertainable; and

29 (3) if the respondent's wishes are not reasonably ascertainable,
30 advocate for the result that is the least-restrictive in type, duration and
31 scope, consistent with the respondent's interests.

32 (c) An attorney representing the respondent shall interview the
33 respondent in person and, in a manner the respondent is best able to
34 understand:

35 (1) Explain to the respondent the substance of the petition, the nature,
36 purpose and effect of the proceeding, the respondent's rights at the hearing
37 on the petition and the general powers and duties of a conservator;

38 (2) determine the respondent's views about the appointment sought by
39 the petitioner, including views about a proposed conservator, the
40 conservator's proposed powers and duties and the scope and duration of
41 the proposed conservatorship; and

42 (3) inform the respondent that all costs and expenses of the
43 proceeding, including respondent's attorney fees, may be paid from the

1 respondent's assets.

2 (d) The court shall appoint an attorney to represent a parent of a
3 minor who is the subject of a proceeding under section 84, and
4 amendments thereto, if the court determines the parent needs
5 representation.

6 New Sec. 89. (a) Upon the filing of the petition or any other time at
7 or before the hearing, if the contents of the petition or evidence at the
8 hearing support a prima facie case of the need for a conservator, the court
9 shall order an examination and evaluation of the respondent to be
10 conducted through a general hospital, psychiatric hospital, community
11 mental health center or community developmental disability organization,
12 or by a licensed physician, psychiatrist, psychologist, physician assistant,
13 nurse practitioner, social worker or other professional appointed by the
14 court who is qualified to evaluate the respondent's alleged cognitive and
15 functional abilities and limitations and will not be advantaged or
16 disadvantaged by a decision to grant the petition or otherwise have a
17 conflict of interest.

18 (b) Unless otherwise specified by the court, the report of the
19 examination and evaluation submitted to the court shall contain:

20 (1) The respondent's name, age and date of birth;

21 (2) a description of the respondent's physical and mental condition;

22 (3) a description of the nature and extent of the respondent's cognitive
23 and functional abilities and limitations, including adaptive behaviors and
24 social skills, and, as appropriate, educational and developmental potential;

25 (4) a prognosis for any improvement and, as appropriate, any
26 recommendation for treatment or rehabilitation;

27 (5) a list and description of any prior assessments, evaluations or
28 examinations of the respondent, including the dates thereof, which were
29 relied upon in the preparation of this evaluation;

30 (6) the date and location where this examination and evaluation
31 occurred, and the name or names of the professional or professionals
32 performing the examination and evaluation and such professional's
33 qualifications;

34 (7) a statement by the professional that the professional has
35 personally completed an independent examination and evaluation of the
36 respondent, and that the report submitted to the court contains the results
37 of that examination and evaluation, and the professional's opinion with
38 regard to the issues of whether or not the respondent is in need of a
39 conservator and whether there are barriers to the respondent's attendance
40 and participation at the hearing on the petition; and

41 (8) the signature of the professional who prepared the report.

42 (c) The professional shall file with the court, at least five days prior to
43 the date of the trial, such professional's written report concerning the

1 examination and evaluation ordered by the court. The report shall be made
2 available by the court to counsel for all parties.

3 (d) In lieu of entering an order for an examination and evaluation as
4 provided for in this section, the court may determine that the report
5 accompanying the petition is in compliance with the requirements of this
6 section and that no further examination or evaluation should be required,
7 unless the respondent, or such person's attorney, requests such an
8 examination and evaluation in writing. Any such request shall be filed with
9 the court, and a copy thereof delivered to the petitioner, at least four days
10 prior to the date of the trial. Accompanying the request shall be a statement
11 of the reasons why an examination and evaluation is requested and the
12 name and address of a qualified professional or facility willing and able to
13 conduct this examination and evaluation. If the court orders a further
14 examination and evaluation, the court may continue the trial and fix a new
15 date, time and place of the trial at a time not to exceed 30 days from the
16 date of the filing of the request.

17 New Sec. 90. (a) Except as otherwise provided in subsection (b), a
18 hearing under section 85, and amendments thereto, may not proceed unless
19 the respondent attends the hearing. If it is not reasonably feasible for the
20 respondent to attend a hearing at the location court proceedings typically
21 are held, the court shall make reasonable efforts to hold the hearing at an
22 alternative location convenient to the respondent or allow the respondent
23 to attend the hearing using real-time audio-visual technology.

24 (b) A hearing under section 85, and amendments thereto, may
25 proceed without the respondent in attendance if the court finds by clear
26 and convincing evidence that:

27 (1) The respondent is choosing not to attend the hearing after having
28 been fully informed of the right to attend and the potential consequences
29 of failing to do so;

30 (2) there is no practicable way for the respondent to attend and
31 participate in the hearing even with appropriate supportive services or
32 technological assistance; or

33 (3) the respondent is a minor who has received proper notice and
34 attendance would be harmful to the minor.

35 (c) The respondent may be assisted in a hearing under section 85, and
36 amendments thereto, by a person or persons of the respondent's choosing,
37 assistive technology or an interpreter or translator, or a combination of
38 these supports. If assistance would facilitate the respondent's participation
39 in the hearing, but is not otherwise available to the respondent, the court
40 shall make reasonable efforts to provide it.

41 (d) The respondent has a right to retain an attorney to represent the
42 respondent at a hearing under section 85, and amendments thereto.

43 (e) At a hearing under section 85, and amendments thereto, the

1 respondent may:

2 (1) Present evidence and subpoena witnesses and documents;
3 (2) examine witnesses, including any court-appointed evaluator or
4 court liaison; and

5 (3) otherwise participate in the hearing.

6 (f) Unless excused by the court for good cause, a proposed
7 conservator shall attend a hearing under section 85, and amendments
8 thereto.

9 (g) A hearing under section 85, and amendments thereto, must be
10 closed on request of the respondent and a showing of good cause.

11 (h) Any person may request to participate in a hearing under section
12 85, and amendments thereto. The court may grant the request, with or
13 without a hearing, on determining that the best interest of the respondent
14 will be served. The court may impose appropriate conditions on the
15 person's participation.

16 New Sec. 91. (a) The existence of a proceeding for or the existence of
17 conservatorship is a matter of public record unless the court seals the
18 record after:

19 (1) The respondent, the individual subject to conservatorship or the
20 parent of a minor subject to conservatorship requests the record be sealed;
21 and

22 (2) either:

23 (A) The petition for conservatorship is dismissed; or

24 (B) the conservatorship is terminated.

25 (b) (1) The following court records are a matter of public record
26 unless sealed by the court:

27 (A) Letters of conservatorship;

28 (B) orders suspending or removing a conservator; and

29 (C) orders terminating a conservatorship.

30 (2) All other court records of a conservatorship proceeding are not a
31 matter of public record except as further provided.

32 (3) The following persons may access court records of the proceeding
33 and resulting conservatorship, including the conservator's plan under
34 section 103, and amendments thereto, and the conservator's report under
35 section 105, and amendments thereto:

36 (A) An individual subject to a proceeding for a conservatorship,
37 whether or not a conservator is appointed;

38 (B) an attorney designated by the individual;

39 (C) a person entitled to notice under section 93(f), and amendments
40 thereto, or a subsequent order; and

41 (D) a licensed attorney, abstractor or title insurance agent.

42 (4) A person not otherwise entitled to access to court records under
43 this section for good cause may request permission from the court for

1 access to court records of the conservatorship, including the conservator's
2 plan and report. The court shall grant access if access is in the best interest
3 of the respondent or individual subject to conservatorship or furthers the
4 public interest and does not endanger the welfare or financial interests of
5 the respondent or individual.

6 (c) A report under section 87, and amendments thereto, of a court
7 liaison or professional evaluation under section 89, and amendments
8 thereto, is confidential and must be sealed on filing, but is available to:

9 (1) The court;

10 (2) the individual who is the subject of the report or evaluation,
11 without limitation as to use;

12 (3) the petitioner, court liaison and petitioner's and respondent's
13 attorneys, for purposes of the proceeding;

14 (4) unless the court directs otherwise, an agent appointed under a
15 power of attorney for finances in which the respondent is identified as the
16 principal; and

17 (5) any other person if it is in the public interest or for a purpose the
18 court orders for good cause.

19 New Sec. 92. (a) Except as otherwise provided in subsection (c), the
20 court in appointing a conservator shall consider persons qualified to be a
21 conservator in the following order of priority:

22 (1) A conservator, other than a temporary or emergency conservator,
23 currently acting for the respondent in another jurisdiction;

24 (2) a person nominated as conservator by the respondent, including
25 the respondent's most recent nomination made in a power of attorney for
26 finances;

27 (3) an agent appointed by the respondent to manage the respondent's
28 property under a power of attorney for finances;

29 (4) a spouse of the respondent;

30 (5) a family member or other individual who has shown special care
31 and concern for the respondent; and

32 (6) a person nominated as conservator by the spouse, adult child or
33 other close family member of the respondent.

34 (b) If two or more persons have equal priority under subsection (a),
35 the court shall select as conservator the person the court considers best
36 qualified. In determining the best qualified person, the court shall consider
37 the person's relationship with the respondent, the person's skills, the
38 expressed wishes of the respondent, the extent to which the person and the
39 respondent have similar values and preferences and the likelihood the
40 person will be able to perform the duties of a conservator successfully.

41 (c) The court, acting in the best interest of the respondent, may
42 decline to appoint as conservator a person having priority under subsection
43 (a) and appoint a person having a lower priority or no priority.

1 (d) The following persons shall not be appointed as conservator
2 unless the court finds by clear and convincing evidence that the person is
3 the best qualified person available for appointment and the appointment is
4 in the best interest of the respondent:

5 (1) A person that provides paid services to the respondent, or an
6 individual who is employed by a person that provides paid services to the
7 respondent, or is the spouse, parent or child of an individual who provides
8 or is employed to provide paid services to the respondent;

9 (2) an owner, operator or employee of any entity at which the
10 respondent is receiving care; and

11 (3) a person who provides care or other services, or is an employee of
12 an agency, partnership or corporation that provides care or other services
13 to persons with needs similar to those of the respondent.

14 New Sec. 93. (a) A court order appointing a conservator for a minor
15 must include findings to support appointment of a conservator.

16 (b) A court order appointing a conservator for an adult must:

17 (1) Include a specific finding that clear and convincing evidence has
18 established that the identified needs of the respondent cannot be met by a
19 protective arrangement instead of conservatorship or other less restrictive
20 alternative, including use of appropriate supportive services, technological
21 assistance or supported decision making; and

22 (2) include a specific finding that clear and convincing evidence
23 established the respondent was given proper notice of the hearing on the
24 petition.

25 (c) A court order establishing a full conservatorship for an adult must
26 state the basis for granting a full conservatorship and include specific
27 findings to support the conclusion that a limited conservatorship would not
28 meet the functional needs of the adult.

29 (d) A court order establishing a limited conservatorship must state the
30 specific property placed under the control of the conservator and the
31 powers granted to the conservator.

32 (e) A court order appointing a conservator must include the date of a
33 review hearing to be set 90 days after the order of appointment is entered.
34 At that hearing, the court shall review the conservator's plan filed pursuant
35 to section 103, and amendments thereto, and the inventory filed pursuant
36 to section 104, and amendments thereto.

37 (f) The court, as part of an order establishing a conservatorship, shall
38 identify any person that subsequently is entitled to:

39 (1) Notice of the rights of the individual subject to conservatorship
40 under section 94(b), and amendments thereto;

41 (2) notice of a sale or other disposition of, encumbrance of an interest
42 in, or surrender of a lease to any real or personal property of the
43 individual;

- 1 (3) notice that the conservator will be unavailable to perform the
2 conservator's duties for more than one month;
- 3 (4) a copy of the conservator's plan under section 103, and
4 amendments thereto, and the conservator's report under section 105, and
5 amendments thereto;
- 6 (5) access to court records relating to the conservatorship;
- 7 (6) notice of a transaction involving a substantial conflict between the
8 conservator's fiduciary duties and personal interests;
- 9 (7) notice of the death or significant change in the condition of the
10 individual;
- 11 (8) notice that a petition has been filed to limit or modify the powers
12 of the conservator or that the court has limited or modified the powers of
13 the conservator; and
- 14 (9) notice that a petition has been filed to remove the conservator or
15 that the court has removed the conservator.
- 16 (g) If an individual subject to conservatorship is an adult, the spouse
17 and adult children of the adult subject to conservatorship are entitled under
18 subsection (e) to notice unless the court determines notice would be
19 contrary to the preferences or prior directions of the adult subject to
20 conservatorship or not in the best interest of the adult.
- 21 (h) If an individual subject to conservatorship is a minor, each parent
22 and adult sibling of the minor is entitled under subsection (e) to notice
23 unless the court determines notice would not be in the best interest of the
24 minor.
- 25 New Sec. 94. (a) Not later than 14 days after the appointment, a
26 conservator appointed under section 93, and amendments thereto, shall
27 give to the individual subject to conservatorship and to all other persons
28 given notice under section 85, and amendments thereto, a copy of the
29 order of appointment.
- 30 (b) Not later than 30 days after appointment of a conservator under
31 section 93, and amendments thereto, the court or the court's designee shall
32 give to the individual subject to conservatorship, the conservator, and any
33 other person entitled to notice under section 93(f), and amendments
34 thereto, a statement of the rights of the individual subject to
35 conservatorship and procedures to seek relief if the individual is denied
36 those rights. The statement must be in plain language, in at least 16-point
37 font, and to the extent feasible, in a language in which the individual
38 subject to conservatorship is proficient. The statement must notify the
39 individual subject to conservatorship of the right to:
- 40 (1) Seek termination or modification of the conservatorship, or
41 removal of the conservator, and choose an attorney to represent the
42 individual in these matters;
- 43 (2) file a grievance against the conservator under section 50, and

1 amendments thereto;

2 (3) participate in decision making to the extent reasonably feasible;

3 (4) receive a copy of the conservator's plan under section 103, and
4 amendments thereto, the conservator's inventory under section 104, and
5 amendments thereto, and the conservator's report under section 105, and
6 amendments thereto; and

7 (5) object to the conservator's inventory, plan or report.

8 (c) If a conservator is appointed for the reasons stated in section 83(b)
9 (1)(B), and amendments thereto, and the individual subject to
10 conservatorship is missing, notice under this section to the individual is
11 not required. If the individual subject to conservatorship is a minor under
12 the age of 12, notice under this section to the minor is not required.

13 (d) Any person required to provide notice under this section shall file
14 proof of service of such notice with the court.

15 New Sec. 95. (a) On its own after a petition has been filed under
16 section 84, and amendments thereto, or on a verified petition by a person
17 interested in an individual's welfare, the court may appoint an emergency
18 conservator for the individual if the court finds a sufficient factual basis to
19 establish probable cause that:

20 (1) Appointment of an emergency conservator is necessary to prevent
21 imminent, substantial and irreparable harm to the individual's property or
22 financial interests;

23 (2) no other person has authority and willingness to act in the
24 circumstances; and

25 (3) a basis for appointment of a conservator under section 83, and
26 amendments thereto, exists.

27 (b) The duration of authority of an emergency conservator may not
28 exceed 30 days and the emergency conservator may exercise only the
29 powers specified in the order of appointment. The emergency conservator's
30 authority may be extended up to three times for not more than 30 days per
31 extension if the court finds good cause and that the conditions for
32 appointment of an emergency conservator under subsection (a) continue.

33 (c) Immediately on filing of a petition for an emergency conservator,
34 the court shall appoint an attorney to represent the respondent in the
35 proceeding. Except as otherwise provided in subsection (d), reasonable
36 notice of the date, time and place of a hearing on the petition must be
37 given to the respondent, the respondent's attorney and any other person the
38 court determines.

39 (d) The court may appoint an emergency conservator without notice
40 to the respondent and any attorney for the respondent only if the court
41 finds from an affidavit or testimony that the respondent's property or
42 financial interests will be substantially and irreparably harmed before a
43 hearing with notice on the appointment can be held. If the court appoints

1 an emergency conservator without giving notice under subsection (c), the
2 court must give notice of the appointment not later than 48 hours after the
3 appointment to:

4 (1) The respondent;

5 (2) the respondent's attorney; and

6 (3) any other person the court determines.

7 (e) Not later than five days after the appointment, the court shall hold
8 a hearing on the appropriateness of the appointment.

9 (f) Appointment of an emergency conservator under this section is
10 not a determination that a basis exists for appointment of a conservator
11 under section 83, and amendments thereto.

12 (g) The court may remove an emergency conservator appointed under
13 this section at any time. The emergency conservator shall make any report
14 the court requires.

15 New Sec. 96. An individual subject to conservatorship or a person
16 interested in the welfare of the individual may petition for an order:

17 (a) Modifying bond requirements;

18 (b) requiring an accounting for the administration of the
19 conservatorship estate;

20 (c) directing distribution;

21 (d) removing the conservator and appointing a temporary or
22 successor conservator;

23 (e) modifying the type of appointment or powers granted to the
24 conservator, if the extent of protection or management previously granted
25 is excessive or insufficient to meet the individual's needs, including
26 because the individual's abilities or supports have changed;

27 (f) rejecting or modifying the conservator's plan under section 103,
28 and amendments thereto, the conservator's inventory under section 104,
29 and amendments thereto, or the conservator's report under section 105, and
30 amendments thereto; or

31 (g) granting other appropriate relief.

32 New Sec. 97. (a) Except as otherwise provided in subsection (c), the
33 court shall require a conservator to furnish a bond with a surety, or require
34 an alternative asset-protection arrangement, conditioned on faithful
35 discharge of all duties of the conservator. The court may waive the
36 requirement only if the court finds that a bond or other asset-protection
37 arrangement is not necessary to protect the interests of the individual
38 subject to conservatorship. Except as otherwise provided in subsection (c),
39 the court may not waive the requirement if the conservator is in the
40 business of serving as a conservator and is being paid for the conservator's
41 service.

42 (b) Unless the court directs otherwise, the bond required under this
43 section must be in the amount of the aggregate capital value of the

1 conservatorship estate, plus one year's estimated income, less the value of
2 property deposited under an arrangement requiring a court order for its
3 removal, and less the value of real property. The court, in place of surety
4 on a bond, may accept collateral for the performance of the bond,
5 including a pledge of securities or a mortgage of real property.

6 (c) A regulated financial-service institution qualified to do trust
7 business in this state is not required to give a bond under this section.

8 (d) If the conservator appointed is under contract with the Kansas
9 guardianship program, the Kansas department for children and families
10 shall act as surety on the bond.

11 New Sec. 98. (a) The following rules apply to the bond required
12 under section 97, and amendments thereto:

13 (1) Except as otherwise provided by the bond, the surety and the
14 conservator are jointly and severally liable.

15 (2) By executing a bond provided by a conservator, the surety
16 submits to the personal jurisdiction of the court that issued letters of office
17 to the conservator in a proceeding relating to the duties of the conservator
18 in which the surety is named as a party. Notice of the proceeding must be
19 given to the surety at the address shown in the records of the court in
20 which the bond is filed and any other address of the surety then known to
21 the person required to provide the notice.

22 (3) On petition of a successor conservator or person affected by a
23 breach of the obligation of the bond, a proceeding may be brought against
24 the surety for breach of the obligation of the bond.

25 (4) A proceeding against the bond may be brought until liability
26 under the bond is exhausted.

27 (b) A proceeding may not be brought under this section against a
28 surety of a bond on a matter as to which a proceeding against the
29 conservator is barred.

30 (c) If a bond under section 97, and amendments thereto, is not
31 renewed by the conservator, the surety or sureties immediately shall give
32 notice to the court and the individual subject to conservatorship. Upon
33 receiving such notice, the clerk of the district court shall forward the notice
34 to the presiding judge who shall set the matter for hearing and determine
35 who should receive notice.

36 New Sec. 99. (a) A conservator is a fiduciary and has duties of
37 prudence, loyalty, reasonable care and diligence to the individual subject to
38 conservatorship.

39 (b) A conservator shall promote the self-determination of the
40 individual subject to conservatorship and, to the extent feasible, encourage
41 the individual to participate in decisions, act on the individual's own
42 behalf, and develop or regain the capacity to manage the individual's
43 personal affairs. A conservator shall strive to assure that the personal, civil

1 and human rights of the individual subject to conservatorship are
2 protected.

3 (c) In making a decision for an individual subject to conservatorship,
4 the conservator shall make the decision that the conservator reasonably
5 believes the individual would make if able, unless doing so would fail to
6 preserve the resources needed to maintain the individual's well-being and
7 lifestyle or otherwise unreasonably harm or endanger the welfare or
8 personal or financial interests of the individual. To determine the decision
9 the individual would make if able, the conservator shall consider the
10 individual's prior or current directions, preferences, opinions, values and
11 actions, to the extent actually known or reasonably ascertainable by the
12 conservator.

13 (d) If a conservator cannot make a decision under subsection (c)
14 because the conservator does not know and cannot reasonably determine
15 the decision the individual subject to conservatorship probably would
16 make if able, or the conservator reasonably believes the decision the
17 individual would make would fail to preserve resources needed to
18 maintain the individual's well-being and lifestyle or otherwise
19 unreasonably harm or endanger the welfare or personal or financial
20 interests of the individual, the conservator shall act in accordance with the
21 best interest of the individual. In determining the best interest of the
22 individual, the conservator shall consider:

23 (1) Information received from professionals and persons that
24 demonstrate sufficient interest in the welfare of the individual;

25 (2) other information the conservator believes the individual would
26 have considered if the individual were able to act; and

27 (3) other factors a reasonable person in the circumstances of the
28 individual would consider, including consequences for others.

29 (e) Except when inconsistent with the conservator's duties under
30 subsections (a) through (d), a conservator shall invest and manage the
31 conservatorship estate as a prudent investor would, by considering:

32 (1) The circumstances of the individual subject to conservatorship
33 and the conservatorship estate;

34 (2) general economic conditions;

35 (3) the possible effect of inflation or deflation;

36 (4) the expected tax consequences of an investment decision or
37 strategy;

38 (5) the role of each investment or course of action in relation to the
39 conservatorship estate as a whole;

40 (6) the expected total return from income and appreciation of capital;

41 (7) the need for liquidity, regularity of income and preservation or
42 appreciation of capital; and

43 (8) the special relationship or value, if any, of specific property to the

1 individual subject to conservatorship.

2 (f) The propriety of a conservator's investment and management of
3 the conservatorship estate is determined in light of the facts and
4 circumstances existing when the conservator decides or acts and not by
5 hindsight.

6 (g) A conservator shall make a reasonable effort to verify facts
7 relevant to the investment and management of the conservatorship estate.

8 (h) A conservator that has special skills or expertise, or is named
9 conservator in reliance on the conservator's representation of special skills
10 or expertise, has a duty to use the special skills or expertise in carrying out
11 the conservator's duties.

12 (i) In investing, selecting specific property for distribution, and
13 invoking a power of revocation or withdrawal for the use or benefit of the
14 individual subject to conservatorship, a conservator shall consider any
15 estate plan of the individual known or reasonably ascertainable to the
16 conservator and may examine the will or other donative, nominative or
17 appointive instrument of the individual.

18 (j) A conservator shall maintain insurance on the insurable real and
19 personal property of the individual subject to conservatorship, unless the
20 conservatorship estate lacks sufficient funds to pay for insurance or the
21 court finds:

22 (1) The property lacks sufficient equity; or

23 (2) insuring the property would unreasonably dissipate the
24 conservatorship estate or otherwise not be in the best interest of the
25 individual.

26 (k) A conservator has access to and authority over a digital asset of
27 the individual subject to conservatorship to the extent provided by the
28 revised uniform fiduciary access to digital assets act or court order.

29 (l) A conservator for an adult shall notify the court immediately if the
30 condition of the adult has changed so that the adult is capable of exercising
31 rights previously removed.

32 New Sec. 100. (a) Except as otherwise provided in section 102, and
33 amendments thereto, or as qualified or limited in the court's order of
34 appointment and stated in the letters of office, a conservator has all powers
35 granted in this section.

36 (b) A conservator, acting reasonably and consistent with the fiduciary
37 duties of the conservator to accomplish the purpose of the conservatorship,
38 without specific court authorization or confirmation, may with respect to
39 the conservatorship estate:

40 (1) Collect, hold and retain property, including property in which the
41 conservator has a personal interest and real property in another state, until
42 the conservator determines disposition of the property should be made;

43 (2) receive additions to the conservatorship estate;

- 1 (3) manage any ongoing business that the individual subject to
2 conservatorship was managing and operating prior to the appointment of
3 the conservator;
- 4 (4) acquire an undivided interest in property in which the conservator,
5 in a fiduciary capacity, holds an undivided interest;
- 6 (5) invest assets;
- 7 (6) deposit funds or other property in a financial institution, including
8 one operated by the conservator;
- 9 (7) make ordinary or necessary repairs, replacements and renovations
10 for the use and benefit of the individual subject to conservatorship;
- 11 (8) enter for any purpose into a lease of property as lessor or lessee,
12 with or without an option to purchase or renew, for a term not exceeding
13 one year;
- 14 (9) vote a security, in person or by general or limited proxy;
- 15 (10) pay a call, assessment or other sum chargeable or accruing
16 against or on account of a security;
- 17 (11) sell or exercise a stock subscription or conversion right;
- 18 (12) consent, directly or through a committee or agent, to the
19 reorganization, consolidation, merger, dissolution or liquidation of a
20 corporation or other business enterprise in which the conservatorship has
21 less than a 20% ownership interest;
- 22 (13) hold a security in the name of a nominee or in other form
23 without disclosure of the conservatorship so that title to the security may
24 pass by delivery;
- 25 (14) insure:
 - 26 (A) The conservatorship estate, in whole or in part, against damage or
27 loss in accordance with section 99(j), and amendments thereto; and
 - 28 (B) the conservator against liability with respect to a third person;
- 29 (15) borrow funds without security to be repaid from the
30 conservatorship estate or otherwise;
- 31 (16) advance the conservator's personal funds for the protection of the
32 conservatorship estate or the individual subject to conservatorship and all
33 expenses, losses and liability sustained in the administration of the
34 conservatorship estate or because of holding any property for which the
35 conservator has a lien on the conservatorship estate, subject to
36 reimbursement as provided in section 43, and amendments thereto;
- 37 (17) pay or contest a claim, settle a claim by or against the
38 conservatorship estate or the individual subject to conservatorship by
39 compromise, arbitration or otherwise, or release, in whole or in part, a
40 claim belonging to the conservatorship estate to the extent the claim is
41 uncollectible;
- 42 (18) pay a tax, assessment and other expense incurred in the
43 collection, care, administration and protection of the conservatorship

1 estate;

2 (19) pay a sum distributable to the individual subject to
3 conservatorship or an individual who is in fact dependent on the individual
4 subject to conservatorship by paying the sum to the distributee or for the
5 use of the distributee;

6 (A) To the guardian for the distributee;

7 (B) to the custodian of the distributee under the uniform transfers to
8 minors act or custodial trustee under the uniform custodial trust act; or

9 (C) if there is no guardian, custodian or custodial trustee, to a relative
10 or other person having physical custody of the distributee;

11 (20) bring or defend an action, claim or proceeding in any jurisdiction
12 for the protection of the conservatorship estate or the conservator in the
13 performance of the conservator's duties;

14 (21) structure the finances of the individual subject to conservatorship
15 to establish eligibility for a public benefit, if the conservator's action does
16 not jeopardize the individual's welfare and otherwise is consistent with the
17 conservator's duties;

18 (22) assert spousal rights in an estate, including the spousal elective
19 share; and

20 (23) execute and deliver any instrument that will accomplish or
21 facilitate the exercise of a power of the conservator.

22 New Sec. 101. Except as otherwise provided in section 102, and
23 amendments thereto, or as qualified or limited in the court's order of
24 appointment and stated in the letters of office, and unless contrary to a
25 conservator's plan under section 103, and amendments thereto, the
26 conservator may expend or distribute income or principal of the
27 conservatorship estate without specific court authorization or confirmation
28 for the support, care, education, health or welfare of the individual subject
29 to conservatorship or an individual who is in fact dependent on the
30 individual subject to conservatorship, including the payment of child or
31 spousal support, in accordance with the following rules:

32 (a) The conservator shall consider a recommendation relating to the
33 appropriate standard of support, care, education, health, or welfare for the
34 individual subject to conservatorship or individual who is dependent on
35 the individual subject to conservatorship, made by a guardian for the
36 individual subject to conservatorship, if any, and, if the individual subject
37 to conservatorship is a minor, a recommendation made by a parent of the
38 minor.

39 (b) The conservator acting in compliance with the conservator's
40 duties under section 99, and amendments thereto, is not liable for an
41 expenditure or distribution made based on a recommendation under
42 subsection (a) unless the conservator knows the expenditure or distribution
43 is not in the best interest of the individual subject to conservatorship.

1 (c) In making an expenditure or distribution under this section, the
2 conservator shall consider:

3 (1) The size of the conservatorship estate, the estimated duration of
4 the conservatorship and the likelihood the individual subject to
5 conservatorship, at some future time, may be fully self-sufficient and able
6 to manage the individual's financial affairs and the conservatorship estate;

7 (2) the accustomed standard of living of the individual subject to
8 conservatorship and individual who is dependent on the individual subject
9 to conservatorship;

10 (3) other funds or source used for the support of the individual
11 subject to conservatorship; and

12 (4) the preferences, values and prior directions of the individual
13 subject to conservatorship.

14 (d) Subject to section 43, and amendments thereto, funds expended or
15 distributed under this section may be paid by the conservator to any
16 person, including the individual subject to conservatorship, as
17 reimbursement for expenditures the conservator might have made, or in
18 advance for services to be provided to the individual subject to
19 conservatorship or individual who is dependent on the individual subject
20 to conservatorship if it is reasonable to expect the services will be
21 performed and advance payment is customary or reasonably necessary
22 under the circumstances.

23 New Sec. 102. (a) Except as otherwise ordered by the court, a
24 conservator must give notice to persons entitled to notice under section
25 85(d), and amendments thereto, and receive specific authorization by the
26 court before the conservator may exercise, with respect to the
27 conservatorship, the power to:

28 (1) Make a gift, except a gift of de minimis value, unless such power
29 to make a gift is included in a conservator's plan approved by the court and
30 by the attorney for the individual subject to conservatorship;

31 (2) sell or otherwise dispose of, encumber an interest in, or surrender
32 a lease to any real or personal property of the individual subject to
33 conservatorship, unless such power is included in a conservator's plan
34 approved by the court and by the attorney for the individual subject to
35 conservatorship;

36 (3) acquire or dispose of property, including real property in another
37 state, for cash or on credit, at public or private sale, and manage, develop,
38 improve, exchange, partition, change the character of or abandon property;

39 (4) make extraordinary repairs or alterations in a building or other
40 structure, demolish any improvement, or raze an existing or erect a new
41 party wall or building;

42 (5) subdivide or develop land, dedicate land to public use, make or
43 obtain the vacation of a plat and adjust a boundary, adjust a difference in

- 1 valuation of land, exchange or partition land by giving or receiving
2 consideration and dedicate an easement to public use without
3 consideration;
- 4 (6) enter for any purpose into a lease of property as lessor or lessee,
5 with or without an option to purchase or renew, for a term exceeding one
6 year;
- 7 (7) enter into a lease or arrangement for exploration and removal of
8 minerals or other natural resources or a pooling or unitization agreement;
- 9 (8) grant an option involving disposition of property or accept or
10 exercise an option for the acquisition of property;
- 11 (9) convey, release or disclaim a contingent or expectant interest in
12 property, including marital property and any right of survivorship incident
13 to joint tenancy;
- 14 (10) exercise or release a power of appointment;
- 15 (11) create a revocable or irrevocable trust of property of the
16 conservatorship estate, including an irrevocable trust which will enable the
17 individual subject to conservatorship to qualify for benefits from any
18 federal, state or local government program, or which will accelerate the
19 individual's qualification for such benefits, whether or not the trust extends
20 beyond the duration of the conservatorship;
- 21 (12) revoke or amend a trust revocable by the individual subject to
22 conservatorship pursuant to K.S.A. 58a-411 or 58a-602, and amendments
23 thereto;
- 24 (13) exercise a right to elect an option or change a beneficiary under
25 an insurance policy or annuity or surrender the policy or annuity for its
26 cash value;
- 27 (14) renounce or disclaim a property interest;
- 28 (15) grant a creditor priority for payment over creditors of the same
29 or higher class if the creditor is providing property or services used to meet
30 the basic living and care needs of the individual subject to conservatorship
31 and preferential treatment otherwise would be impermissible under section
32 110(e), and amendments thereto; and
- 33 (16) litigate as petitioner or respondent an action for divorce,
34 dissolution or annulment of marriage of the individual subject to
35 conservatorship, including negotiation of a settlement thereof.
- 36 (b) The court shall set the matter for hearing and, if the individual
37 subject to conservatorship is not represented by an attorney, shall appoint
38 an attorney to represent the individual.
- 39 (c) In approving a conservator's exercise of a power listed in
40 subsection (a), the court shall consider primarily the decision the
41 individual subject to conservatorship would make if able, to the extent the
42 decision can be ascertained.
- 43 (d) To determine under subsection (b) the decision the individual

1 subject to conservatorship would make if able, the court shall consider the
2 individual's prior or current directions, preferences, opinions, values and
3 actions, to the extent actually known or reasonably ascertainable by the
4 conservator. The court shall also consider:

5 (1) The financial needs of the individual subject to conservatorship
6 and individuals who are in fact dependent on the individual subject to
7 conservatorship for support, and the interests of creditors of the individual;

8 (2) possible reduction of income, estate, inheritance or other tax
9 liabilities;

10 (3) eligibility for governmental assistance;

11 (4) the previous pattern of giving or level of support provided by the
12 individual;

13 (5) any existing estate plan or lack of estate plan of the individual;

14 (6) the life expectancy of the individual and the probability the
15 conservatorship will terminate before the individual's death; and

16 (7) any other relevant factor.

17 New Sec. 103. (a) Not later than 60 days after appointment, and
18 whenever there is a significant change in circumstances or the conservator
19 seeks to deviate significantly from the existing conservator's plan, a
20 conservator shall file with the court a plan for protecting, managing,
21 expending and distributing the assets of the conservatorship estate. The
22 plan must be based on the needs of the individual subject to
23 conservatorship and take into account the best interest of the individual as
24 well as the individual's preferences, values and prior directions, to the
25 extent known to or reasonably ascertainable by the conservator. The
26 conservator shall include in the plan:

27 (1) A budget containing projected expenses and resources, including
28 an estimate of the total amount of fees the conservator anticipates charging
29 per year and a statement or list of the amount the conservator proposes to
30 charge for each service the conservator anticipates providing to the
31 individual;

32 (2) how the conservator will involve the individual in decisions about
33 management of the conservatorship estate;

34 (3) any step the conservator plans to take to develop or restore the
35 ability of the individual to manage the conservatorship estate; and

36 (4) an estimate of the duration of the conservatorship.

37 (b) A conservator shall give notice of the filing of the conservator's
38 plan under subsection (a), together with a copy of the plan, to the
39 individual subject to conservatorship, any attorney representing the
40 individual subject to conservatorship, a person entitled to notice under
41 section 93(f), and amendments thereto, or a subsequent order, and any
42 other person the court determines. The notice must include a statement of
43 the right to object to the plan and must be given at the time of the filing.

1 (c) An individual subject to conservatorship and any person entitled
2 under subsection (b) to receive notice and a copy of the conservator's plan
3 may object to the plan in writing not later than 21 days after the filing.

4 (d) The court shall review the conservator's plan filed under
5 subsection (a) and determine whether to approve the plan or require a new
6 plan. In deciding whether to approve the plan, the court shall consider an
7 objection under subsection (c) and whether the plan is consistent with the
8 conservator's duties and powers. The court shall review an initial
9 conservator's plan at the review hearing scheduled under section 93(e), and
10 amendments thereto. For subsequent conservator's plans, the court has
11 discretion whether to set the matter for hearing but may not approve the
12 plan until 30 days after the filing.

13 (e) After a conservator's plan under this section is approved by the
14 court, the conservator shall provide a copy of the plan to the individual
15 subject to conservatorship, any attorney representing the individual subject
16 to conservatorship, a person entitled to notice under section 93(f), and
17 amendments thereto, or a subsequent order, and any other person the court
18 determines.

19 New Sec. 104. (a) Not later than 60 days after appointment, a
20 conservator shall prepare and file with the appointing court a detailed
21 inventory of the conservatorship estate, together with an oath or
22 affirmation that the inventory is believed to be complete and accurate as
23 far as information permits. The inventory shall include all of the property
24 and assets of the conservatorship estate, including any sources of regular
25 income to the estate, and information about how property is titled and any
26 beneficiary designations, including pay-on-death and transfer-on-death
27 beneficiaries.

28 (b) A conservator shall give notice of the filing of an inventory to the
29 individual subject to conservatorship, a person entitled to notice under
30 section 93(f), and amendments thereto, or a subsequent order, and any
31 other person the court determines. The notice must be given not later than
32 14 days after the filing.

33 (c) A conservator shall keep records of the administration of the
34 conservatorship estate and make them available for examination on
35 reasonable request of the individual subject to conservatorship, a guardian
36 for the individual, or any other person the conservator or the court
37 determines.

38 New Sec. 105. (a) A conservator shall file with the court a report in a
39 record regarding the administration of the conservatorship estate annually
40 unless the court otherwise directs, on resignation or removal, on
41 termination of the conservatorship, and at any other time the court directs.

42 (b) A report under subsection (a) must state or contain:

43 (1) An accounting that lists property included in the conservatorship

1 estate and the receipts, disbursements, liabilities and distributions during
2 the period for which the report is made;

3 (2) a list of the services provided to the individual subject to
4 conservatorship;

5 (3) a statement whether the conservator has deviated from the
6 conservator's most recently approved plan and, if so, how the conservator
7 has deviated and why;

8 (4) a recommendation as to the need for continued conservatorship
9 and any recommended change in the scope of the conservatorship;

10 (5) to the extent feasible, a copy of the most recent reasonably
11 available financial statements evidencing the status of bank accounts,
12 investment accounts and mortgages or other debts of the individual subject
13 to conservatorship with account numbers and social security number
14 redacted;

15 (6) anything of more than de minimis value which the conservator,
16 any individual who resides with the conservator, or the spouse, parent,
17 child or sibling of the conservator has received from a person providing
18 goods or services to the individual subject to conservatorship;

19 (7) any business relation the conservator has with a person the
20 conservator has paid or that has benefited from the property of the
21 individual subject to conservatorship;

22 (8) whether any co-conservator or successor conservator appointed to
23 serve when a designated event occurs is alive and able to serve; and

24 (9) a copy of the bond renewal.

25 (c) The court may appoint a court liaison to review a report under this
26 section or conservator's plan under section 103, and amendments thereto,
27 interview the individual subject to conservatorship or conservator, or
28 investigate any other matter involving the conservatorship. In connection
29 with the report, the court may order the conservator to submit the
30 conservatorship estate to appropriate examination in a manner the court
31 directs.

32 (d) Notice of the filing under this section of a conservator's report,
33 together with a copy of the report, must be provided to the individual
34 subject to conservatorship, a person entitled to notice under section 93(f),
35 and amendments thereto, or a subsequent order, and other persons the
36 court determines. The notice and report must be given not later than 14
37 days after filing.

38 (e) The court shall establish procedures for monitoring a report
39 submitted under this section and review each report at least annually to
40 determine whether:

41 (1) The reports provide sufficient information to establish the
42 conservator has complied with the conservator's duties;

43 (2) the conservatorship should continue; and

1 (3) the conservator's requested fees, if any, should be approved.

2 (f) If the court determines there is reason to believe a conservator has
3 not complied with the conservator's duties or the conservatorship should
4 not continue, the court:

5 (1) Shall notify the individual subject to conservatorship, the
6 conservator and any other person entitled to notice under section 93(f), and
7 amendments thereto, or a subsequent order;

8 (2) may require additional information from the conservator;

9 (3) may appoint a court liaison to interview the individual subject to
10 conservatorship or conservator or investigate any matter involving the
11 conservatorship; and

12 (4) consistent with sections 112 and 113, and amendments thereto,
13 may hold a hearing to consider removal of the conservator, termination of
14 the conservatorship or a change in the powers granted to the conservator or
15 terms of the conservatorship.

16 (g) If the court has reason to believe fees requested by a conservator
17 are not reasonable, the court shall hold a hearing to determine whether to
18 adjust the requested fees.

19 (h) A conservator may petition the court for approval of a report filed
20 under this section. The court after review may approve the report. If the
21 court approves the report, there is a rebuttable presumption the report is
22 accurate as to a matter adequately disclosed in the report.

23 (i) An order, after notice and hearing, approving an interim report of a
24 conservator filed under this section adjudicates liabilities concerning a
25 matter adequately disclosed in the report, as to a person given notice of the
26 report or accounting.

27 (j) An order, after notice and hearing, approving a final report filed
28 under this section discharges the conservator from all liabilities, claims
29 and causes of action by a person given notice of the report and the hearing
30 as to a matter adequately disclosed in the report.

31 New Sec. 106. (a) The interest of an individual subject to
32 conservatorship in property included in the conservatorship estate is not
33 transferrable or assignable by the individual and is not subject to levy,
34 garnishment, or similar process for claims against the individual unless
35 allowed under section 110, and amendments thereto.

36 (b) If an individual subject to conservatorship enters into a contract
37 after having the right to enter the contract removed by the court, the
38 contract is void against the individual and the individual's property but is
39 enforceable against the person that contracted with the individual.

40 (c) A person other than the conservator that deals with an individual
41 subject to conservatorship with respect to property included in the
42 conservatorship estate is entitled to protection provided by law of this state
43 other than this act.

1 New Sec. 107. A transaction involving a conservatorship estate which
2 is affected by a substantial conflict between the conservator's fiduciary
3 duties and personal interests is voidable unless the transaction is
4 authorized by court order after notice to persons entitled to notice under
5 section 93(f), and amendments thereto, or a subsequent order. A
6 transaction affected by a substantial conflict includes a sale, encumbrance
7 or other transaction involving the conservatorship estate entered into by
8 the conservator, an individual with whom the conservator resides, the
9 spouse, descendant, sibling, agent or attorney of the conservator, or a
10 corporation or other enterprise in which the conservator has a substantial
11 beneficial interest.

12 New Sec. 108. (a) A person that assists or deals with a conservator in
13 good faith and for value in any transaction, other than a transaction
14 requiring a court order under section 102, and amendments thereto, is
15 protected as though the conservator properly exercised any power in
16 question. Knowledge alone by a person that the person is dealing with a
17 conservator does not require the person to inquire into the existence of
18 authority of the conservator or the propriety of the conservator's exercise
19 of authority, but restrictions on authority stated in letters of office, or
20 otherwise provided by law, are effective as to the person. A person that
21 pays or delivers property to a conservator is not responsible for proper
22 application of the property.

23 (b) Protection under subsection (a) extends to a procedural
24 irregularity or jurisdictional defect in the proceeding leading to the
25 issuance of letters of office and does not substitute for protection for a
26 person that assists or deals with a conservator provided by comparable
27 provisions in law of this state other than this act relating to a commercial
28 transaction or simplifying a transfer of securities by a fiduciary.

29 New Sec. 109. (a) If an individual subject to conservatorship dies, the
30 conservator shall deliver to the district court any will of the individual that
31 is in the conservator's possession and inform the personal representative
32 named in the will if feasible. The conservator shall give notice of the
33 delivery of the will under this section to any person entitled to notice under
34 section 93(f), and amendments thereto, or a subsequent order.

35 (b) On the death of an individual subject to conservatorship, the
36 conservator shall conclude the administration of the conservatorship estate
37 as provided in section 113, and amendments thereto.

38 New Sec. 110. (a) A conservator may pay a claim against the
39 conservatorship estate or the individual subject to conservatorship arising
40 before or during the conservatorship, on presentation and allowance in
41 accordance with the priorities under subsection (d). A claimant may
42 present a claim by:

43 (1) Sending or delivering to the conservator a statement in a record of

1 the claim, indicating its basis, the name and address of the claimant and
2 the amount claimed; or

3 (2) filing the claim with the court, in a form acceptable to the court,
4 and sending or delivering a copy of the claim to the conservator.

5 (b) A claim under subsection (a) is presented on receipt by the
6 conservator of the statement of the claim or the filing with the court of the
7 claim, whichever occurs first. A presented claim is allowed, if it is not
8 disallowed in whole or in part, by the conservator in a record sent or
9 delivered to the claimant not later than 60 days after its presentation.
10 Before payment, the conservator may change an allowance of the claim to
11 a disallowance in whole or in part, but not after allowance under a court
12 order or order directing payment of the claim. Presentation of a claim tolls
13 until 30 days after disallowance of the claim the running of a statute of
14 limitations that has not expired relating to the claim.

15 (c) A claimant whose claim under subsection (a) has not been paid
16 may petition the court to determine the claim at any time before it is barred
17 by a statute of limitations, and the court may order its allowance, payment
18 or security by encumbering property included in the conservatorship
19 estate. If a proceeding is pending against the individual subject to
20 conservatorship at the time of appointment of the conservator or is
21 initiated thereafter, the moving party shall give the conservator notice of
22 the proceeding if it could result in creating a claim against the
23 conservatorship estate.

24 (d) If a conservatorship estate is likely to be exhausted before all
25 existing claims are paid, the conservator shall distribute the estate in
26 money or in kind in payment of claims in the following order:

27 (1) Costs and expenses of administration;

28 (2) a claim of the federal or state government having priority under
29 law other than this act;

30 (3) a claim incurred by the conservator for support, care, education,
31 health or welfare previously provided to the individual subject to
32 conservatorship or an individual who is in fact dependent on the individual
33 subject to conservatorship;

34 (4) a claim arising before the conservatorship; and

35 (5) all other claims.

36 (e) Preference may not be given in the payment of a claim under
37 subsection (d) over another claim of the same class. A claim due and
38 payable may not be preferred over a claim not due unless:

39 (1) Doing so would leave the conservatorship estate without
40 sufficient funds to pay the basic living and healthcare expenses of the
41 individual subject to conservatorship; and

42 (2) the court authorizes the preference under section 102(a)(8), and
43 amendments thereto.

1 (f) If assets of a conservatorship estate are adequate to meet all
2 existing claims, the court, acting in the best interest of the individual
3 subject to conservatorship, may order the conservator to grant a security
4 interest in the conservatorship estate for payment of a claim at a future
5 date.

6 New Sec. 111. (a) Except as otherwise agreed by a conservator, the
7 conservator is not personally liable on a contract properly entered into in a
8 fiduciary capacity in the course of administration of the conservatorship
9 estate unless the conservator fails to reveal the conservator's representative
10 capacity in the contract or before entering into the contract.

11 (b) A conservator is personally liable for an obligation arising from
12 control of property of the conservatorship estate or an act or omission
13 occurring in the course of administration of the conservatorship estate only
14 if the conservator is personally at fault.

15 (c) A claim based on a contract entered into by a conservator in a
16 fiduciary capacity, an obligation arising from control of property included
17 in the conservatorship estate, or a tort committed in the course of
18 administration of the conservatorship estate may be asserted against the
19 conservatorship estate in a proceeding against the conservator in a
20 fiduciary capacity, whether or not the conservator is personally liable for
21 the claim.

22 (d) A question of liability between a conservatorship estate and the
23 conservator personally may be determined in a proceeding for accounting,
24 surcharge, or indemnification or another appropriate proceeding or action.

25 New Sec. 112. (a) The court may remove a conservator for failure to
26 perform the conservator's duties or other good cause and appoint a
27 successor conservator to assume the duties of the conservator.

28 (b) The court shall hold a hearing to determine whether to remove a
29 conservator and appoint a successor on:

30 (1) Petition of the individual subject to conservatorship, conservator
31 or person interested in the welfare of the individual which contains
32 allegations that, if true, would support a reasonable belief that removal of
33 the conservator and appointment of a successor may be appropriate, but
34 the court may decline to hold a hearing if a petition based on the same or
35 substantially similar facts was filed during the preceding six months;

36 (2) communication from the individual subject to conservatorship,
37 conservator or person interested in the welfare of the individual which
38 supports a reasonable belief that removal of the conservator and
39 appointment of a successor may be appropriate;

40 (3) determination by the court that a hearing would be in the best
41 interest of the individual subject to conservatorship; or

42 (4) determination by the court that the conservator's reports and
43 accountings are delinquent or deficient as filed.

1 (c) Notice of a petition under subsection (b)(1) or any hearing under
2 this section must be given to the individual subject to conservatorship, the
3 conservator, a person entitled to notice under section 93(f), and
4 amendments thereto, or a subsequent order, and any other person the court
5 determines.

6 (d) If the individual subject to conservatorship is not represented by
7 an attorney, the court shall appoint an attorney under the same conditions
8 as in section 88, and amendments thereto. The court shall award
9 reasonable attorney fees to the attorney as provided in section 42, and
10 amendments thereto.

11 (e) In selecting a successor conservator, the court shall follow the
12 priorities under section 92, and amendments thereto.

13 (f) Not later than 30 days after appointing a successor conservator,
14 the court or court's designee shall give notice of the appointment to the
15 individual subject to conservatorship and any person entitled to notice
16 under section 93(f), and amendments thereto, or a subsequent order.

17 New Sec. 113. (a) A conservatorship for a minor terminates on the
18 earliest of:

19 (1) A court order terminating the conservatorship;

20 (2) the minor becoming an adult except as provided in section 114,
21 and amendments thereto;

22 (3) emancipation of the minor; or

23 (4) death of the minor.

24 (b) A conservatorship for an adult terminates on order of the court or
25 when the adult dies.

26 (c) An individual subject to conservatorship, the conservator, or a
27 person interested in the welfare of the individual may petition for:

28 (1) Termination of the conservatorship on the ground that a basis for
29 appointment under section 83, and amendments thereto, does not exist or
30 termination would be in the best interest of the individual or for other good
31 cause; or

32 (2) modification of the conservatorship on the ground that the extent
33 of protection or assistance granted is not appropriate or for other good
34 cause.

35 (d) The court shall hold a hearing to determine whether termination
36 or modification of a conservatorship is appropriate on:

37 (1) Petition under subsection (c) which contains allegations that, if
38 true, would support a reasonable belief that termination or modification of
39 the conservatorship may be appropriate, but the court may decline to hold
40 a hearing if a petition based on the same or substantially similar facts was
41 filed within the preceding six months;

42 (2) a communication from the individual subject to conservatorship,
43 conservator or person interested in the welfare of the individual which

1 supports a reasonable belief that termination or modification of the
2 conservatorship may be appropriate, including because the functional
3 needs of the individual or supports or services available to the individual
4 have changed;

5 (3) a report from a guardian or conservator which indicates that
6 termination or modification may be appropriate because the functional
7 needs or supports or services available to the individual have changed or a
8 protective arrangement instead of conservatorship or other less restrictive
9 alternative is available; or

10 (4) a determination by the court that a hearing would be in the best
11 interest of the individual.

12 (e) Notice of a petition under subsection (c) or of a hearing under this
13 section must be given to the individual subject to conservatorship, the
14 conservator, a person entitled to notice under section 93(f), and
15 amendments thereto, or a subsequent order, and any other person the court
16 determines.

17 (f) After the hearing, the court shall order termination unless it is
18 proven that a basis for appointment of a conservator under section 83, and
19 amendments thereto, continues to exist.

20 (g) The court shall modify the powers granted to a conservator if the
21 powers are excessive or inadequate due to a change in the abilities or
22 limitations of the individual subject to conservatorship, the individual's
23 supports or other circumstances.

24 (h) Unless the court otherwise orders for good cause, before
25 terminating a conservatorship, the court shall follow the same procedures
26 to safeguard the rights of the individual subject to conservatorship which
27 apply to a petition for conservatorship.

28 (i) An individual subject to conservatorship who seeks to terminate or
29 modify the terms of the conservatorship has the right to retain an attorney
30 to represent the individual in this matter. If the individual is not
31 represented by an attorney, the court shall appoint an attorney under the
32 same conditions as in section 88, and amendments thereto. The court shall
33 award reasonable attorney fees to the attorney as provided in section 42,
34 and amendments thereto.

35 (j) On termination of a conservatorship other than by reason of the
36 death of the individual subject to conservatorship, property of the
37 conservatorship estate passes to the individual. The order of termination
38 must direct the conservator to file a final report and petition for discharge
39 on approval by the court of the final report.

40 (k) On termination of a conservatorship by reason of the death of the
41 individual subject to conservatorship, the conservator promptly shall file a
42 final report and petition for discharge on approval by the court of the final
43 report. On approval of the final report, the conservator shall proceed

1 expeditiously to distribute the conservatorship estate to the individual's
2 estate or as otherwise ordered by the court. The conservator may take
3 reasonable measures necessary to preserve the conservatorship estate until
4 distribution can be made.

5 (l) The court shall issue a final order of discharge on the approval by
6 the court of the final report and satisfaction by the conservator of any other
7 condition the court imposed on the conservator's discharge.

8 (m) Not later than 30 days after entering an order under this section,
9 the court or the court's designee shall give notice of the order to the adult
10 subject to conservatorship and any person entitled to notice under section
11 93(f), and amendments thereto, or a subsequent order.

12 New Sec. 114. (a) A conservatorship for a minor may be extended
13 beyond the minor's 18th birthday if the minor consents or the court finds by
14 clear and convincing evidence that substantial harm to the minor's interests
15 is otherwise likely. A conservatorship may be extended under this section
16 until the minor reaches the age of 21 and may be extended for two
17 additional two-year periods upon the same finding by the court or upon
18 consent of the minor. Consent to the extension of a conservatorship may be
19 withdrawn at any time.

20 (b) Any request to extend a minor conservatorship under this section
21 must be accompanied by:

22 (1) A description of the funds or assets of the minor's estate which the
23 conservator proposes to distribute to the minor over an extended period
24 following the minor's 18th birthday;

25 (2) the factual basis upon which the conservator alleges the need for
26 such an extended distribution plan; and

27 (3) a proposed conservator's plan that describes how the distribution
28 will occur.

29 (c) The court shall appoint an attorney to represent the minor as
30 provided in section 88, and amendments thereto.

31 (d) After a hearing, the court may extend a conservatorship for a
32 minor and grant to the conservator the authority to establish an extended
33 distribution plan if the court finds by clear and convincing evidence that:

34 (1) Substantial harm to the minor's interests is likely if the
35 conservatorship is not extended; and

36 (2) the plan approved by the court adequately provides for meeting
37 the expected needs of the minor from the minor's 18th birthday until the
38 final distribution of the funds or assets which the court authorizes to be set
39 aside or transferred from the estate are paid over to the minor, including
40 provisions for accelerated distribution in extraordinary circumstances,
41 which may require court approval.

42 (e) If the court orders a conservatorship for a minor to be extended
43 under this section, the court shall order the conservator to report any

1 expenditure or transfer of funds or assets from the minor's estate for the
2 purposes of effectuating an extended distribution plan within the
3 conservator's next accounting.

4 (f) The court may extend the conservatorship with regard to specific
5 funds or assets of the minor's estate, even though other funds or assets of
6 the minor's estate are paid over to the minor upon the minor's becoming 18
7 years of age.

8 (g) The minor shall be without the power, voluntarily or involuntarily,
9 to sell, mortgage, pledge, hypothecate, assign, alienate, anticipate, transfer
10 or convey any interest in the principal or the income from any funds or
11 assets of the minor's estate set aside or transferred to effectuate a plan for
12 extended distribution until such is actually paid to the minor.

13 New Sec. 115. (a) Unless a person required to transfer funds or other
14 property to a minor knows that a conservator for the minor has been
15 appointed or a proceeding is pending for conservatorship, the person may
16 transfer an amount or value not exceeding \$25,000 in a 12-month period
17 to:

18 (1) A person that has care or custody of the minor and with whom the
19 minor resides;

20 (2) a guardian for the minor;

21 (3) a custodian under the uniform transfers to minors act; or

22 (4) a financial institution as a deposit in an interest-bearing account or
23 certificate solely in the name of the minor and shall give notice to the
24 minor of the deposit.

25 (b) A person that transfers funds or other property under this section
26 is not responsible for its proper application.

27 (c) A person that receives funds or other property for a minor under
28 subsection (a)(1) or (2) may apply it only to the support, care, education,
29 health or welfare of the minor, and may not derive a personal financial
30 benefit from it, except for reimbursement for necessary expenses. Funds
31 not applied for these purposes must be preserved for the future support,
32 care, education, health or welfare of the minor, and the balance, if any,
33 transferred to the minor when the minor becomes an adult or otherwise is
34 emancipated.

35 (d) Any accumulated balance under this section shall be subject to
36 other provisions of this act.

37 New Sec. 116. The parent of a minor has the right and responsibility
38 to hold in trust and manage for the minor's benefit all of the personal and
39 real property vested in such minor when the total of such property does not
40 exceed \$25,000 in value, unless a guardian or conservator has been
41 appointed for the minor.

42 New Sec. 117. (a) Any court having either control over or possession
43 of any amount of money not exceeding \$100,000, the right to which is

1 vested in a minor, shall have the discretion to authorize, without the
2 appointment of a conservator or the giving of bond, and notwithstanding
3 the authority of a parent as provided for in section 116, and amendments
4 thereto, the deposit of the money in a savings account of a bank, credit
5 union, savings and loan association or any other investment account that
6 the court may authorize, payable either to a conservator, if one shall be
7 appointed for the minor, or to the minor upon attaining 18 years of age.

8 (b) Any court having either control over or possession of any amount
9 of money not exceeding \$25,000, the right to which is vested in a minor,
10 shall have the discretion to order the payment of the money to any person,
11 including the parent of the minor, or the minor. If the person is the
12 conservator for the minor, the court may waive or recommend the waiver
13 of the requirement of a bond. If the person is anyone other than the minor,
14 the court shall order that person to hold in trust and manage the minor's
15 estate for the minor's benefit.

16 New Sec. 118. Any court having either control over or possession of
17 any amount of money not exceeding \$25,000, the right to which is vested
18 in an adult subject to guardianship, shall have the discretion to authorize,
19 without the appointment of a conservator or the giving of bond, the deposit
20 of the money in a savings account of a bank, credit union or savings and
21 loan association, payable to the guardian for the benefit of the adult subject
22 to guardianship if authorized pursuant to section—~~78(e)~~ **78(e)**, and
23 amendments thereto, payable to a conservator, if one shall be appointed for
24 the adult, or payable to the adult subject to guardianship upon termination
25 of the guardianship.

26 New Sec. 119. (a) On receiving a petition for a guardianship for an
27 adult, a court may order a protective arrangement instead of guardianship
28 as a less restrictive alternative to guardianship.

29 (b) On receiving a petition for a conservatorship for an individual, a
30 court may order a protective arrangement instead of conservatorship as a
31 less restrictive alternative to conservatorship.

32 (c) A person interested in an adult's welfare, including the adult or a
33 conservator for the adult, may petition under sections 119 through 130,
34 and amendments thereto, for a protective arrangement instead of
35 guardianship.

36 (d) The following persons may petition under sections 119 through
37 130, and amendments thereto, for a protective arrangement instead of
38 conservatorship:

39 (1) The individual for whom the protective arrangement is sought;

40 (2) a person interested in the property, financial affairs or welfare of
41 the individual, including a person that would be affected adversely by lack
42 of effective management of property or financial affairs of the individual;
43 and

1 (3) the guardian for the individual.

2 New Sec. 120. (a) After the hearing on a petition under section 65,
3 and amendments thereto, for a guardianship or under section 119(b), and
4 amendments thereto, for a protective arrangement instead of guardianship,
5 the court may issue an order under subsection (b) for a protective
6 arrangement instead of guardianship if the court finds by clear and
7 convincing evidence that:

8 (1) The respondent lacks the ability to meet essential requirements for
9 physical health, safety or self-care because the respondent is unable to
10 receive and evaluate information or make or communicate decisions, even
11 with appropriate supportive services, technological assistance or supported
12 decision making; and

13 (2) the respondent's identified needs cannot be met by a less
14 restrictive alternative.

15 (b) If the court makes the findings under subsection (a), the court,
16 instead of appointing a guardian, may:

17 (1) Authorize or direct a transaction necessary to meet the
18 respondent's need for health, safety or care, including:

19 (A) A particular medical treatment or refusal of a particular medical
20 treatment;

21 (B) a move to a specified place of dwelling; or

22 (C) visitation between the respondent and another person;

23 (2) order supervised visitation with, or restrict access to the
24 respondent by, a specified person whose access places the respondent at
25 serious risk of physical, psychological or financial harm; and

26 (3) order other arrangements on a limited basis that are appropriate.

27 (c) In deciding whether to issue an order under this section, the court
28 shall consider the factors under sections 76 and 77, and amendments
29 thereto, which a guardian must consider when making a decision on behalf
30 of an adult subject to guardianship.

31 (d) Any order issued under this section may include reporting
32 requirements, time limits, bond requirements or any other provisions
33 deemed necessary by the court.

34 New Sec. 121. (a) After the hearing on a petition under section 84,
35 and amendments thereto, for conservatorship for an adult or under section
36 119(c), and amendments thereto, for a protective arrangement instead of
37 conservatorship for an adult, the court may issue an order under subsection
38 (c) for a protective arrangement instead of conservatorship for the adult if
39 the court finds by clear and convincing evidence that:

40 (1) The adult is unable to manage property or financial affairs
41 because:

42 (A) Of a limitation in the ability to receive and evaluate information
43 or make or communicate decisions, even with appropriate supportive

- 1 services, technological assistance or supported decision making; or
- 2 (B) the adult is missing, detained, or unable to return to the United
- 3 States;
- 4 (2) an order under subsection (c) is necessary to:
- 5 (A) Avoid harm to the adult or significant dissipation of the property
- 6 of the adult; or
- 7 (B) obtain or provide funds or other property needed for the support,
- 8 care, education, health or welfare of the adult or an individual entitled to
- 9 the adult's support; and
- 10 (3) the respondent's identified needs cannot be met by a less
- 11 restrictive alternative.
- 12 (b) After the hearing on a petition under section 84, and amendments
- 13 thereto, for conservatorship for a minor or under section 119(c), and
- 14 amendments thereto, for a protective arrangement instead of
- 15 conservatorship for a minor, the court may issue an order under subsection
- 16 (c) for a protective arrangement instead of conservatorship for the
- 17 respondent if the court finds by a preponderance of the evidence that the
- 18 arrangement is in the minor's best interest, and:
- 19 (1) If the minor has a parent, the court gives weight to any
- 20 recommendation of the parent whether an arrangement is in the minor's
- 21 best interest;
- 22 (2) either:
- 23 (A) The minor owns money or property requiring management or
- 24 protection that otherwise cannot be provided;
- 25 (B) the minor has or may have financial affairs that may be put at
- 26 unreasonable risk or hindered because of the minor's age; or
- 27 (C) the arrangement is necessary or desirable to obtain or provide
- 28 funds or other property needed for the support, care, education, health or
- 29 welfare of the minor; and
- 30 (3) the order under subsection (c) is necessary or desirable to obtain
- 31 or provide money needed for the support, care, education, health or
- 32 welfare of the minor.
- 33 (c) If the court makes the findings under subsection (a) or (b), the
- 34 court, instead of appointing a conservator, may:
- 35 (1) Authorize or direct a transaction necessary to protect the financial
- 36 interest or property of the respondent, including:
- 37 (A) An action to establish eligibility for benefits;
- 38 (B) payment, delivery, deposit or retention of funds or property;
- 39 (C) sale, mortgage, lease or other transfer of property;
- 40 (D) purchase of an annuity;
- 41 (E) entry into a contractual relationship, including a contract to
- 42 provide for personal care, supportive services, education, training or
- 43 employment;

1 (F) addition to or establishment of a trust;
2 (G) ratification or invalidation of a contract, trust, will or other
3 transaction, including a transaction related to the property or business
4 affairs of the respondent; or

5 (H) settlement of a claim; or

6 (2) restrict access to the respondent's property by a specified person
7 whose access to the property places the respondent at serious risk of
8 financial harm.

9 (d) After the hearing on a petition under section 119(a)(2) or (c), and
10 amendments thereto, whether or not the court makes the findings under
11 subsection (a) or (b), the court may issue an order to restrict access to the
12 respondent or the respondent's property by a specified person that the court
13 finds by clear and convincing evidence:

14 (1) Through fraud, coercion, duress or the use of deception and
15 control caused or attempted to cause an action that would have resulted in
16 financial harm to the respondent or the respondent's property; and

17 (2) poses a serious risk of substantial financial harm to the respondent
18 or the respondent's property.

19 (e) Before issuing an order under subsection (c) or (d), the court shall
20 consider the factors under section 99, and amendments thereto, a
21 conservator must consider when making a decision on behalf of an
22 individual subject to conservatorship.

23 (f) Before issuing an order under subsection (c) or (d) for a
24 respondent who is a minor, the court also shall consider the best interest of
25 the minor, the preference of the parents of the minor and the preference of
26 the minor, if the minor is 12 years of age or older.

27 (g) Any order issued under this section may include reporting
28 requirements, time limits, bond requirements or any other provisions
29 deemed necessary by the court.

30 New Sec. 122. A verified petition for a protective arrangement
31 instead of guardianship or conservatorship must state the petitioner's name,
32 principal residence, current street address, if different, relationship to the
33 respondent, interest in the protective arrangement, the name and address of
34 any attorney representing the petitioner and, to the extent known, the
35 following:

36 (a) The respondent's name, age, principal residence, current street
37 address if different, and address of the dwelling in which it is proposed the
38 respondent will reside if the petition is granted;

39 (b) the name and address of the respondent's:

40 (1) Spouse or, if the respondent has none, an adult with whom the
41 respondent has shared household responsibilities for more than six months
42 in the 12-month period before the filing of the petition; and

43 (2) adult children, adult stepchildren, adult grandchildren and each

1 parent and adult sibling of the respondent, or, if none, at least one adult
2 nearest in kinship to the respondent who can be found with reasonable
3 diligence; and

4 (3) adult former stepchildren with whom the respondent had an
5 ongoing relationship in the two-year period immediately before the filing
6 of the petition;

7 (c) the name and current address of each of the following, if
8 applicable:

9 (1) A person primarily responsible for the care or custody of the
10 respondent;

11 (2) any attorney currently representing the respondent;

12 (3) the representative payee appointed by the social security
13 administration for the respondent;

14 (4) a guardian or conservator acting for the respondent in this state or
15 another jurisdiction;

16 (5) a trustee or custodian of a trust or custodianship of which the
17 respondent is a beneficiary;

18 (6) the fiduciary appointed for the respondent by the department of
19 veterans affairs and any curator appointed under K.S.A. 73-507, and
20 amendments thereto;

21 (7) an agent designated under a power of attorney for healthcare in
22 which the respondent is identified as the principal;

23 (8) an agent designated under a power of attorney for finances in
24 which the respondent is identified as the principal;

25 (9) a person nominated as guardian or conservator by the respondent
26 if the respondent is 12 years of age or older;

27 (10) a person nominated as guardian by the respondent's parent or
28 spouse in a will or other signed record;

29 (11) a person known to have routinely assisted the respondent with
30 decision making in the six-month period immediately before the filing of
31 the petition; and

32 (12) if the respondent is a minor:

33 (A) An adult not otherwise listed with whom the respondent resides;
34 and

35 (B) each person not otherwise listed that had primary care or custody
36 of the respondent for at least 60 days during the two years immediately
37 before the filing of the petition or for at least 730 days during the five
38 years immediately before the filing of the petition;

39 (d) the nature of the protective arrangement sought;

40 (e) the reason the protective arrangement sought is necessary,
41 including a description of:

42 (1) The nature and extent of the respondent's alleged need;

43 (2) any less restrictive alternative for meeting the respondent's alleged

1 need which has been considered or implemented;

2 (3) if no less restrictive alternative has been considered or
3 implemented, the reason less restrictive alternatives have not been
4 considered or implemented; and

5 (4) the reason other less restrictive alternatives are insufficient to
6 meet the respondent's alleged need;

7 (f) the name and current address, if known, of any person with whom
8 the petitioner seeks to limit the respondent's contact and the reason why
9 limited contact with the respondent is necessary;

10 (g) whether the respondent needs an interpreter, translator, or other
11 form of support to communicate effectively with the court or understand
12 court proceedings;

13 (h) if a protective arrangement instead of guardianship is sought and
14 the respondent has property other than personal effects, a general
15 statement of the respondent's property with an estimate of its value,
16 including any insurance or pension, and the source and amount of any
17 other anticipated income or receipts; and

18 (i) if a protective arrangement instead of conservatorship is sought, a
19 general statement of the respondent's property with an estimate of its
20 value, including any insurance or pension, and the source and amount of
21 other anticipated income or receipts.

22 New Sec. 123. (a) On filing of a petition under section 119, and
23 amendments thereto, the court shall set a date, time and place for a hearing
24 on the petition.

25 (b) A copy of a petition under section 119, and amendments thereto,
26 and notice of a hearing on the petition must be served personally on the
27 respondent. The notice must inform the respondent of the respondent's
28 rights at the hearing, including the right to an attorney and to attend the
29 hearing. The notice must include a description of the nature, purpose and
30 consequences of granting the petition. The court may not grant the petition
31 if notice substantially complying with this subsection is not served on the
32 respondent. The court may order any of the following persons to serve the
33 notice upon the respondent:

34 (1) The petitioner or the attorney for the petitioner;

35 (2) the attorney appointed by the court to represent the respondent;

36 (3) any law enforcement officer; or

37 (4) any other person whom the court finds to be a proper person to
38 serve this notice.

39 (c) In a proceeding on a petition under section 119, and amendments
40 thereto, the notice required under subsection (b) must be given to the
41 persons required to be listed in the petition under section 122(a) through
42 (c), and amendments thereto, and any other person interested in the
43 respondent's welfare the court determines. Failure to give notice under this

1 subsection does not preclude the court from granting the petition.

2 (d) After the court has ordered a protective arrangement under
3 sections 119 through 130, and amendments thereto, notice of a hearing on
4 a petition for any other order filed under this act, together with a copy of
5 the petition, must be given to the respondent and any other person the
6 court determines.

7 New Sec. 124. (a) On filing of a petition under section 119, and
8 amendments thereto, for a protective arrangement instead of guardianship,
9 the court may appoint a court liaison. The court liaison must be an
10 individual with training or experience in the type of abilities, limitations
11 and needs alleged in the petition.

12 (b) On filing of a petition under section 119, and amendments thereto,
13 for a protective arrangement instead of conservatorship for a minor, the
14 court may appoint a court liaison to investigate a matter related to the
15 petition or inform the minor or a parent of the minor about the petition or a
16 related matter.

17 (c) On filing of a petition under section 119, and amendments thereto,
18 for a protective arrangement instead of conservatorship for an adult, the
19 court may appoint a court liaison. The court liaison must be an individual
20 with training or experience in the types of abilities, limitations and needs
21 alleged in the petition.

22 (d) A court liaison appointed under subsection (a) or (c) shall
23 interview the respondent in person and in a manner the respondent is best
24 able to understand:

25 (1) Explain, in general, the petition, and the nature and purpose of the
26 proceeding including the potential loss of rights as a result of the
27 proceeding;

28 (2) obtain the respondent's views with respect to the order sought;

29 (3) if the petitioner seeks an order related to the dwelling of the
30 respondent, visit the respondent's present dwelling and any dwelling in
31 which it is reasonably believed the respondent will live if the order is
32 granted;

33 (4) if a protective arrangement instead of guardianship is sought,
34 obtain information from any physician or other provider known to have
35 treated, advised or assessed the respondent's relevant physical or mental
36 condition, to the extent that such information has not already been
37 provided to the court;

38 (5) if a protective arrangement instead of conservatorship is sought,
39 review financial records of the respondent, if relevant to the court liaison's
40 recommendation under subsection (e)(2); and

41 (6) investigate the allegations in the petition and any other matter
42 relating to the petition as directed by the court, including, but not limited
43 to, the respondent's family relationships, past conduct, the nature and

1 extent of any property or income of the respondent, whether the
2 respondent is likely to injure self or others and other matters as the court
3 may specify.

4 (e) A court liaison under this section promptly shall file a report with
5 the court at least 10 days prior to the hearing on the petition or other
6 hearing as directed by the court. Unless otherwise ordered by the court,
7 such report must include:

8 (1) To the extent relevant to the order sought, a summary of self-care,
9 independent-living tasks and financial-management tasks the respondent:

10 (A) Can manage without assistance or with existing supports;

11 (B) could manage with the assistance of appropriate supportive
12 services, technological assistance or supported decision making; and

13 (C) cannot manage;

14 (2) a recommendation regarding the appropriateness of the protective
15 arrangement sought and whether a less restrictive alternative for meeting
16 the respondent's needs is available;

17 (3) if the petition seeks to change the physical location of the
18 dwelling of the respondent, a statement whether the proposed dwelling
19 meets the respondent's needs and whether the respondent has expressed a
20 preference as to the respondent's dwelling;

21 (4) a statement whether the respondent is able to attend a hearing at
22 the location court proceedings typically are held;

23 (5) a statement whether the respondent is able to participate in a
24 hearing and which identifies any technology or other form of support that
25 would enhance the respondent's ability to participate; and

26 (6) any other matter the court directs.

27 (f) The costs of an investigation by a court liaison shall be assessed as
28 provided for in section 42, and amendments thereto.

29 New Sec. 125. (a) Unless the respondent in a proceeding under
30 sections 119 through 130, and amendments thereto, is represented by an
31 attorney, the court shall appoint an attorney to represent the respondent,
32 regardless of the respondent's ability to pay. The court shall give
33 preference in the appointment of an attorney to an attorney whom the
34 respondent has requested or to any attorney who has represented the
35 respondent in other matters if the court has knowledge of that prior
36 representation.

37 (b) An attorney representing the respondent in a proceeding under
38 sections 119 through 130, and amendments thereto, shall:

39 (1) Make reasonable efforts to ascertain the respondent's wishes;

40 (2) advocate for the respondent's wishes to the extent reasonably
41 ascertainable; and

42 (3) if the respondent's wishes are not reasonably ascertainable,
43 advocate for the result that is the least restrictive alternative in type,

1 duration and scope, consistent with the respondent's interests.

2 (c) The court may appoint an attorney to represent a parent of a minor
3 who is the subject of a proceeding under sections 119 through 130, and
4 amendments thereto, if:

5 (1) The parent objects to the entry of an order for a protective
6 arrangement instead of guardianship or conservatorship;

7 (2) the court determines that counsel is needed to ensure that consent
8 to the entry of an order for a protective arrangement is informed; or

9 (3) the court otherwise determines the parent needs representation.

10 (d) An attorney representing the respondent shall interview the
11 respondent in person and, in a manner the respondent is best able to
12 understand:

13 (1) Explain to the respondent the substance of the petition, the nature,
14 purpose and effect of the proceeding, and the respondent's rights at the
15 hearing on the petition;

16 (2) determine the respondent's views about the order sought by the
17 petitioner; and

18 (3) inform the respondent that all costs and expenses of the
19 proceeding, including respondent's attorney fees, may be paid from the
20 respondent's assets.

21 New Sec. 126. (a) Upon the filing of the petition or any other time at
22 or before the hearing, if the contents of the petition or evidence at the
23 hearing support a prima facie case of the need for a protective
24 arrangement, the court shall order an examination and evaluation of the
25 respondent to be conducted through a general hospital, psychiatric
26 hospital, community mental health center, or community developmental
27 disability organization, or by a licensed physician, psychiatrist,
28 psychologist, physician assistant, nurse practitioner, social worker or other
29 professional appointed by the court who is qualified to evaluate the
30 respondent's alleged cognitive and functional abilities and limitations and
31 will not be advantaged or disadvantaged by a decision to grant the petition
32 or otherwise have a conflict of interest.

33 (b) Unless otherwise specified by the court, the report of the
34 examination and evaluation submitted to the court shall contain:

35 (1) The respondent's name, age and date of birth;

36 (2) a description of the respondent's physical and mental condition;

37 (3) a description of the nature and extent of the respondent's cognitive
38 and functional abilities and limitations, including adaptive behaviors and
39 social skills, and, as appropriate, educational and developmental potential;

40 (4) a summary of self-care and independent-living tasks the
41 respondent can manage without assistance or with existing supports, could
42 manage with the assistance of appropriate supportive services,
43 technological assistance or supported decision making, and cannot

1 manage;

2 (5) a prognosis for any improvement and, as appropriate, any
3 recommendation for treatment or rehabilitation;

4 (6) a list and description of any prior assessments, evaluations or
5 examinations of the respondent, including the dates thereof, which were
6 relied upon in the preparation of this evaluation;

7 (7) the date and location where this examination and evaluation
8 occurred, and the name or names of the professional or professionals
9 performing the examination and evaluation and such professional's
10 qualifications;

11 (8) a statement by the professional that the professional has
12 personally completed an independent examination and evaluation of the
13 respondent, and that the report submitted to the court contains the results
14 of that examination and evaluation, and the professional's opinion with
15 regard to the issues of whether or not the respondent is in need of a
16 guardian and whether there are barriers to the respondent's attendance and
17 participation at the hearing on the petition; and

18 (9) the signature of the professional who prepared the report.

19 (c) The professional shall file with the court, at least five days prior to
20 the date of the trial, such professional's written report concerning the
21 examination and evaluation ordered by the court. The report shall be made
22 available by the court to counsel for all parties.

23 (d) In lieu of entering an order for an examination and evaluation as
24 provided for in this section, the court may determine that the report
25 accompanying the petition is in compliance with the requirements of this
26 section and that no further examination or evaluation should be required,
27 unless the respondent, or such person's attorney, requests such an
28 examination and evaluation in writing. Any such request shall be filed with
29 the court, and a copy thereof delivered to the petitioner, at least four days
30 prior to the date of the trial. Accompanying the request shall be a statement
31 of the reasons why an examination and evaluation is requested and the
32 name and address of a qualified professional or facility willing and able to
33 conduct this examination and evaluation. If the court orders a further
34 examination and evaluation, the court may continue the trial and fix a new
35 date, time and place of the trial at a time not to exceed 30 days from the
36 date of the filing of the request.

37 New Sec. 127. (a) Except as otherwise provided in subsection (b), a
38 hearing under sections 119 through 130, and amendments thereto, may not
39 proceed unless the respondent attends the hearing. If it is not reasonably
40 feasible for the respondent to attend a hearing at the location where court
41 proceedings typically are held, the court shall make reasonable efforts to
42 hold the hearing at an alternative location convenient to the respondent or
43 allow the respondent to attend the hearing using real-time audio-visual

1 technology.

2 (b) A hearing under sections 119 through 130, and amendments
3 thereto, may proceed without the respondent in attendance if the court
4 finds by clear and convincing evidence that:

5 (1) The respondent is choosing not to attend the hearing after having
6 been fully informed of the right to attend and the potential consequences
7 of failing to do so;

8 (2) there is no practicable way for the respondent to attend and
9 participate in the hearing even with appropriate supportive services and
10 technological assistance; or

11 (3) the respondent is a minor who has received proper notice and
12 attendance would be harmful to the minor.

13 (c) The respondent may be assisted in a hearing under sections 119
14 through 130, and amendments thereto, by a person or persons of the
15 respondent's choosing, assistive technology or an interpreter or translator,
16 or a combination of these supports. If assistance would facilitate the
17 respondent's participation in the hearing, but is not otherwise available to
18 the respondent, the court shall make reasonable efforts to provide it.

19 (d) The respondent has a right to retain an attorney to represent the
20 respondent at a hearing under sections 119 through 130, and amendments
21 thereto.

22 (e) At a hearing under sections 119 through 130, and amendments
23 thereto, the respondent may:

24 (1) Present evidence and subpoena witnesses and documents;

25 (2) examine witnesses, including any court-appointed evaluator and
26 the court liaison; and

27 (3) otherwise participate in the hearing.

28 (f) A hearing under sections 119 through 130, and amendments
29 thereto, must be closed on request of the respondent and a showing of
30 good cause.

31 (g) Any person may request to participate in a hearing under sections
32 119 through 130, and amendments thereto. The court may grant the
33 request, with or without a hearing, on determining that the best interest of
34 the respondent will be served. The court may impose appropriate
35 conditions on the person's participation.

36 New Sec. 128. The court shall give notice of an order under sections
37 119 through 130, and amendments thereto, to the individual who is subject
38 to the protective arrangement instead of guardianship or conservatorship, a
39 person whose access to the individual is restricted by the order and any
40 other person the court determines.

41 New Sec. 129. (a) The existence of a proceeding for or the existence
42 of a protective arrangement instead of guardianship or conservatorship is a
43 matter of public record unless the court seals the record after:

1 (1) The respondent, the individual subject to the protective
2 arrangement, or the parent of a minor subject to the protective arrangement
3 requests the record be sealed; and

4 (2) either:

5 (A) The proceeding is dismissed;

6 (B) the protective arrangement is no longer in effect; or

7 (C) an act authorized by the order granting the protective arrangement
8 has been completed.

9 (b) (1) An order of protective arrangement is a matter of public record
10 unless sealed by the court. All other court records of the proceeding
11 relating to the protective arrangement are not a matter of public record
12 except as further provided.

13 (2) The following persons may access court records of the proceeding
14 and resulting protective arrangement:

15 (A) A respondent;

16 (B) an individual subject to a protective arrangement instead of
17 guardianship or conservatorship;

18 (C) an attorney designated by the respondent or individual;

19 (D) a parent of a minor subject to a protective arrangement; and

20 (E) a licensed attorney, abstractor, or title insurance agent.

21 (3) A person not otherwise entitled to access to court records under
22 this subsection for good cause may request permission from the court for
23 access. The court shall grant access if access is in the best interest of the
24 respondent or individual subject to the protective arrangement or furthers
25 the public interest and does not endanger the welfare or financial interests
26 of the respondent or individual.

27 (c) A report of a court liaison or professional evaluation generated in
28 the course of a proceeding under sections 119 through 130, and
29 amendments thereto, must be sealed on filing but is available to:

30 (1) The court;

31 (2) the individual who is the subject of the report or evaluation,
32 without limitation as to use;

33 (3) the petitioner, court liaison and petitioner's and respondent's
34 attorneys, for purposes of the proceeding;

35 (4) unless the court orders otherwise, an agent appointed under a
36 power of attorney for finances in which the respondent is the principal;

37 (5) if the order is for a protective arrangement instead of guardianship
38 and unless the court orders otherwise, an agent appointed under a power of
39 attorney for healthcare in which the respondent is identified as the
40 principal; and

41 (6) any other person if it is in the public interest or for a purpose the
42 court orders for good cause.

43 New Sec. 130. The court may appoint a facilitator to assist in

1 implementing a protective arrangement under sections 119 through 130,
2 and amendments thereto. The facilitator has the authority conferred by the
3 order of appointment and serves until discharged by court order.

4 New Sec. 131. For purposes of this act, the judicial council shall
5 develop a statement of rights form, petition forms and report and
6 accounting forms.

7 New Sec. 132. In applying and construing this uniform act,
8 consideration must be given to the need to promote uniformity of the law
9 with respect to its subject matter among states that enact it.

10 New Sec. 133. This act modifies, limits or supersedes the electronic
11 signatures in global and national commerce act, 15 U.S.C. § 7001 et seq.,
12 but does not modify, limit or supersede section 101(c) of that act, 15
13 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices
14 described in section 103(b) of that act, 15 U.S.C. § 7003(b).

15 New Sec. 134. (a) This act applies to:

16 (1) A proceeding for appointment of a guardian or conservator or for
17 a protective arrangement instead of guardianship or conservatorship
18 commenced after January 1, 2026; and

19 (2) except as provided in subsection (b), a guardianship,
20 conservatorship or protective arrangement instead of guardianship or
21 conservatorship in existence on January 1, 2026, unless the court finds
22 application of a particular provision of this act would substantially
23 interfere with the effective conduct of the proceeding or prejudice the
24 rights of a party, in which case the particular provision of this act does not
25 apply and the superseded law applies.

26 (b) Sections 79 and 103, and amendments thereto, mandating a
27 guardian's plan or conservator's plan shall not apply to guardianships or
28 conservatorships in existence on January 1, 2026, unless the court orders
29 that a guardian's plan or conservator's plan is required.

30 New Sec. 135. If any provision of this act or its application to any
31 person or circumstance is held invalid, the invalidity does not affect other
32 provisions or applications of this act which can be given effect without the
33 invalid provision or application, and to this end the provisions of this act
34 are severable.

35 Sec. 136. K.S.A. 9-1215 is hereby amended to read as follows: 9-
36 1215. (a) Subject to the provisions of this section, an individual owner of
37 an account may enter into a written contract with any bank located in this
38 state that provides that at the time of the owner's death, the balance of the
39 owner's legal share of the account shall be paid to one or more
40 beneficiaries. If a beneficiary has predeceased the owner, that beneficiary's
41 share shall be divided equally among the remaining beneficiaries unless
42 the contract provides otherwise.

43 (b) If any beneficiary is a minor at the time funds become payable to

1 the beneficiary pursuant to this section, the bank shall pay out in
2 accordance with ~~K.S.A. 59-3053~~ *section 116*, and amendments thereto.

3 (c) During the owner's lifetime, the owner has the right to both
4 withdraw funds on deposit in the account in the manner provided in the
5 contract, in whole or in part, as though no beneficiary has been named, and
6 to change the designation of beneficiary. No change in the designation of
7 the beneficiary shall be valid unless executed in the form and manner
8 prescribed by the bank and delivered to the bank prior to the death of the
9 owner.

10 (d) The interest of the beneficiary shall not vest until the death of the
11 owner. Vesting of the beneficiary's interest is subject to the following if,
12 prior to the owner's death or payment to the beneficiary, the bank has
13 received written notice:

14 (1) From the department for children and families of a claim pursuant
15 to K.S.A. 39-709, and amendments thereto, the balance of the owner's
16 share shall be paid to the department for children and families to the extent
17 of medical assistance expended on the deceased owner, with the
18 beneficiary then receiving the balance of the owner's share, if any remains;
19 or

20 (2) of the owner's surviving spouse's intent to claim an elective share
21 under K.S.A. 59-6a214, and amendments thereto, the balance of the
22 owner's share shall be paid to the court having jurisdiction as provided in
23 K.S.A. 59-6a214, and amendments thereto, to the extent of the owner's
24 surviving spouse's elective share, with the beneficiary then receiving the
25 balance of the owner's share, if any remains.

26 (e) Transfers pursuant to this section shall not be considered
27 testamentary or be invalidated due to nonconformity with the provisions of
28 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

29 (f) Payment by the bank of the owner's deposit account pursuant to
30 the provisions of this section shall release and discharge the bank from
31 further liability for the payment.

32 (g) For the purposes of this section:

33 (1) The balance of the owner's deposit account or the balance of the
34 owner's legal share of a deposit account shall be construed to not include
35 any portion of the account which under the law of joint tenancy is the
36 property of another joint tenant of the account upon the death of the
37 owner; and

38 (2) where multiple owners exist, such owners will be presumed to
39 own equal shares of the deposit account unless the deposit contract with
40 the bank specifies a different percentage of ownership for the owners.

41 Sec. 137. K.S.A. 17-2263 is hereby amended to read as follows: 17-
42 2263. (a) Subject to the provisions of this section and K.S.A. 17-2264, and
43 amendments thereto, an individual adult or minor, hereafter referred to as

1 the member, may enter into a written contract with any credit union
2 located in this state providing that the balance of the member's account, or
3 the balance of the member's legal share of an account, at the time of death
4 of the member shall be made payable on the death of the member to one or
5 more persons or, if the persons predecease the owner, to another person or
6 persons, hereafter referred to as the beneficiary or beneficiaries. If any
7 beneficiary is a minor at the time the account, or any portion of the
8 account, becomes payable to the beneficiary and the balance, or portion of
9 the balance, exceeds the amount specified by ~~K.S.A. 59-3053~~ *section 116*,
10 and amendments thereto, the moneys shall be payable only to a
11 conservator of the minor beneficiary.

12 (b) Transfers pursuant to this section shall not be considered
13 testamentary or be invalidated due to nonconformity with the provisions of
14 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

15 (c) Every contract authorized by this section shall be considered to
16 contain a right on the part of the member during the member's lifetime
17 both to withdraw funds on deposit in the account in the manner provided
18 in the contract, in whole or in part, as though no beneficiary has been
19 named, and to change the designation of beneficiary. The interest of the
20 beneficiary shall be considered not to vest until the death of the member
21 and, if there is a claim pursuant to K.S.A. 39-709, and amendments
22 thereto, until such claim is satisfied.

23 (d) No change in the designation of the beneficiary shall be valid
24 unless executed in the form and manner prescribed by the credit union and
25 delivered to the credit union prior to the death of the member.

26 (e) For the purposes of this section, the balance of the member's
27 account or the balance of the member's legal share of an account shall not
28 be construed to include any portion of the account that under the law of
29 joint tenancy is the property of another joint tenant of the account, upon
30 the death of the owner.

31 (f) As used in this section, "person" means any individual, individual
32 or corporate fiduciary or nonprofit religious or charitable organization as
33 defined by K.S.A. 79-4701, and amendments thereto.

34 Sec. 138. K.S.A. 17-2264 is hereby amended to read as follows: 17-
35 2264. When the shareholder and the credit union have entered into a
36 contract authorized in K.S.A. 17-2263, and amendments thereto, the
37 shareholder's account subject to the contract or any part of or interest on
38 the account shall be paid by the credit union to the shareholder or pursuant
39 to the shareholder's order during the shareholder's lifetime. On the
40 shareholder's death, the deposit account or any part of or interest on the
41 account shall be paid by the credit union to the secretary for children and
42 families for a claim pursuant to K.S.A. 39-709, and amendments thereto,
43 or, if there is no such claim or if any portion of the account remains after

1 such claim is satisfied, to the designated beneficiary or beneficiaries. If
2 any designated beneficiary is a minor at the time the account, or any
3 portion of the account, becomes payable to the beneficiary and the
4 balance, or portion of the balance, exceeds the amount specified by ~~K.S.A.~~
5 ~~59-3053~~ *section 116*, and amendments thereto, the credit union shall pay
6 the moneys or any interest on them only to a conservator of the minor
7 beneficiary. The receipt of the conservator shall release and discharge the
8 credit union for the payment.

9 Sec. 139. K.S.A. 21-5417 is hereby amended to read as follows: 21-
10 5417. (a) Mistreatment of a dependent adult or an elder person is
11 knowingly committing one or more of the following acts:

12 (1) Infliction of physical injury, unreasonable confinement or
13 unreasonable punishment upon a dependent adult or an elder person;

14 (2) taking the personal property or financial resources of a dependent
15 adult or an elder person for the benefit of the defendant or another person
16 by taking control, title, use or management of the personal property or
17 financial resources of a dependent adult or an elder person through:

18 (A) Undue influence, coercion, harassment, duress, deception, false
19 representation, false pretense or without adequate consideration to such
20 dependent adult or elder person;

21 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et
22 seq., and amendments thereto;

23 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et
24 seq., and amendments thereto; or

25 (D) a violation of the ~~act for obtaining a guardian or a conservator, or~~
26 ~~both, K.S.A. 59-3050 et seq. *Kansas uniform guardianship,*~~
27 ~~*conservatorship and other protective arrangements act, sections 24*~~
28 ~~*through 135*~~, and amendments thereto; or

29 (3) omission or deprivation of treatment, goods or services that are
30 necessary to maintain physical or mental health of such dependent adult or
31 elder person.

32 (b) Mistreatment of a dependent adult or an elder person as defined
33 in:

34 (1) (A) Subsection (a)(1) is a severity level 5, person felony, except as
35 provided in subsection (b)(1)(B);

36 (B) subsection (a)(1) is a severity level 2, person felony, when the
37 victim is a dependent adult who is a resident of an adult care home, as
38 described in subsection (e)(2)(A), during the commission of the offense;

39 (2) subsection (a)(2) if the aggregate amount of the value of the
40 personal property or financial resources is:

41 (A) \$1,000,000 or more is a severity level 2, person felony;

42 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
43 person felony;

1 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
2 person felony;

3 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
4 person felony;

5 (E) at least \$1,500 but less than \$25,000 is a severity level 7, person
6 felony;

7 (F) less than \$1,500 is a class A person misdemeanor, except as
8 provided in subsection (b)(2)(G); and

9 (G) less than \$1,500 and committed by a person who has, within five
10 years immediately preceding commission of the crime, been convicted of a
11 violation of this section two or more times is a severity level 7, person
12 felony; and

13 (3) (A) subsection (a)(3) is a severity level 8, person felony, except as
14 provided in subsection (b)(3)(B); and

15 (B) subsection (a)(3) is a severity level 5, person felony, when the
16 victim is a dependent adult who is a resident of an adult care home, as
17 described in subsection (e)(2)(A), during the commission of the offense.

18 (c) It shall be an affirmative defense to any prosecution for
19 mistreatment of a dependent adult or an elder person as described in
20 subsection (a)(2) that:

21 (1) The personal property or financial resources were given as a gift
22 consistent with a pattern of gift giving to the person that existed before the
23 dependent adult or elder person became vulnerable;

24 (2) the personal property or financial resources were given as a gift
25 consistent with a pattern of gift giving to a class of individuals that existed
26 before the dependent adult or elder person became vulnerable;

27 (3) the personal property or financial resources were conferred as a
28 gift by the dependent adult or elder person to the benefit of a person or
29 class of persons, and such gift was reasonable under the circumstances; or

30 (4) a court approved the transaction before the transaction occurred.

31 (d) No dependent adult or elder person is considered to be mistreated
32 under subsection (a)(1) or (a)(3) for the sole reason that such dependent
33 adult or elder person relies upon or is being furnished treatment by
34 spiritual means through prayer in lieu of medical treatment in accordance
35 with the tenets and practices of a recognized church or religious
36 denomination of which such dependent adult or elder person is a member
37 or adherent.

38 (e) As used in this section:

39 (1) "Adequate consideration" means the personal property or
40 financial resources were given to the person as payment for bona fide
41 goods or services provided by such person and the payment was at a rate
42 customary for similar goods or services in the community that the
43 dependent adult or elder person resided in at the time of the transaction.

1 (2) "Dependent adult" means an individual 18 years of age or older
2 who is unable to protect the individual's own interest. Such term shall
3 include, but is not limited to, any:

4 (A) Resident of an adult care home including, but not limited to,
5 those facilities defined by K.S.A. 39-923, and amendments thereto;

6 (B) adult cared for in a private residence;

7 (C) individual kept, cared for, treated, boarded, confined or otherwise
8 accommodated in a medical care facility;

9 (D) individual with intellectual disability or a developmental
10 disability receiving services through a community facility for people with
11 intellectual disability or residential facility licensed under K.S.A. 39-2001
12 et seq., and amendments thereto;

13 (E) individual with a developmental disability receiving services
14 provided by a community service provider as provided in the
15 developmental disability reform act; or

16 (F) individual kept, cared for, treated, boarded, confined or otherwise
17 accommodated in a state psychiatric hospital or state institution for people
18 with intellectual disability.

19 (3) "Elder person" means a person 60 years of age or older.

20 (f) An offender who violates the provisions of this section may also
21 be prosecuted for, convicted of, and punished for any other offense in
22 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or
23 K.S.A. 21-6418, and amendments thereto.

24 Sec. 140. K.S.A. 38-2217 is hereby amended to read as follows: 38-
25 2217. (a) *Physical or mental care and treatment.* (1) When a child less
26 than 18 years of age is alleged to have been physically, mentally or
27 emotionally abused or neglected or sexually abused, no consent shall be
28 required to medically examine the child to determine whether the child has
29 been abused or neglected. Unless the child is alleged or suspected to have
30 been abused by the parent or guardian, the investigating officer shall notify
31 or attempt to notify the parent or guardian of the medical examination of
32 the child.

33 (2) When the health or condition of a child who is subject to
34 jurisdiction of the court requires it, the court may consent to the
35 performing and furnishing of hospital, medical, surgical or dental
36 treatment or procedures, including the release and inspection of medical or
37 dental records. A child, or parent of any child, who is opposed to certain
38 medical procedures authorized by this subsection may request an
39 opportunity for a hearing thereon before the court. Subsequent to the
40 hearing, the court may limit the performance of matters provided for in
41 this subsection or may authorize the performance of those matters subject
42 to terms and conditions the court considers proper.

43 (3) The custodian or agent of the custodian is the personal

1 representative for the purpose of consenting to disclosure of otherwise
2 protected health information and may give consent to the following:

- 3 (A) Dental treatment for the child by a licensed dentist;
- 4 (B) diagnostic examinations of the child, including but not limited to
5 the withdrawal of blood or other body fluids, x-rays and other laboratory
6 examinations;
- 7 (C) releases and inspections of the child's medical history records;
- 8 (D) immunizations for the child;
- 9 (E) administration of lawfully prescribed drugs to the child;
- 10 (F) examinations of the child including, but not limited to, the
11 withdrawal of blood or other body fluids or tissues for the purpose of
12 determining the child's parentage; and
- 13 (G) subject to *the* limitations in ~~K.S.A. 59-3075(e)(4), (5) and (6)~~
14 *section 78*, and amendments thereto, medical or surgical care determined
15 by a physician to be necessary for the welfare of such child, if the parents
16 are not available or refuse to consent.

17 (4) When the court has adjudicated a child to be in need of care, the
18 custodian or an agent designated by the custodian is the personal
19 representative for the purpose of consenting to disclosure of otherwise
20 protected health information and shall have authority to consent to the
21 performance and furnishing of hospital, medical, surgical or dental
22 treatment or procedures or mental care or treatment other than inpatient
23 treatment at a state psychiatric hospital, including the release and
24 inspection of medical or hospital records, subject to terms and conditions
25 the court considers proper and subject to the limitations of ~~K.S.A. 59-3075~~
26 ~~(e)(4), (5) and (6)~~ *section 78*, and amendments thereto.

27 (5) Any health care provider who in good faith renders hospital,
28 medical, surgical, mental or dental care or treatment to any child or
29 discloses protected health information as authorized by this section shall
30 not be liable in any civil or criminal action for failure to obtain consent of
31 a parent.

32 (6) Nothing in this section shall be construed to mean that any person
33 shall be relieved of legal responsibility to provide care and support for a
34 child.

35 (b) *Care and treatment requiring court action.* If it is brought to the
36 court's attention, while the court is exercising jurisdiction over the person
37 of a child under this code, that the child may be a mentally ill person as
38 defined in K.S.A. 59-2946, and amendments thereto, or a person with an
39 alcohol or substance abuse problem as defined in K.S.A. 59-29b46, and
40 amendments thereto, the court may:

41 (1) Direct or authorize the county or district attorney or the person
42 supplying the information to file the petition provided for in K.S.A. 59-
43 2957, and amendments thereto, and proceed to hear and determine the

1 issues raised by the application as provided in the care and treatment act
2 for mentally ill persons or the petition provided for in K.S.A. 59-29b57,
3 and amendments thereto, and proceed to hear and determine the issues
4 raised by the application as provided in the care and treatment act for
5 persons with an alcohol or substance abuse problem; or

6 (2) authorize that the child seek voluntary admission to a treatment
7 facility as provided in K.S.A. 59-2949, and amendments thereto, or K.S.A.
8 59-29b49, and amendments thereto.

9 The application to determine whether the child is a mentally ill person
10 or a person with an alcohol or substance abuse problem may be filed in the
11 same proceedings as the petition alleging the child to be a child in need of
12 care, or may be brought in separate proceedings. In either event, the court
13 may enter an order staying any further proceedings under this code until
14 all proceedings have been concluded under the care and treatment act for
15 mentally ill persons or the care and treatment act for persons with an
16 alcohol or substance abuse problem.

17 Sec. 141. K.S.A. 44-513a is hereby amended to read as follows: 44-
18 513a. Whenever a minor person shall be entitled to compensation under
19 the provisions of the workers compensation act, the administrative law
20 judge is authorized to direct such compensation to be paid in accordance
21 with ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform guardianship,*
22 *conservatorship and other protective arrangements act, sections 24*
23 *through 135, and amendments thereto.*

24 Sec. 142. K.S.A. 44-1601 is hereby amended to read as follows: 44-
25 1601. As used in this act:

26 (a) (1) "Amusement ride" means any mechanical or electrical device
27 that carries or conveys passengers along, around or over a fixed or
28 restricted route or course or within a defined area for the purpose of giving
29 its passengers amusement, pleasure, thrills or excitement, including, but
30 not be limited to:

31 (A) Rides commonly known as ferris wheels, carousels, parachute
32 towers, bungee jumping, reverse bungee jumping, tunnels of love, roller
33 coasters, boat rides, water slides, inflatable devices, commercial zip lines,
34 trampoline courts and go-karts;

35 (B) equipment generally associated with winter activities, such as ski
36 lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

37 (C) equipment not originally designed to be used as an amusement
38 ride, such as cranes or other lifting devices, when used as part of an
39 amusement ride.

40 (2) "Amusement ride" does not include:

41 (A) Games, concessions and associated structures;

42 (B) any single passenger coin-operated ride that: (i) Is manually,
43 mechanically or electrically operated; (ii) is customarily placed in a public

- 1 location; and (iii) does not normally require the supervision or services of
2 an operator;
- 3 (C) nonmechanized playground equipment, including, but not limited to,
4 to, swings, seesaws, stationary spring-mounted animal features, rider-
5 propelled merry-go-rounds, climbers, slides and physical fitness devices;
- 6 (D) antique amusement rides;
- 7 (E) limited-use amusement rides;
- 8 (F) registered agritourism activities;
- 9 (G) any ride commonly known as a hayrack ride in which patrons sit
10 in a wagon or cart that is then pulled by horses or a tractor or other motor
11 vehicle;
- 12 (H) any ride commonly known as a barrel train, which has a series of
13 handmade cars fashioned from barrels that are connected and pulled by a
14 tractor or other motor vehicle; or
- 15 (I) any amusement ride owned by an individual and operated solely
16 within a single county for strictly private use.
- 17 (b) "Antique amusement ride" means an amusement ride, as defined
18 in subsection (a)(1), manufactured prior to January 1, 1930.
- 19 (c) "Certificate of inspection" means a certificate, signed and dated
20 by a qualified inspector, showing that an amusement ride has satisfactorily
21 passed inspection by such inspector.
- 22 (d) "Class A amusement ride" means an amusement ride designed for
23 use primarily by individuals aged 12 or less.
- 24 (e) "Class B amusement ride" means an amusement ride that is not
25 classified as a class A amusement ride.
- 26 (f) "Department" means the department of labor.
- 27 (g) "Limited-use amusement ride" means an amusement ride, as
28 defined in subsection (a)(1), owned and operated by a nonprofit,
29 community-based organization that is operated for less than 20 days, or
30 160 hours, in a year and is operated at only one location each year.
- 31 (h) "Nondestructive testing" means the development and application
32 of technical methods in accordance with ASTM F747 standards such as
33 radiographic, magnetic particle, ultrasonic, liquid penetrant,
34 electromagnetic, neutron radiographic, acoustic emission, visual and leak
35 testing to:
- 36 (1) Examine materials or components in ways that do not impair the
37 future usefulness and serviceability in order to detect, locate, measure and
38 evaluate discontinuities, defects and other imperfections;
- 39 (2) assess integrity, properties and composition; and
- 40 (3) measure geometrical characters.
- 41 (i) "Operator" means a person actually supervising, or engaged in or
42 directly controlling the operations of an amusement ride.
- 43 (j) "Owner" means a person who owns, leases, controls or manages

1 the operations of an amusement ride and may include the state or any
2 political subdivision of the state.

3 (k) "Parent or guardian" means any parent, guardian or custodian
4 responsible for the control, safety, training or education of a minor or an
5 adult or minor with an impairment in need of a guardian or a conservator,
6 or both, as those terms are defined by ~~K.S.A. 59-3051~~ *section 25*, and
7 amendments thereto.

8 (l) (1) "Patron" means any individual who is:

9 (A) Waiting in the immediate vicinity of an amusement ride to get on
10 the ride;

11 (B) getting on an amusement ride;

12 (C) using an amusement ride;

13 (D) getting off an amusement ride; or

14 (E) leaving an amusement ride and still in the immediate vicinity of
15 the ride.

16 (2) "Patron" does not include employees, agents or servants of the
17 owner while engaged in the duties of their employment.

18 (m) "Person" means any individual, association, partnership,
19 corporation, limited liability company, government or other entity.

20 (n) "Qualified inspector" means a person who:

21 (1) Is a licensed professional engineer, as defined in K.S.A. 74-7003,
22 and amendments thereto, and has completed at least two years of
23 experience in the amusement ride field, consisting of at least one year of
24 actual inspection of amusement rides under a qualified inspector for a
25 manufacturer, governmental agency, amusement park, carnival or
26 insurance underwriter, and an additional year of practicing any
27 combination of amusement ride inspection, design, fabrication,
28 installation, maintenance, testing, repair or operation;

29 (2) provides satisfactory evidence of completing a minimum of five
30 years of experience in the amusement ride field, at least two years of
31 which consisted of actual inspection of amusement rides under a qualified
32 inspector for a manufacturer, governmental agency, amusement park,
33 carnival or insurance underwriter, and the remaining experience consisting
34 of any combination of amusement ride inspection, design, fabrication,
35 installation, maintenance, testing, repair or operation;

36 (3) has received qualified training from a third party, such as
37 attainment of level I certification from the national association of
38 amusement ride safety officials (NAARSO), attainment of level I
39 certification from the amusement industry manufacturers and suppliers
40 international (AIMS), attainment of a qualified inspector certification from
41 the association for challenge course technology (ACCT), when applicable,
42 or other similar qualification from another nationally recognized
43 organization; or

1 (4) for purposes of inspecting inflatable devices that are rented on a
2 regular basis and erected at temporary locations, provides satisfactory
3 evidence of completing a minimum of five years of experience working
4 with inflatable devices and has received qualified training from a third
5 party, such as attainment of an advanced inflatable safety operations
6 certification from the safe inflatable operators training organization or
7 other nationally recognized organization.

8 (o) "Registered agritourism activity" means an amusement ride, as
9 defined in subsection (a)(1), that is a registered agritourism activity, as
10 defined in K.S.A. 32-1432, and amendments thereto.

11 (p) "Secretary" means the secretary of labor.

12 (q) "Serious injury" means an injury that results in:

13 (1) Death, dismemberment, significant disfigurement or permanent
14 loss of the use of a body organ, member, function or system;

15 (2) a compound fracture; or

16 (3) other injury or illness that requires immediate admission and
17 overnight hospitalization, and observation by a licensed physician.

18 (r) "Sign" means any symbol or language reasonably calculated to
19 communicate information to patrons or their parents or guardians,
20 including placards, prerecorded messages, live public address, stickers,
21 pictures, pictograms, guide books, brochures, videos, verbal information
22 and visual signals.

23 (s) "Water slide" means a slide that is at least 35 feet in height and
24 that uses water to propel the patron through the ride.

25 Sec. 143. K.S.A. 2024 Supp. 58a-103 is hereby amended to read as
26 follows: 58a-103. As used in this code:

27 (1) "Action," with respect to an act of a trustee, includes a failure to
28 act.

29 (2) "Beneficiary" means a person that:

30 (A) Has a present or future beneficial interest in a trust, vested or
31 contingent; or

32 (B) in a capacity other than that of trustee, holds a power of
33 appointment over trust property.

34 (3) "Charitable trust" means a trust, or portion of a trust, created for a
35 charitable purpose described in K.S.A. 58a-405(a), and amendments
36 thereto.

37 (4) "Conservator" means a person appointed by the court pursuant to
38 ~~K.S.A. 59-3001 et seq.~~ *section 25*, and amendments thereto, to administer
39 the estate of a minor or adult individual.

40 (5) "Environmental law" means a federal, state, or local law, rule,
41 regulation, or ordinance relating to protection of the environment.

42 (6) "Guardian" means a person appointed by the court pursuant to
43 ~~K.S.A. 59-3001 et seq.~~ *section 25*, and amendments thereto, to make

1 decisions regarding the support, care, education, health, and welfare of a
2 minor or adult individual. The term does not include a guardian ad litem.

3 (7) "Interests of the beneficiaries" means the beneficial interests
4 provided in the terms of the trust.

5 (8) "Jurisdiction," with respect to a geographic area, includes a state
6 or country.

7 (9) "Person" means an individual, corporation, business trust, estate,
8 trust, partnership, limited liability company, association, joint venture,
9 government; governmental subdivision, agency, or instrumentality; public
10 corporation, or any other legal or commercial entity.

11 (10) "Power of withdrawal" means a presently exercisable general
12 power of appointment other than a power:

13 (A) Exercisable by a trustee and limited by an ascertainable standard
14 relating to an individual's health, education, support or maintenance within
15 the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the internal revenue
16 code of 1986, as in effect on July 1, 2022; or

17 (B) exercisable by another person only upon consent of the trustee or
18 a person holding an adverse interest.

19 (11) "Property" means anything that may be the subject of ownership,
20 whether real or personal, legal or equitable, or any interest therein.

21 (12) (A) "Qualified beneficiary" means a beneficiary who, as of the
22 date in question, either is eligible to receive mandatory or discretionary
23 distributions of trust income or principal, or would be so eligible if the
24 trust terminated on that date.

25 (B) For the purpose of trustee determining "qualified beneficiaries" of
26 a trust in which a beneficial interest is subject to a power of appointment
27 of any nature, the trustee may conclusively presume such power of
28 appointment has not been exercised unless the trustee has been furnished
29 by the powerholder or the legal representative of the powerholder or the
30 powerholder's estate with the original or a copy of an instrument validly
31 exercising such power of appointment, in which event the qualified
32 beneficiaries shall be subsequently determined by giving due consideration
33 to such exercise unless and until the trustee has been given notification in a
34 similar manner of an instrument which validly revokes or modifies such
35 exercise.

36 (13) "Revocable," as applied to a trust, means revocable by the settlor
37 without the consent of the trustee or a person holding an adverse interest.

38 (14) "Settlor" means a person, including a testator, who creates, or
39 contributes property to, a trust. If more than one person creates or
40 contributes property to a trust, each person is a settlor of the portion of the
41 trust property attributable to that person's contribution except to the extent
42 another person has the power to revoke or withdraw that portion.

43 (15) "Spendthrift provision" means a term of a trust which restrains

1 either voluntary or involuntary transfer of a beneficiary's interest.

2 (16) "State" means a state of the United States, the District of
3 Columbia, Puerto Rico, the United States Virgin Islands, or any territory or
4 insular possession subject to the jurisdiction of the United States. The term
5 includes an Indian tribe or band recognized by federal law or formally
6 acknowledged by a state.

7 (17) "Terms of a trust" means:

8 (A) Except as otherwise provided in subparagraph (B), the
9 manifestation of the settlor's intent regarding a trust's provisions as:

10 (i) Expressed in the trust instrument; or

11 (ii) established by other evidence that would be admissible in a
12 judicial proceeding; or

13 (B) the trust's provisions as established, determined, or amended by:

14 (i) A trustee or person holding a power to direct under K.S.A. 58a-
15 808, and amendments thereto, in accordance with applicable law;

16 (ii) court order; or

17 (iii) a nonjudicial settlement agreement under K.S.A. 58a-111, and
18 amendments thereto.

19 (18) "Trust instrument" means an instrument executed by the settlor
20 that contains terms of the trust, including any amendments thereto.

21 (19) "Trustee" includes an original, additional, and successor trustee,
22 and a cotrustee.

23 Sec. 144. K.S.A. 2024 Supp. 58-656 is hereby amended to read as
24 follows: 58-656. (a) An attorney in fact who elects to act under a power of
25 attorney is under a duty to act in the interest of the principal and to avoid
26 conflicts of interest that impair the ability of the attorney in fact so to act.
27 A person who is appointed an attorney in fact under a power of attorney
28 who undertakes to exercise the authority conferred in the power of
29 attorney, has a fiduciary obligation to exercise the powers conferred in the
30 best interests of the principal, and to avoid self-dealing and conflicts of
31 interest, as in the case of a trustee with respect to the trustee's beneficiary
32 or beneficiaries. The attorney in fact shall keep a record of receipts,
33 disbursements and transactions made on behalf of the principal and shall
34 not commingle funds or assets of the principal with the funds or assets of the
35 attorney in fact. In the absence of explicit authorization, the attorney in
36 fact shall exercise a high degree of care in maintaining, without
37 modification, any estate plan which the principal may have in place,
38 including, but not limited to, arrangements made by the principal for
39 disposition of assets at death through beneficiary designations, ownership
40 by joint tenancy or tenancy by the entirety, trust arrangements or by will or
41 codicil. Unless otherwise provided in the power of attorney or in a separate
42 agreement between the principal and attorney in fact, an attorney in fact
43 who elects to act shall exercise the authority granted in a power of attorney

1 with that degree of care that would be observed by a prudent person
2 dealing with the property and conducting the affairs of another, except that
3 all investments made on or after July 1, 2003, shall be in accordance with
4 the provisions of the Kansas uniform prudent investor act, K.S.A. 58-
5 24a01 et seq., and amendments thereto. If the attorney in fact has special
6 skills or was appointed attorney in fact on the basis of representations of
7 special skills or expertise, the attorney in fact has a duty to use those skills
8 in the principal's behalf.

9 (b) On matters undertaken or to be undertaken in the principal's
10 behalf and to the extent reasonably possible under the circumstances, an
11 attorney in fact has a duty to keep in regular contact with the principal, to
12 communicate with the principal and to obtain and follow the instructions
13 of the principal.

14 (c) If, following execution of a durable power of attorney, a court of
15 the principal's domicile appoints a conservator, guardian of the estate or
16 other fiduciary charged with the management of all of the principal's
17 property or all of the principal's property except specified exclusions, the
18 attorney in fact is accountable to the fiduciary as well as to the principal.
19 The fiduciary has the same power to revoke or amend the durable power of
20 attorney that the principal would have had if the principal were not an
21 adult with an impairment in need of a guardian or conservator or both as
22 defined by ~~subsection (a) of K.S.A. 59-305~~ section 25, and amendments
23 thereto.

24 (d) A principal may nominate by a power of attorney, a guardian or
25 conservator, or both, for consideration by the court. If a petition to appoint
26 a guardian or conservator, or both, is filed, the court shall make the
27 appointment in accordance with the principal's most recent nomination in
28 the power of attorney, so long as the individual nominated is a fit and
29 proper person.

30 (e) An attorney in fact shall exercise authority granted by the
31 principal in accordance with the instrument setting forth the power of
32 attorney, any modification made therein by the principal or the principal's
33 legal representative or a court, and the oral and written instructions of the
34 principal, or the written instructions of the principal's legal representative
35 or a court.

36 (f) An attorney in fact may be instructed in a power of attorney that
37 the authority granted shall not be exercised until, or shall terminate on, the
38 happening of a future event, condition or contingency, as determined in a
39 manner prescribed in the instrument.

40 (g) On the death of the principal, the attorney in fact shall follow the
41 instructions of the court, if any, having jurisdiction over the estate of the
42 principal, or any part thereof, and shall communicate with and be
43 accountable to the principal's personal representative, or if none, the

1 principal's successors. The attorney in fact shall promptly deliver to and
2 put in the possession and control of the principal's personal representative
3 or successors, any property of the principal and copies of any records of
4 the attorney in fact relating to transactions undertaken in the principal's
5 behalf that are deemed by the personal representative or the court to be
6 necessary or helpful in the administration of the decedent's estate.

7 (h) If an attorney in fact has a property or contract interest in the
8 subject of the power of attorney or the authority of the attorney in fact is
9 otherwise coupled with an interest in a person other than the principal, this
10 section does not impose any duties on the attorney in fact that would
11 conflict or be inconsistent with that interest.

12 Sec. 145. K.S.A. 58-662 is hereby amended to read as follows: 58-
13 662. (a) The principal may petition the court for an accounting by the
14 principal's attorney in fact or the legal representative of the attorney in
15 fact. If the principal is disabled or deceased, a petition for accounting may
16 be filed by the principal's legal representative, an adult member of the
17 principal's family or any person interested in the welfare of the principal.

18 (b) Any requirement for an accounting may be waived or an
19 accounting may be approved by the court without hearing, if the
20 accounting is waived or approved by a principal who is not disabled, or by
21 a principal whose legal capacity has been restored, or by all creditors and
22 distributees of a deceased principal's estate whose claims or distributions
23 theretofore have not been satisfied in full. The approval or waiver shall be
24 in writing, signed by the affected persons and filed with the court.

25 (c) For the purposes of subsection (b), a legal representative or a
26 person providing services to the principal's estate shall not be considered a
27 creditor of the principal's estate. No express approval or waiver shall be
28 required from the legal representative of a disabled principal if the
29 principal's legal capacity has been restored, or from the personal
30 representative of a deceased principal's estate, or from any other person
31 entitled to compensation or expense for services rendered to a disabled or
32 deceased principal's estate, unless the principal or the principal's estate is
33 unable to pay in full the compensation and expense to which the person
34 rendering the services may be entitled.

35 (d) The principal, the principal's attorney in fact, an adult member of
36 the principal's family or any person interested in the welfare of the
37 principal may petition the district court in the county where the principal is
38 then residing to determine and declare whether a principal, who has
39 executed a power of attorney, is a disabled person.

40 (e) If the principal is a disabled person, on petition of the principal's
41 legal representative, an adult member of the principal's family or any
42 interested person, including a person interested in the welfare of the
43 principal, for good cause shown, the court may:

- 1 (1) Order the attorney in fact to exercise or refrain from exercising
2 authority in a durable power of attorney in a particular manner or for a
3 particular purpose;
- 4 (2) modify the authority of an attorney in fact under a durable power
5 of attorney;
- 6 (3) declare suspended a power of attorney that is nondurable;
- 7 (4) terminate a durable power of attorney;
- 8 (5) remove the attorney in fact under a durable power of attorney;
- 9 (6) confirm the authority of an attorney in fact or a successor attorney
10 in fact to act under a durable power of attorney; and
- 11 (7) issue such other orders as the court finds will be in the best
12 interest of the disabled principal, including appointment of a conservator
13 for the principal pursuant to ~~K.S.A. 59-3050, et seq.~~ *the Kansas uniform*
14 *guardianship, conservatorship and other protective arrangements act,*
15 *sections 24 through 135,* and amendments thereto.
- 16 (f) In addition to any other remedies available under law, if after
17 notice and hearing, the court determines that there has been a showing that
18 the principal is a disabled person and that the attorney in fact has breached
19 such attorney in fact's fiduciary duty to the principal or that there is a
20 reasonable likelihood that such attorney in fact may do so in the immediate
21 future, the court, in its discretion, may issue an order that some or all of
22 the authority granted by the durable power of attorney be suspended or
23 modified, and that a different attorney in fact be authorized to exercise
24 some or all of the powers granted by the durable power of attorney. Such
25 attorney in fact may be designated by the court. The court may require any
26 person petitioning for any such order to file a bond in such amount and
27 with such sureties as required by the court to indemnify either the attorney
28 in fact who has been acting on behalf of the principal or the principal and
29 the principal's successors in interest for the expenses, including attorney
30 fees, incurred by any such persons with respect to such proceeding. The
31 court, after hearing, may allow payment or enter judgment. None of the
32 actions described in this subsection shall be taken by the court until after
33 hearing upon reasonable notice to all persons identified in a verified
34 statement supplied by the petitioner who is requesting such action
35 identifying the immediate relatives of the principal and any other persons
36 known to the petitioner to be interested in the welfare of the principal.
37 Except that in the event of an emergency as determined by the court, the
38 court, without notice, may enter such temporary order as seems proper to
39 the court, but no such temporary order shall be effective for more than 30
40 days unless extended by the court after hearing on reasonable notice to the
41 persons identified as ~~herein~~ provided *in this subsection.*
- 42 (g) If a power of attorney is suspended or terminated by the court or
43 the attorney in fact is removed by the court, the court may require an

1 accounting from the attorney in fact and order delivery of any property
2 belonging to the principal and copies of any necessary records of the
3 attorney in fact concerning the principal's property and affairs to a
4 successor attorney in fact or the principal's legal representative.

5 (h) In a proceeding under this act or in any other proceeding, or upon
6 petition of an attorney in fact or successor, the court may:

7 (1) Require or permit an attorney in fact under a power of attorney to
8 account;

9 (2) authorize the attorney in fact under a power of attorney to enter
10 into any transaction, or approve, ratify, confirm and validate any
11 transaction entered into by the attorney in fact that the court finds is, was
12 or will be beneficial to the principal and which the court has power to
13 authorize for a conservator pursuant to ~~K.S.A. 59-3050 et seq.~~ *the Kansas*
14 *uniform guardianship, conservatorship and other protective arrangements*
15 *act, sections 24 through 135*, and amendments thereto; and

16 (3) relieve the attorney in fact of any obligation to exercise authority
17 for a disabled principal under a durable power of attorney.

18 (i) Unless previously barred by adjudication, consent or limitation,
19 any cause of action against an attorney in fact or successor for breach of
20 duty to the principal shall be barred as to any principal who has received
21 an account or other statement fully disclosing the matter unless a
22 proceeding to assert the cause of action is commenced within two years
23 after receipt of the account or statement by the principal or, if the principal
24 is a disabled person, by a guardian or conservator of the disabled person's
25 estate. If a disabled person has no guardian or conservator of the disabled
26 person's estate at the time an account or statement is presented, then the
27 cause of action shall not be barred until one year after the removal of the
28 principal's disability or incapacity, one year after the appointment of a
29 conservator for the principal or one year after the death of the principal.
30 The cause of action thus barred does not include any action to recover
31 from an attorney in fact or successor for fraud, misrepresentation or
32 concealment related to the settlement of any transaction involving the
33 agency relationship of the attorney in fact with the principal.

34 Sec. 146. K.S.A. 58-24a15 is hereby amended to read as follows: 58-
35 24a15. Conservators shall not invest funds under their control and
36 management in investments other than those specifically permitted by
37 ~~K.S.A. 59-3078~~ *sections 99 and 100*, and amendments thereto, except
38 upon the entry of an order of a court of competent jurisdiction, after a
39 hearing on a verified petition. Before authorizing any such investment, the
40 court shall require evidence of value and advisability of such purchase.

41 Sec. 147. K.S.A. 2024 Supp. 58-4802 is hereby amended to read as
42 follows: 58-4802. In this act:

43 (a) "Account" means an arrangement under a terms-of-service

1 agreement in which a custodian carries, maintains, processes, receives or
2 stores a digital asset of the user or provides goods or services to the user.

3 (b) "Agent" means an attorney-in-fact granted authority under a
4 durable or nondurable power of attorney.

5 (c) "Carries" means engages in the transmission of an electronic
6 communication.

7 (d) "Catalogue of electronic communications" means information that
8 identifies each person with which a user has had an electronic
9 communication, the time and date of the communication and the electronic
10 address of the person.

11 (e) "Conservatee" means an individual for whom a conservator has
12 been appointed.

13 (f) "Conservator" means a person appointed by a court pursuant to
14 ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship*
15 *and other protective arrangements act, sections 24 through 135,* and
16 amendments thereto, to manage the estate of a minor or adult individual.
17 The term includes a temporary conservator.

18 (g) "Content of an electronic communication" means information
19 concerning the substance or meaning of the communication which:

20 (1) Has been sent or received by a user;

21 (2) is in electronic storage by a custodian providing an electronic
22 communication service to the public or is carried or maintained by a
23 custodian providing a remote computing service to the public; and

24 (3) is not readily accessible to the public.

25 (h) "Court" means the district court.

26 (i) "Custodian" means a person that carries, maintains, processes,
27 receives or stores a digital asset of a user.

28 (j) "Designated recipient" means a person chosen by a user using an
29 online tool to administer digital assets of the user.

30 (k) "Digital asset" means an electronic record in which an individual
31 has a right or interest. The term does not include an underlying asset or
32 liability unless the asset or liability is itself an electronic record.

33 (l) "Electronic" means relating to technology having electrical,
34 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

35 (m) "Electronic communication" has the meaning set forth in 18
36 U.S.C. § 2510(12).

37 (n) "Electronic communication service" means a custodian that
38 provides to a user the ability to send or receive an electronic
39 communication.

40 (o) "Fiduciary" means an original, additional or successor personal
41 representative, guardian, conservator, agent or trustee.

42 (p) "Guardian" means a person appointed by the court pursuant to
43 ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship*

1 *and other protective arrangements act, sections 24 through 135, and*
2 *amendments thereto, to make decisions regarding the support, care,*
3 *education, health and welfare of a minor or adult individual. The term*
4 *includes a temporary guardian but does not include a guardian ad litem.*

5 (q) "Information" means data, text, images, videos, sounds, codes,
6 computer programs, software, databases or the like.

7 (r) "Online tool" means an electronic service provided by a custodian
8 that allows the user, in an agreement distinct from the terms-of-service
9 agreement between the custodian and user, to provide directions for
10 disclosure or nondisclosure of digital assets to a third person.

11 (s) "Person" means an individual, estate, business or nonprofit entity,
12 public corporation, government or governmental subdivision, agency or
13 instrumentality, or other legal entity.

14 (t) "Personal representative" means an executor, administrator, special
15 administrator or person that performs substantially the same function
16 under law of this state other than this act.

17 (u) "Power of attorney" means a record that grants an agent authority
18 to act on behalf of a principal.

19 (v) "Principal" means an individual who grants authority to an agent
20 in a power of attorney.

21 (w) "Record" means information that is inscribed on a tangible
22 medium or that is stored in an electronic or other medium and is
23 retrievable in perceivable form.

24 (x) "Remote computing service" means a custodian that provides to a
25 user computer-processing services or the storage of digital assets by means
26 of an electronic communications system, as defined in 18 U.S.C. §
27 2510(14).

28 (y) "Terms of service agreement" means an agreement that controls
29 the relationship between a user and a custodian.

30 (z) "Trustee" means a fiduciary with legal title to property under an
31 agreement or declaration that creates a beneficial interest in another. The
32 term includes a successor trustee.

33 (aa) "User" means a person that has an account with a custodian.

34 (bb) "Ward" means an individual for whom a guardian has been
35 appointed.

36 (cc) "Will" includes a codicil, a testamentary instrument that only
37 appoints an executor and an instrument that revokes or revises a
38 testamentary instrument.

39 Sec. 148. K.S.A. 2024 Supp. 58-4814 is hereby amended to read as
40 follows: 58-4814. (a) After an opportunity for a hearing under ~~K.S.A. 59-~~
41 ~~3050 et seq.~~ *the Kansas uniform guardianship, conservatorship and other*
42 *protective arrangements act, sections 24 through 135, and amendments*
43 *thereto, the court may grant a guardian or conservator access to the digital*

1 assets of a ward or conservatee.

2 (b) Unless otherwise ordered by the court or directed by the user, a
3 custodian shall disclose to a guardian or conservator the catalogue of
4 electronic communications sent or received by a ward or conservatee and
5 any digital assets, other than the content of electronic communications, in
6 which the ward or conservatee has a right or interest if the guardian or
7 conservator gives the custodian:

8 (1) A written request for disclosure in physical or electronic form;

9 (2) a certified copy of the court order that gives the guardian or
10 conservator authority over the digital assets of the ward or conservatee;
11 and

12 (3) if requested by the custodian:

13 (A) A number, username, address or other unique subscriber or
14 account identifier assigned by the custodian to identify the account of the
15 ward or conservatee; or

16 (B) evidence linking the account to the ward or conservatee.

17 (c) A guardian or conservator with general authority to manage the
18 assets of a ward or conservatee may request a custodian of the digital
19 assets of the ward or conservatee to suspend or terminate an account of the
20 ward or conservatee for good cause. A request made under this section
21 must be accompanied by a certified copy of the court order giving the
22 guardian or conservator authority over the ward or conservatee's property.

23 Sec. 149. K.S.A. 59-1701 is hereby amended to read as follows: 59-
24 1701. (a) No bank, savings and loan association or other corporation shall
25 be appointed or authorized directly or indirectly to act as a fiduciary in this
26 state except:

27 (1) A bank, savings and loan association or other corporation
28 organized under the laws of, and having its principal place of business in,
29 this state;

30 (2) a national bank, federal savings bank or federal savings and loan
31 association located in this state;

32 (3) a bank, savings and loan association or other corporation
33 organized under the laws of, and having its principal place of business in,
34 another state which permits a bank, savings and loan association or other
35 corporation which is similarly organized in this state to act in a like
36 fiduciary capacity in the other state under similar conditions;

37 (4) a national bank, federal savings bank or federal savings and loan
38 association located in another state which permits a national bank, federal
39 savings bank or federal savings and loan association located in this state to
40 act in a like fiduciary capacity in the other state under similar conditions;

41 (5) a nonprofit corporation certified in accordance with ~~K.S.A. 59-~~
42 ~~3070~~ section 35, and amendments thereto, to the extent provided by that
43 statute; or

1 (6) as provided in K.S.A. 59-1707 and 59-1708, and amendments
2 thereto.

3 (b) No officer, employee or agent of a bank, savings and loan
4 association or corporation which is not authorized to act as a fiduciary in
5 this state shall be permitted to act as a fiduciary, whether such officer,
6 employee or agent is a resident or a nonresident of this state, when in fact
7 such officer, employee or agent is acting as a fiduciary on behalf of such
8 bank, savings and loan association or corporation.

9 (c) No bank, savings and loan association or other corporation, other
10 than a nonprofit corporation certified in accordance with ~~K.S.A. 59-3070~~
11 *section 35*, and amendments thereto, shall be appointed guardian of the
12 person of a ward.

13 Sec. 150. K.S.A. 2024 Supp. 59-2401a is hereby amended to read as
14 follows: 59-2401a. (a) An appeal by an interested party from a district
15 magistrate judge who is not regularly admitted to practice law in Kansas to
16 a district judge may be taken no later than 14 days from any final order,
17 judgment or decree entered in any proceeding pursuant to:

18 (1) The Kansas adoption and relinquishment act, K.S.A. 59-2111 et
19 seq., and amendments thereto;

20 (2) the care and treatment act for mentally ill persons, K.S.A. 59-
21 2945 et seq., and amendments thereto;

22 (3) the care and treatment act for persons with an alcohol or substance
23 abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto; or

24 (4) ~~the act for obtaining a guardian or conservator, or both, K.S.A.~~
25 ~~59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other*
26 *protective arrangements act, sections 24 through 135*, and amendments
27 thereto.

28 The appeal shall be heard no later than 30 days from the date the notice
29 of appeal is filed. If no record was made of the proceedings, the trial shall
30 be de novo. Except as provided further, if a record was made of the
31 proceedings, the district judge shall conduct the appeal on the record.
32 Upon motion of any party to the proceedings, the district judge may hold a
33 trial de novo.

34 (b) An appeal by an interested party from a district judge, or a district
35 magistrate judge who is regularly admitted to practice law in Kansas, to an
36 appellate court shall be taken pursuant to article 21 of chapter 60 of the
37 Kansas Statutes Annotated, and amendments thereto, from any final order,
38 judgment or decree entered in any proceeding pursuant to:

39 (1) The Kansas adoption and relinquishment act, K.S.A. 59-2111 et
40 seq., and amendments thereto;

41 (2) the care and treatment act for mentally ill persons, K.S.A. 59-
42 2945 et seq., and amendments thereto;

43 (3) the Kansas sexually violent predator act, K.S.A. 59-29a01 et seq.,

1 and amendments thereto;

2 (4) the care and treatment act for persons with an alcohol or substance
3 abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto; or

4 ~~(5) the act for obtaining a guardian or conservator, or both, K.S.A.~~
5 ~~59-3050 et seq. *Kansas uniform guardianship, conservatorship and other*~~
6 ~~*protective arrangements act, sections 24 through 135*, and amendments~~
7 ~~thereto.~~

8 Except for appeals under the Kansas judicial review act and cases
9 otherwise specifically provided for by law, appeals under this section shall
10 have priority over all others.

11 (c) Pending the determination of an appeal pursuant to subsection (a)
12 or (b), any order appealed from shall continue in force unless modified by
13 temporary orders entered by the court hearing the appeal. The supersedeas
14 bond provided for in K.S.A. 60-2103, and amendments thereto, shall not
15 stay proceedings under an appeal from the district court to an appellate
16 court.

17 (d) In an appeal taken pursuant to subsection (a) or (b), the court from
18 which the appeal is taken may require an appropriate party, other than the
19 state of Kansas, any subdivision thereof, and all cities and counties in this
20 state, to file a bond in such sum and with such sureties as may be fixed and
21 approved by the court to ensure that the appeal will be prosecuted without
22 unnecessary delay and to ensure the payment of all judgments and any
23 sums, damages and costs that may be adjudged against that party.

24 (e) As used in this section, "interested party" means:

25 (1) The parent in a proceeding pursuant to the Kansas adoption and
26 relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto;

27 (2) the patient under the care and treatment act for mentally ill
28 persons, K.S.A. 59-2945 et seq., and amendments thereto;

29 (3) the patient under the care and treatment act for persons with an
30 alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and
31 amendments thereto;

32 (4) the person adjudicated a sexually violent predator under the
33 Kansas sexually violent predator act, K.S.A. 59-29a01 et seq., and
34 amendments thereto;

35 ~~(5) the ward or conservatee under the act for obtaining a guardian or~~
36 ~~conservator, or both, K.S.A. 59-3050 et seq. *Kansas uniform*~~
37 ~~*guardianship, conservatorship and other protective arrangements act,*~~
38 ~~*sections 24 through 135*, and amendments thereto;~~

39 (6) the parent of a minor person adjudicated a ward or conservatee
40 under the ~~act for obtaining a guardian or conservator, or both, K.S.A. 59-~~
41 ~~3050 et seq. *Kansas uniform guardianship, conservatorship and other*~~
42 ~~*protective arrangements act, sections 24 through 135*, and amendments~~
43 ~~thereto;~~

1 (7) the petitioner in the case on appeal; and

2 (8) any other person granted interested party status by the court from
3 which the appeal is being taken.

4 (f) This section shall be part of and supplemental to the Kansas
5 probate code.

6 Sec. 151. K.S.A. 2024 Supp. 59-29b46 is hereby amended to read as
7 follows: 59-29b46. When used in the care and treatment act for persons
8 with an alcohol or substance abuse problem:

9 (a) "Discharge" means the final and complete release from treatment,
10 by either the head of a treatment facility acting pursuant to K.S.A. 59-
11 29b50, and amendments thereto, or by an order of a court issued pursuant
12 to K.S.A. 59-29b73, and amendments thereto.

13 (b) "Head of a treatment facility" means the administrative director of
14 a treatment facility or such person's designee.

15 (c) "Law enforcement officer" means the same as defined in K.S.A.
16 22-2202, and amendments thereto.

17 (d) "Licensed addiction counselor" means a person who engages in
18 the practice of addiction counseling limited to substance use disorders and
19 who is licensed by the behavioral sciences regulatory board. Such person
20 shall engage in the practice of addiction counseling in a state-licensed or
21 certified alcohol and other drug treatment program or while completing a
22 Kansas domestic violence offender assessment for participants in a
23 certified batterer intervention program pursuant to K.S.A. 75-7d01 through
24 75-7d13, and amendments thereto, unless otherwise exempt from licensure
25 under subsection (n).

26 (e) "Licensed clinical addiction counselor" means a person who
27 engages in the independent practice of addiction counseling and diagnosis
28 and treatment of substance use disorders specified in the edition of the
29 American psychiatric association's diagnostic and statistical manual of
30 mental disorders (DSM) designated by the board by rules and regulations
31 and is licensed by the behavioral sciences regulatory board.

32 (f) "Licensed master's addiction counselor" means a person who
33 engages in the practice of addiction counseling limited to substance use
34 disorders and who is licensed under this act. Such person may diagnose
35 substance use disorders only under the direction of a licensed clinical
36 addiction counselor, a licensed psychologist, a person licensed to practice
37 medicine and surgery or a person licensed to provide mental health
38 services as an independent practitioner and whose licensure allows for the
39 diagnosis and treatment of substance abuse disorders or mental disorders.

40 (g) "Other facility for care or treatment" means any mental health
41 clinic, medical care facility, nursing home, the detox units at either
42 Osawatomie state hospital or Larned state hospital, any physician or any
43 other institution or individual authorized or licensed by law to give care or

1 treatment to any person.

2 (h) "Patient" means a person who is a voluntary patient, a proposed
3 patient or an involuntary patient.

4 (1) "Voluntary patient" means a person who is receiving treatment at
5 a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

6 (2) "Proposed patient" means a person for whom a petition pursuant
7 to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

8 (3) "Involuntary patient" means a person who is receiving treatment
9 under order of a court or a person admitted and detained by a treatment
10 facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or
11 (c), and amendments thereto.

12 (i) "Person with an alcohol or substance abuse problem" means a
13 person who: (1) Lacks self-control as to the use of alcoholic beverages or
14 any substance as defined in subsection (m); or

15 (2) uses alcoholic beverages or any substance to the extent that the
16 person's health may be substantially impaired or endangered without
17 treatment.

18 (j) (1) "Person with an alcohol or substance abuse problem subject to
19 involuntary commitment for care and treatment" means a person with an
20 alcohol or substance abuse problem who also is incapacitated by alcohol or
21 any substance and is likely to cause harm to self or others.

22 (2) "Incapacitated by alcohol or any substance" means that the
23 person, as the result of the use of alcohol or any substance, has impaired
24 judgment resulting in the person:

25 (A) Being incapable of realizing and making a rational decision with
26 respect to the need for treatment; or

27 (B) lacking sufficient understanding or capability to make or
28 communicate responsible decisions concerning either the person's well-
29 being or estate.

30 (3) "Likely to cause harm to self or others" means that the person, by
31 reason of the person's use of alcohol or any substance: (A) Is likely, in
32 the reasonably foreseeable future, to cause substantial physical injury or
33 physical abuse to self or others or substantial damage to another's property,
34 as evidenced by behavior threatening, attempting or causing such injury,
35 abuse or damage; except that if the harm threatened, attempted or caused is
36 only harm to the property of another, the harm must be of such a value and
37 extent that the state's interest in protecting the property from such harm
38 outweighs the person's interest in personal liberty; or

39 (B) is substantially unable, except for reason of indigency, to provide
40 for any of the person's basic needs, such as food, clothing, shelter, health
41 or safety, causing a substantial deterioration of the person's ability to
42 function on the person's own.

43 (k) "Physician" means a person licensed to practice medicine and

1 surgery as provided for in the Kansas healing arts act or a person who is
2 employed by a state psychiatric hospital or by an agency of the United
3 States and who is authorized by law to practice medicine and surgery
4 within that hospital or agency.

5 (l) "Psychologist" means a licensed psychologist, as defined by
6 K.S.A. 74-5302, and amendments thereto.

7 (m) "Substance" means: (1) The same as the term "controlled
8 substance" as defined in K.S.A. 21-5701, and amendments thereto; or

9 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

10 (n) "Treatment" means the broad range of emergency, outpatient,
11 intermediate and inpatient services and care, including diagnostic
12 evaluation, medical, psychiatric, psychological and social service care,
13 vocational rehabilitation and career counseling, which may be extended to
14 persons with an alcohol or substance abuse problem.

15 (o) (1) "Treatment facility" means a treatment program, public or
16 private treatment facility, or any facility of the United States government
17 available to treat a person for an alcohol or other substance abuse problem,
18 but such term does not include a licensed medical care facility, a licensed
19 adult care home, a facility licensed under K.S.A. 2015 Supp. 75-3307b,
20 prior to its repeal or under K.S.A. 39-2001 et seq., and amendments
21 thereto, a community-based alcohol and drug safety action program
22 certified under K.S.A. 8-1008, and amendments thereto, and performing
23 only those functions for which the program is certified to perform under
24 K.S.A. 8-1008, and amendments thereto, or a professional licensed by the
25 behavioral sciences regulatory board to diagnose and treat mental
26 disorders at the independent level or a physician, who may treat in the
27 usual course of the behavioral sciences regulatory board licensee's or
28 physician's professional practice individuals incapacitated by alcohol or
29 other substances, but who are not primarily engaged in the usual course of
30 the individual's professional practice in treating such individuals, or any
31 state institution, even if detoxification services may have been obtained at
32 such institution.

33 (2) "Private treatment facility" means a private agency providing
34 facilities for the care and treatment or lodging of persons with either an
35 alcohol or other substance abuse problem and meeting the standards
36 prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto,
37 and licensed under either K.S.A. 65-4014 or 65-4607, and amendments
38 thereto.

39 (3) "Public treatment facility" means a treatment facility owned and
40 operated by any political subdivision of the state of Kansas and licensed
41 under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an
42 appropriate place for the care and treatment or lodging of persons with an
43 alcohol or other substance abuse problem.

1 (p) The terms defined in ~~K.S.A. 59-3051~~ section 25, and amendments
2 thereto, shall have the meanings provided by that section.

3 Sec. 152. K.S.A. 2024 Supp. 59-29b48 is hereby amended to read as
4 follows: 59-29b48. (a) The fact that a person may have voluntarily
5 accepted any form of treatment for an alcohol or substance abuse problem,
6 or become subject to a court order entered under authority of this act, shall
7 not be construed to mean that such person shall have lost any civil right
8 they otherwise would have as a resident or citizen, any property right or
9 their legal capacity, except as may be specified within any court order or as
10 otherwise limited by the provisions of this act or the reasonable rules and
11 regulations which the head of a treatment facility may for good cause find
12 necessary to make for the orderly operations of that facility. No person
13 held in custody under the provisions of this act shall be denied the right to
14 apply for a writ of habeas corpus.

15 (b) There shall be no implication or presumption that a patient within
16 the terms of this act is for that reason alone a person in need of a guardian
17 or a conservator, or both, as provided in ~~K.S.A. 59-3050 through 59-3095~~
18 *the Kansas uniform guardianship, conservatorship and other protective*
19 *arrangements act, sections 24 through 135*, and amendments thereto.

20 (c) A person who is a mentally ill person subject to involuntary
21 commitment for care and treatment as defined in K.S.A. 59-2946, and
22 amendments thereto, or a person with an alcohol or substance abuse
23 problem subject to involuntary commitment for care and treatment as
24 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
25 K.S.A. 21-6301, and amendments thereto.

26 Sec. 153. K.S.A. 59-29b49 is hereby amended to read as follows: 59-
27 29b49. (a) A person with an alcohol or substance abuse problem may be
28 admitted to a treatment facility as a voluntary patient when there are
29 available accommodations and the head of the treatment facility
30 determines such person is in need of treatment therein, and that the person
31 has the capacity to consent to treatment.

32 (b) Admission shall be made upon written application:

33 (1) If such person is 18 years of age or older the person may make
34 such application for themselves; or

35 (2) (A) If such person is less than 18 years of age, a parent may make
36 such application for their child; or

37 (B) if such person is less than 18 years of age, but 14 years of age or
38 older, the person may make such written application on their own behalf
39 without the consent or written application of their parent, legal guardian or
40 any other person. Whenever a person who is 14 years of age or older
41 makes written application on their own behalf and is admitted as a
42 voluntary patient, the head of the treatment facility shall promptly notify
43 the child's parent, legal guardian or other person known to the head of the

1 treatment facility to be interested in the care and welfare of the minor of
2 the admittance of that child; or

3 (3) if such person has a legal guardian, the legal guardian may make
4 such application provided that if the legal guardian is required to obtain
5 authority to do so pursuant to ~~K.S.A. 59-3077~~ sections 77 and 78, and
6 amendments thereto, then only in accordance with the provisions thereof.
7 If the legal guardian is seeking admission of their ward upon an order
8 giving the guardian continuing authority to admit the ward to a treatment
9 facility as defined in ~~K.S.A. 59-3077~~ sections 77 and 78, and amendments
10 thereto, the head of the treatment facility may require a statement from the
11 patient's attending physician or from the local health officer of the area in
12 which the patient resides confirming that the patient is in need of treatment
13 for an alcohol or substance abuse problem in a treatment facility before
14 accepting the ward for admission, and shall divert any such person to a
15 less restrictive treatment alternative as may be appropriate.

16 (c) No person shall be admitted as a voluntary patient under the
17 provisions of this act to any treatment facility unless the head of the
18 treatment facility has informed such person or such person's parent, legal
19 guardian, or other person known to the head of the treatment facility to be
20 interested in the care and welfare of a minor, in writing, of the following:

21 (1) The rules and procedures of the treatment facility relating to the
22 discharge of voluntary patients;

23 (2) the legal rights of a voluntary patient receiving treatment from a
24 treatment facility as provided for in K.S.A. 59-29b78 and amendments
25 thereto; and

26 (3) in general terms, the types of treatment which are available or
27 would not be available to a voluntary patient from that treatment facility.

28 (d) Nothing in this act shall be construed as to prohibit a proposed or
29 involuntary patient with capacity to do so from making an application for
30 admission as a voluntary patient to a treatment facility. Any proposed or
31 involuntary patient desiring to do so shall be afforded an opportunity to
32 consult with their attorney prior to making any such application. If the
33 head of the treatment facility accepts the application and admits the patient
34 as a voluntary patient, then the head of the treatment facility shall notify, in
35 writing, the patient's attorney, the patient's legal guardian, if the patient has
36 a legal guardian, and the district court which has jurisdiction over the
37 patient of the patient's voluntary status. When a notice of voluntary
38 admission is received, the court shall file the same which shall terminate
39 the proceedings.

40 Sec. 154. K.S.A. 59-29b51 is hereby amended to read as follows: 59-
41 29b51. (a) A voluntary patient shall be entitled to be discharged from a
42 treatment facility, by the head of the treatment facility, by no later than the
43 third day, excluding Saturdays, Sundays and holidays, after receipt of the

1 patient's written request for discharge.

2 (b) (1) If the voluntary patient is an adult admitted upon the
3 application of a legal guardian or pursuant to an order of the court issued
4 pursuant to ~~K.S.A. 59-3077~~ sections 77 and 78, and amendments thereto,
5 any request for discharge must be made, in writing, by the legal guardian.

6 (2) If the voluntary patient is a minor, the written request for
7 discharge shall be made by the child's parent or legal guardian except if the
8 minor was admitted upon their own written application to become a
9 voluntary patient made pursuant to K.S.A. 59-29b49 and amendments
10 thereto, then the minor may make the request. In the case of a minor 14 or
11 more years of age who had made written application to become a
12 voluntary patient on their own behalf and who has requested to be
13 discharged, the head of the treatment facility shall promptly inform the
14 child's parent, legal guardian or other person known to the head of the
15 treatment facility to be interested in the care and welfare of the minor of
16 the minor's request for discharge.

17 Sec. 155. K.S.A. 2024 Supp. 59-29b60 is hereby amended to read as
18 follows: 59-29b60. (a) Upon the filing of the petition provided for in
19 K.S.A. 59-29b57, and amendments thereto, the district court shall issue the
20 following:

21 (1) An order fixing the time and place of the trial upon the petition.
22 Such hearing, in the court's discretion, may be conducted in a courtroom, a
23 treatment facility or at some other suitable place. The time fixed in the
24 order shall in no event be earlier than seven days or later than 14 days after
25 the date of the filing of the petition. If a demand for a trial by jury is later
26 filed by the proposed patient, the court may continue the trial and fix a
27 new time and place of the trial at a time that may exceed beyond the 14
28 days but shall be fixed within a reasonable time not exceeding 30 days
29 from the date of the filing of the demand.

30 (2) An order that the proposed patient appear at the time and place of
31 the hearing and providing that the proposed patient's presence will be
32 required at the hearing unless the attorney for the proposed patient shall
33 make a request that the proposed patient's presence be waived and the
34 court finds that the proposed patient's presence at the hearing would be
35 injurious to the proposed patient's welfare. The order shall further provide
36 that notwithstanding the foregoing provision, if the proposed patient
37 requests in writing to the court or to such person's attorney that the
38 proposed patient wishes to be present at the hearing, the proposed patient's
39 presence cannot be waived.

40 (3) An order appointing an attorney to represent the proposed patient
41 at all stages of the proceedings and until all orders resulting from such
42 proceedings are terminated. The court shall give preference, in the
43 appointment of this attorney, to any attorney who has represented the

1 proposed patient in other matters if the court has knowledge of that prior
2 representation. The proposed patient shall have the right to engage an
3 attorney of the proposed patient's own choice and, in such event, the
4 attorney appointed by the court shall be relieved of all duties by the court.

5 (4) An order that the proposed patient shall appear at a time and place
6 that is in the best interests of the patient where the proposed patient will
7 have the opportunity to consult with the proposed patient's court-appointed
8 attorney, which time shall be at least five days prior to the date set for the
9 trial under K.S.A. 59-29b65, and amendments thereto.

10 (5) An order for an evaluation as provided for in K.S.A. 59-29b61,
11 and amendments thereto.

12 (6) A notice as provided for in K.S.A. 59-29b63, and amendments
13 thereto.

14 (7) If the petition also contains allegations as provided for in ~~K.S.A.~~
15 ~~59-3058, 59-3059, 59-3060, 59-3061 or 59-3062~~ *sections 17, 18, 28, 49,*
16 *52 or 65,* and amendments thereto, those orders necessary to make a
17 determination of the need for a legal guardian or conservator, or both, to
18 act on behalf of the proposed patient. For these purposes, the trials
19 required by K.S.A. 59-29b65 ~~and K.S.A. 59-3067,~~ and amendments
20 thereto, *sections 30, 53, 55, 66 and 70, and amendments thereto,* may be
21 consolidated.

22 (8) If the petitioner shall not have named a proposed treatment
23 facility to which the proposed patient may be sent as provided for
24 ~~subsection (b)(8) of~~ *in K.S.A. 59-29b57(b)(8),* and amendments thereto,
25 but instead stated that the secretary for aging and disability services has
26 been notified and requested to determine which treatment facility the
27 proposed patient should be sent to, then the court shall issue an order
28 requiring the secretary, or the secretary's designee, to make that
29 determination and to notify the court of the name and address of that
30 treatment facility by such time as the court shall specify in the court's
31 order.

32 (b) Nothing in this section shall prevent the court from granting an
33 order of continuance, for good cause shown, to any party for no longer
34 than seven days, except that such limitation does not apply to a request for
35 an order of continuance made by the proposed patient or to a request made
36 by any party if the proposed patient is absent such that further proceedings
37 can not be held until the proposed patient has been located. The court also,
38 upon the request of any party, may advance the date of the hearing if
39 necessary and in the best interests of all concerned.

40 Sec. 156. K.S.A. 2024 Supp. 59-29c03 is hereby amended to read as
41 follows: 59-29c03. (a) The fact that a person has been detained for
42 emergency observation and treatment under this act shall not be construed
43 to mean that such person shall have lost any civil right such person would

1 otherwise have as a resident or citizen, any property right or legal capacity,
2 except as may be specified within any court order or as otherwise limited
3 by the provisions of this act or the reasonable policies which the head of a
4 crisis intervention center may, for good cause shown, find necessary to
5 make for the orderly operations of that facility. No person held in custody
6 under the provisions of this act shall be denied the right to apply for a writ
7 of habeas corpus. No judicial action taken as part of the procedure
8 provided in K.S.A. 2024 Supp. 59-29c08(c), and amendments thereto,
9 shall constitute a finding by the court.

10 (b) There shall be no implication or presumption that a patient within
11 the terms of this act is, for that reason alone, a person in need of a guardian
12 or a conservator, or both, as provided in ~~K.S.A. 59-3050 through 59-3097~~
13 *the Kansas uniform guardianship, conservatorship and other protective*
14 *arrangements act, sections 24 through 135*, and amendments thereto.

15 Sec. 157. K.S.A. 2024 Supp. 59-2946 is hereby amended to read as
16 follows: 59-2946. When used in the care and treatment act for mentally ill
17 persons:

18 (a) "Discharge" means the final and complete release from treatment,
19 by either the head of a treatment facility acting pursuant to K.S.A. 59-
20 2950, and amendments thereto, or by an order of a court issued pursuant to
21 K.S.A. 59-2973, and amendments thereto.

22 (b) "Head of a treatment facility" means the administrative director of
23 a treatment facility or such person's designee.

24 (c) "Law enforcement officer" means the same as defined in K.S.A.
25 22-2202, and amendments thereto.

26 (d) (1) "Mental health center" means any community mental health
27 center as defined in K.S.A. 39-2002, and amendments thereto, or a mental
28 health clinic organized as a not-for-profit or a for-profit corporation
29 pursuant to K.S.A. 17-1701 through 17-1775, and amendments thereto, or
30 K.S.A. 17-6001 through 17-6010, and amendments thereto, and licensed in
31 accordance with the provisions of K.S.A. 39-2001 et seq., and
32 amendments thereto.

33 (2) "Participating mental health center" means a mental health center
34 that has entered into a contract with the secretary for aging and disability
35 services pursuant to the provisions of K.S.A. 39-1601 through 39-1612,
36 and amendments thereto.

37 (e) "Mentally ill person" means any person who is suffering from a
38 mental disorder that is manifested by a clinically significant behavioral or
39 psychological syndrome or pattern and associated with either a painful
40 symptom or an impairment in one or more important areas of functioning,
41 and involving substantial behavioral, psychological or biological
42 dysfunction, to the extent that the person is in need of treatment.

43 (f) (1) "Mentally ill person subject to involuntary commitment for

1 care and treatment" means a mentally ill person, as defined in subsection
2 (e), who also lacks capacity to make an informed decision concerning
3 treatment, is likely to cause harm to self or others, and whose diagnosis is
4 not solely one of the following mental disorders: Alcohol or chemical
5 substance abuse; antisocial personality disorder; intellectual disability;
6 organic personality syndrome; or an organic mental disorder.

7 (2) "Lacks capacity to make an informed decision concerning
8 treatment" means that the person, by reason of the person's mental
9 disorder, is unable, despite conscientious efforts at explanation, to
10 understand basically the nature and effects of hospitalization or treatment
11 or is unable to engage in a rational decision-making process regarding
12 hospitalization or treatment, as evidenced by an inability to weigh the
13 possible risks and benefits.

14 (3) "Likely to cause harm to self or others" means that the person, by
15 reason of the person's mental disorder: (A) Is likely, in the reasonably
16 foreseeable future, to cause substantial physical injury or physical abuse to
17 self or others or substantial damage to another's property, as evidenced by
18 behavior threatening, attempting or causing such injury, abuse or damage;
19 except that if the harm threatened, attempted or caused is only harm to the
20 property of another, the harm must be of such a value and extent that the
21 state's interest in protecting the property from such harm outweighs the
22 person's interest in personal liberty; or (B) is substantially unable, except
23 for reason of indigency, to provide for any of the person's basic needs,
24 such as food, clothing, shelter, health or safety, causing a substantial
25 deterioration of the person's ability to function on the person's own.

26 No person who is being treated by prayer in the practice of the religion
27 of any church that teaches reliance on spiritual means alone through prayer
28 for healing shall be determined to be a mentally ill person subject to
29 involuntary commitment for care and treatment under this act unless
30 substantial evidence is produced upon which the district court finds that
31 the proposed patient is likely in the reasonably foreseeable future to cause
32 substantial physical injury or physical abuse to self or others or substantial
33 damage to another's property, as evidenced by behavior threatening,
34 attempting or causing such injury, abuse or damage; except that if the harm
35 threatened, attempted or caused is only harm to the property of another, the
36 harm must be of such a value and extent that the state's interest in
37 protecting the property from such harm outweighs the person's interest in
38 personal liberty.

39 (g) "Patient" means a person who is a voluntary patient, a proposed
40 patient or an involuntary patient.

41 (1) "Voluntary patient" means a person who is receiving treatment at
42 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

43 (2) "Proposed patient" means a person for whom a petition pursuant

1 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

2 (3) "Involuntary patient" means a person who is receiving treatment
3 under order of a court or a person admitted and detained by a treatment
4 facility pursuant to an application filed pursuant to K.S.A. 59-2954(b) or
5 (c), and amendments thereto.

6 (h) "Physician" means a person licensed to practice medicine and
7 surgery as provided for in the Kansas healing arts act or a person who is
8 employed by a state psychiatric hospital or by an agency of the United
9 States and who is authorized by law to practice medicine and surgery
10 within that hospital or agency.

11 (i) "Psychologist" means a licensed psychologist, as defined by
12 K.S.A. 74-5302, and amendments thereto.

13 (j) "Qualified mental health professional" means a physician or
14 psychologist who is employed by a participating mental health center or
15 who is providing services as a physician or psychologist under a contract
16 with a participating mental health center, a licensed master's level
17 psychologist, a licensed clinical psychotherapist, a licensed marriage and
18 family therapist, a licensed clinical marriage and family therapist, a
19 licensed professional counselor, a licensed clinical professional counselor,
20 a licensed specialist social worker or a licensed master social worker or a
21 registered nurse who has a specialty in psychiatric nursing, who is
22 employed by a participating mental health center and who is acting under
23 the direction of a physician or psychologist who is employed by, or under
24 contract with, a participating mental health center.

25 (1) "Direction" means monitoring and oversight including regular,
26 periodic evaluation of services.

27 (2) "Licensed master social worker" means a person licensed as a
28 master social worker by the behavioral sciences regulatory board under
29 K.S.A. 65-6301 through 65-6318, and amendments thereto.

30 (3) "Licensed specialist social worker" means a person licensed in a
31 social work practice specialty by the behavioral sciences regulatory board
32 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

33 (4) "Licensed master's level psychologist" means a person licensed as
34 a licensed master's level psychologist by the behavioral sciences regulatory
35 board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

36 (5) "Registered nurse" means a person licensed as a registered
37 professional nurse by the board of nursing under K.S.A. 65-1113 through
38 65-1164, and amendments thereto.

39 (k) "Secretary" means the secretary for aging and disability services.

40 (l) "State psychiatric hospital" means Larned state hospital,
41 Osawatomie state hospital or Rainbow mental health facility.

42 (m) "Treatment" means any service intended to promote the mental
43 health of the patient and rendered by a qualified professional, licensed or

1 certified by the state to provide such service as an independent practitioner
2 or under the supervision of such practitioner.

3 (n) "Treatment facility" means any mental health center or clinic,
4 psychiatric unit of a medical care facility, state psychiatric hospital,
5 psychologist, physician or other institution or person authorized or
6 licensed by law to provide either inpatient or outpatient treatment to any
7 patient.

8 (o) The terms defined in ~~K.S.A. 59-3051~~ *section 25*, and amendments
9 thereto, shall have the meanings provided by that section.

10 Sec. 158. K.S.A. 2024 Supp. 59-2948 is hereby amended to read as
11 follows: 59-2948. (a) The fact that a person may have voluntarily accepted
12 any form of psychiatric treatment, or become subject to a court order
13 entered under authority of this act, shall not be construed to mean that such
14 person shall have lost any civil right they otherwise would have as a
15 resident or citizen, any property right or their legal capacity, except as may
16 be specified within any court order or as otherwise limited by the
17 provisions of this act or the reasonable rules and regulations which the
18 head of a treatment facility may for good cause find necessary to make for
19 the orderly operations of that facility. No person held in custody under the
20 provisions of this act shall be denied the right to apply for a writ of habeas
21 corpus.

22 (b) There shall be no implication or presumption that a patient within
23 the terms of this act is for that reason alone a person in need of a guardian
24 or a conservator as provided for in ~~K.S.A. 59-3050 through 59-3095~~ *the*
25 *Kansas uniform guardianship, conservatorship and other protective*
26 *arrangements act, sections 24 through 135*, and amendments thereto.

27 (c) A person who is a mentally ill person subject to involuntary
28 commitment for care and treatment as defined in K.S.A. 59-2946, and
29 amendments thereto, or a person with an alcohol or substance abuse
30 problem subject to involuntary commitment for care and treatment as
31 defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to
32 K.S.A. 21-6301, and amendments thereto.

33 Sec. 159. K.S.A. 59-2949 is hereby amended to read as follows: 59-
34 2949. (a) A mentally ill person may be admitted to a treatment facility as a
35 voluntary patient when there are available accommodations and the head
36 of the treatment facility determines such person is in need of treatment
37 therein, and that the person has the capacity to consent to treatment, except
38 that no such person shall be admitted to a state psychiatric hospital without
39 a written statement from a qualified mental health professional authorizing
40 such admission.

41 (b) Admission shall be made upon written application:

42 (1) If such person is 18 years of age or older the person may make
43 such application for themselves; or

1 (2) (A) If such person is less than 18 years of age, a parent may make
2 such application for their child; or

3 (B) if such person is less than 18 years of age, but 14 years of age or
4 older the person may make such written application on their own behalf
5 without the consent or written application of their parent, legal guardian or
6 any other person. Whenever a person who is 14 years of age or older
7 makes written application on their own behalf and is admitted as a
8 voluntary patient, the head of the treatment facility shall promptly notify
9 the child's parent, legal guardian or other person known to the head of the
10 treatment facility to be interested in the care and welfare of the minor of
11 the admittance of that child; or

12 (3) if such person has a legal guardian, the legal guardian may make
13 such application provided that if the legal guardian is required to obtain
14 authority to do so pursuant to ~~K.S.A. 59-3077~~ section 78, and amendments
15 thereto. If the legal guardian is seeking admission of their ward upon an
16 order giving the guardian continuing authority to admit the ward to a
17 treatment facility, as defined in ~~K.S.A. 59-3077~~ section 78, and
18 amendments thereto, the head of the treatment facility may require a
19 statement from the patient's attending physician or from the local health
20 officer of the area in which the patient resides confirming that the patient
21 is in need of psychiatric treatment in a treatment facility before accepting
22 the ward for admission, and shall divert any such person to a less
23 restrictive treatment alternative, as may be appropriate.

24 (c) No person shall be admitted as a voluntary patient under the
25 provisions of this act to any treatment facility unless the head of the
26 treatment facility has informed such person or such person's parent, legal
27 guardian, or other person known to the head of the treatment facility to be
28 interested in the care and welfare of a minor, in writing, of the following:

29 (1) The rules and procedures of the treatment facility relating to the
30 discharge of voluntary patients;

31 (2) the legal rights of a voluntary patient receiving treatment from a
32 treatment facility as provided for in K.S.A. 59-2978 and amendments
33 thereto; and

34 (3) in general terms, the types of treatment which are available or
35 would not be available to a voluntary patient from that treatment facility.

36 (d) Nothing in this act shall be construed as to prohibit a proposed or
37 involuntary patient with capacity to do so from making an application for
38 admission as a voluntary patient to a treatment facility. Any proposed or
39 involuntary patient desiring to do so shall be afforded an opportunity to
40 consult with their attorney prior to making any such application. If the
41 head of the treatment facility accepts the application and admits the patient
42 as a voluntary patient, then the head of the treatment facility shall notify, in
43 writing, the patient's attorney, the patient's legal guardian, if the patient has

1 a legal guardian, and the district court which has jurisdiction over the
2 patient of the patient's voluntary status. When a notice of voluntary
3 admission is received, the court shall file the same which shall terminate
4 the proceedings.

5 Sec. 160. K.S.A. 59-2951 is hereby amended to read as follows: 59-
6 2951. (a) A voluntary patient shall be entitled to be discharged from a
7 treatment facility, by the head of the treatment facility, by no later than the
8 third day, excluding Saturdays, Sundays and holidays, after receipt of the
9 patient's written request for discharge. If the voluntary patient is a patient
10 in a state psychiatric hospital, that hospital shall immediately give either
11 oral or facsimile notice to the participating mental health center serving the
12 area where the patient intends to reside and shall consider any
13 recommendations from that mental health center which may be received
14 prior to the time set for discharge as specified in the notice.

15 (b) (1) If the voluntary patient is an adult admitted upon the
16 application of a legal guardian or pursuant to an order of the court issued
17 pursuant to ~~K.S.A. 59-3077~~ section 78, and amendments thereto, any
18 request for discharge must be made, in writing, by the legal guardian.

19 (2) If the voluntary patient is a minor, the written request for
20 discharge shall be made by the child's parent or legal guardian except if the
21 minor was admitted upon their own written application to become a
22 voluntary patient made pursuant to K.S.A. 59-2949 and amendments
23 thereto, then the minor may make the request. In the case of a minor 14 or
24 more years of age who had made written application to become a
25 voluntary patient on their own behalf and who has requested to be
26 discharged, the head of the treatment facility shall promptly inform the
27 child's parent, legal guardian, or other person known to the head of the
28 treatment facility to be interested in the care and welfare of the minor of
29 the minor's request for discharge.

30 Sec. 161. K.S.A. 59-2960 is hereby amended to read as follows: 59-
31 2960. (a) Upon the filing of the petition provided for in K.S.A. 59-2957
32 and amendments thereto, the district court shall issue the following:

33 (1) An order fixing the time and place of the trial upon the petition.
34 Such hearing, in the court's discretion, may be conducted in a courtroom, a
35 treatment facility or at some other suitable place. The time fixed in the
36 order shall in no event be earlier than seven days or later than 14 days after
37 the date of the filing of the petition. If a demand for a trial by jury is later
38 filed by the proposed patient, the court may continue the trial and fix a
39 new time and place of the trial at a time that may exceed beyond the 14
40 days but shall be fixed within a reasonable time not exceeding 30 days
41 from the date of the filing of the demand.

42 (2) An order that the proposed patient appear at the time and place of
43 the hearing and providing that the proposed patient's presence will be

1 required at the hearing unless the attorney for the proposed patient shall
2 make a request that the proposed patient's presence be waived and the
3 court finds that the proposed patient's presence at the hearing would be
4 injurious to the proposed patient's welfare. The order shall further provide
5 that notwithstanding the foregoing provision, if the proposed patient
6 requests in writing to the court or to such person's attorney that the
7 proposed patient wishes to be present at the hearing, the proposed patient's
8 presence cannot be waived.

9 (3) An order appointing an attorney to represent the proposed patient
10 at all stages of the proceedings and until all orders resulting from such
11 proceedings are terminated. The court shall give preference, in the
12 appointment of this attorney, to any attorney who has represented the
13 proposed patient in other matters if the court has knowledge of that prior
14 representation. The proposed patient shall have the right to engage an
15 attorney of the proposed patient's own choice and, in such event, the
16 attorney appointed by the court shall be relieved of all duties by the court.

17 (4) An order that the proposed patient shall appear at a time and place
18 that is in the best interests of the patient where the proposed patient will
19 have the opportunity to consult with the proposed patient's court-appointed
20 attorney, which time shall be at least five days prior to the date set for the
21 trial under K.S.A. 59-2965 and amendments thereto.

22 (5) An order for a mental evaluation as provided for in K.S.A. 59-
23 2961 and amendments thereto.

24 (6) A notice as provided for in K.S.A. 59-2963 and amendments
25 thereto.

26 (7) If the petition also contains allegations as provided for in ~~K.S.A.~~
27 ~~59-3058, 59-3059, 59-3060, 59-3061 or 59-3062~~ *sections 17, 18, 28, 49,*
28 *52 or 65,* and amendments thereto, those orders necessary to make a
29 determination of the need for a legal guardian or conservator, or both, to
30 act on behalf of the proposed patient. For these purposes, the trials
31 required by ~~K.S.A. 59-2965 and 59-3067,~~ and amendments thereto,
32 *sections 30, 53, 55, 66 and 70, and amendments thereto,* may be
33 consolidated.

34 (b) Nothing in this section shall prevent the court from granting an
35 order of continuance, for good cause shown, to any party for no longer
36 than seven days, except that such limitation does not apply to a request for
37 an order of continuance made by the proposed patient or to a request made
38 by any party if the proposed patient absents him or herself such that further
39 proceedings can not be held until the proposed patient has been located.
40 The court also, upon the request of any party, may advance the date of the
41 hearing if necessary and in the best interests of all concerned.

42 Sec. 162. K.S.A. 73-507 is hereby amended to read as follows: 73-
43 507. Upon the filing of a petition for the appointment of a curator, under

1 the provisions of this act, the court shall cause such notice to be given as
2 provided by the act for obtaining a guardian or conservator, or both
3 (~~K.S.A. 59-3050 through 59-3095~~ *Kansas uniform guardianship,*
4 *conservatorship and other protective arrangements act, sections 24*
5 *through 135*, and amendments thereto).

6 Sec. 163. K.S.A. 2024 Supp. 75-652 is hereby amended to read as
7 follows: 75-652. As used in this act:

8 (a) "Account" or "ABLE savings account" means an individual
9 savings account established in accordance with the provisions of this act.

10 (b) "Account owner" means the person who enters into an ABLE
11 savings agreement pursuant to the provisions of this act. The account
12 owner shall also be the designated beneficiary. A conservator, guardian or
13 a person authorized by the treasurer through procedures established by the
14 treasurer may act on behalf of a designated beneficiary of an account in
15 accordance with procedures established by the treasurer.

16 (c) "Conservator" means a person appointed by the court pursuant to
17 ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship*
18 *and other protective arrangements act, sections 24 through 135*, and
19 amendments thereto.

20 (d) "Designated beneficiary" means a Kansas resident or a person
21 authorized by the treasurer pursuant to K.S.A. 75-653, and amendments
22 thereto, whose qualified disability expenses may be paid from the account.
23 The designated beneficiary must be an eligible individual at the time the
24 account is established.

25 (e) "Eligible individual" means the same as defined in section 529A
26 of the federal internal revenue code of 1986, as amended.

27 (f) "Financial organization" means an organization authorized to do
28 business in the state of Kansas and is:

- 29 (1) Licensed or chartered by the commissioner of insurance;
30 (2) licensed or chartered by the state bank commissioner;
31 (3) chartered by an agency of the federal government; or
32 (4) subject to the jurisdiction and regulation of the securities and
33 exchange commission of the federal government.

34 (g) "Guardian" means a person appointed by the court pursuant to
35 ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship*
36 *and other protective arrangements act, sections 24 through 135*, and
37 amendments thereto.

38 (h) "Management contract" means the contract executed by the
39 treasurer and a financial organization selected to act as a depository and
40 manager of the program.

41 (i) "Member of the family" means the same as defined in section
42 529A of the federal internal revenue code of 1986, as amended.

43 (j) "Nonqualified withdrawal" means a withdrawal from an account

1 which is not:

2 (1) A qualified withdrawal; or

3 (2) a rollover distribution.

4 (k) "Program" means the Kansas ABLE savings program established
5 pursuant to this act.

6 (l) "Program manager" means a financial organization selected by the
7 treasurer to act as a depository and manager of the program.

8 (m) "Qualified disability expense" means the same as defined in
9 section 529A of the federal internal revenue code of 1986, as amended.

10 (n) "Qualified withdrawal" means a withdrawal from an account to
11 pay the qualified disability expenses of the designated beneficiary of the
12 account.

13 (o) "Rollover distribution" means a rollover distribution as defined in
14 section 529A of the federal internal revenue code of 1986, as amended.

15 (p) "Savings agreement" means an agreement between the program
16 manager or the treasurer and the account owner.

17 (q) "Secretary" means the secretary of the United States treasury.

18 (r) "Treasurer" means the state treasurer.

19 Sec. 164. K.S.A. 76-729 is hereby amended to read as follows: 76-

20 729. (a) (1) Persons enrolling at the state educational institutions under the
21 control and supervision of the state board of regents who, if such persons
22 are adults, have been domiciliary residents of the state of Kansas or, if
23 such persons are minors, whose parents have been domiciliary residents of
24 the state of Kansas for at least 12 months prior to enrollment for any term
25 or session at a state educational institution are residents for fee purposes. A
26 person who has been a resident of the state of Kansas for fee purposes and
27 who leaves the state of Kansas to become a resident of another state or
28 country shall retain status as a resident of the state of Kansas for fee
29 purposes if the person returns to domiciliary residency in the state of
30 Kansas within 60 months of departure. All other persons are nonresidents
31 of the state of Kansas for fee purposes.

32 (2) The provisions of this subsection shall not apply to a person who
33 is deemed a resident for fee purposes pursuant to K.S.A. 76-731a, and
34 amendments thereto.

35 (b) The state board of regents may authorize the following persons, or
36 any class or classes thereof, and their spouses and dependents to pay an
37 amount equal to resident fees:

38 (1) Persons who are employees of a state educational institution;

39 (2) persons having special domestic relations circumstances;

40 (3) persons who have lost their resident status within six months of
41 enrollment;

42 (4) persons who are not domiciliary residents of the state, who have
43 graduated from a high school accredited by the state board of education

1 within six months of enrollment, who were domiciliary residents of the
2 state at the time of graduation from high school or within 12 months prior
3 to graduation from high school, and who are entitled to admission at a
4 state educational institution pursuant to K.S.A. 76-717b, and amendments
5 thereto;

6 (5) persons who are domiciliary residents of the state, whose
7 domiciliary residence was established in the state for the purpose of
8 accepting, upon recruitment by an employer, or retaining, upon transfer
9 required by an employer, a position of full-time employment at a place of
10 employment in Kansas, but the domiciliary residence of whom was not
11 timely enough established to meet the residence duration requirement of
12 subsection (a), and who are not otherwise eligible for authorization to pay
13 an amount equal to resident fees under this subsection.

14 (c) Pursuant to K.S.A. 2024 Supp. 48-3601, and amendments thereto,
15 a veteran, an active duty member of the armed forces and the spouse and
16 dependent child of such veteran or active duty member of the armed forces
17 shall be deemed residents of the state for fee purposes.

18 (d) As used in this section:

19 (1) "Parents" means and includes natural parents, adoptive parents,
20 stepparents, guardians and custodians.

21 (2) "Guardian" ~~has the meaning ascribed thereto by K.S.A. 59-3051~~
22 *means the same as defined in section 25*, and amendments thereto.

23 (3) "Custodian" means a person, agency or association granted legal
24 custody of a minor under the revised Kansas code for care of children.

25 (4) "Domiciliary resident" means a person who has present and fixed
26 residence in Kansas where the person intends to remain for an indefinite
27 period and to which the person intends to return following absence.

28 (5) "Full-time employment" means employment requiring at least
29 1,500 hours of work per year.

30 (6) "Dependent" means: (A) A birth child, adopted child or stepchild;
31 or

32 (B) any child other than the foregoing who is actually dependent in
33 whole or in part on the person in military service and who is related to
34 such individual by marriage or consanguinity.

35 (7) "Academic year" means the ~~twelve-month~~ *12-month* period
36 ending June 30.

37 Sec. 165. K.S.A. 76-12b04 is hereby amended to read as follows: 76-
38 12b04. If in the opinion of the superintendent an applicant for admission
39 meets the definition of a person in need of a guardian or a conservator, or
40 both, as provided in ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform*
41 *guardianship, conservatorship and other protective arrangements act,*
42 *sections 24 through 135*, and amendments thereto, the person shall not be
43 admitted to an institution except for the purposes of conducting a court

1 ordered evaluation pursuant to ~~K.S.A. 59-3064~~ *section 69*, and
2 amendments thereto, until a court has determined the legal status of the
3 person under the act for obtaining a guardian or conservator, or both. The
4 provisions of this paragraph shall not be applicable if a court has already
5 determined the legal status of the applicant under the act.

6 Sec. 166. K.S.A. 77-201 is hereby amended to read as follows: 77-
7 201. In the construction of the statutes of this state the following rules
8 shall be observed, unless the construction would be inconsistent with the
9 manifest intent of the legislature or repugnant to the context of the statute:

10 *First.* The repeal of a statute does not revive a statute previously
11 repealed, nor does the repeal affect any right which accrued, any duty
12 imposed, any penalty incurred or any proceeding commenced, under or by
13 virtue of the statute repealed. The provisions of any statute, so far as they
14 are the same as those of any prior statute, shall be construed as a
15 continuation of the prior provisions and not as a new enactment.

16 *Second.* Words and phrases shall be construed according to the context
17 and the approved usage of the language, but technical words and phrases,
18 and other words and phrases that have acquired a peculiar and appropriate
19 meaning in law, shall be construed according to their peculiar and
20 appropriate meanings.

21 *Third.* Words importing the singular number only may be extended to
22 several persons or things, and words importing the plural number only
23 may be applied to one person or thing. Words importing the masculine
24 gender only may be extended to females.

25 *Fourth.* Words giving a joint authority to three or more public officers
26 or other persons shall be construed as given that authority to a majority of
27 them, unless it is otherwise expressed in the act giving the authority.

28 *Fifth.* "Highway" and "road" include public bridges and may be
29 construed to be equivalent to "county way," "county road," "common
30 road," "state road" and "territorial road."

31 *Sixth.* "Incompetent person" includes disabled persons and
32 incapacitated persons as defined ~~herein~~ *in this section*.

33 *Seventh.* "Issue," as applied to the descent of estates, includes all the
34 lawful lineal descendants of the ancestor.

35 *Eighth.* "Land," "real estate" and "real property" include lands,
36 tenements and hereditaments, and all rights to them and interest in them,
37 equitable as well as legal.

38 *Ninth.* "Personal property" includes money, goods, chattels, evidences
39 of debt and things in action, and digital assets as defined in the revised
40 uniform fiduciary access to digital assets act, K.S.A. 2024 Supp. 58-4801
41 through 58-4819, and amendments thereto.

42 *Tenth.* "Property" includes personal and real property.

43 *Eleventh.* "Month" means a calendar month, unless otherwise

1 expressed. "Year" alone, and also the abbreviation "A.D.," is equivalent to
2 the expression "year of our Lord."

3 *Twelfth.* "Oath" includes an affirmation in all cases where an
4 affirmation may be substituted for an oath, and in similar cases "swear"
5 includes affirm.

6 *Thirteenth.* "Person" may be extended to bodies politic and corporate.

7 *Fourteenth.* If the seal of a court or public office or officer is required
8 by law to be affixed to any paper, "seal" includes an impression of the seal
9 upon the paper alone, as well as upon wax or a wafer affixed to the paper.
10 "Seal" also includes both a rubber stamp seal used with permanent ink and
11 the word "seal" printed on court documents produced by computer
12 systems, so that the seal may be legibly reproduced by photographic
13 process.

14 *Fifteenth.* "State," when applied to the different parts of the United
15 States, includes the District of Columbia and the territories. "United
16 States" may include that district and those territories.

17 *Sixteenth.* "Town" may mean a civil township, unless a different
18 meaning is plainly intended.

19 *Seventeenth.* "Will" includes codicils.

20 *Eighteenth.* "Written" and "in writing" may include printing, engraving,
21 lithography and any other mode of representing words and letters,
22 excepting those cases where the written signature or the mark of any
23 person is required by law.

24 *Nineteenth.* "Sheriff" may be extended to any person performing the
25 duties of the sheriff, either generally or in special cases.

26 *Twentieth.* "Deed" is applied to an instrument conveying lands but does
27 not imply a sealed instrument. "Bond" and "indenture" do not necessarily
28 imply a seal but in other respects mean the same kind of instruments as
29 above. "Undertaking" means a promise or security in any form where
30 required by law.

31 *Twenty-first.* "Executor" includes an administrator where the subject
32 matter applies to an administrator.

33 *Twenty-second.* Roman numerals and Arabic figures are to be taken as a
34 part of the English language.

35 *Twenty-third.* "Residence" means the place which is adopted by a
36 person as the person's place of habitation and to which, whenever the
37 person is absent, the person has the intention of returning. When a person
38 eats at one place and sleeps at another, the place where the person sleeps
39 shall be considered the person's residence.

40 *Twenty-fourth.* "Usual place of residence" and "usual place of abode,"
41 when applied to the service of any process or notice, means the place
42 usually occupied by a person. If a person has no family, or does not have
43 family with the person, the person's office or place of business or, if the

1 person has no place of business, the room or place where the person
2 usually sleeps shall be construed to be the person's place of residence or
3 abode.

4 *Twenty-fifth.* "Householder" means a person who is 18 or more years of
5 age and who owns or occupies a house as a place of residence and not as a
6 boarder or lodger.

7 *Twenty-sixth.* "General election" refers to the election required to be
8 held on the Tuesday following the first Monday in November of each
9 even-numbered year.

10 *Twenty-seventh.* "Under legal disability" includes persons who are
11 within the period of minority, or who are incapacitated, incompetent or
12 imprisoned.

13 *Twenty-eighth.* When a person is required to be disinterested or
14 indifferent in acting on any question or matter affecting other parties,
15 relationship within the degree of second cousin, inclusive, shall disqualify
16 the person from acting, except by consent of parties.

17 *Twenty-ninth.* "Head of a family" shall include any person who has
18 charge of children, relatives or others living with the person.

19 *Thirtieth.* "Mentally ill person" means a mentally ill person as defined
20 in K.S.A. 59-2946, and amendments thereto.

21 *Thirty-first.* "Incapacitated person" means an individual whose ability
22 to receive and evaluate relevant information, or to effectively
23 communicate decisions, or both, even with the use of assistive
24 technologies or other supports, is impaired to the degree that the person
25 lacks the capacity to manage the person's estate, or to meet essential needs
26 for the person's physical health, safety or welfare, as defined in ~~K.S.A. 59-~~
27 ~~3051~~ *section 25*, and amendments thereto, whether or not a guardian or a
28 conservator has been appointed for that person.

29 *Thirty-second.* "Guardian" means an individual or a nonprofit
30 corporation certified in accordance with ~~K.S.A. 59-3070~~ *section 35*, and
31 amendments thereto, which has been appointed by a court to act on behalf
32 of a ward and possessed of some or all of the powers and duties set out in
33 ~~K.S.A. 59-3075~~ *sections 76 through 78*, and amendments thereto.
34 "Guardian" does not mean natural guardian unless specified.

35 *Thirty-third.* "Natural guardian" means both the biological or adoptive
36 mother and father of a minor if neither parent has been found to be an
37 adult with an impairment in need of a guardian or has had parental rights
38 terminated by a court of competent jurisdiction. If either parent of a minor
39 is deceased, or has been found to be an adult with an impairment in need
40 of a guardian, as provided for in ~~K.S.A. 59-3050 through 59-3095~~ *the*
41 *Kansas uniform guardianship, conservatorship and other protective*
42 *arrangements act, sections 24 through 135*, and amendments thereto, or
43 has had parental rights terminated by a court of competent jurisdiction,

1 then the other parent shall be the natural guardian, unless also deceased, or
2 found to be an adult with an impairment in need of a guardian, or has had
3 parental rights terminated by a court of competent jurisdiction, in which
4 case no person shall qualify as the natural guardian.

5 *Thirty-fourth.* "Conservator" means an individual or corporation
6 appointed by the court to act on behalf of a conservatee and possessed of
7 some or all of the powers and duties set out in ~~K.S.A. 59-3078~~ sections 99
8 through 102, and amendments thereto.

9 *Thirty-fifth.* "Minor" means any person defined by K.S.A. 38-101, and
10 amendments thereto, as being within the period of minority.

11 *Thirty-sixth.* "Proposed ward" means a person for whom a petition for
12 the appointment of a guardian pursuant to ~~K.S.A. 59-3058, 59-3059, 59-~~
13 ~~3060 or 59-3061~~ sections 17, 18, 28, 49, 52 or 65, and amendments
14 thereto, has been filed.

15 *Thirty-seventh.* "Proposed conservatee" means a person for whom a
16 petition for the appointment of a conservator pursuant to ~~K.S.A. 59-3058,~~
17 ~~59-3059, 59-3060 or 59-3061~~ sections 17, 18, 28, 49, 52 or 65, and
18 amendments thereto, has been filed.

19 *Thirty-eighth.* "Ward" means a person who has a guardian.

20 *Thirty-ninth.* "Conservatee" means a person who has a conservator.

21 *Fortieth.* "Manufactured home" means a structure which:

22 (1) Is transportable in one or more sections which, in the traveling
23 mode, is 8 body feet or more in width or 40 body feet or more in length,
24 or, when erected on site, is 320 or more square feet, and which is built on a
25 permanent chassis and designed to be used as a dwelling, with or without
26 permanent foundation, when connected to the required utilities, and
27 includes the plumbing, heating, air conditioning and electrical systems
28 contained therein; and

29 (2) is subject to the federal manufactured home construction and
30 safety standards established pursuant to 42 U.S.C. § 5403.

31 *Forty-first.* "Mobile home" means a structure which:

32 (1) Is transportable in one or more sections which, in the traveling
33 mode, is 8 body feet or more in width and 36 body feet or more in length
34 and is built on a permanent chassis and designed to be used as a dwelling,
35 with or without a permanent foundation, when connected to the required
36 utilities, and includes the plumbing, heating, air conditioning and electrical
37 systems contained therein; and

38 (2) is not subject to the federal manufactured home construction and
39 safety standards established pursuant to 42 U.S.C. § 5403.

40 *Forty-second.* "Disabled person" includes incapacitated persons and
41 incompetent persons as defined ~~herein~~ in this section.

42 Sec. 167. K.S.A. 9-1215, 17-2263, 17-2264, 21-5417, 38-2217, 44-
43 513a, 44-1601, 58-662, 58-24a15, 59-1701, 59-2701, 59-2702, 59-2703,

1 59-2704, 59-2705, 59-2706, 59-2707, 59-2708, 59-2949, 59-2951, 59-
2 2960, 59-29b49, 59-29b51, 59-3050, 59-3054, 59-3057, 59-3063, 59-3064,
3 59-3066, 59-3071, 59-3072, 59-3074, 59-3076, 59-3079, 59-3081, 59-
4 3082, 59-3084, 59-3085, 59-3087, 59-3088, 59-3089, 59-3090, 59-3091,
5 59-3092, 59-3093, 59-3095, 59-3096, 73-507, 76-729, 76-12b04 and 77-
6 201 and K.S.A. 2024 Supp. 58-656, 58-4802, 58-4814, 58a-103, 59-2401a,
7 59-2946, 59-2948, 59-29b46, 59-29b48, 59-29b60, 59-29c03, 59-3051,
8 59-3052, 59-3053, 59-3055, 59-3056, 59-3058, 59-3059, 59-3060, 59-
9 3061, 59-3062, 59-3065, 59-3067, 59-3068, 59-3069, 59-3070, 59-3073,
10 59-3075, 59-3077, 59-3078, 59-3080, 59-3083, 59-3086, 59-3094, 59-
11 3097 and 75-652 are hereby repealed.

12 Sec. 168. This act shall take effect and be in force from and after
13 January 1, 2026, and its publication in the statute book.