

HOUSE BILL No. 2359

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

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

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

New Sec. 2. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Hold an evidentiary hearing;
- (2) order a person in that state to produce evidence or give testimony pursuant to procedures of that state;
- (3) order that an evaluation or assessment be made of the respondent;
- (4) order any appropriate investigation of a person involved in a proceeding;
- (5) forward to the court of this state a certified copy of the transcript or other record of a hearing under paragraph (1) or any other proceeding, any evidence otherwise produced under paragraph (2) and any evaluation or assessment prepared in compliance with an order under paragraph (3) or (4);
- (6) issue any order necessary to assure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the respondent or the incapacitated or protected person; and
- (7) issue an order authorizing the release of medical, financial, criminal or other relevant information in that state, including protected health information as defined in 45 C.F.R 160.103.

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

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

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

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

- (1) "Emergency" means a circumstance that likely will result in substantial harm to a respondent's health, safety or welfare, and for which the appointment of a guardian is necessary because no other person has authority and is willing to act on the respondent's behalf;
- (2) "home state" means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of a petition for a protective order or the appointment of a guardian, or if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the petition; and
- (3) "significant-connection state" means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

(b) In determining under sections 9 and 16(e), and amendments

thereto, whether a respondent has a significant connection with a particular state, the court shall consider:

- (1) The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;
- (2) the length of time the respondent at any time was physically present in the state and the duration of any absence;
- (3) the location of the respondent's property; and
- (4) the extent to which the respondent has ties to the state such as voting registration, state or local tax return filing, vehicle registration, driver's license, social relationship and receipt of services.

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

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

- (a) This state is the respondent's home state;
- (b) on the date the petition is filed, this state is a significant-connection state and:

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

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

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

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

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

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

- (d) the requirements for special jurisdiction under section 10, and amendments thereto, are met.

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

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

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

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

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

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

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

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

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

- (1) Any expressed preference of the respondent;
- (2) whether abuse, neglect or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect or exploitation;
- (3) the length of time the respondent was physically present in or was a legal resident of this or another state;
- (4) the distance of the respondent from the court in each state;
- (5) the financial circumstances of the respondent's estate;
- (6) the nature and location of the evidence;
- (7) the ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (8) the familiarity of the court of each state with the facts and issues in the proceeding; and
- (9) if an appointment were made, the court's ability to monitor the conduct of the guardian or conservator.

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

- (1) Decline to exercise jurisdiction;
- (2) exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the respondent or the protection of the respondent's property or prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian or issuance of a protective order is filed in a court of another state having jurisdiction; or
- (3) continue to exercise jurisdiction after considering:
  - (A) The extent to which the respondent and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;
  - (B) whether it is a more appropriate forum than the court of any other state under the factors set forth in section 12(c), and amendments thereto; and
  - (C) whether the court of any other state would have jurisdiction under factual circumstances in substantial conformity with the jurisdictional standards of section 9, and amendments thereto.

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

New Sec. 14. If a petition for the appointment of a guardian or issuance of a protective order is brought in this state and this state was not the respondent's home state on the date the petition was filed, in

addition to complying with the notice requirements of this state, notice of the petition must be given to those persons who would be entitled to notice of the petition if a proceeding were brought in the respondent's home state. The notice must be given in the same manner as notice is required to be given in this state.

New Sec. 15. Except for a petition for the appointment of a guardian in an emergency or issuance of a protective order limited to property located in this state under section 10(a)(1) or (2), and amendments thereto, if a petition for the appointment of a guardian or issuance of a protective order is filed in this state and in another state and neither petition has been dismissed or withdrawn, the following rules apply:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Not later than 90 days after issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the law of this state.

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

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

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

New Sec. 19. If a conservator has been appointed in another state

and a petition for a protective order is not pending in this state, the conservator appointed in the other state, after giving notice to the appointing court of an intent to register, may register the protective order in this state by filing as a foreign judgment in a court of this state, in any county in which property belonging to the protected person is located, certified copies of the order and letters of office and of any bond.

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

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

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

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

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

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

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

New Sec. 25. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) "Minor" means an unemancipated individual under 18 years of age.

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

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

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

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

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

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

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

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

(2) is a minor.

(z) "Property" includes tangible and intangible property.

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

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

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

(dd) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium



and is retrievable in perceivable form.

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

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

- (1) To execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic symbol, sound or process.

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

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

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

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

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

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

(c) After notice is given in a proceeding for a guardianship, conservatorship or protective arrangement under section 120 or 121, and amendments thereto, and until termination of the proceeding, the court in which the petition is filed has:

(1) Exclusive jurisdiction to determine the need for the guardianship, conservatorship or protective arrangement;

(2) exclusive jurisdiction to determine how property of the respondent must be managed, expended or distributed to or for the use of the respondent, an individual who is dependent in fact on the respondent or other claimant;

(3) nonexclusive jurisdiction to determine the validity of a claim against the respondent or property of the respondent or a question of title concerning the property; and

(4) if a guardian or conservator is appointed, exclusive jurisdiction over issues related to administration of the guardianship or conservatorship.

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

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

(b) After appointment of a guardian or conservator, the court that

made the appointment may transfer the proceeding to a court in another county in this state or another state if transfer is in the best interest of the individual subject to the guardianship or conservatorship.

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

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

(e) Notice of hearing on a petition under subsection (d), together with a copy of the petition, must be given to the respondent, if the respondent is at least 12 years of age at the time of the hearing, and to the persons that would be entitled to notice if the procedures for appointment of a guardian or conservator under this act were applicable. The court shall make the appointment unless it determines the appointment would not be in the best interest of the respondent.

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

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

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

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

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

(1) The county in which the respondent resides;

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

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

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

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

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

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

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

New Sec. 30. (a) The petitioner and the respondent shall each be

afforded an opportunity to appear at the trial, to testify and to present and cross-examine witnesses. If the trial has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The trial shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the respondent and the testimony and written findings and recommendations of any court liaison appointed pursuant to section 67, and amendments thereto. Such evidence shall not be privileged for the purpose of this trial.

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

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

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

- (1) An acceptance of appointment;
- (2) an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto;
- (3) evidence of completion of a basic instructional program concerning the duties and responsibilities of a guardian; and
- (4) a personal information sheet containing any personal identifying information about the guardian required by the court. Such information shall not be disclosed to the public.

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

- (1) An acceptance of appointment;
- (2) an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto;
- (3) any required bond or compliance with any other asset-protection arrangement required by the court;
- (4) evidence of completion of a basic instructional program concerning the duties and responsibilities of a conservator; and
- (5) a personal information sheet containing any personal identifying information about the conservator required by the court. Such information shall not be disclosed to the public.

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

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

(e) The judicial council shall prepare a basic instructional program concerning the duties and responsibilities of a guardian and a

conservator. The court shall have the authority to require any guardian or conservator appointed prior to January 1, 2026, to complete the basic instructional program and provide evidence thereof to the court.

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

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

(1) An individual resident in this state; or  
(2) a corporation, limited partnership, limited liability partnership, limited liability company or business trust that has its principal place of business in this state.

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

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

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

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

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

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

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

(b) If the court appoints co-guardians or co-conservators, the court shall specify in the letters of office whether such co-guardians or co-conservators may act independently, whether they must act jointly, or under what circumstances or with regard to what matters they may act independently or must act jointly.

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

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

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

(1) The event occurs; and  
(2) the successor complies with section 31(a) or (b), and amendments thereto, respectively.

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

New Sec. 35. (a) Any corporation organized under the Kansas general corporation code may act as guardian for an individual found to

be in need of a guardian under the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto, if the corporation has been certified by the secretary for children and families as a suitable agency to perform the duties of a guardian.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amendments thereto, at least 14 days before the hearing.

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

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

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

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

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

- (1) Not otherwise entitled to notice; and
- (2) interested in the welfare of a respondent, individual subject to guardianship or conservatorship or individual subject to a protective arrangement under section 120 or 121, and amendments thereto.

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

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

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

- (1) Is or has been a debtor in a bankruptcy, insolvency or receivership proceeding;
- (2) has been convicted of:
  - (A) A felony;
  - (B) a crime involving dishonesty, neglect, violence or use of physical force; or
  - (C) other crime relevant to the functions the individual would assume as guardian or conservator;
- (3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the Kansas department for children and families pursuant to K.S.A. 38-2226, and amendments thereto; or
- (4) has been found to have committed an act of abuse, neglect or exploitation of an adult as contained in the register of reports under K.S.A. 39-1434, and amendments thereto.

(b) A guardian or conservator that engages or anticipates engaging a service provider the guardian or conservator knows has been convicted of a felony, a crime involving dishonesty, neglect, violence or use of physical force, or other crime relevant to the functions the service provider is being engaged to perform promptly shall disclose that knowledge to the court in writing.

(c) If a conservator engages or anticipates engaging a service provider under section 47, and amendments thereto, to manage finances

of the individual subject to conservatorship and knows the service provider is or has been a debtor in a bankruptcy, insolvency or receivership proceeding, the conservator promptly shall disclose that knowledge to the court in writing.

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

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

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

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

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

(f) Any district court receiving a statement of costs from another district court shall approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the grounds that the respondent or person under guardianship or conservatorship is not a resident of that county. In such case it shall transmit the statement of costs to the secretary of the department for children and families who shall determine the question of residence and certify those findings to each district court. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the secretary of the department for children and families as to the residence of the respondent or person subject to guardianship or conservatorship shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the respondent or person subject to guardianship or conservatorship or from those bound by law to support the respondent or person subject to guardianship or conservatorship, unless the court finds that the proceedings in which such costs were incurred were instituted without good cause and not in good faith.

New Sec. 43. (a) Subject to court approval, a guardian is entitled to reasonable compensation for services as guardian and to reimbursement for room, board, clothing and other appropriate

expenses advanced for the benefit of the individual subject to guardianship.

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

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

- (1) The necessity and quality of the services provided;
- (2) the experience, training, professional standing and skills of the guardian or conservator;
- (3) the difficulty of the services performed, including the degree of skill and care required;
- (4) the conditions and circumstances under which a service was performed, including whether the service was provided outside regular business hours or under dangerous or extraordinary conditions;
- (5) the effect of the services on the individual subject to guardianship or conservatorship;
- (6) the extent to which the services provided were or were not consistent with the guardian's plan under section 79, and amendments thereto, or conservator's plan under section 103, and amendments thereto; and
- (7) the fees customarily paid to a person that performs a like service in the community.

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

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

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

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

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

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

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

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

- (1) The person has actual knowledge or a reasonable belief that the letters of office of the guardian or conservator are invalid or the conservator or guardian is exceeding or improperly exercising authority granted by the court;
- (2) the person has actual knowledge that the individual subject to



guardianship or conservatorship is subject to physical or financial abuse, neglect, exploitation or abandonment by the guardian or conservator or a person acting for or with the guardian or conservator; or

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

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

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

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

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

- (1) Selecting the service provider;
- (2) establishing the scope and terms of the service provider's work in accordance with the guardian's plan under section 79, and amendments thereto, or the conservator's plan under section 103, and amendments thereto;
- (3) monitoring the service provider's performance and compliance with the scope and terms of work; and
- (4) redressing an act or omission of the service provider which would constitute a breach of the guardian's or conservator's duties if done by the guardian or conservator.

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

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

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

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

- (1) A proceeding to remove a guardian for the individual is pending; or
- (2) the court finds a guardian is not effectively performing the guardian's duties and the welfare of the individual requires immediate action.

(b) The court may appoint a temporary substitute conservator for an individual subject to conservatorship for a period not exceeding six

months if:

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

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

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

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

(A) The individual subject to guardianship or conservatorship;

(B) the affected guardian or conservator; and

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

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

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

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

(b) If a conservator has been appointed in another state for an individual, and a petition for conservatorship for the individual is not pending in this state, the conservator appointed for the individual in the other state, after giving notice to the appointing court, may register the conservatorship in this state by filing as a foreign judgment, in a court of a county in which property belonging to the individual subject to conservatorship is located, certified copies of the order of conservatorship, letters of office and any bond or other asset-protection arrangement required by the court.

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

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

New Sec. 50. (a) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual

subject to guardianship or conservatorship, who reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this act may file a grievance in a record with the court. The clerk of the district court shall forward the grievance to the presiding judge.

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

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

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

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

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

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

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

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

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

(B) appointing a guardian ad litem;

(C) appointing an attorney for the individual subject to guardianship or conservatorship; or

(D) holding a hearing.

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

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

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

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

(2) all parental rights have been terminated;

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

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

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

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

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

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

(3) the name and address, if known, of each person that had

primary care or custody of the minor for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition;

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) any adult with whom the minor resides;

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

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

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

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

(B) any nominee of a parent;

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

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

(E) any other person the court determines.

(b) Notice required by subsection (a) must include a statement of the right to request appointment of an attorney for the minor or object to appointment of a guardian and a description of the nature, purpose and consequences of appointment of a guardian.

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

on:

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

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

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

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

- (1) Requested by the minor and the minor is 12 years of age or older;
  - (2) recommended by a guardian ad litem; or
  - (3) the court determines the minor needs representation.
- (b) An attorney appointed under subsection (a) shall:
- (1) Make a reasonable effort to ascertain the minor's wishes;
  - (2) advocate for the minor's wishes to the extent reasonably ascertainable; and
  - (3) if the minor's wishes are not reasonably ascertainable, advocate for the minor's best interest.

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

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

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

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

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

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

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

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

- (1) The court shall appoint a person nominated as guardian by a

parent of the minor in a will or other record unless the court finds the appointment is contrary to the best interest of the minor.

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

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

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

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

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

or

(3) the court has removed the guardian.

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

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

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

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

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

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

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

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

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

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

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

(B) each parent of the minor;

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

(D) any other person the court determines; and

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

(f) A person entitled to notice under subsection (e), not later than 30 days after service of the petition and statement, may object to appointment of the standby guardian by filing an objection with the

court and giving notice of the objection to each other person entitled to notice under subsection (e).

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

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

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

(2) each parent of the minor, unless the court finds by clear and convincing evidence that the parent, in a record, waived the right to notice or cannot be located and served with due diligence.

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

(1) Interview the petitioner and the minor;

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

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

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

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

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

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

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

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

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

(4) the court removes the standby guardian.

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

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

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

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

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

New Sec. 58. (a) On its own, or on verified petition by a person interested in a minor's welfare, the court may appoint an emergency

guardian for the minor if the court finds a sufficient factual basis to establish probable cause that:

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

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

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

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

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

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

(3) each parent of the minor;

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

(5) any other person the court determines.

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

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

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

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

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

(b) A guardian for a minor shall:

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

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

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

(4) conserve any funds of the minor not expended under paragraph (3) for the minor's future needs, but if a conservator is appointed for the



minor, pay the funds at least quarterly to the conservator to be conserved for the minor's future needs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) notify the court as the court shall specify that the value of the minor's estate has equaled or exceeded \$25,000, if the court has earlier

appointed a conservator but did not issue letters of conservatorship pending such notification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) any other provisions the court requires.

(b) The guardian for a minor shall give notice of the filing of the

guardian's plan under subsection (a), together with a copy of the plan, to the minor if the minor is 12 years of age or older, any attorney representing the minor in the guardianship proceeding or any other proceeding concerning the care or custody of the minor identified in the petition, each parent of the minor, a person entitled to notice under section 56(d), and amendments thereto, or a subsequent order, and any other person the court determines. The notice shall include a statement of the right to object to the plan and shall be given at the time of the filing.

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

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

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

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

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

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

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

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

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

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

(b) A petition under subsection (a) must state the petitioner's name, principal residence, current street address if different, relationship to the respondent, interest in the appointment, the name and address of any attorney representing the petitioner and, to the

extent known, the following:

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

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

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

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

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

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

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

(B) any attorney currently representing the respondent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) the reason a protective arrangement instead of guardianship or other less restrictive alternative is insufficient to meet the respondent's

alleged need;

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

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

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

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

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

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

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

(b) A copy of a petition under section 65, and amendments thereto, and notice of a hearing on the petition must be served personally on the respondent. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent. The court may order any of the following persons to serve the notice upon the respondent:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) any other matter the court directs.

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

New Sec. 68. (a) The court shall appoint an attorney to represent the respondent, regardless of the respondent's ability to pay. The court shall give preference in the appointment of an attorney to any attorney

who has represented the respondent in other matters if the court has knowledge of that prior representation or to an attorney whom the respondent has requested. Any appointment made by the court shall terminate after the guardian's plan has been approved and after any appeal from the appointment of a guardian, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed by the court if requested, in writing, by the adult subject to guardianship, the guardian, or upon the court's own motion.

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

- (1) Make reasonable efforts to ascertain the respondent's wishes;
- (2) advocate for the respondent's wishes to the extent reasonably ascertainable; and
- (3) if the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least restrictive in type, duration and scope, consistent with the respondent's interests.

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

- (1) Explain to the respondent the substance of the petition, the nature, purpose and effect of the proceeding, the respondent's rights at the hearing on the petition and the general powers and duties of a guardian;
- (2) determine the respondent's views about the appointment sought by the petitioner, including views about a proposed guardian, the guardian's proposed powers and duties and the scope and duration of the proposed guardianship; and
- (3) inform the respondent that all costs and expenses of the proceeding, including respondent's attorney fees, may be paid from the respondent's assets.

New Sec. 69. (a) Upon the filing of the petition or any other time at or before the hearing, if the contents of the petition or evidence at the hearing support a prima facie case of the need for a guardian, the court shall order an examination and evaluation of the respondent to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization or by a licensed physician, psychiatrist, psychologist, physician assistant, nurse practitioner, social worker or other professional appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest.

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

- (1) The respondent's name, age and date of birth;
- (2) a description of the respondent's physical and mental condition;
- (3) a description of the nature and extent of the respondent's cognitive and functional abilities and limitations, including adaptive behaviors and social skills, and, as appropriate, educational and developmental potential;
- (4) a summary of self-care and independent-living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance or supported decision making, and cannot manage;
- (5) a prognosis for any improvement and, as appropriate, any recommendation for treatment or rehabilitation;
- (6) a list and description of any prior assessments, evaluations or

examinations of the respondent, including the dates thereof, which were relied upon in the preparation of this evaluation;

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

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

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

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

(d) In lieu of entering an order for an examination and evaluation as provided for in this section, the court may determine that the report accompanying the petition is in compliance with the requirements of this section and that no further examination or evaluation should be required, unless the respondent, or such person's attorney, requests such an examination and evaluation in writing. Any such request shall be filed with the court, and a copy thereof delivered to the petitioner, at least four days prior to the date of the trial. Accompanying the request shall be a statement of the reasons why an examination and evaluation is requested and the name and address of a qualified professional or facility willing and able to conduct this examination and evaluation. If the court orders a further examination and evaluation, the court may continue the trial and fix a new date, time and place of the trial at a time not to exceed 30 days from the date of the filing of the request.

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

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

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

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

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

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

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



- (1) Present evidence and subpoena witnesses and documents;
- (2) examine witnesses, including any court-appointed evaluator and the court liaison; and
- (3) otherwise participate in the hearing.

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

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

(h) Any person may request to participate in a hearing under section 66, and amendments thereto. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

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

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

(2) either:

(A) The petition for guardianship is dismissed; or

(B) the guardianship is terminated.

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

(A) Letters of guardianship;

(B) orders suspending or removing a guardian; and

(C) orders terminating a guardianship.

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

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

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

(B) an attorney designated by the adult;

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

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

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

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

(1) The court;

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

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

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

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

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

- (1) A guardian, other than a temporary or emergency guardian, currently acting for the respondent in another jurisdiction;
- (2) a person nominated as guardian by the respondent, including the respondent's most recent nomination made in a power of attorney;
- (3) an agent appointed by the respondent under a power of attorney for healthcare;
- (4) a spouse of the respondent;
- (5) a family member or other individual who has shown special care and concern for the respondent; and
- (6) a person nominated as guardian by the spouse, adult child or other close family member of the respondent.

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

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

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

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

- (1) A person that provides paid services to the respondent, or an individual who is employed by a person that provides paid services to the respondent, or is the spouse, parent or child of an individual who provides or is employed to provide paid services to the respondent;
- (2) an owner, operator or employee of any entity at which the respondent is receiving care; and
- (3) a person who provides care or other services, or is an employee of an agency, partnership or corporation that provides care or other services to persons with needs similar to those of the respondent.

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

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

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

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

(c) A court order establishing a limited guardianship for an adult

must state the specific powers granted to the guardian.

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

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

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

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

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

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

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

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

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

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

(f) A spouse and adult children of an adult subject to guardianship are entitled to notice under subsection (e) unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to guardianship or not in the best interest of the adult.

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

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

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

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

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

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

(5) be notified at least 14 days before a change in the adult's primary dwelling or permanent move to a nursing home, mental health facility or other facility that places restrictions on the individual's ability to leave or have visitors unless the change or move is proposed

in the guardian's plan under section 79, and amendments thereto, or authorized by the court by specific order;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The court may appoint an emergency guardian for an adult without notice to the adult and any attorney for the adult only if the court finds from an affidavit or testimony that the respondent's physical health, safety or welfare will be substantially harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency guardian without giving notice under subsection (c), the court must:

(1) Give notice of the appointment not later than 48 hours after the

appointment to:

- (A) The respondent;
- (B) the respondent's attorney; and
- (C) any other person the court determines; and

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

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

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

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

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

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

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

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

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

(1) Take reasonable care of the personal effects and service or support animals of the adult and bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect the adult's property;

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

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

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

(d) In making a decision for an adult subject to guardianship, the guardian shall make the decision the guardian reasonably believes the adult would make if the adult were able unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the adult. To determine the decision the adult subject to

guardianship would make if able, the guardian shall consider the adult's previous or current directions, preferences, opinions, cultural practices, religious beliefs, values and actions, to the extent actually known or reasonably ascertainable by the guardian.

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

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

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

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

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

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

(1) If authorized by the court under section 78, and amendments thereto, apply for and receive funds and benefits for the support of the adult, unless a conservator is appointed for the adult and the application or receipt is within the powers of the conservator;

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

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

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

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

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

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

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

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

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

(2) in selecting among residential settings, give priority to a

residential setting in a location that will allow the adult to interact with persons important to the adult and meet the adult's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in section 76(d) and (e), and amendments thereto;

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

(A) Give notice of the change to the court, the adult and any person identified as entitled to the notice in the court order appointing the guardian or a subsequent order; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) take into account:

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

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

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

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

(1) Authorized by the court by specific order;

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

person; or

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

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

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

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

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

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

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

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

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

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

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

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



(C) in accordance with subsection (d) or (e).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) a current healthcare provider of the adult;

(iii) the guardian of the adult;

(iv) the state protection and advocacy agency as provided by

K.S.A. 65-5603(a)(10) or 74-5515, and amendments thereto, or 42 U.S.C. § 15043, 42 U.S.C. § 10805 or 29 U.S.C. § 794e; or

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) A guardian for an adult shall not exercise any control or

authority over the adult's estate, unless specifically authorized by the court. Any guardian who is granted such authority shall prepare an inventory and provide notice of the inventory as provided in section 104, and amendments thereto. The court may assign such authority to the guardian and may waive the requirement of the posting of a bond, only if:

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

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

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

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

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

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

(g) A guardian for an adult shall not access digital assets of the adult unless authorized by the court pursuant to K.S.A. 2024 Supp. 58-4814, and amendments thereto.

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

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

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

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

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

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

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

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

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

(c) An adult subject to guardianship and any person entitled under subsection (b) to receive notice and a copy of the guardian's plan may

object to the plan in writing no later than 21 days after the filing.

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

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

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

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

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

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

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

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

(5) action taken on behalf of the adult;

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

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

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

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

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

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

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

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

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

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

(1) A change of address of the guardian;

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

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

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

(5) the death of the adult; or

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

(d) The court may appoint a court liaison to review a report submitted under this section or a guardian's plan submitted under section 79, and amendments thereto, interview the guardian or adult subject to guardianship or investigate any other matter involving the guardianship.

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

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

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

(2) the guardianship should continue; and

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

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

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

(2) may require additional information from the guardian;

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

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

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

(i) A guardian for an adult may petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable

presumption the report is accurate as to a matter adequately disclosed in the report.

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

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

(1) Petition of the adult, guardian or person interested in the welfare of the adult, which contains allegations that, if true, would support a reasonable belief that removal of the guardian and appointment of a successor guardian may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

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

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

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

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

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

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

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

New Sec. 82. (a) An adult subject to guardianship, the guardian for the adult or a person interested in the welfare of the adult may petition for:

(1) Termination of the guardianship on the ground that a basis for appointment under section 64, and amendments thereto, does not exist or termination would be in the best interest of the adult or for other good cause; or

(2) modification of the guardianship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(b) The court shall hold a hearing to determine whether termination or modification of a guardianship for an adult is appropriate on:

(1) Petition under subsection (a) which contains allegations that, if true, would support a reasonable belief that termination or modification of the guardianship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(2) communication from the adult, guardian or person interested in the welfare of the adult which supports a reasonable belief that termination or modification of the guardianship may be appropriate, including because the functional needs of the adult or supports or

services available to the adult have changed;

(3) a report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs of the adult or supports or services available to the adult have changed or a protective arrangement instead of guardianship or other less restrictive alternative for meeting the adult's needs is available; or

(4) a determination by the court that a hearing would be in the best interest of the adult.

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

(d) After the hearing, the court shall order termination unless it is proven that a basis for appointment of a guardian under section 64, and amendments thereto, continues to exist.

(e) The court shall modify the powers granted to a guardian for an adult if the powers are excessive or inadequate due to a change in the abilities or limitations of the adult, the adult's supports or other circumstances.

(f) Unless the court otherwise orders for good cause, before terminating or modifying a guardianship for an adult, the court shall follow the same procedures to safeguard the rights of the adult which apply to a petition for guardianship.

(g) An adult subject to guardianship who seeks to terminate or modify the terms of the guardianship has the right to choose an attorney to represent the adult in the matter. If the adult is not represented by an attorney, the court shall appoint an attorney under the same conditions as in section 68, and amendments thereto. The court shall award reasonable attorney fees to the attorney for the adult as provided in section 42, and amendments thereto.

(h) Not later than 30 days after entering an order under this section, the court or the court's designee shall give notice of the order to the adult subject to guardianship and any person entitled to notice under section 73(e), and amendments thereto, or a subsequent order.

New Sec. 83. (a) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor if the court finds by a preponderance of evidence that the minor owns funds or other property exceeding \$25,000 in value derived from court settlements, death transfers or sources other than the minor's employment earnings or accounts established under the uniform transfers to minors act, and either:

(1) The minor owns funds or other property requiring management or protection that otherwise cannot be provided;

(2) the minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(3) appointment is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health or welfare of the minor.

(b) On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

(1) The adult is unable to manage property or financial affairs because:

(A) Of a limitation in the adult's ability to receive and evaluate information or make or communicate decisions, even with the use of appropriate supportive services, technological assistance or supported decision making; or

(B) the adult is missing, detained or unable to return to the United

States;

(2) appointment is necessary to:

(A) Avoid harm to the adult or significant dissipation of the property of the adult; or

(B) obtain or provide funds or other property needed for the support, care, education, health or welfare of the adult or of an individual entitled to the adult's support; and

(3) the adult's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternative.

(c) The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the adult and issue orders that will encourage development of the adult's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship, protective arrangement instead of conservatorship or other less restrictive alternative would meet the needs of the adult.

New Sec. 84. (a) The following may file a verified petition for the appointment of a conservator:

(1) The individual for whom the order is sought;

(2) a person interested in the estate, financial affairs or welfare of the individual, including a person that would be adversely affected by lack of effective management of property or financial affairs of the individual; or

(3) the guardian for the individual.

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

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

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

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

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

(C) adult former stepchildren with whom the respondent had an ongoing relationship during the two years immediately before the filing of the petition;

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

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

(B) any attorney currently representing the respondent;

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

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

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

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

(G) an agent designated under a power of attorney for healthcare



in which the respondent is identified as the principal;

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

(I) a person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition; and

(J) if the individual for whom a conservator is sought is a minor:

(i) An adult not otherwise listed with whom the minor resides; and

(ii) each person not otherwise listed that had primary care or custody of the minor for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition;

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

(B) the reason the proposed conservator should be selected; and

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

(5) a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts;

(6) the reason conservatorship is necessary, including a description of:

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

(B) if the petition alleges the respondent is missing, detained or unable to return to the United States, the relevant circumstances, including the time and nature of the disappearance or detention and any search or inquiry concerning the respondent's whereabouts;

(C) any protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(D) if no protective arrangement or other less restrictive alternatives have been considered or implemented, the reason it has not been considered or implemented; and

(E) the reason a protective arrangement or other less restrictive alternative is insufficient to meet the respondent's need;

(7) whether the petitioner seeks a limited conservatorship or a full conservatorship;

(8) if the petitioner seeks a full conservatorship, the reason a limited conservatorship or protective arrangement instead of conservatorship is not appropriate;

(9) if the petition is for a limited conservatorship, a description of the property to be placed under the conservator's control and any requested limitation on the authority of the conservator;

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

(11) the name and address of an attorney representing the petitioner, if any.

New Sec. 85. (a) On filing of a petition under section 84, and amendments thereto, for appointment of a conservator, the court shall set a date, time and place for a hearing on the petition.

(b) A copy of a petition under section 84, and amendments thereto, and notice of a hearing on the petition must be served personally on the respondent. If the respondent's whereabouts are unknown or personal service cannot be made, service on the respondent must be made by substituted service, as ordered by the court. The notice must inform the respondent of the respondent's rights at the hearing, including the right

to an attorney and to attend the hearing. The notice must include a description of the nature, purpose and consequences of granting the petition. The court may not grant a petition for appointment of a conservator if notice substantially complying with this subsection is not served on the respondent. The court may order any of the following persons to serve the notice upon the respondent:

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

(c) In a proceeding on a petition under section 84, and amendments thereto, the notice required under subsection (b) must be given to the persons required to be listed in the petition under section 84(b)(1) through (3), and amendments thereto, and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from appointing a conservator.

(d) After the appointment of a conservator, notice of a hearing on a petition for any other order under sections 83 through 118, and amendments thereto, together with a copy of the petition, must be given to:

- (1) The individual subject to conservatorship, if the individual is 12 years of age or older and not missing, detained or unable to return to the United States;
- (2) the conservator; and
- (3) any other person the court determines.

New Sec. 86. While a petition under section 84, and amendments thereto, is pending, after preliminary hearing and without notice to others, the court may issue an order to preserve and apply property of the respondent as required for the support of the respondent or an individual who is in fact dependent on the respondent. The court may appoint an emergency conservator to assist in implementing the order.

New Sec. 87. (a) If the respondent in a proceeding to appoint a conservator is a minor, the court may appoint a court liaison to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(b) If the respondent in a proceeding to appoint a conservator is an adult, the court may appoint a court liaison. The duties and reporting requirements of the court liaison are limited to the relief requested in the petition. The court liaison must be an individual with training or experience in the type of abilities, limitations and needs alleged in the petition.

(c) (1) A court liaison appointed under subsection (b) for an adult shall interview the respondent in person and in a manner the respondent is best able to understand:

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

(B) obtain the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties and the scope and duration of the proposed conservatorship.

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

(d) A court liaison appointed under subsection (b) for an adult may be assigned any or all of the following duties, in the discretion of the

presiding judge:

- (1) Interview the petitioner and proposed conservator, if any;
- (2) review financial records of the respondent, if relevant to the court liaison's recommendation under subsection (e)(1);
- (3) investigate whether the respondent's needs could be met by a protective arrangement instead of conservatorship or other less restrictive alternative and, if so, identify the arrangement or other less restrictive alternative; and
- (4) investigate the allegations in the petition and any other matter relating to the petition as directed by the court, including, but not limited to, the respondent's family relationships, past conduct, the nature and extent of any property or income of the respondent, whether the respondent is likely to injure self or others and other matters as the court may specify.

(e) A court liaison appointed under subsection (b) for an adult shall file a report with the court at least 10 days prior to the hearing on the petition or other hearing as directed by the court. Unless otherwise ordered by the court, such report must include:

- (1) A recommendation:
    - (A) Regarding the appropriateness of conservatorship, or whether a protective arrangement instead of conservatorship or other less restrictive alternative for meeting the respondent's needs is available;
    - (B) if a conservatorship is recommended, whether it should be full or limited; and
    - (C) if a limited conservatorship is recommended, the powers to be granted to the conservator, and the property that should be placed under the conservator's control;
  - (2) a statement of the qualifications of the proposed conservator and whether the respondent approves or disapproves of the proposed conservator;
  - (3) a statement whether the respondent is able to attend a hearing at the location court proceedings typically are held;
  - (4) a statement whether the respondent is able to participate in a hearing and which identifies any technology or other form of support that would enhance the respondent's ability to participate; and
  - (5) any other matter the court directs.
- (d) The costs of an investigation by a court liaison shall be assessed as provided for in section 42, and amendments thereto.

New Sec. 88. (a) Unless the respondent in a proceeding for appointment of a conservator is represented by an attorney, the court shall appoint an attorney to represent the respondent, regardless of the respondent's ability to pay. The court shall give preference in the appointment of an attorney to any attorney who has represented the respondent in other matters if the court has knowledge of that prior representation or to an attorney whom the respondent has requested. Any appointment made by the court shall terminate after the conservator's plan has been approved and after any appeal from the appointment of a conservator, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed by the court if requested, in writing, by the adult subject to conservatorship, the conservator or upon the court's own motion.

- (b) An attorney representing the respondent in a proceeding for appointment of a conservator shall:
  - (1) Make reasonable efforts to ascertain the respondent's wishes;
  - (2) advocate for the respondent's wishes to the extent reasonably ascertainable; and
  - (3) if the respondent's wishes are not reasonably ascertainable, advocate for the result that is the least-restrictive in type, duration and scope, consistent with the respondent's interests.

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

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

(2) determine the respondent's views about the appointment sought by the petitioner, including views about a proposed conservator, the conservator's proposed powers and duties and the scope and duration of the proposed conservatorship; and

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

(d) The court shall appoint an attorney to represent a parent of a minor who is the subject of a proceeding under section 84, and amendments thereto, if the court determines the parent needs representation.

New Sec. 89. (a) Upon the filing of the petition or any other time at or before the hearing, if the contents of the petition or evidence at the hearing support a prima facie case of the need for a conservator, the court shall order an examination and evaluation of the respondent to be conducted through a general hospital, psychiatric hospital, community mental health center or community developmental disability organization, or by a licensed physician, psychiatrist, psychologist, physician assistant, nurse practitioner, social worker or other professional appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest.

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

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

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

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

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

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

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

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

(8) the signature of the professional who prepared the report.

(c) The professional shall file with the court, at least five days prior to the date of the trial, such professional's written report concerning the examination and evaluation ordered by the court. The

report shall be made available by the court to counsel for all parties.

(d) In lieu of entering an order for an examination and evaluation as provided for in this section, the court may determine that the report accompanying the petition is in compliance with the requirements of this section and that no further examination or evaluation should be required, unless the respondent, or such person's attorney, requests such an examination and evaluation in writing. Any such request shall be filed with the court, and a copy thereof delivered to the petitioner, at least four days prior to the date of the trial. Accompanying the request shall be a statement of the reasons why an examination and evaluation is requested and the name and address of a qualified professional or facility willing and able to conduct this examination and evaluation. If the court orders a further examination and evaluation, the court may continue the trial and fix a new date, time and place of the trial at a time not to exceed 30 days from the date of the filing of the request.

New Sec. 90. (a) Except as otherwise provided in subsection (b), a hearing under section 85, and amendments thereto, may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(b) A hearing under section 85, and amendments thereto, may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

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

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

(3) the respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(c) The respondent may be assisted in a hearing under section 85, and amendments thereto, by a person or persons of the respondent's choosing, assistive technology or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(d) The respondent has a right to retain an attorney to represent the respondent at a hearing under section 85, and amendments thereto.

(e) At a hearing under section 85, and amendments thereto, the respondent may:

(1) Present evidence and subpoena witnesses and documents;

(2) examine witnesses, including any court-appointed evaluator or court liaison; and

(3) otherwise participate in the hearing.

(f) Unless excused by the court for good cause, a proposed conservator shall attend a hearing under section 85, and amendments thereto.

(g) A hearing under section 85, and amendments thereto, must be closed on request of the respondent and a showing of good cause.

(h) Any person may request to participate in a hearing under section 85, and amendments thereto. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

New Sec. 91. (a) The existence of a proceeding for or the

existence of conservatorship is a matter of public record unless the court seals the record after:

(1) The respondent, the individual subject to conservatorship or the parent of a minor subject to conservatorship requests the record be sealed; and

(2) either:

(A) The petition for conservatorship is dismissed; or

(B) the conservatorship is terminated.

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

(A) Letters of conservatorship;

(B) orders suspending or removing a conservator; and

(C) orders terminating a conservatorship.

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

(3) The following persons may access court records of the proceeding and resulting conservatorship, including the conservator's plan under section 103, and amendments thereto, and the conservator's report under section 105, and amendments thereto:

(A) An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed;

(B) an attorney designated by the individual;

(C) a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order; and

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

(4) A person not otherwise entitled to access to court records under this section for good cause may request permission from the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(c) A report under section 87, and amendments thereto, of a court liaison or professional evaluation under section 89, and amendments thereto, is confidential and must be sealed on filing, but is available to:

(1) The court;

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

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

(4) unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the respondent is identified as the principal; and

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

New Sec. 92. (a) Except as otherwise provided in subsection (c), the court in appointing a conservator shall consider persons qualified to be a conservator in the following order of priority:

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

(2) a person nominated as conservator by the respondent, including the respondent's most recent nomination made in a power of attorney for finances;

(3) an agent appointed by the respondent to manage the respondent's property under a power of attorney for finances;

(4) a spouse of the respondent;

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

(6) a person nominated as conservator by the spouse, adult child

or other close family member of the respondent.

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

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

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

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

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

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

New Sec. 93. (a) A court order appointing a conservator for a minor must include findings to support appointment of a conservator.

(b) A court order appointing a conservator for an adult must:

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

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

(c) A court order establishing a full conservatorship for an adult must state the basis for granting a full conservatorship and include specific findings to support the conclusion that a limited conservatorship would not meet the functional needs of the adult.

(d) A court order establishing a limited conservatorship must state the specific property placed under the control of the conservator and the powers granted to the conservator.

(e) A court order appointing a conservator must include the date of a review hearing to be set 90 days after the order of appointment is entered. At that hearing, the court shall review the conservator's plan filed pursuant to section 103, and amendments thereto, and the inventory filed pursuant to section 104, and amendments thereto.

(f) The court, as part of an order establishing a conservatorship, shall identify any person that subsequently is entitled to:

(1) Notice of the rights of the individual subject to conservatorship under section 94(b), and amendments thereto;

(2) notice of a sale or other disposition of, encumbrance of an interest in, or surrender of a lease to any real or personal property of the individual;

(3) notice that the conservator will be unavailable to perform the conservator's duties for more than one month;

(4) a copy of the conservator's plan under section 103, and

amendments thereto, and the conservator's report under section 105, and amendments thereto;

(5) access to court records relating to the conservatorship;

(6) notice of a transaction involving a substantial conflict between the conservator's fiduciary duties and personal interests;

(7) notice of the death or significant change in the condition of the individual;

(8) notice that a petition has been filed to limit or modify the powers of the conservator or that the court has limited or modified the powers of the conservator; and

(9) notice that a petition has been filed to remove the conservator or that the court has removed the conservator.

(g) If an individual subject to conservatorship is an adult, the spouse and adult children of the adult subject to conservatorship are entitled under subsection (e) to notice unless the court determines notice would be contrary to the preferences or prior directions of the adult subject to conservatorship or not in the best interest of the adult.

(h) If an individual subject to conservatorship is a minor, each parent and adult sibling of the minor is entitled under subsection (e) to notice unless the court determines notice would not be in the best interest of the minor.

New Sec. 94. (a) Not later than 14 days after the appointment, a conservator appointed under section 93, and amendments thereto, shall give to the individual subject to conservatorship and to all other persons given notice under section 85, and amendments thereto, a copy of the order of appointment.

(b) Not later than 30 days after appointment of a conservator under section 93, and amendments thereto, the court or the court's designee shall give to the individual subject to conservatorship, the conservator, and any other person entitled to notice under section 93(f), and amendments thereto, a statement of the rights of the individual subject to conservatorship and procedures to seek relief if the individual is denied those rights. The statement must be in plain language, in at least 16-point font, and to the extent feasible, in a language in which the individual subject to conservatorship is proficient. The statement must notify the individual subject to conservatorship of the right to:

(1) Seek termination or modification of the conservatorship, or removal of the conservator, and choose an attorney to represent the individual in these matters;

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

(3) participate in decision making to the extent reasonably feasible;

(4) receive a copy of the conservator's plan under section 103, and amendments thereto, the conservator's inventory under section 104, and amendments thereto, and the conservator's report under section 105, and amendments thereto; and

(5) object to the conservator's inventory, plan or report.

(c) If a conservator is appointed for the reasons stated in section 83(b)(1)(B), and amendments thereto, and the individual subject to conservatorship is missing, notice under this section to the individual is not required. If the individual subject to conservatorship is a minor under the age of 12, notice under this section to the minor is not required.

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

New Sec. 95. (a) On its own after a petition has been filed under section 84, and amendments thereto, or on a verified petition by a



person interested in an individual's welfare, the court may appoint an emergency conservator for the individual if the court finds a sufficient factual basis to establish probable cause that:

(1) Appointment of an emergency conservator is necessary to prevent imminent, substantial and irreparable harm to the individual's property or financial interests;

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

(3) a basis for appointment of a conservator under section 83, and amendments thereto, exists.

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

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

(d) The court may appoint an emergency conservator without notice to the respondent and any attorney for the respondent only if the court finds from an affidavit or testimony that the respondent's property or financial interests will be substantially and irreparably harmed before a hearing with notice on the appointment can be held. If the court appoints an emergency conservator without giving notice under subsection (c), the court must give notice of the appointment not later than 48 hours after the appointment to:

(1) The respondent;

(2) the respondent's attorney; and

(3) any other person the court determines.

(e) Not later than five days after the appointment, the court shall hold a hearing on the appropriateness of the appointment.

(f) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under section 83, and amendments thereto.

(g) The court may remove an emergency conservator appointed under this section at any time. The emergency conservator shall make any report the court requires.

New Sec. 96. An individual subject to conservatorship or a person interested in the welfare of the individual may petition for an order:

(a) Modifying bond requirements;

(b) requiring an accounting for the administration of the conservatorship estate;

(c) directing distribution;

(d) removing the conservator and appointing a temporary or successor conservator;

(e) modifying the type of appointment or powers granted to the conservator, if the extent of protection or management previously granted is excessive or insufficient to meet the individual's needs, including because the individual's abilities or supports have changed;

(f) rejecting or modifying the conservator's plan under section 103, and amendments thereto, the conservator's inventory under section 104, and amendments thereto, or the conservator's report under section 105, and amendments thereto; or

(g) granting other appropriate relief.

New Sec. 97. (a) Except as otherwise provided in subsection (c), the court shall require a conservator to furnish a bond with a surety, or require an alternative asset-protection arrangement, conditioned on faithful discharge of all duties of the conservator. The court may waive the requirement only if the court finds that a bond or other asset-protection arrangement is not necessary to protect the interests of the individual subject to conservatorship. Except as otherwise provided in subsection (c), the court may not waive the requirement if the conservator is in the business of serving as a conservator and is being paid for the conservator's service.

(b) Unless the court directs otherwise, the bond required under this section must be in the amount of the aggregate capital value of the conservatorship estate, plus one year's estimated income, less the value of property deposited under an arrangement requiring a court order for its removal, and less the value of real property. The court, in place of surety on a bond, may accept collateral for the performance of the bond, including a pledge of securities or a mortgage of real property.

(c) A regulated financial-service institution qualified to do trust business in this state is not required to give a bond under this section.

(d) If the conservator appointed is under contract with the Kansas guardianship program, the Kansas department for children and families shall act as surety on the bond.

New Sec. 98. (a) The following rules apply to the bond required under section 97, and amendments thereto:

(1) Except as otherwise provided by the bond, the surety and the conservator are jointly and severally liable.

(2) By executing a bond provided by a conservator, the surety submits to the personal jurisdiction of the court that issued letters of office to the conservator in a proceeding relating to the duties of the conservator in which the surety is named as a party. Notice of the proceeding must be given to the surety at the address shown in the records of the court in which the bond is filed and any other address of the surety then known to the person required to provide the notice.

(3) On petition of a successor conservator or person affected by a breach of the obligation of the bond, a proceeding may be brought against the surety for breach of the obligation of the bond.

(4) A proceeding against the bond may be brought until liability under the bond is exhausted.

(b) A proceeding may not be brought under this section against a surety of a bond on a matter as to which a proceeding against the conservator is barred.

(c) If a bond under section 97, and amendments thereto, is not renewed by the conservator, the surety or sureties immediately shall give notice to the court and the individual subject to conservatorship. Upon receiving such notice, the clerk of the district court shall forward the notice to the presiding judge who shall set the matter for hearing and determine who should receive notice.

New Sec. 99. (a) A conservator is a fiduciary and has duties of prudence, loyalty, reasonable care and diligence to the individual subject to conservatorship.

(b) A conservator shall promote the self-determination of the individual subject to conservatorship and, to the extent feasible, encourage the individual to participate in decisions, act on the individual's own behalf, and develop or regain the capacity to manage the individual's personal affairs. A conservator shall strive to assure that the personal, civil and human rights of the individual subject to conservatorship are protected.

(c) In making a decision for an individual subject to conservatorship, the conservator shall make the decision that the

conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual. To determine the decision the individual would make if able, the conservator shall consider the individual's prior or current directions, preferences, opinions, values and actions, to the extent actually known or reasonably ascertainable by the conservator.

(d) If a conservator cannot make a decision under subsection (c) because the conservator does not know and cannot reasonably determine the decision the individual subject to conservatorship probably would make if able, or the conservator reasonably believes the decision the individual would make would fail to preserve resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual, the conservator shall act in accordance with the best interest of the individual. In determining the best interest of the individual, the conservator shall consider:

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

(2) other information the conservator believes the individual would have considered if the individual were able to act; and

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

(e) Except when inconsistent with the conservator's duties under subsections (a) through (d), a conservator shall invest and manage the conservatorship estate as a prudent investor would, by considering:

(1) The circumstances of the individual subject to conservatorship and the conservatorship estate;

(2) general economic conditions;

(3) the possible effect of inflation or deflation;

(4) the expected tax consequences of an investment decision or strategy;

(5) the role of each investment or course of action in relation to the conservatorship estate as a whole;

(6) the expected total return from income and appreciation of capital;

(7) the need for liquidity, regularity of income and preservation or appreciation of capital; and

(8) the special relationship or value, if any, of specific property to the individual subject to conservatorship.

(f) The propriety of a conservator's investment and management of the conservatorship estate is determined in light of the facts and circumstances existing when the conservator decides or acts and not by hindsight.

(g) A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

(h) A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the conservator's duties.

(i) In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual subject to conservatorship, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator and may examine the will or other donative, nominative or appointive instrument of the individual.

(j) A conservator shall maintain insurance on the insurable real

and personal property of the individual subject to conservatorship, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds:

(1) The property lacks sufficient equity; or

(2) insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the individual.

(k) A conservator has access to and authority over a digital asset of the individual subject to conservatorship to the extent provided by the revised uniform fiduciary access to digital assets act or court order.

(l) A conservator for an adult shall notify the court immediately if the condition of the adult has changed so that the adult is capable of exercising rights previously removed.

New Sec. 100. (a) Except as otherwise provided in section 102, and amendments thereto, or as qualified or limited in the court's order of appointment and stated in the letters of office, a conservator has all powers granted in this section.

(b) A conservator, acting reasonably and consistent with the fiduciary duties of the conservator to accomplish the purpose of the conservatorship, without specific court authorization or confirmation, may with respect to the conservatorship estate:

(1) Collect, hold and retain property, including property in which the conservator has a personal interest and real property in another state, until the conservator determines disposition of the property should be made;

(2) receive additions to the conservatorship estate;

(3) manage any ongoing business that the individual subject to conservatorship was managing and operating prior to the appointment of the conservator;

(4) acquire an undivided interest in property in which the conservator, in a fiduciary capacity, holds an undivided interest;

(5) invest assets;

(6) deposit funds or other property in a financial institution, including one operated by the conservator;

(7) make ordinary or necessary repairs, replacements and renovations for the use and benefit of the individual subject to conservatorship;

(8) enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term not exceeding one year;

(9) vote a security, in person or by general or limited proxy;

(10) pay a call, assessment or other sum chargeable or accruing against or on account of a security;

(11) sell or exercise a stock subscription or conversion right;

(12) consent, directly or through a committee or agent, to the reorganization, consolidation, merger, dissolution or liquidation of a corporation or other business enterprise in which the conservatorship has less than a 20% ownership interest;

(13) hold a security in the name of a nominee or in other form without disclosure of the conservatorship so that title to the security may pass by delivery;

(14) insure:

(A) The conservatorship estate, in whole or in part, against damage or loss in accordance with section 99(j), and amendments thereto; and

(B) the conservator against liability with respect to a third person;

(15) borrow funds without security to be repaid from the conservatorship estate or otherwise;

(16) advance the conservator's personal funds for the protection of

the conservatorship estate or the individual subject to conservatorship and all expenses, losses and liability sustained in the administration of the conservatorship estate or because of holding any property for which the conservator has a lien on the conservatorship estate, subject to reimbursement as provided in section 43, and amendments thereto;

(17) pay or contest a claim, settle a claim by or against the conservatorship estate or the individual subject to conservatorship by compromise, arbitration or otherwise, or release, in whole or in part, a claim belonging to the conservatorship estate to the extent the claim is uncollectible;

(18) pay a tax, assessment and other expense incurred in the collection, care, administration and protection of the conservatorship estate;

(19) pay a sum distributable to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship by paying the sum to the distributee or for the use of the distributee:

(A) To the guardian for the distributee;

(B) to the custodian of the distributee under the uniform transfers to minors act or custodial trustee under the uniform custodial trust act; or

(C) if there is no guardian, custodian or custodial trustee, to a relative or other person having physical custody of the distributee;

(20) bring or defend an action, claim or proceeding in any jurisdiction for the protection of the conservatorship estate or the conservator in the performance of the conservator's duties;

(21) structure the finances of the individual subject to conservatorship to establish eligibility for a public benefit, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties;

(22) assert spousal rights in an estate, including the spousal elective share; and

(23) execute and deliver any instrument that will accomplish or facilitate the exercise of a power of the conservator.

New Sec. 101. Except as otherwise provided in section 102, and amendments thereto, or as qualified or limited in the court's order of appointment and stated in the letters of office, and unless contrary to a conservator's plan under section 103, and amendments thereto, the conservator may expend or distribute income or principal of the conservatorship estate without specific court authorization or confirmation for the support, care, education, health or welfare of the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship, including the payment of child or spousal support, in accordance with the following rules:

(a) The conservator shall consider a recommendation relating to the appropriate standard of support, care, education, health, or welfare for the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship, made by a guardian for the individual subject to conservatorship, if any, and, if the individual subject to conservatorship is a minor, a recommendation made by a parent of the minor.

(b) The conservator acting in compliance with the conservator's duties under section 99, and amendments thereto, is not liable for an expenditure or distribution made based on a recommendation under subsection (a) unless the conservator knows the expenditure or distribution is not in the best interest of the individual subject to conservatorship.

(c) In making an expenditure or distribution under this section, the

conservator shall consider:

(1) The size of the conservatorship estate, the estimated duration of the conservatorship and the likelihood the individual subject to conservatorship, at some future time, may be fully self-sufficient and able to manage the individual's financial affairs and the conservatorship estate;

(2) the accustomed standard of living of the individual subject to conservatorship and individual who is dependent on the individual subject to conservatorship;

(3) other funds or source used for the support of the individual subject to conservatorship; and

(4) the preferences, values and prior directions of the individual subject to conservatorship.

(d) Subject to section 43, and amendments thereto, funds expended or distributed under this section may be paid by the conservator to any person, including the individual subject to conservatorship, as reimbursement for expenditures the conservator might have made, or in advance for services to be provided to the individual subject to conservatorship or individual who is dependent on the individual subject to conservatorship if it is reasonable to expect the services will be performed and advance payment is customary or reasonably necessary under the circumstances.

New Sec. 102. (a) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under section 85(d), and amendments thereto, and receive specific authorization by the court before the conservator may exercise, with respect to the conservatorship, the power to:

(1) Make a gift, except a gift of de minimis value, unless such power to make a gift is included in a conservator's plan approved by the court and by the attorney for the individual subject to conservatorship;

(2) sell or otherwise dispose of, encumber an interest in, or surrender a lease to any real or personal property of the individual subject to conservatorship, unless such power is included in a conservator's plan approved by the court and by the attorney for the individual subject to conservatorship;

(3) acquire or dispose of property, including real property in another state, for cash or on credit, at public or private sale, and manage, develop, improve, exchange, partition, change the character of or abandon property;

(4) make extraordinary repairs or alterations in a building or other structure, demolish any improvement, or raze an existing or erect a new party wall or building;

(5) subdivide or develop land, dedicate land to public use, make or obtain the vacation of a plat and adjust a boundary, adjust a difference in valuation of land, exchange or partition land by giving or receiving consideration and dedicate an easement to public use without consideration;

(6) enter for any purpose into a lease of property as lessor or lessee, with or without an option to purchase or renew, for a term exceeding one year;

(7) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or a pooling or unitization agreement;

(8) grant an option involving disposition of property or accept or exercise an option for the acquisition of property;

(9) convey, release or disclaim a contingent or expectant interest in property, including marital property and any right of survivorship incident to joint tenancy;

(10) exercise or release a power of appointment;

(11) create a revocable or irrevocable trust of property of the conservatorship estate, including an irrevocable trust which will enable the individual subject to conservatorship to qualify for benefits from any federal, state or local government program, or which will accelerate the individual's qualification for such benefits, whether or not the trust extends beyond the duration of the conservatorship;

(12) revoke or amend a trust revocable by the individual subject to conservatorship pursuant to K.S.A. 58a-411 or 58a-602, and amendments thereto;

(13) exercise a right to elect an option or change a beneficiary under an insurance policy or annuity or surrender the policy or annuity for its cash value;

(14) renounce or disclaim a property interest;

(15) grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under section 110(e), and amendments thereto; and

(16) litigate as petitioner or respondent an action for divorce, dissolution or annulment of marriage of the individual subject to conservatorship, including negotiation of a settlement thereof.

(b) The court shall set the matter for hearing and, if the individual subject to conservatorship is not represented by an attorney, shall appoint an attorney to represent the individual.

(c) In approving a conservator's exercise of a power listed in subsection (a), the court shall consider primarily the decision the individual subject to conservatorship would make if able, to the extent the decision can be ascertained.

(d) To determine under subsection (b) the decision the individual subject to conservatorship would make if able, the court shall consider the individual's prior or current directions, preferences, opinions, values and actions, to the extent actually known or reasonably ascertainable by the conservator. The court shall also consider:

(1) The financial needs of the individual subject to conservatorship and individuals who are in fact dependent on the individual subject to conservatorship for support, and the interests of creditors of the individual;

(2) possible reduction of income, estate, inheritance or other tax liabilities;

(3) eligibility for governmental assistance;

(4) the previous pattern of giving or level of support provided by the individual;

(5) any existing estate plan or lack of estate plan of the individual;

(6) the life expectancy of the individual and the probability the conservatorship will terminate before the individual's death; and

(7) any other relevant factor.

New Sec. 103. (a) Not later than 60 days after appointment, and whenever there is a significant change in circumstances or the conservator seeks to deviate significantly from the existing conservator's plan, a conservator shall file with the court a plan for protecting, managing, expending and distributing the assets of the conservatorship estate. The plan must be based on the needs of the individual subject to conservatorship and take into account the best interest of the individual as well as the individual's preferences, values and prior directions, to the extent known to or reasonably ascertainable by the conservator. The conservator shall include in the plan:

(1) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement or list of the amount the

conservator proposes to charge for each service the conservator anticipates providing to the individual;

(2) how the conservator will involve the individual in decisions about management of the conservatorship estate;

(3) any step the conservator plans to take to develop or restore the ability of the individual to manage the conservatorship estate; and

(4) an estimate of the duration of the conservatorship.

(b) A conservator shall give notice of the filing of the conservator's plan under subsection (a), together with a copy of the plan, to the individual subject to conservatorship, any attorney representing the individual subject to conservatorship, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and any other person the court determines. The notice must include a statement of the right to object to the plan and must be given at the time of the filing.

(c) An individual subject to conservatorship and any person entitled under subsection (b) to receive notice and a copy of the conservator's plan may object to the plan in writing not later than 21 days after the filing.

(d) The court shall review the conservator's plan filed under subsection (a) and determine whether to approve the plan or require a new plan. In deciding whether to approve the plan, the court shall consider an objection under subsection (c) and whether the plan is consistent with the conservator's duties and powers. The court shall review an initial conservator's plan at the review hearing scheduled under section 93(e), and amendments thereto. For subsequent conservator's plans, the court has discretion whether to set the matter for hearing but may not approve the plan until 30 days after the filing.

(e) After a conservator's plan under this section is approved by the court, the conservator shall provide a copy of the plan to the individual subject to conservatorship, any attorney representing the individual subject to conservatorship, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and any other person the court determines.

New Sec. 104. (a) Not later than 60 days after appointment, a conservator shall prepare and file with the appointing court a detailed inventory of the conservatorship estate, together with an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. The inventory shall include all of the property and assets of the conservatorship estate, including any sources of regular income to the estate, and information about how property is titled and any beneficiary designations, including pay-on-death and transfer-on-death beneficiaries.

(b) A conservator shall give notice of the filing of an inventory to the individual subject to conservatorship, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and any other person the court determines. The notice must be given not later than 14 days after the filing.

(c) A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

New Sec. 105. (a) A conservator shall file with the court a report in a record regarding the administration of the conservatorship estate annually unless the court otherwise directs, on resignation or removal, on termination of the conservatorship, and at any other time the court directs.

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



(1) An accounting that lists property included in the conservatorship estate and the receipts, disbursements, liabilities and distributions during the period for which the report is made;

(2) a list of the services provided to the individual subject to conservatorship;

(3) a statement whether the conservator has deviated from the conservator's most recently approved plan and, if so, how the conservator has deviated and why;

(4) a recommendation as to the need for continued conservatorship and any recommended change in the scope of the conservatorship;

(5) to the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts and mortgages or other debts of the individual subject to conservatorship with account numbers and social security number redacted;

(6) anything of more than de minimis value which the conservator, any individual who resides with the conservator, or the spouse, parent, child or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

(7) any business relation the conservator has with a person the conservator has paid or that has benefited from the property of the individual subject to conservatorship;

(8) whether any co-conservator or successor conservator appointed to serve when a designated event occurs is alive and able to serve; and

(9) a copy of the bond renewal.

(c) The court may appoint a court liaison to review a report under this section or conservator's plan under section 103, and amendments thereto, interview the individual subject to conservatorship or conservator, or investigate any other matter involving the conservatorship. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

(d) Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and other persons the court determines. The notice and report must be given not later than 14 days after filing.

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

(1) The reports provide sufficient information to establish the conservator has complied with the conservator's duties;

(2) the conservatorship should continue; and

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

(f) If the court determines there is reason to believe a conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

(1) Shall notify the individual subject to conservatorship, the conservator and any other person entitled to notice under section 93(f), and amendments thereto, or a subsequent order;

(2) may require additional information from the conservator;

(3) may appoint a court liaison to interview the individual subject to conservatorship or conservator or investigate any matter involving the conservatorship; and

(4) consistent with sections 112 and 113, and amendments thereto, may hold a hearing to consider removal of the conservator, termination of the conservatorship or a change in the powers granted to the

conservator or terms of the conservatorship.

(g) If the court has reason to believe fees requested by a conservator are not reasonable, the court shall hold a hearing to determine whether to adjust the requested fees.

(h) A conservator may petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a rebuttable presumption the report is accurate as to a matter adequately disclosed in the report.

(i) An order, after notice and hearing, approving an interim report of a conservator filed under this section adjudicates liabilities concerning a matter adequately disclosed in the report, as to a person given notice of the report or accounting.

(j) An order, after notice and hearing, approving a final report filed under this section discharges the conservator from all liabilities, claims and causes of action by a person given notice of the report and the hearing as to a matter adequately disclosed in the report.

New Sec. 106. (a) The interest of an individual subject to conservatorship in property included in the conservatorship estate is not transferrable or assignable by the individual and is not subject to levy, garnishment, or similar process for claims against the individual unless allowed under section 110, and amendments thereto.

(b) If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the individual's property but is enforceable against the person that contracted with the individual.

(c) A person other than the conservator that deals with an individual subject to conservatorship with respect to property included in the conservatorship estate is entitled to protection provided by law of this state other than this act.

New Sec. 107. A transaction involving a conservatorship estate which is affected by a substantial conflict between the conservator's fiduciary duties and personal interests is voidable unless the transaction is authorized by court order after notice to persons entitled to notice under section 93(f), and amendments thereto, or a subsequent order. A transaction affected by a substantial conflict includes a sale, encumbrance or other transaction involving the conservatorship estate entered into by the conservator, an individual with whom the conservator resides, the spouse, descendant, sibling, agent or attorney of the conservator, or a corporation or other enterprise in which the conservator has a substantial beneficial interest.

New Sec. 108. (a) A person that assists or deals with a conservator in good faith and for value in any transaction, other than a transaction requiring a court order under section 102, and amendments thereto, is protected as though the conservator properly exercised any power in question. Knowledge alone by a person that the person is dealing with a conservator does not require the person to inquire into the existence of authority of the conservator or the propriety of the conservator's exercise of authority, but restrictions on authority stated in letters of office, or otherwise provided by law, are effective as to the person. A person that pays or delivers property to a conservator is not responsible for proper application of the property.

(b) Protection under subsection (a) extends to a procedural irregularity or jurisdictional defect in the proceeding leading to the issuance of letters of office and does not substitute for protection for a person that assists or deals with a conservator provided by comparable provisions in law of this state other than this act relating to a commercial transaction or simplifying a transfer of securities by a fiduciary.

New Sec. 109. (a) If an individual subject to conservatorship dies, the conservator shall deliver to the district court any will of the individual that is in the conservator's possession and inform the personal representative named in the will if feasible. The conservator shall give notice of the delivery of the will under this section to any person entitled to notice under section 93(f), and amendments thereto, or a subsequent order.

(b) On the death of an individual subject to conservatorship, the conservator shall conclude the administration of the conservatorship estate as provided in section 113, and amendments thereto.

New Sec. 110. (a) A conservator may pay a claim against the conservatorship estate or the individual subject to conservatorship arising before or during the conservatorship, on presentation and allowance in accordance with the priorities under subsection (d). A claimant may present a claim by:

(1) Sending or delivering to the conservator a statement in a record of the claim, indicating its basis, the name and address of the claimant and the amount claimed; or

(2) filing the claim with the court, in a form acceptable to the court, and sending or delivering a copy of the claim to the conservator.

(b) A claim under subsection (a) is presented on receipt by the conservator of the statement of the claim or the filing with the court of the claim, whichever occurs first. A presented claim is allowed, if it is not disallowed in whole or in part, by the conservator in a record sent or delivered to the claimant not later than 60 days after its presentation. Before payment, the conservator may change an allowance of the claim to a disallowance in whole or in part, but not after allowance under a court order or order directing payment of the claim. Presentation of a claim tolls until 30 days after disallowance of the claim the running of a statute of limitations that has not expired relating to the claim.

(c) A claimant whose claim under subsection (a) has not been paid may petition the court to determine the claim at any time before it is barred by a statute of limitations, and the court may order its allowance, payment or security by encumbering property included in the conservatorship estate. If a proceeding is pending against the individual subject to conservatorship at the time of appointment of the conservator or is initiated thereafter, the moving party shall give the conservator notice of the proceeding if it could result in creating a claim against the conservatorship estate.

(d) If a conservatorship estate is likely to be exhausted before all existing claims are paid, the conservator shall distribute the estate in money or in kind in payment of claims in the following order:

(1) Costs and expenses of administration;

(2) a claim of the federal or state government having priority under law other than this act;

(3) a claim incurred by the conservator for support, care, education, health or welfare previously provided to the individual subject to conservatorship or an individual who is in fact dependent on the individual subject to conservatorship;

(4) a claim arising before the conservatorship; and

(5) all other claims.

(e) Preference may not be given in the payment of a claim under subsection (d) over another claim of the same class. A claim due and payable may not be preferred over a claim not due unless:

(1) Doing so would leave the conservatorship estate without sufficient funds to pay the basic living and healthcare expenses of the individual subject to conservatorship; and

(2) the court authorizes the preference under section 102(a)(8), and amendments thereto.

(f) If assets of a conservatorship estate are adequate to meet all existing claims, the court, acting in the best interest of the individual subject to conservatorship, may order the conservator to grant a security interest in the conservatorship estate for payment of a claim at a future date.

New Sec. 111. (a) Except as otherwise agreed by a conservator, the conservator is not personally liable on a contract properly entered into in a fiduciary capacity in the course of administration of the conservatorship estate unless the conservator fails to reveal the conservator's representative capacity in the contract or before entering into the contract.

(b) A conservator is personally liable for an obligation arising from control of property of the conservatorship estate or an act or omission occurring in the course of administration of the conservatorship estate only if the conservator is personally at fault.

(c) A claim based on a contract entered into by a conservator in a fiduciary capacity, an obligation arising from control of property included in the conservatorship estate, or a tort committed in the course of administration of the conservatorship estate may be asserted against the conservatorship estate in a proceeding against the conservator in a fiduciary capacity, whether or not the conservator is personally liable for the claim.

(d) A question of liability between a conservatorship estate and the conservator personally may be determined in a proceeding for accounting, surcharge, or indemnification or another appropriate proceeding or action.

New Sec. 112. (a) The court may remove a conservator for failure to perform the conservator's duties or other good cause and appoint a successor conservator to assume the duties of the conservator.

(b) The court shall hold a hearing to determine whether to remove a conservator and appoint a successor on:

(1) Petition of the individual subject to conservatorship, conservator or person interested in the welfare of the individual which contains allegations that, if true, would support a reasonable belief that removal of the conservator and appointment of a successor may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed during the preceding six months;

(2) communication from the individual subject to conservatorship, conservator or person interested in the welfare of the individual which supports a reasonable belief that removal of the conservator and appointment of a successor may be appropriate;

(3) determination by the court that a hearing would be in the best interest of the individual subject to conservatorship; or

(4) determination by the court that the conservator's reports and accountings are delinquent or deficient as filed.

(c) Notice of a petition under subsection (b)(1) or any hearing under this section must be given to the individual subject to conservatorship, the conservator, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and any other person the court determines.

(d) If the individual subject to conservatorship is not represented by an attorney, the court shall appoint an attorney under the same conditions as in section 88, and amendments thereto. The court shall award reasonable attorney fees to the attorney as provided in section 42, and amendments thereto.

(e) In selecting a successor conservator, the court shall follow the priorities under section 92, and amendments thereto.

(f) Not later than 30 days after appointing a successor conservator,

the court or court's designee shall give notice of the appointment to the individual subject to conservatorship and any person entitled to notice under section 93(f), and amendments thereto, or a subsequent order.

New Sec. 113. (a) A conservatorship for a minor terminates on the earliest of:

- (1) A court order terminating the conservatorship;
- (2) the minor becoming an adult except as provided in section 114, and amendments thereto;
- (3) emancipation of the minor; or
- (4) death of the minor.

(b) A conservatorship for an adult terminates on order of the court or when the adult dies.

(c) An individual subject to conservatorship, the conservator, or a person interested in the welfare of the individual may petition for:

(1) Termination of the conservatorship on the ground that a basis for appointment under section 83, and amendments thereto, does not exist or termination would be in the best interest of the individual or for other good cause; or

(2) modification of the conservatorship on the ground that the extent of protection or assistance granted is not appropriate or for other good cause.

(d) The court shall hold a hearing to determine whether termination or modification of a conservatorship is appropriate on:

(1) Petition under subsection (c) which contains allegations that, if true, would support a reasonable belief that termination or modification of the conservatorship may be appropriate, but the court may decline to hold a hearing if a petition based on the same or substantially similar facts was filed within the preceding six months;

(2) a communication from the individual subject to conservatorship, conservator or person interested in the welfare of the individual which supports a reasonable belief that termination or modification of the conservatorship may be appropriate, including because the functional needs of the individual or supports or services available to the individual have changed;

(3) a report from a guardian or conservator which indicates that termination or modification may be appropriate because the functional needs or supports or services available to the individual have changed or a protective arrangement instead of conservatorship or other less restrictive alternative is available; or

(4) a determination by the court that a hearing would be in the best interest of the individual.

(e) Notice of a petition under subsection (c) or of a hearing under this section must be given to the individual subject to conservatorship, the conservator, a person entitled to notice under section 93(f), and amendments thereto, or a subsequent order, and any other person the court determines.

(f) After the hearing, the court shall order termination unless it is proven that a basis for appointment of a conservator under section 83, and amendments thereto, continues to exist.

(g) The court shall modify the powers granted to a conservator if the powers are excessive or inadequate due to a change in the abilities or limitations of the individual subject to conservatorship, the individual's supports or other circumstances.

(h) Unless the court otherwise orders for good cause, before terminating a conservatorship, the court shall follow the same procedures to safeguard the rights of the individual subject to conservatorship which apply to a petition for conservatorship.

(i) An individual subject to conservatorship who seeks to terminate or modify the terms of the conservatorship has the right to

retain an attorney to represent the individual in this matter. If the individual is not represented by an attorney, the court shall appoint an attorney under the same conditions as in section 88, and amendments thereto. The court shall award reasonable attorney fees to the attorney as provided in section 42, and amendments thereto.

(j) On termination of a conservatorship other than by reason of the death of the individual subject to conservatorship, property of the conservatorship estate passes to the individual. The order of termination must direct the conservator to file a final report and petition for discharge on approval by the court of the final report.

(k) On termination of a conservatorship by reason of the death of the individual subject to conservatorship, the conservator promptly shall file a final report and petition for discharge on approval by the court of the final report. On approval of the final report, the conservator shall proceed expeditiously to distribute the conservatorship estate to the individual's estate or as otherwise ordered by the court. The conservator may take reasonable measures necessary to preserve the conservatorship estate until distribution can be made.

(l) The court shall issue a final order of discharge on the approval by the court of the final report and satisfaction by the conservator of any other condition the court imposed on the conservator's discharge.

(m) Not later than 30 days after entering an order under this section, the court or the court's designee shall give notice of the order to the adult subject to conservatorship and any person entitled to notice under section 93(f), and amendments thereto, or a subsequent order.

New Sec. 114. (a) A conservatorship for a minor may be extended beyond the minor's 18<sup>th</sup> birthday if the minor consents or the court finds by clear and convincing evidence that substantial harm to the minor's interests is otherwise likely. A conservatorship may be extended under this section until the minor reaches the age of 21 and may be extended for two additional two-year periods upon the same finding by the court or upon consent of the minor. Consent to the extension of a conservatorship may be withdrawn at any time.

(b) Any request to extend a minor conservatorship under this section must be accompanied by:

(1) A description of the funds or assets of the minor's estate which the conservator proposes to distribute to the minor over an extended period following the minor's 18<sup>th</sup> birthday;

(2) the factual basis upon which the conservator alleges the need for such an extended distribution plan; and

(3) a proposed conservator's plan that describes how the distribution will occur.

(c) The court shall appoint an attorney to represent the minor as provided in section 88, and amendments thereto.

(d) After a hearing, the court may extend a conservatorship for a minor and grant to the conservator the authority to establish an extended distribution plan if the court finds by clear and convincing evidence that:

(1) Substantial harm to the minor's interests is likely if the conservatorship is not extended; and

(2) the plan approved by the court adequately provides for meeting the expected needs of the minor from the minor's 18<sup>th</sup> birthday until the final distribution of the funds or assets which the court authorizes to be set aside or transferred from the estate are paid over to the minor, including provisions for accelerated distribution in extraordinary circumstances, which may require court approval.

(e) If the court orders a conservatorship for a minor to be extended under this section, the court shall order the conservator to report any expenditure or transfer of funds or assets from the minor's estate for the

purposes of effectuating an extended distribution plan within the conservator's next accounting.

(f) The court may extend the conservatorship with regard to specific funds or assets of the minor's estate, even though other funds or assets of the minor's estate are paid over to the minor upon the minor's becoming 18 years of age.

(g) The minor shall be without the power, voluntarily or involuntarily, to sell, mortgage, pledge, hypothecate, assign, alienate, anticipate, transfer or convey any interest in the principal or the income from any funds or assets of the minor's estate set aside or transferred to effectuate a plan for extended distribution until such is actually paid to the minor.

New Sec. 115. (a) Unless a person required to transfer funds or other property to a minor knows that a conservator for the minor has been appointed or a proceeding is pending for conservatorship, the person may transfer an amount or value not exceeding \$25,000 in a 12-month period to:

- (1) A person that has care or custody of the minor and with whom the minor resides;
- (2) a guardian for the minor;
- (3) a custodian under the uniform transfers to minors act; or
- (4) a financial institution as a deposit in an interest-bearing account or certificate solely in the name of the minor and shall give notice to the minor of the deposit.

(b) A person that transfers funds or other property under this section is not responsible for its proper application.

(c) A person that receives funds or other property for a minor under subsection (a)(1) or (2) may apply it only to the support, care, education, health or welfare of the minor, and may not derive a personal financial benefit from it, except for reimbursement for necessary expenses. Funds not applied for these purposes must be preserved for the future support, care, education, health or welfare of the minor, and the balance, if any, transferred to the minor when the minor becomes an adult or otherwise is emancipated.

(d) Any accumulated balance under this section shall be subject to other provisions of this act.

New Sec. 116. The parent of a minor has the right and responsibility to hold in trust and manage for the minor's benefit all of the personal and real property vested in such minor when the total of such property does not exceed \$25,000 in value, unless a guardian or conservator has been appointed for the minor.

New Sec. 117. (a) Any court having either control over or possession of any amount of money not exceeding \$100,000, the right to which is vested in a minor, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, and notwithstanding the authority of a parent as provided for in section 116, and amendments thereto, the deposit of the money in a savings account of a bank, credit union, savings and loan association or any other investment account that the court may authorize, payable either to a conservator, if one shall be appointed for the minor, or to the minor upon attaining 18 years of age.

(b) Any court having either control over or possession of any amount of money not exceeding \$25,000, the right to which is vested in a minor, shall have the discretion to order the payment of the money to any person, including the parent of the minor, or the minor. If the person is the conservator for the minor, the court may waive or recommend the waiver of the requirement of a bond. If the person is anyone other than the minor, the court shall order that person to hold in trust and manage the minor's estate for the minor's benefit.

New Sec. 118. Any court having either control over or possession of any amount of money not exceeding \$25,000, the right to which is vested in an adult subject to guardianship, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, the deposit of the money in a savings account of a bank, credit union or savings and loan association, payable to the guardian for the benefit of the adult subject to guardianship if authorized pursuant to section 78(e), and amendments thereto, payable to a conservator, if one shall be appointed for the adult, or payable to the adult subject to guardianship upon termination of the guardianship.

New Sec. 119. (a) On receiving a petition for a guardianship for an adult, a court may order a protective arrangement instead of guardianship as a less restrictive alternative to guardianship.

(b) On receiving a petition for a conservatorship for an individual, a court may order a protective arrangement instead of conservatorship as a less restrictive alternative to conservatorship.

(c) A person interested in an adult's welfare, including the adult or a conservator for the adult, may petition under sections 119 through 130, and amendments thereto, for a protective arrangement instead of guardianship.

(d) The following persons may petition under sections 119 through 130, and amendments thereto, for a protective arrangement instead of conservatorship:

- (1) The individual for whom the protective arrangement is sought;
- (2) a person interested in the property, financial affairs or welfare of the individual, including a person that would be affected adversely by lack of effective management of property or financial affairs of the individual; and
- (3) the guardian for the individual.

New Sec. 120. (a) After the hearing on a petition under section 65, and amendments thereto, for a guardianship or under section 119(b), and amendments thereto, for a protective arrangement instead of guardianship, the court may issue an order under subsection (b) for a protective arrangement instead of guardianship if the court finds by clear and convincing evidence that:

- (1) The respondent lacks the ability to meet essential requirements for physical health, safety or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance or supported decision making; and
- (2) the respondent's identified needs cannot be met by a less restrictive alternative.

(b) If the court makes the findings under subsection (a), the court, instead of appointing a guardian, may:

(1) Authorize or direct a transaction necessary to meet the respondent's need for health, safety or care, including:

(A) A particular medical treatment or refusal of a particular medical treatment;

(B) a move to a specified place of dwelling; or

(C) visitation between the respondent and another person;

(2) order supervised visitation with, or restrict access to the respondent by, a specified person whose access places the respondent at serious risk of physical, psychological or financial harm; and

(3) order other arrangements on a limited basis that are appropriate.

(c) In deciding whether to issue an order under this section, the court shall consider the factors under sections 76 and 77, and amendments thereto, which a guardian must consider when making a decision on behalf of an adult subject to guardianship.



(d) Any order issued under this section may include reporting requirements, time limits, bond requirements or any other provisions deemed necessary by the court.

New Sec. 121. (a) After the hearing on a petition under section 84, and amendments thereto, for conservatorship for an adult or under section 119(c), and amendments thereto, for a protective arrangement instead of conservatorship for an adult, the court may issue an order under subsection (c) for a protective arrangement instead of conservatorship for the adult if the court finds by clear and convincing evidence that:

(1) The adult is unable to manage property or financial affairs because:

(A) Of a limitation in the ability to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance or supported decision making; or

(B) the adult is missing, detained, or unable to return to the United States;

(2) an order under subsection (c) is necessary to:

(A) Avoid harm to the adult or significant dissipation of the property of the adult; or

(B) obtain or provide funds or other property needed for the support, care, education, health or welfare of the adult or an individual entitled to the adult's support; and

(3) the respondent's identified needs cannot be met by a less restrictive alternative.

(b) After the hearing on a petition under section 84, and amendments thereto, for conservatorship for a minor or under section 119(c), and amendments thereto, for a protective arrangement instead of conservatorship for a minor, the court may issue an order under subsection (c) for a protective arrangement instead of conservatorship for the respondent if the court finds by a preponderance of the evidence that the arrangement is in the minor's best interest, and:

(1) If the minor has a parent, the court gives weight to any recommendation of the parent whether an arrangement is in the minor's best interest;

(2) either:

(A) The minor owns money or property requiring management or protection that otherwise cannot be provided;

(B) the minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(C) the arrangement is necessary or desirable to obtain or provide funds or other property needed for the support, care, education, health or welfare of the minor; and

(3) the order under subsection (c) is necessary or desirable to obtain or provide money needed for the support, care, education, health or welfare of the minor.

(c) If the court makes the findings under subsection (a) or (b), the court, instead of appointing a conservator, may:

(1) Authorize or direct a transaction necessary to protect the financial interest or property of the respondent, including:

(A) An action to establish eligibility for benefits;

(B) payment, delivery, deposit or retention of funds or property;

(C) sale, mortgage, lease or other transfer of property;

(D) purchase of an annuity;

(E) entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training or employment;

(F) addition to or establishment of a trust;

(G) ratification or invalidation of a contract, trust, will or other transaction, including a transaction related to the property or business affairs of the respondent; or

(H) settlement of a claim; or

(2) restrict access to the respondent's property by a specified person whose access to the property places the respondent at serious risk of financial harm.

(d) After the hearing on a petition under section 119(a)(2) or (c), and amendments thereto, whether or not the court makes the findings under subsection (a) or (b), the court may issue an order to restrict access to the respondent or the respondent's property by a specified person that the court finds by clear and convincing evidence:

(1) Through fraud, coercion, duress or the use of deception and control caused or attempted to cause an action that would have resulted in financial harm to the respondent or the respondent's property; and

(2) poses a serious risk of substantial financial harm to the respondent or the respondent's property.

(e) Before issuing an order under subsection (c) or (d), the court shall consider the factors under section 99, and amendments thereto, a conservator must consider when making a decision on behalf of an individual subject to conservatorship.

(f) Before issuing an order under subsection (c) or (d) for a respondent who is a minor, the court also shall consider the best interest of the minor, the preference of the parents of the minor and the preference of the minor, if the minor is 12 years of age or older.

(g) Any order issued under this section may include reporting requirements, time limits, bond requirements or any other provisions deemed necessary by the court.

New Sec. 122. A verified petition for a protective arrangement instead of guardianship or conservatorship must state the petitioner's name, principal residence, current street address, if different, relationship to the respondent, interest in the protective arrangement, the name and address of any attorney representing the petitioner and, to the extent known, the following:

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

(b) the name and address of the respondent's:

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

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

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

(c) the name and current address of each of the following, if applicable:

(1) A person primarily responsible for the care or custody of the respondent;

(2) any attorney currently representing the respondent;

(3) the representative payee appointed by the social security administration for the respondent;

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

(5) a trustee or custodian of a trust or custodianship of which the respondent is a beneficiary;

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

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

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

(9) a person nominated as guardian or conservator by the respondent if the respondent is 12 years of age or older;

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

(11) a person known to have routinely assisted the respondent with decision making in the six-month period immediately before the filing of the petition; and

(12) if the respondent is a minor:

(A) An adult not otherwise listed with whom the respondent resides; and

(B) each person not otherwise listed that had primary care or custody of the respondent for at least 60 days during the two years immediately before the filing of the petition or for at least 730 days during the five years immediately before the filing of the petition;

(d) the nature of the protective arrangement sought;

(e) the reason the protective arrangement sought is necessary, including a description of:

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

(2) any less restrictive alternative for meeting the respondent's alleged need which has been considered or implemented;

(3) if no less restrictive alternative has been considered or implemented, the reason less restrictive alternatives have not been considered or implemented; and

(4) the reason other less restrictive alternatives are insufficient to meet the respondent's alleged need;

(f) the name and current address, if known, of any person with whom the petitioner seeks to limit the respondent's contact and the reason why limited contact with the respondent is necessary;

(g) whether the respondent needs an interpreter, translator, or other form of support to communicate effectively with the court or understand court proceedings;

(h) if a protective arrangement instead of guardianship is sought and the respondent has property other than personal effects, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of any other anticipated income or receipts; and

(i) if a protective arrangement instead of conservatorship is sought, a general statement of the respondent's property with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts.

New Sec. 123. (a) On filing of a petition under section 119, and amendments thereto, the court shall set a date, time and place for a hearing on the petition.

(b) A copy of a petition under section 119, and amendments thereto, and notice of a hearing on the petition must be served personally on the respondent. The notice must inform the respondent of the respondent's rights at the hearing, including the right to an attorney and to attend the hearing. The notice must include a description of the nature, purpose and consequences of granting the petition. The court may not grant the petition if notice substantially complying with this subsection is not served on the respondent. The court may order any of the following persons to serve the notice upon the respondent:

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

(c) In a proceeding on a petition under section 119, and amendments thereto, the notice required under subsection (b) must be given to the persons required to be listed in the petition under section 122(a) through (c), and amendments thereto, and any other person interested in the respondent's welfare the court determines. Failure to give notice under this subsection does not preclude the court from granting the petition.

(d) After the court has ordered a protective arrangement under sections 119 through 130, and amendments thereto, notice of a hearing on a petition for any other order filed under this act, together with a copy of the petition, must be given to the respondent and any other person the court determines.

New Sec. 124. (a) On filing of a petition under section 119, and amendments thereto, for a protective arrangement instead of guardianship, the court may appoint a court liaison. The court liaison must be an individual with training or experience in the type of abilities, limitations and needs alleged in the petition.

(b) On filing of a petition under section 119, and amendments thereto, for a protective arrangement instead of conservatorship for a minor, the court may appoint a court liaison to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(c) On filing of a petition under section 119, and amendments thereto, for a protective arrangement instead of conservatorship for an adult, the court may appoint a court liaison. The court liaison must be an individual with training or experience in the types of abilities, limitations and needs alleged in the petition.

(d) A court liaison appointed under subsection (a) or (c) shall interview the respondent in person and in a manner the respondent is best able to understand:

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

(2) obtain the respondent's views with respect to the order sought;

(3) if the petitioner seeks an order related to the dwelling of the respondent, visit the respondent's present dwelling and any dwelling in which it is reasonably believed the respondent will live if the order is granted;

(4) if a protective arrangement instead of guardianship is sought, obtain information from any physician or other provider known to have treated, advised or assessed the respondent's relevant physical or mental condition, to the extent that such information has not already been provided to the court;

(5) if a protective arrangement instead of conservatorship is sought, review financial records of the respondent, if relevant to the court liaison's recommendation under subsection (e)(2); and

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

(e) A court liaison under this section promptly shall file a report with the court at least 10 days prior to the hearing on the petition or

other hearing as directed by the court. Unless otherwise ordered by the court, such report must include:

(1) To the extent relevant to the order sought, a summary of self-care, independent-living tasks and financial-management tasks the respondent:

(A) Can manage without assistance or with existing supports;

(B) could manage with the assistance of appropriate supportive services, technological assistance or supported decision making; and

(C) cannot manage;

(2) a recommendation regarding the appropriateness of the protective arrangement sought and whether a less restrictive alternative for meeting the respondent's needs is available;

(3) if the petition seeks to change the physical location of the dwelling of the respondent, a statement whether the proposed dwelling meets the respondent's needs and whether the respondent has expressed a preference as to the respondent's dwelling;

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

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

(6) any other matter the court directs.

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

New Sec. 125. (a) Unless the respondent in a proceeding under sections 119 through 130, and amendments thereto, is represented by an attorney, the court shall appoint an attorney to represent the respondent, regardless of the respondent's ability to pay. The court shall give preference in the appointment of an attorney to an attorney whom the respondent has requested or to any attorney who has represented the respondent in other matters if the court has knowledge of that prior representation.

(b) An attorney representing the respondent in a proceeding under sections 119 through 130, and amendments thereto, shall:

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

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

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

(c) The court may appoint an attorney to represent a parent of a minor who is the subject of a proceeding under sections 119 through 130, and amendments thereto, if:

(1) The parent objects to the entry of an order for a protective arrangement instead of guardianship or conservatorship;

(2) the court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

(3) the court otherwise determines the parent needs representation.

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

(1) Explain to the respondent the substance of the petition, the nature, purpose and effect of the proceeding, and the respondent's rights at the hearing on the petition;

(2) determine the respondent's views about the order sought by the petitioner; and

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

respondent's assets.

New Sec. 126. (a) Upon the filing of the petition or any other time at or before the hearing, if the contents of the petition or evidence at the hearing support a prima facie case of the need for a protective arrangement, the court shall order an examination and evaluation of the respondent to be conducted through a general hospital, psychiatric hospital, community mental health center, or community developmental disability organization, or by a licensed physician, psychiatrist, psychologist, physician assistant, nurse practitioner, social worker or other professional appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest.

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

- (1) The respondent's name, age and date of birth;
- (2) a description of the respondent's physical and mental condition;
- (3) a description of the nature and extent of the respondent's cognitive and functional abilities and limitations, including adaptive behaviors and social skills, and, as appropriate, educational and developmental potential;
- (4) a summary of self-care and independent-living tasks the respondent can manage without assistance or with existing supports, could manage with the assistance of appropriate supportive services, technological assistance or supported decision making, and cannot manage;
- (5) a prognosis for any improvement and, as appropriate, any recommendation for treatment or rehabilitation;
- (6) a list and description of any prior assessments, evaluations or examinations of the respondent, including the dates thereof, which were relied upon in the preparation of this evaluation;
- (7) the date and location where this examination and evaluation occurred, and the name or names of the professional or professionals performing the examination and evaluation and such professional's qualifications;
- (8) a statement by the professional that the professional has personally completed an independent examination and evaluation of the respondent, and that the report submitted to the court contains the results of that examination and evaluation, and the professional's opinion with regard to the issues of whether or not the respondent is in need of a guardian and whether there are barriers to the respondent's attendance and participation at the hearing on the petition; and
- (9) the signature of the professional who prepared the report.

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

(d) In lieu of entering an order for an examination and evaluation as provided for in this section, the court may determine that the report accompanying the petition is in compliance with the requirements of this section and that no further examination or evaluation should be required, unless the respondent, or such person's attorney, requests such an examination and evaluation in writing. Any such request shall be filed with the court, and a copy thereof delivered to the petitioner, at least four days prior to the date of the trial. Accompanying the request shall be a statement of the reasons why an examination and evaluation is requested and the name and address of a qualified professional or facility willing and able to conduct this examination and evaluation. If

the court orders a further examination and evaluation, the court may continue the trial and fix a new date, time and place of the trial at a time not to exceed 30 days from the date of the filing of the request.

New Sec. 127. (a) Except as otherwise provided in subsection (b), a hearing under sections 119 through 130, and amendments thereto, may not proceed unless the respondent attends the hearing. If it is not reasonably feasible for the respondent to attend a hearing at the location where court proceedings typically are held, the court shall make reasonable efforts to hold the hearing at an alternative location convenient to the respondent or allow the respondent to attend the hearing using real-time audio-visual technology.

(b) A hearing under sections 119 through 130, and amendments thereto, may proceed without the respondent in attendance if the court finds by clear and convincing evidence that:

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

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

(3) the respondent is a minor who has received proper notice and attendance would be harmful to the minor.

(c) The respondent may be assisted in a hearing under sections 119 through 130, and amendments thereto, by a person or persons of the respondent's choosing, assistive technology or an interpreter or translator, or a combination of these supports. If assistance would facilitate the respondent's participation in the hearing, but is not otherwise available to the respondent, the court shall make reasonable efforts to provide it.

(d) The respondent has a right to retain an attorney to represent the respondent at a hearing under sections 119 through 130, and amendments thereto.

(e) At a hearing under sections 119 through 130, and amendments thereto, the respondent may:

(1) Present evidence and subpoena witnesses and documents;

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

(3) otherwise participate in the hearing.

(f) A hearing under sections 119 through 130, and amendments thereto, must be closed on request of the respondent and a showing of good cause.

(g) Any person may request to participate in a hearing under sections 119 through 130, and amendments thereto. The court may grant the request, with or without a hearing, on determining that the best interest of the respondent will be served. The court may impose appropriate conditions on the person's participation.

New Sec. 128. The court shall give notice of an order under sections 119 through 130, and amendments thereto, to the individual who is subject to the protective arrangement instead of guardianship or conservatorship, a person whose access to the individual is restricted by the order and any other person the court determines.

New Sec. 129. (a) The existence of a proceeding for or the existence of a protective arrangement instead of guardianship or conservatorship is a matter of public record unless the court seals the record after:

(1) The respondent, the individual subject to the protective arrangement, or the parent of a minor subject to the protective arrangement requests the record be sealed; and

(2) either:

(A) The proceeding is dismissed;  
(B) the protective arrangement is no longer in effect; or  
(C) an act authorized by the order granting the protective arrangement has been completed.

(b) (1) An order of protective arrangement is a matter of public record unless sealed by the court. All other court records of the proceeding relating to the protective arrangement are not a matter of public record except as further provided.

(2) The following persons may access court records of the proceeding and resulting protective arrangement:

(A) A respondent;  
(B) an individual subject to a protective arrangement instead of guardianship or conservatorship;  
(C) an attorney designated by the respondent or individual;  
(D) a parent of a minor subject to a protective arrangement; and  
(E) a licensed attorney, abstractor, or title insurance agent.

(3) A person not otherwise entitled to access to court records under this subsection for good cause may request permission from the court for access. The court shall grant access if access is in the best interest of the respondent or individual subject to the protective arrangement or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

(c) A report of a court liaison or professional evaluation generated in the course of a proceeding under sections 119 through 130, and amendments thereto, must be sealed on filing but is available to:

(1) The court;  
(2) the individual who is the subject of the report or evaluation, without limitation as to use;  
(3) the petitioner, court liaison and petitioner's and respondent's attorneys, for purposes of the proceeding;  
(4) unless the court orders otherwise, an agent appointed under a power of attorney for finances in which the respondent is the principal;  
(5) if the order is for a protective arrangement instead of guardianship and unless the court orders otherwise, an agent appointed under a power of attorney for healthcare in which the respondent is identified as the principal; and  
(6) any other person if it is in the public interest or for a purpose the court orders for good cause.

New Sec. 130. The court may appoint a facilitator to assist in implementing a protective arrangement under sections 119 through 130, and amendments thereto. The facilitator has the authority conferred by the order of appointment and serves until discharged by court order.

New Sec. 131. For purposes of this act, the judicial council shall develop a statement of rights form, petition forms and report and accounting forms.

New Sec. 132. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

New Sec. 133. This act modifies, limits or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. § 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. § 7003(b).

New Sec. 134. (a) This act applies to:

(1) A proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced after January 1, 2026; and

(2) except as provided in subsection (b), a guardianship,



conservatorship or protective arrangement instead of guardianship or conservatorship in existence on January 1, 2026, unless the court finds application of a particular provision of this act would substantially interfere with the effective conduct of the proceeding or prejudice the rights of a party, in which case the particular provision of this act does not apply and the superseded law applies.

(b) Sections 79 and 103, and amendments thereto, mandating a guardian's plan or conservator's plan shall not apply to guardianships or conservatorships in existence on January 1, 2026, unless the court orders that a guardian's plan or conservator's plan is required.

New Sec. 135. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 136. K.S.A. 9-1215 is hereby amended to read as follows: 9-1215. (a) Subject to the provisions of this section, an individual owner of an account may enter into a written contract with any bank located in this state that provides that at the time of the owner's death, the balance of the owner's legal share of the account shall be paid to one or more beneficiaries. If a beneficiary has predeceased the owner, that beneficiary's share shall be divided equally among the remaining beneficiaries unless the contract provides otherwise.

(b) If any beneficiary is a minor at the time funds become payable to the beneficiary pursuant to this section, the bank shall pay out in accordance with ~~K.S.A. 59-3053~~ *section 116*, and amendments thereto.

(c) During the owner's lifetime, the owner has the right to both withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. No change in the form and manner prescribed by the bank and delivered to the bank prior to the death of the owner.

(d) The interest of the beneficiary shall not vest until the death of the owner. Vesting of the beneficiary's interest is subject to the following if, prior to the owner's death or payment to the beneficiary, the bank has received written notice:

(1) From the department for children and families of a claim pursuant to K.S.A. 39-709, and amendments thereto, the balance of the owner's share shall be paid to the department for children and families to the extent of medical assistance expended on the deceased owner, with the beneficiary then receiving the balance of the owner's share, if any remains; or

(2) of the owner's surviving spouse's intent to claim an elective share under K.S.A. 59-6a214, and amendments thereto, the balance of the owner's share shall be paid to the court having jurisdiction as provided in K.S.A. 59-6a214, and amendments thereto, to the extent of the owner's surviving spouse's elective share, with the beneficiary then receiving the balance of the owner's share, if any remains.

(e) Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(f) Payment by the bank of the owner's deposit account pursuant to the provisions of this section shall release and discharge the bank from further liability for the payment.

(g) For the purposes of this section:

(1) The balance of the owner's deposit account or the balance of the owner's legal share of a deposit account shall be construed to not

include any portion of the account which under the law of joint tenancy is the property of another joint tenant of the account upon the death of the owner; and

(2) where multiple owners exist, such owners will be presumed to own equal shares of the deposit account unless the deposit contract with the bank specifies a different percentage of ownership for the owners.

Sec. 137. K.S.A. 17-2263 is hereby amended to read as follows: 17-2263. (a) Subject to the provisions of this section and K.S.A. 17-2264, and amendments thereto, an individual adult or minor, hereafter referred to as the member, may enter into a written contract with any credit union located in this state providing that the balance of the member's account, or the balance of the member's legal share of an account, at the time of death of the member shall be made payable on the death of the member to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3053~~ *section 116*, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

(b) Transfers pursuant to this section shall not be considered testamentary or be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated, and amendments thereto.

(c) Every contract authorized by this section shall be considered to contain a right on the part of the member during the member's lifetime both to withdraw funds on deposit in the account in the manner provided in the contract, in whole or in part, as though no beneficiary has been named, and to change the designation of beneficiary. The interest of the beneficiary shall be considered not to vest until the death of the member and, if there is a claim pursuant to K.S.A. 39-709, and amendments thereto, until such claim is satisfied.

(d) No change in the designation of the beneficiary shall be valid unless executed in the form and manner prescribed by the credit union and delivered to the credit union prior to the death of the member.

(e) For the purposes of this section, the balance of the member's account or the balance of the member's legal share of an account shall not be construed to include any portion of the account that under the law of joint tenancy is the property of another joint tenant of the account, upon the death of the owner.

(f) As used in this section, "person" means any individual, individual or corporate fiduciary or nonprofit religious or charitable organization as defined by K.S.A. 79-4701, and amendments thereto.

Sec. 138. K.S.A. 17-2264 is hereby amended to read as follows: 17-2264. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263, and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the secretary for children and families for a claim pursuant to K.S.A. 39-709, and amendments thereto, or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the

amount specified by ~~K.S.A. 59-3053~~ *section 116*, and amendments thereto, the credit union shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

Sec. 139. K.S.A. 21-5417 is hereby amended to read as follows: 21-5417. (a) Mistreatment of a dependent adult or an elder person is knowingly committing one or more of the following acts:

(1) Infliction of physical injury, unreasonable confinement or unreasonable punishment upon a dependent adult or an elder person;

(2) taking the personal property or financial resources of a dependent adult or an elder person for the benefit of the defendant or another person by taking control, title, use or management of the personal property or financial resources of a dependent adult or an elder person through:

(A) Undue influence, coercion, harassment, duress, deception, false representation, false pretense or without adequate consideration to such dependent adult or elder person;

(B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et seq., and amendments thereto;

(C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et seq., and amendments thereto; or

(D) a violation of the ~~act for obtaining a guardian or a conservator, or both, K.S.A. 59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto; or

(3) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of such dependent adult or elder person.

(b) Mistreatment of a dependent adult or an elder person as defined in:

(1) (A) Subsection (a)(1) is a severity level 5, person felony, except as provided in subsection (b)(1)(B);

(B) subsection (a)(1) is a severity level 2, person felony, when the victim is a dependent adult who is a resident of an adult care home, as described in subsection (e)(2)(A), during the commission of the offense;

(2) subsection (a)(2) if the aggregate amount of the value of the personal property or financial resources is:

(A) \$1,000,000 or more is a severity level 2, person felony;

(B) at least \$250,000 but less than \$1,000,000 is a severity level 3, person felony;

(C) at least \$100,000 but less than \$250,000 is a severity level 4, person felony;

(D) at least \$25,000 but less than \$100,000 is a severity level 5, person felony;

(E) at least \$1,500 but less than \$25,000 is a severity level 7, person felony;

(F) less than \$1,500 is a class A person misdemeanor, except as provided in subsection (b)(2)(G); and

(G) less than \$1,500 and committed by a person who has, within five years immediately preceding commission of the crime, been convicted of a violation of this section two or more times is a severity level 7, person felony; and

(3) (A) subsection (a)(3) is a severity level 8, person felony, except as provided in subsection (b)(3)(B); and

(B) subsection (a)(3) is a severity level 5, person felony, when the victim is a dependent adult who is a resident of an adult care home, as described in subsection (e)(2)(A), during the commission of the

offense.

(c) It shall be an affirmative defense to any prosecution for mistreatment of a dependent adult or an elder person as described in subsection (a)(2) that:

(1) The personal property or financial resources were given as a gift consistent with a pattern of gift giving to the person that existed before the dependent adult or elder person became vulnerable;

(2) the personal property or financial resources were given as a gift consistent with a pattern of gift giving to a class of individuals that existed before the dependent adult or elder person became vulnerable;

(3) the personal property or financial resources were conferred as a gift by the dependent adult or elder person to the benefit of a person or class of persons, and such gift was reasonable under the circumstances; or

(4) a court approved the transaction before the transaction occurred.

(d) No dependent adult or elder person is considered to be mistreated under subsection (a)(1) or (a)(3) for the sole reason that such dependent adult or elder person relies upon or is being furnished treatment by spiritual means through prayer in lieu of medical treatment in accordance with the tenets and practices of a recognized church or religious denomination of which such dependent adult or elder person is a member or adherent.

(e) As used in this section:

(1) "Adequate consideration" means the personal property or financial resources were given to the person as payment for bona fide goods or services provided by such person and the payment was at a rate customary for similar goods or services in the community that the dependent adult or elder person resided in at the time of the transaction.

(2) "Dependent adult" means an individual 18 years of age or older who is unable to protect the individual's own interest. Such term shall include, but is not limited to, any:

(A) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923, and amendments thereto;

(B) adult cared for in a private residence;

(C) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;

(D) individual with intellectual disability or a developmental disability receiving services through a community facility for people with intellectual disability or residential facility licensed under K.S.A. 39-2001 et seq., and amendments thereto;

(E) individual with a developmental disability receiving services provided by a community service provider as provided in the developmental disability reform act; or

(F) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for people with intellectual disability.

(3) "Elder person" means a person 60 years of age or older.

(f) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 21-6418, and amendments thereto.

Sec. 140. K.S.A. 38-2217 is hereby amended to read as follows: 38-2217. (a) *Physical or mental care and treatment.* (1) When a child less than 18 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, no consent shall be required to medically examine the child to determine whether the child has been abused or neglected. Unless the child is alleged or suspected to have been abused by the parent or guardian, the investigating officer

shall notify or attempt to notify the parent or guardian of the medical examination of the child.

(2) When the health or condition of a child who is subject to jurisdiction of the court requires it, the court may consent to the performing and furnishing of hospital, medical, surgical or dental treatment or procedures, including the release and inspection of medical or dental records. A child, or parent of any child, who is opposed to certain medical procedures authorized by this subsection may request an opportunity for a hearing thereon before the court. Subsequent to the hearing, the court may limit the performance of matters provided for in this subsection or may authorize the performance of those matters subject to terms and conditions the court considers proper.

(3) The custodian or agent of the custodian is the personal representative for the purpose of consenting to disclosure of otherwise protected health information and may give consent to the following:

- (A) Dental treatment for the child by a licensed dentist;
- (B) diagnostic examinations of the child, including but not limited to the withdrawal of blood or other body fluids, x-rays and other laboratory examinations;
- (C) releases and inspections of the child's medical history records;
- (D) immunizations for the child;
- (E) administration of lawfully prescribed drugs to the child;
- (F) examinations of the child including, but not limited to, the withdrawal of blood or other body fluids or tissues for the purpose of determining the child's parentage; and
- (G) subject to *the* limitations in ~~K.S.A. 59-3075(e)(4), (5) and (6) section 78~~, and amendments thereto, medical or surgical care determined by a physician to be necessary for the welfare of such child, if the parents are not available or refuse to consent.

(4) When the court has adjudicated a child to be in need of care, the custodian or an agent designated by the custodian is the personal representative for the purpose of consenting to disclosure of otherwise protected health information and shall have authority to consent to the performance and furnishing of hospital, medical, surgical or dental treatment or procedures or mental care or treatment other than inpatient treatment at a state psychiatric hospital, including the release and inspection of medical or hospital records, subject to terms and conditions the court considers proper and subject to the limitations of ~~K.S.A. 59-3075 (e)(4), (5) and (6) section 78~~, and amendments thereto.

(5) Any health care provider who in good faith renders hospital, medical, surgical, mental or dental care or treatment to any child or discloses protected health information as authorized by this section shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

(6) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to provide care and support for a child.

(b) *Care and treatment requiring court action.* If it is brought to the court's attention, while the court is exercising jurisdiction over the person of a child under this code, that the child may be a mentally ill person as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem as defined in K.S.A. 59-29b46, and amendments thereto, the court may:

(1) Direct or authorize the county or district attorney or the person supplying the information to file the petition provided for in K.S.A. 59-2957, and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for mentally ill persons or the petition provided for in K.S.A. 59-

29b57, and amendments thereto, and proceed to hear and determine the issues raised by the application as provided in the care and treatment act for persons with an alcohol or substance abuse problem; or

(2) authorize that the child seek voluntary admission to a treatment facility as provided in K.S.A. 59-2949, and amendments thereto, or K.S.A. 59-29b49, and amendments thereto.

The application to determine whether the child is a mentally ill person or a person with an alcohol or substance abuse problem may be filed in the same proceedings as the petition alleging the child to be a child in need of care, or may be brought in separate proceedings. In either event, the court may enter an order staying any further proceedings under this code until all proceedings have been concluded under the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem.

Sec. 141. K.S.A. 44-513a is hereby amended to read as follows: 44-513a. Whenever a minor person shall be entitled to compensation under the provisions of the workers compensation act, the administrative law judge is authorized to direct such compensation to be paid in accordance with ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

Sec. 142. K.S.A. 44-1601 is hereby amended to read as follows: 44-1601. As used in this act:

(a) (1) "Amusement ride" means any mechanical or electrical device that carries or conveys passengers along, around or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, pleasure, thrills or excitement, including, but not be limited to:

(A) Rides commonly known as ferris wheels, carousels, parachute towers, bungee jumping, reverse bungee jumping, tunnels of love, roller coasters, boat rides, water slides, inflatable devices, commercial zip lines, trampoline courts and go-karts;

(B) equipment generally associated with winter activities, such as ski lifts, ski tows, j-bars, t-bars, chair lifts and aerial tramways; and

(C) equipment not originally designed to be used as an amusement ride, such as cranes or other lifting devices, when used as part of an amusement ride.

(2) "Amusement ride" does not include:

(A) Games, concessions and associated structures;

(B) any single passenger coin-operated ride that: (i) Is manually, mechanically or electrically operated; (ii) is customarily placed in a public location; and (iii) does not normally require the supervision or services of an operator;

(C) nonmechanized playground equipment, including, but not limited to, swings, seesaws, stationary spring-mounted animal features, rider-propelled merry-go-rounds, climbers, slides and physical fitness devices;

(D) antique amusement rides;

(E) limited-use amusement rides;

(F) registered agritourism activities;

(G) any ride commonly known as a hayrack ride in which patrons sit in a wagon or cart that is then pulled by horses or a tractor or other motor vehicle;

(H) any ride commonly known as a barrel train, which has a series of handmade cars fashioned from barrels that are connected and pulled by a tractor or other motor vehicle; or

(I) any amusement ride owned by an individual and operated solely within a single county for strictly private use.

(b) "Antique amusement ride" means an amusement ride, as

defined in subsection (a)(1), manufactured prior to January 1, 1930.

(c) "Certificate of inspection" means a certificate, signed and dated by a qualified inspector, showing that an amusement ride has satisfactorily passed inspection by such inspector.

(d) "Class A amusement ride" means an amusement ride designed for use primarily by individuals aged 12 or less.

(e) "Class B amusement ride" means an amusement ride that is not classified as a class A amusement ride.

(f) "Department" means the department of labor.

(g) "Limited-use amusement ride" means an amusement ride, as defined in subsection (a)(1), owned and operated by a nonprofit, community-based organization that is operated for less than 20 days, or 160 hours, in a year and is operated at only one location each year.

(h) "Nondestructive testing" means the development and application of technical methods in accordance with ASTM F747 standards such as radiographic, magnetic particle, ultrasonic, liquid penetrant, electromagnetic, neutron radiographic, acoustic emission, visual and leak testing to:

(1) Examine materials or components in ways that do not impair the future usefulness and serviceability in order to detect, locate, measure and evaluate discontinuities, defects and other imperfections;

(2) assess integrity, properties and composition; and

(3) measure geometrical characters.

(i) "Operator" means a person actually supervising, or engaged in or directly controlling the operations of an amusement ride.

(j) "Owner" means a person who owns, leases, controls or manages the operations of an amusement ride and may include the state or any political subdivision of the state.

(k) "Parent or guardian" means any parent, guardian or custodian responsible for the control, safety, training or education of a minor or an adult or minor with an impairment in need of a guardian or a conservator, or both, as those terms are defined by ~~K.S.A. 59-3051~~ *section 25*, and amendments thereto.

(l) (1) "Patron" means any individual who is:

(A) Waiting in the immediate vicinity of an amusement ride to get on the ride;

(B) getting on an amusement ride;

(C) using an amusement ride;

(D) getting off an amusement ride; or

(E) leaving an amusement ride and still in the immediate vicinity of the ride.

(2) "Patron" does not include employees, agents or servants of the owner while engaged in the duties of their employment.

(m) "Person" means any individual, association, partnership, corporation, limited liability company, government or other entity.

(n) "Qualified inspector" means a person who:

(1) Is a licensed professional engineer, as defined in K.S.A. 74-7003, and amendments thereto, and has completed at least two years of experience in the amusement ride field, consisting of at least one year of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and an additional year of practicing any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation;

(2) provides satisfactory evidence of completing a minimum of five years of experience in the amusement ride field, at least two years of which consisted of actual inspection of amusement rides under a qualified inspector for a manufacturer, governmental agency, amusement park, carnival or insurance underwriter, and the remaining

experience consisting of any combination of amusement ride inspection, design, fabrication, installation, maintenance, testing, repair or operation;

(3) has received qualified training from a third party, such as attainment of level I certification from the national association of amusement ride safety officials (NAARSO), attainment of level I certification from the amusement industry manufacturers and suppliers international (AIMS), attainment of a qualified inspector certification from the association for challenge course technology (ACCT), when applicable, or other similar qualification from another nationally recognized organization; or

(4) for purposes of inspecting inflatable devices that are rented on a regular basis and erected at temporary locations, provides satisfactory evidence of completing a minimum of five years of experience working with inflatable devices and has received qualified training from a third party, such as attainment of an advanced inflatable safety operations certification from the safe inflatable operators training organization or other nationally recognized organization.

(o) "Registered agritourism activity" means an amusement ride, as defined in subsection (a)(1), that is a registered agritourism activity, as defined in K.S.A. 32-1432, and amendments thereto.

(p) "Secretary" means the secretary of labor.

(q) "Serious injury" means an injury that results in:

(1) Death, dismemberment, significant disfigurement or permanent loss of the use of a body organ, member, function or system;

(2) a compound fracture; or

(3) other injury or illness that requires immediate admission and overnight hospitalization, and observation by a licensed physician.

(r) "Sign" means any symbol or language reasonably calculated to communicate information to patrons or their parents or guardians, including placards, prerecorded messages, live public address, stickers, pictures, pictograms, guide books, brochures, videos, verbal information and visual signals.

(s) "Water slide" means a slide that is at least 35 feet in height and that uses water to propel the patron through the ride.

Sec. 143. K.S.A. 2024 Supp. 58a-103 is hereby amended to read as follows: 58a-103. As used in this code:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) "Beneficiary" means a person that:

(A) Has a present or future beneficial interest in a trust, vested or contingent; or

(B) in a capacity other than that of trustee, holds a power of appointment over trust property.

(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in K.S.A. 58a-405(a), and amendments thereto.

(4) "Conservator" means a person appointed by the court pursuant to ~~K.S.A. 59-3001 et seq.~~ *section 25*, and amendments thereto, to administer the estate of a minor or adult individual.

(5) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(6) "Guardian" means a person appointed by the court pursuant to ~~K.S.A. 59-3001 et seq.~~ *section 25*, and amendments thereto, to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.

(7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.



(8) "Jurisdiction," with respect to a geographic area, includes a state or country.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(10) "Power of withdrawal" means a presently exercisable general power of appointment other than a power:

(A) Exercisable by a trustee and limited by an ascertainable standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the internal revenue code of 1986, as in effect on July 1, 2022; or

(B) exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(12) (A) "Qualified beneficiary" means a beneficiary who, as of the date in question, either is eligible to receive mandatory or discretionary distributions of trust income or principal, or would be so eligible if the trust terminated on that date.

(B) For the purpose of trustee determining "qualified beneficiaries" of a trust in which a beneficial interest is subject to a power of appointment of any nature, the trustee may conclusively presume such power of appointment has not been exercised unless the trustee has been furnished by the powerholder or the legal representative of the powerholder or the powerholder's estate with the original or a copy of an instrument validly exercising such power of appointment, in which event the qualified beneficiaries shall be subsequently determined by giving due consideration to such exercise unless and until the trustee has been given notification in a similar manner of an instrument which validly revokes or modifies such exercise.

(13) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(14) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(15) "Spendthrift provision" means a term of a trust which restrains either voluntary or involuntary transfer of a beneficiary's interest.

(16) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(17) "Terms of a trust" means:

(A) Except as otherwise provided in subparagraph (B), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) Expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding; or

(B) the trust's provisions as established, determined, or amended by:

(i) A trustee or person holding a power to direct under K.S.A. 58a-

808, and amendments thereto, in accordance with applicable law;

(ii) court order; or

(iii) a nonjudicial settlement agreement under K.S.A. 58a-111, and amendments thereto.

(18) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(19) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

Sec. 144. K.S.A. 2024 Supp. 58-656 is hereby amended to read as follows: 58-656. (a) An attorney in fact who elects to act under a power of attorney is under a duty to act in the interest of the principal and to avoid conflicts of interest that impair the ability of the attorney in fact so to act. A person who is appointed an attorney in fact under a power of attorney who undertakes to exercise the authority conferred in the power of attorney, has a fiduciary obligation to exercise the powers conferred in the best interests of the principal, and to avoid self-dealing and conflicts of interest, as in the case of a trustee with respect to the trustee's beneficiary or beneficiaries. The attorney in fact shall keep a record of receipts, disbursements and transactions made on behalf of the principal and shall not commingle funds or assets of the principal with the funds or assets of the attorney in fact. In the absence of explicit authorization, the attorney in fact shall exercise a high degree of care in maintaining, without modification, any estate plan which the principal may have in place, including, but not limited to, arrangements made by the principal for disposition of assets at death through beneficiary designations, ownership by joint tenancy or tenancy by the entirety, trust arrangements or by will or codicil. Unless otherwise provided in the power of attorney or in a separate agreement between the principal and attorney in fact, an attorney in fact who elects to act shall exercise the authority granted in a power of attorney with that degree of care that would be observed by a prudent person dealing with the property and conducting the affairs of another, except that all investments made on or after July 1, 2003, shall be in accordance with the provisions of the Kansas uniform prudent investor act, K.S.A. 58-24a01 et seq., and amendments thereto. If the attorney in fact has special skills or was appointed attorney in fact on the basis of representations of special skills or expertise, the attorney in fact has a duty to use those skills in the principal's behalf.

(b) On matters undertaken or to be undertaken in the principal's behalf and to the extent reasonably possible under the circumstances, an attorney in fact has a duty to keep in regular contact with the principal, to communicate with the principal and to obtain and follow the instructions of the principal.

(c) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator, guardian of the estate or other fiduciary charged with the management of all of the principal's property or all of the principal's property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the durable power of attorney that the principal would have had if the principal were not an adult with an impairment in need of a guardian or conservator or both as defined by ~~subsection (a) of K.S.A. 59-3051-~~ ~~section 25,~~ and amendments thereto.

(d) A principal may nominate by a power of attorney, a guardian or conservator, or both, for consideration by the court. If a petition to appoint a guardian or conservator, or both, is filed, the court shall make the appointment in accordance with the principal's most recent nomination in the power of attorney, so long as the individual

nominated is a fit and proper person.

(e) An attorney in fact shall exercise authority granted by the principal in accordance with the instrument setting forth the power of attorney, any modification made therein by the principal or the principal's legal representative or a court, and the oral and written instructions of the principal, or the written instructions of the principal's legal representative or a court.

(f) An attorney in fact may be instructed in a power of attorney that the authority granted shall not be exercised until, or shall terminate on, the happening of a future event, condition or contingency, as determined in a manner prescribed in the instrument.

(g) On the death of the principal, the attorney in fact shall follow the instructions of the court, if any, having jurisdiction over the estate of the principal, or any part thereof, and shall communicate with and be accountable to the principal's personal representative, or if none, the principal's successors. The attorney in fact shall promptly deliver to and put in the possession and control of the principal's personal representative or successors, any property of the principal and copies of any records of the attorney in fact relating to transactions undertaken in the principal's behalf that are deemed by the personal representative or the court to be necessary or helpful in the administration of the decedent's estate.

(h) If an attorney in fact has a property or contract interest in the subject of the power of attorney or the authority of the attorney in fact is otherwise coupled with an interest in a person other than the principal, this section does not impose any duties on the attorney in fact that would conflict or be inconsistent with that interest.

Sec. 145. K.S.A. 58-662 is hereby amended to read as follows: 58-662. (a) The principal may petition the court for an accounting by the principal's attorney in fact or the legal representative of the attorney in fact. If the principal is disabled or deceased, a petition for accounting may be filed by the principal's legal representative, an adult member of the principal's family or any person interested in the welfare of the principal.

(b) Any requirement for an accounting may be waived or an accounting may be approved by the court without hearing, if the accounting is waived or approved by a principal who is not disabled, or by a principal whose legal capacity has been restored, or by all creditors and distributees of a deceased principal's estate whose claims or distributions theretofore have not been satisfied in full. The approval or waiver shall be in writing, signed by the affected persons and filed with the court.

(c) For the purposes of subsection (b), a legal representative or a person providing services to the principal's estate shall not be considered a creditor of the principal's estate. No express approval or waiver shall be required from the legal representative of a disabled principal if the principal's legal capacity has been restored, or from the personal representative of a deceased principal's estate, or from any other person entitled to compensation or expense for services rendered to a disabled or deceased principal's estate, unless the principal or the principal's estate is unable to pay in full the compensation and expense to which the person rendering the services may be entitled.

(d) The principal, the principal's attorney in fact, an adult member of the principal's family or any person interested in the welfare of the principal may petition the district court in the county where the principal is then residing to determine and declare whether a principal, who has executed a power of attorney, is a disabled person.

(e) If the principal is a disabled person, on petition of the principal's legal representative, an adult member of the principal's

family or any interested person, including a person interested in the welfare of the principal, for good cause shown, the court may:

(1) Order the attorney in fact to exercise or refrain from exercising authority in a durable power of attorney in a particular manner or for a particular purpose;

(2) modify the authority of an attorney in fact under a durable power of attorney;

(3) declare suspended a power of attorney that is nondurable;

(4) terminate a durable power of attorney;

(5) remove the attorney in fact under a durable power of attorney;

(6) confirm the authority of an attorney in fact or a successor attorney in fact to act under a durable power of attorney; and

(7) issue such other orders as the court finds will be in the best interest of the disabled principal, including appointment of a conservator for the principal pursuant to ~~K.S.A. 59-3050, et seq.~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

(f) In addition to any other remedies available under law, if after notice and hearing, the court determines that there has been a showing that the principal is a disabled person and that the attorney in fact has breached such attorney in fact's fiduciary duty to the principal or that there is a reasonable likelihood that such attorney in fact may do so in the immediate future, the court, in its discretion, may issue an order that some or all of the authority granted by the durable power of attorney be suspended or modified, and that a different attorney in fact be authorized to exercise some or all of the powers granted by the durable power of attorney. Such attorney in fact may be designated by the court. The court may require any person petitioning for any such order to file a bond in such amount and with such sureties as required by the court to indemnify either the attorney in fact who has been acting on behalf of the principal or the principal and the principal's successors in interest for the expenses, including attorney fees, incurred by any such persons with respect to such proceeding. The court, after hearing, may allow payment or enter judgment. None of the actions described in this subsection shall be taken by the court until after hearing upon reasonable notice to all persons identified in a verified statement supplied by the petitioner who is requesting such action identifying the immediate relatives of the principal and any other persons known to the petitioner to be interested in the welfare of the principal. Except that in the event of an emergency as determined by the court, the court, without notice, may enter such temporary order as seems proper to the court, but no such temporary order shall be effective for more than 30 days unless extended by the court after hearing on reasonable notice to the persons identified as ~~herein~~ provided *in this subsection*.

(g) If a power of attorney is suspended or terminated by the court or the attorney in fact is removed by the court, the court may require an accounting from the attorney in fact and order delivery of any property belonging to the principal and copies of any necessary records of the attorney in fact concerning the principal's property and affairs to a successor attorney in fact or the principal's legal representative.

(h) In a proceeding under this act or in any other proceeding, or upon petition of an attorney in fact or successor, the court may:

(1) Require or permit an attorney in fact under a power of attorney to account;

(2) authorize the attorney in fact under a power of attorney to enter into any transaction, or approve, ratify, confirm and validate any transaction entered into by the attorney in fact that the court finds is, was or will be beneficial to the principal and which the court has power to authorize for a conservator pursuant to ~~K.S.A. 59-3050 et seq.~~ *the*

*Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto; and*

(3) relieve the attorney in fact of any obligation to exercise authority for a disabled principal under a durable power of attorney.

(i) Unless previously barred by adjudication, consent or limitation, any cause of action against an attorney in fact or successor for breach of duty to the principal shall be barred as to any principal who has received an account or other statement fully disclosing the matter unless a proceeding to assert the cause of action is commenced within two years after receipt of the account or statement by the principal or, if the principal is a disabled person, by a guardian or conservator of the disabled person's estate. If a disabled person has no guardian or conservator of the disabled person's estate at the time an account or statement is presented, then the cause of action shall not be barred until one year after the removal of the principal's disability or incapacity, one year after the appointment of a conservator for the principal or one year after the death of the principal. The cause of action thus barred does not include any action to recover from an attorney in fact or successor for fraud, misrepresentation or concealment related to the settlement of any transaction involving the agency relationship of the attorney in fact with the principal.

Sec. 146. K.S.A. 58-24a15 is hereby amended to read as follows: 58-24a15. Conservators shall not invest funds under their control and management in investments other than those specifically permitted by ~~K.S.A. 59-3078 sections 99 and 100~~, and amendments thereto, except upon the entry of an order of a court of competent jurisdiction, after a hearing on a verified petition. Before authorizing any such investment, the court shall require evidence of value and advisability of such purchase.

Sec. 147. K.S.A. 2024 Supp. 58-4802 is hereby amended to read as follows: 58-4802. In this act:

(a) "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives or stores a digital asset of the user or provides goods or services to the user.

(b) "Agent" means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

(c) "Carries" means engages in the transmission of an electronic communication.

(d) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication and the electronic address of the person.

(e) "Conservatee" means an individual for whom a conservator has been appointed.

(f) "Conservator" means a person appointed by a court pursuant to ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto, to manage the estate of a minor or adult individual. The term includes a temporary conservator.

(g) "Content of an electronic communication" means information concerning the substance or meaning of the communication which:

- (1) Has been sent or received by a user;
  - (2) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and
  - (3) is not readily accessible to the public.
- (h) "Court" means the district court.

(i) "Custodian" means a person that carries, maintains, processes, receives or stores a digital asset of a user.

(j) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(k) "Digital asset" means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(l) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(m) "Electronic communication" has the meaning set forth in 18 U.S.C. § 2510(12).

(n) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(o) "Fiduciary" means an original, additional or successor personal representative, guardian, conservator, agent or trustee.

(p) "Guardian" means a person appointed by the court pursuant to ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto, to make decisions regarding the support, care, education, health and welfare of a minor or adult individual. The term includes a temporary guardian but does not include a guardian ad litem.

(q) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases or the like.

(r) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

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

(t) "Personal representative" means an executor, administrator, special administrator or person that performs substantially the same function under law of this state other than this act.

(u) "Power of attorney" means a record that grants an agent authority to act on behalf of a principal.

(v) "Principal" means an individual who grants authority to an agent in a power of attorney.

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

(x) "Remote computing service" means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

(y) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

(z) "Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

(aa) "User" means a person that has an account with a custodian.

(bb) "Ward" means an individual for whom a guardian has been appointed.

(cc) "Will" includes a codicil, a testamentary instrument that only appoints an executor and an instrument that revokes or revises a

testamentary instrument.

Sec. 148. K.S.A. 2024 Supp. 58-4814 is hereby amended to read as follows: 58-4814. (a) After an opportunity for a hearing under ~~K.S.A. 59-3050 et seq.~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto, the court may grant a guardian or conservator access to the digital assets of a ward or conservatee.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a guardian or conservator the catalogue of electronic communications sent or received by a ward or conservatee and any digital assets, other than the content of electronic communications, in which the ward or conservatee has a right or interest if the guardian or conservator gives the custodian:

(1) A written request for disclosure in physical or electronic form;  
(2) a certified copy of the court order that gives the guardian or conservator authority over the digital assets of the ward or conservatee; and

(3) if requested by the custodian:

(A) A number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the account of the ward or conservatee; or

(B) evidence linking the account to the ward or conservatee.

(c) A guardian or conservator with general authority to manage the assets of a ward or conservatee may request a custodian of the digital assets of the ward or conservatee to suspend or terminate an account of the ward or conservatee for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the guardian or conservator authority over the ward or conservatee's property.

Sec. 149. K.S.A. 59-1701 is hereby amended to read as follows: 59-1701. (a) No bank, savings and loan association or other corporation shall be appointed or authorized directly or indirectly to act as a fiduciary in this state except:

(1) A bank, savings and loan association or other corporation organized under the laws of, and having its principal place of business in, this state;

(2) a national bank, federal savings bank or federal savings and loan association located in this state;

(3) a bank, savings and loan association or other corporation organized under the laws of, and having its principal place of business in, another state which permits a bank, savings and loan association or other corporation which is similarly organized in this state to act in a like fiduciary capacity in the other state under similar conditions;

(4) a national bank, federal savings bank or federal savings and loan association located in another state which permits a national bank, federal savings bank or federal savings and loan association located in this state to act in a like fiduciary capacity in the other state under similar conditions;

(5) a nonprofit corporation certified in accordance with ~~K.S.A. 59-3070~~ *section 35*, and amendments thereto, to the extent provided by that statute; or

(6) as provided in K.S.A. 59-1707 and 59-1708, and amendments thereto.

(b) No officer, employee or agent of a bank, savings and loan association or corporation which is not authorized to act as a fiduciary in this state shall be permitted to act as a fiduciary, whether such officer, employee or agent is a resident or a nonresident of this state, when in fact such officer, employee or agent is acting as a fiduciary on behalf of such bank, savings and loan association or corporation.

(c) No bank, savings and loan association or other corporation, other than a nonprofit corporation certified in accordance with ~~K.S.A. 59-3070~~ *section 35*, and amendments thereto, shall be appointed guardian of the person of a ward.

Sec. 150. K.S.A. 2024 Supp. 59-2401a is hereby amended to read as follows: 59-2401a. (a) An appeal by an interested party from a district magistrate judge who is not regularly admitted to practice law in Kansas to a district judge may be taken no later than 14 days from any final order, judgment or decree entered in any proceeding pursuant to:

- (1) The Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto;
- (2) the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto;
- (3) the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto; or
- (4) ~~the act for obtaining a guardian or conservator, or both, K.S.A. 59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

The appeal shall be heard no later than 30 days from the date the notice of appeal is filed. If no record was made of the proceedings, the trial shall be de novo. Except as provided further, if a record was made of the proceedings, the district judge shall conduct the appeal on the record. Upon motion of any party to the proceedings, the district judge may hold a trial de novo.

(b) An appeal by an interested party from a district judge, or a district magistrate judge who is regularly admitted to practice law in Kansas, to an appellate court shall be taken pursuant to article 21 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, from any final order, judgment or decree entered in any proceeding pursuant to:

- (1) The Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto;
- (2) the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto;
- (3) the Kansas sexually violent predator act, K.S.A. 59-29a01 et seq., and amendments thereto;
- (4) the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto; or
- (5) ~~the act for obtaining a guardian or conservator, or both, K.S.A. 59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

Except for appeals under the Kansas judicial review act and cases otherwise specifically provided for by law, appeals under this section shall have priority over all others.

(c) Pending the determination of an appeal pursuant to subsection (a) or (b), any order appealed from shall continue in force unless modified by temporary orders entered by the court hearing the appeal. The supersedeas bond provided for in K.S.A. 60-2103, and amendments thereto, shall not stay proceedings under an appeal from the district court to an appellate court.

(d) In an appeal taken pursuant to subsection (a) or (b), the court from which the appeal is taken may require an appropriate party, other than the state of Kansas, any subdivision thereof, and all cities and counties in this state, to file a bond in such sum and with such sureties



as may be fixed and approved by the court to ensure that the appeal will be prosecuted without unnecessary delay and to ensure the payment of all judgments and any sums, damages and costs that may be adjudged against that party.

(e) As used in this section, "interested party" means:

(1) The parent in a proceeding pursuant to the Kansas adoption and relinquishment act, K.S.A. 59-2111 et seq., and amendments thereto;

(2) the patient under the care and treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and amendments thereto;

(3) the patient under the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 59-29b45 et seq., and amendments thereto;

(4) the person adjudicated a sexually violent predator under the Kansas sexually violent predator act, K.S.A. 59-29a01 et seq., and amendments thereto;

(5) the ward or conservatee under the ~~act for obtaining a guardian or conservator, or both, K.S.A. 59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto;

(6) the parent of a minor person adjudicated a ward or conservatee under the ~~act for obtaining a guardian or conservator, or both, K.S.A. 59-3050 et seq.~~ *Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto;

(7) the petitioner in the case on appeal; and

(8) any other person granted interested party status by the court from which the appeal is being taken.

(f) This section shall be part of and supplemental to the Kansas probate code.

Sec. 151. K.S.A. 2024 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-29b50, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-29b73, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" means the same as defined in K.S.A. 22-2202, and amendments thereto.

(d) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt from licensure under subsection (n).

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed by the behavioral sciences regulatory board.

(f) "Licensed master's addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use

disorders and who is licensed under this act. Such person may diagnose substance use disorders only under the direction of a licensed clinical addiction counselor, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of substance abuse disorders or mental disorders.

(g) "Other facility for care or treatment" means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

(h) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or (c), and amendments thereto.

(i) "Person with an alcohol or substance abuse problem" means a person who: (1) Lacks self-control as to the use of alcoholic beverages or any substance as defined in subsection (m); or

(2) uses alcoholic beverages or any substance to the extent that the person's health may be substantially impaired or endangered without treatment.

(j) (1) "Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment" means a person with an alcohol or substance abuse problem who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

(2) "Incapacitated by alcohol or any substance" means that the person, as the result of the use of alcohol or any substance, has impaired judgment resulting in the person:

(A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate responsible decisions concerning either the person's well-being or estate.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

(B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the person's ability to function on the person's own.

(k) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the

United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(l) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(m) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

(n) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(o) (1) "Treatment facility" means a treatment program, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term does not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 2015 Supp. 75-3307b, prior to its repeal or under K.S.A. 39-2001 et seq., and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

(2) "Private treatment facility" means a private agency providing facilities for the care and treatment or lodging of persons with either an alcohol or other substance abuse problem and meeting the standards prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto, and licensed under either K.S.A. 65-4014 or 65-4607, and amendments thereto.

(3) "Public treatment facility" means a treatment facility owned and operated by any political subdivision of the state of Kansas and licensed under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an appropriate place for the care and treatment or lodging of persons with an alcohol or other substance abuse problem.

(p) The terms defined in ~~K.S.A. 59-3051~~ *section 25*, and amendments thereto, shall have the meanings provided by that section.

Sec. 152. K.S.A. 2024 Supp. 59-29b48 is hereby amended to read as follows: 59-29b48. (a) The fact that a person may have voluntarily accepted any form of treatment for an alcohol or substance abuse problem, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a person in need of a

guardian or a conservator, or both, as provided in ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

(c) A person who is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to K.S.A. 21-6301, and amendments thereto.

Sec. 153. K.S.A. 59-29b49 is hereby amended to read as follows: 59-29b49. (a) A person with an alcohol or substance abuse problem may be admitted to a treatment facility as a voluntary patient when there are available accommodations and the head of the treatment facility determines such person is in need of treatment therein, and that the person has the capacity to consent to treatment.

(b) Admission shall be made upon written application:

(1) If such person is 18 years of age or older the person may make such application for themselves; or

(2) (A) If such person is less than 18 years of age, a parent may make such application for their child; or

(B) if such person is less than 18 years of age, but 14 years of age or older, the person may make such written application on their own behalf without the consent or written application of their parent, legal guardian or any other person. Whenever a person who is 14 years of age or older makes written application on their own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the admittance of that child; or

(3) if such person has a legal guardian, the legal guardian may make such application provided that if the legal guardian is required to obtain authority to do so pursuant to ~~K.S.A. 59-3077 sections 77 and 78~~, and amendments thereto, then only in accordance with the provisions thereof. If the legal guardian is seeking admission of their ward upon an order giving the guardian continuing authority to admit the ward to a treatment facility as defined in ~~K.S.A. 59-3077 sections 77 and 78~~, and amendments thereto, the head of the treatment facility may require a statement from the patient's attending physician or from the local health officer of the area in which the patient resides confirming that the patient is in need of treatment for an alcohol or substance abuse problem in a treatment facility before accepting the ward for admission, and shall divert any such person to a less restrictive treatment alternative as may be appropriate.

(c) No person shall be admitted as a voluntary patient under the provisions of this act to any treatment facility unless the head of the treatment facility has informed such person or such person's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of a minor, in writing, of the following:

(1) The rules and procedures of the treatment facility relating to the discharge of voluntary patients;

(2) the legal rights of a voluntary patient receiving treatment from a treatment facility as provided for in K.S.A. 59-29b78 and amendments thereto; and

(3) in general terms, the types of treatment which are available or would not be available to a voluntary patient from that treatment facility.

(d) Nothing in this act shall be construed as to prohibit a proposed

or involuntary patient with capacity to do so from making an application for admission as a voluntary patient to a treatment facility. Any proposed or involuntary patient desiring to do so shall be afforded an opportunity to consult with their attorney prior to making any such application. If the head of the treatment facility accepts the application and admits the patient as a voluntary patient, then the head of the treatment facility shall notify, in writing, the patient's attorney, the patient's legal guardian, if the patient has a legal guardian, and the district court which has jurisdiction over the patient of the patient's voluntary status. When a notice of voluntary admission is received, the court shall file the same which shall terminate the proceedings.

Sec. 154. K.S.A. 59-29b51 is hereby amended to read as follows: 59-29b51. (a) A voluntary patient shall be entitled to be discharged from a treatment facility, by the head of the treatment facility, by no later than the third day, excluding Saturdays, Sundays and holidays, after receipt of the patient's written request for discharge.

(b) (1) If the voluntary patient is an adult admitted upon the application of a legal guardian or pursuant to an order of the court issued pursuant to ~~K.S.A. 59-3077~~ sections 77 and 78, and amendments thereto, any request for discharge must be made, in writing, by the legal guardian.

(2) If the voluntary patient is a minor, the written request for discharge shall be made by the child's parent or legal guardian except if the minor was admitted upon their own written application to become a voluntary patient made pursuant to K.S.A. 59-29b49 and amendments thereto, then the minor may make the request. In the case of a minor 14 or more years of age who had made written application to become a voluntary patient on their own behalf and who has requested to be discharged, the head of the treatment facility shall promptly inform the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the minor's request for discharge.

Sec. 155. K.S.A. 2024 Supp. 59-29b60 is hereby amended to read as follows: 59-29b60. (a) Upon the filing of the petition provided for in K.S.A. 59-29b57, and amendments thereto, the district court shall issue the following:

(1) An order fixing the time and place of the trial upon the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition. If a demand for a trial by jury is later filed by the proposed patient, the court may continue the trial and fix a new time and place of the trial at a time that may exceed beyond the 14 days but shall be fixed within a reasonable time not exceeding 30 days from the date of the filing of the demand.

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

(3) An order appointing an attorney to represent the proposed patient at all stages of the proceedings and until all orders resulting from such proceedings are terminated. The court shall give preference, in the appointment of this attorney, to any attorney who has represented

the proposed patient in other matters if the court has knowledge of that prior representation. The proposed patient shall have the right to engage an attorney of the proposed patient's own choice and, in such event, the attorney appointed by the court shall be relieved of all duties by the court.

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least five days prior to the date set for the trial under K.S.A. 59-29b65, and amendments thereto.

(5) An order for an evaluation as provided for in K.S.A. 59-29b61, and amendments thereto.

(6) A notice as provided for in K.S.A. 59-29b63, and amendments thereto.

(7) If the petition also contains allegations as provided for in ~~K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062~~ sections 17, 18, 28, 49, 52 or 65, and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by K.S.A. 59-29b65 ~~and K.S.A. 59-3067~~, and amendments thereto, sections 30, 53, 55, 66 and 70, and amendments thereto, may be consolidated.

(8) If the petitioner shall not have named a proposed treatment facility to which the proposed patient may be sent as provided for ~~subsection (b)(8) of~~ in K.S.A. 59-29b57(b)(8), and amendments thereto, but instead stated that the secretary for aging and disability services has been notified and requested to determine which treatment facility the proposed patient should be sent to, then the court shall issue an order requiring the secretary, or the secretary's designee, to make that determination and to notify the court of the name and address of that treatment facility by such time as the court shall specify in the court's order.

(b) Nothing in this section shall prevent the court from granting an order of continuance, for good cause shown, to any party for no longer than seven days, except that such limitation does not apply to a request for an order of continuance made by the proposed patient or to a request made by any party if the proposed patient is absent such that further proceedings can not be held until the proposed patient has been located. The court also, upon the request of any party, may advance the date of the hearing if necessary and in the best interests of all concerned.

Sec. 156. K.S.A. 2024 Supp. 59-29c03 is hereby amended to read as follows: 59-29c03. (a) The fact that a person has been detained for emergency observation and treatment under this act shall not be construed to mean that such person shall have lost any civil right such person would otherwise have as a resident or citizen, any property right or legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable policies which the head of a crisis intervention center may, for good cause shown, find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus. No judicial action taken as part of the procedure provided in K.S.A. 2024 Supp. 59-29c08(c), and amendments thereto, shall constitute a finding by the court.

(b) There shall be no implication or presumption that a patient within the terms of this act is, for that reason alone, a person in need of a guardian or a conservator, or both, as provided in ~~K.S.A. 59-3050~~

~~through 59-3097~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto.*

Sec. 157. K.S.A. 2024 Supp. 59-2946 is hereby amended to read as follows: 59-2946. When used in the care and treatment act for mentally ill persons:

(a) "Discharge" means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 59-2950, and amendments thereto, or by an order of a court issued pursuant to K.S.A. 59-2973, and amendments thereto.

(b) "Head of a treatment facility" means the administrative director of a treatment facility or such person's designee.

(c) "Law enforcement officer" means the same as defined in K.S.A. 22-2202, and amendments thereto.

(d) (1) "Mental health center" means any community mental health center as defined in K.S.A. 39-2002, and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and amendments thereto, or K.S.A. 17-6001 through 17-6010, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 39-2001 et seq., and amendments thereto.

(2) "Participating mental health center" means a mental health center that has entered into a contract with the secretary for aging and disability services pursuant to the provisions of K.S.A. 39-1601 through 39-1612, and amendments thereto.

(e) "Mentally ill person" means any person who is suffering from a mental disorder that is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

(f) (1) "Mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in subsection (e), who also lacks capacity to make an informed decision concerning treatment, is likely to cause harm to self or others, and whose diagnosis is not solely one of the following mental disorders: Alcohol or chemical substance abuse; antisocial personality disorder; intellectual disability; organic personality syndrome; or an organic mental disorder.

(2) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by an inability to weigh the possible risks and benefits.

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's mental disorder: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or (B) is substantially unable, except for reason of indigency, to provide for any of the person's basic needs, such as food, clothing, shelter, health or safety, causing a substantial deterioration of the

person's ability to function on the person's own.

No person who is being treated by prayer in the practice of the religion of any church that teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty.

(g) "Patient" means a person who is a voluntary patient, a proposed patient or an involuntary patient.

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to K.S.A. 59-2954(b) or (c), and amendments thereto.

(h) "Physician" means a person licensed to practice medicine and surgery as provided for in the Kansas healing arts act or a person who is employed by a state psychiatric hospital or by an agency of the United States and who is authorized by law to practice medicine and surgery within that hospital or agency.

(i) "Psychologist" means a licensed psychologist, as defined by K.S.A. 74-5302, and amendments thereto.

(j) "Qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed master's level psychologist, a licensed clinical psychotherapist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

(1) "Direction" means monitoring and oversight including regular, periodic evaluation of services.

(2) "Licensed master social worker" means a person licensed as a master social worker by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318, and amendments thereto.

(3) "Licensed specialist social worker" means a person licensed in a social work practice specialty by the behavioral sciences regulatory board under K.S.A. 65-6301 through 65-6318, and amendments thereto.

(4) "Licensed master's level psychologist" means a person licensed as a licensed master's level psychologist by the behavioral sciences regulatory board under K.S.A. 74-5361 through 74-5373, and



amendments thereto.

(5) "Registered nurse" means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through 65-1164, and amendments thereto.

(k) "Secretary" means the secretary for aging and disability services.

(l) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital or Rainbow mental health facility.

(m) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner.

(n) "Treatment facility" means any mental health center or clinic, psychiatric unit of a medical care facility, state psychiatric hospital, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.

(o) The terms defined in ~~K.S.A. 59-3051~~ *section 25*, and amendments thereto, shall have the meanings provided by that section.

Sec. 158. K.S.A. 2024 Supp. 59-2948 is hereby amended to read as follows: 59-2948. (a) The fact that a person may have voluntarily accepted any form of psychiatric treatment, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a person in need of a guardian or a conservator as provided for in ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto.

(c) A person who is a mentally ill person subject to involuntary commitment for care and treatment as defined in K.S.A. 59-2946, and amendments thereto, or a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment as defined in K.S.A. 59-29b46, and amendments thereto, shall be subject to K.S.A. 21-6301, and amendments thereto.

Sec. 159. K.S.A. 59-2949 is hereby amended to read as follows: 59-2949. (a) A mentally ill person may be admitted to a treatment facility as a voluntary patient when there are available accommodations and the head of the treatment facility determines such person is in need of treatment therein, and that the person has the capacity to consent to treatment, except that no such person shall be admitted to a state psychiatric hospital without a written statement from a qualified mental health professional authorizing such admission.

(b) Admission shall be made upon written application:

(1) If such person is 18 years of age or older the person may make such application for themselves; or

(2) (A) If such person is less than 18 years of age, a parent may make such application for their child; or

(B) if such person is less than 18 years of age, but 14 years of age or older the person may make such written application on their own behalf without the consent or written application of their parent, legal

guardian or any other person. Whenever a person who is 14 years of age or older makes written application on their own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the admittance of that child; or

(3) if such person has a legal guardian, the legal guardian may make such application provided that if the legal guardian is required to obtain authority to do so pursuant to ~~K.S.A. 59-3077~~ section 78, and amendments thereto. If the legal guardian is seeking admission of their ward upon an order giving the guardian continuing authority to admit the ward to a treatment facility, as defined in ~~K.S.A. 59-3077~~ section 78, and amendments thereto, the head of the treatment facility may require a statement from the patient's attending physician or from the local health officer of the area in which the patient resides confirming that the patient is in need of psychiatric treatment in a treatment facility before accepting the ward for admission, and shall divert any such person to a less restrictive treatment alternative, as may be appropriate.

(c) No person shall be admitted as a voluntary patient under the provisions of this act to any treatment facility unless the head of the treatment facility has informed such person or such person's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of a minor, in writing, of the following:

(1) The rules and procedures of the treatment facility relating to the discharge of voluntary patients;

(2) the legal rights of a voluntary patient receiving treatment from a treatment facility as provided for in K.S.A. 59-2978 and amendments thereto; and

(3) in general terms, the types of treatment which are available or would not be available to a voluntary patient from that treatment facility.

(d) Nothing in this act shall be construed as to prohibit a proposed or involuntary patient with capacity to do so from making an application for admission as a voluntary patient to a treatment facility. Any proposed or involuntary patient desiring to do so shall be afforded an opportunity to consult with their attorney prior to making any such application. If the head of the treatment facility accepts the application and admits the patient as a voluntary patient, then the head of the treatment facility shall notify, in writing, the patient's attorney, the patient's legal guardian, if the patient has a legal guardian, and the district court which has jurisdiction over the patient of the patient's voluntary status. When a notice of voluntary admission is received, the court shall file the same which shall terminate the proceedings.

Sec. 160. K.S.A. 59-2951 is hereby amended to read as follows: 59-2951. (a) A voluntary patient shall be entitled to be discharged from a treatment facility, by the head of the treatment facility, by no later than the third day, excluding Saturdays, Sundays and holidays, after receipt of the patient's written request for discharge. If the voluntary patient is a patient in a state psychiatric hospital, that hospital shall immediately give either oral or facsimile notice to the participating mental health center serving the area where the patient intends to reside and shall consider any recommendations from that mental health center which may be received prior to the time set for discharge as specified in the notice.

(b) (1) If the voluntary patient is an adult admitted upon the application of a legal guardian or pursuant to an order of the court issued pursuant to ~~K.S.A. 59-3077~~ section 78, and amendments thereto, any request for discharge must be made, in writing, by the legal

guardian.

(2) If the voluntary patient is a minor, the written request for discharge shall be made by the child's parent or legal guardian except if the minor was admitted upon their own written application to become a voluntary patient made pursuant to K.S.A. 59-2949 and amendments thereto, then the minor may make the request. In the case of a minor 14 or more years of age who had made written application to become a voluntary patient on their own behalf and who has requested to be discharged, the head of the treatment facility shall promptly inform the child's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the minor's request for discharge.

Sec. 161. K.S.A. 59-2960 is hereby amended to read as follows: 59-2960. (a) Upon the filing of the petition provided for in K.S.A. 59-2957 and amendments thereto, the district court shall issue the following:

(1) An order fixing the time and place of the trial upon the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 14 days after the date of the filing of the petition. If a demand for a trial by jury is later filed by the proposed patient, the court may continue the trial and fix a new time and place of the trial at a time that may exceed beyond the 14 days but shall be fixed within a reasonable time not exceeding 30 days from the date of the filing of the demand.

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

(3) An order appointing an attorney to represent the proposed patient at all stages of the proceedings and until all orders resulting from such proceedings are terminated. The court shall give preference, in the appointment of this attorney, to any attorney who has represented the proposed patient in other matters if the court has knowledge of that prior representation. The proposed patient shall have the right to engage an attorney of the proposed patient's own choice and, in such event, the attorney appointed by the court shall be relieved of all duties by the court.

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least five days prior to the date set for the trial under K.S.A. 59-2965 and amendments thereto.

(5) An order for a mental evaluation as provided for in K.S.A. 59-2961 and amendments thereto.

(6) A notice as provided for in K.S.A. 59-2963 and amendments thereto.

(7) If the petition also contains allegations as provided for in ~~K.S.A. 59-3058, 59-3059, 59-3060, 59-3061 or 59-3062~~ sections 17, 18, 28, 49, 52 or 65, and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by ~~K.S.A. 59-2965 and 59-3067~~, and amendments

thereto, *sections 30, 53, 55, 66 and 70, and amendments thereto*, may be consolidated.

(b) Nothing in this section shall prevent the court from granting an order of continuance, for good cause shown, to any party for no longer than seven days, except that such limitation does not apply to a request for an order of continuance made by the proposed patient or to a request made by any party if the proposed patient absents him or herself such that further proceedings can not be held until the proposed patient has been located. The court also, upon the request of any party, may advance the date of the hearing if necessary and in the best interests of all concerned.

Sec. 162. K.S.A. 73-507 is hereby amended to read as follows: 73-507. Upon the filing of a petition for the appointment of a curator, under the provisions of this act, the court shall cause such notice to be given as provided by the ~~act for obtaining a guardian or conservator, or both (K.S.A. 59-3050 through 59-3095 Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto).~~

Sec. 163. K.S.A. 2024 Supp. 75-652 is hereby amended to read as follows: 75-652. As used in this act:

(a) "Account" or "ABLE savings account" means an individual savings account established in accordance with the provisions of this act.

(b) "Account owner" means the person who enters into an ABLE savings agreement pursuant to the provisions of this act. The account owner shall also be the designated beneficiary. A conservator, guardian or a person authorized by the treasurer through procedures established by the treasurer may act on behalf of a designated beneficiary of an account in accordance with procedures established by the treasurer.

(c) "Conservator" means a person appointed by the court pursuant to ~~K.S.A. 59-3050 et seq. the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto.~~

(d) "Designated beneficiary" means a Kansas resident or a person authorized by the treasurer pursuant to K.S.A. 75-653, and amendments thereto, whose qualified disability expenses may be paid from the account. The designated beneficiary must be an eligible individual at the time the account is established.

(e) "Eligible individual" means the same as defined in section 529A of the federal internal revenue code of 1986, as amended.

(f) "Financial organization" means an organization authorized to do business in the state of Kansas and is:

- (1) Licensed or chartered by the commissioner of insurance;
- (2) licensed or chartered by the state bank commissioner;
- (3) chartered by an agency of the federal government; or
- (4) subject to the jurisdiction and regulation of the securities and exchange commission of the federal government.

(g) "Guardian" means a person appointed by the court pursuant to ~~K.S.A. 59-3050 et seq. the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto.~~

(h) "Management contract" means the contract executed by the treasurer and a financial organization selected to act as a depository and manager of the program.

(i) "Member of the family" means the same as defined in section 529A of the federal internal revenue code of 1986, as amended.

(j) "Nonqualified withdrawal" means a withdrawal from an account which is not:

- (1) A qualified withdrawal; or

(2) a rollover distribution.

(k) "Program" means the Kansas ABLE savings program established pursuant to this act.

(l) "Program manager" means a financial organization selected by the treasurer to act as a depository and manager of the program.

(m) "Qualified disability expense" means the same as defined in section 529A of the federal internal revenue code of 1986, as amended.

(n) "Qualified withdrawal" means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account.

(o) "Rollover distribution" means a rollover distribution as defined in section 529A of the federal internal revenue code of 1986, as amended.

(p) "Savings agreement" means an agreement between the program manager or the treasurer and the account owner.

(q) "Secretary" means the secretary of the United States treasury.

(r) "Treasurer" means the state treasurer.

Sec. 164. K.S.A. 76-729 is hereby amended to read as follows: 76-729. (a) (1) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 60 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(2) The provisions of this subsection shall not apply to a person who is deemed a resident for fee purposes pursuant to K.S.A. 76-731a, and amendments thereto.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

(1) Persons who are employees of a state educational institution;

(2) persons having special domestic relations circumstances;

(3) persons who have lost their resident status within six months of enrollment;

(4) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 76-717b, and amendments thereto;

(5) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection.

(c) Pursuant to K.S.A. 2024 Supp. 48-3601, and amendments thereto, a veteran, an active duty member of the armed forces and the

spouse and dependent child of such veteran or active duty member of the armed forces shall be deemed residents of the state for fee purposes.

(d) As used in this section:

(1) "Parents" means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) "Guardian" ~~has the meaning ascribed thereto by K.S.A. 59-3051~~ means the same as defined in section 25, and amendments thereto.

(3) "Custodian" means a person, agency or association granted legal custody of a minor under the revised Kansas code for care of children.

(4) "Domiciliary resident" means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) "Full-time employment" means employment requiring at least 1,500 hours of work per year.

(6) "Dependent" means: (A) A birth child, adopted child or stepchild; or

(B) any child other than the foregoing who is actually dependent in whole or in part on the person in military service and who is related to such individual by marriage or consanguinity.

(7) "Academic year" means the ~~twelve-month~~ 12-month period ending June 30.

Sec. 165. K.S.A. 76-12b04 is hereby amended to read as follows: 76-12b04. If in the opinion of the superintendent an applicant for admission meets the definition of a person in need of a guardian or a conservator, or both, as provided in ~~K.S.A. 59-3050 through 59-3095~~ the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135, and amendments thereto, the person shall not be admitted to an institution except for the purposes of conducting a court ordered evaluation pursuant to ~~K.S.A. 59-3064~~ section 69, and amendments thereto, until a court has determined the legal status of the person under the act for obtaining a guardian or conservator, or both. The provisions of this paragraph shall not be applicable if a court has already determined the legal status of the applicant under the act.

Sec. 166. K.S.A. 77-201 is hereby amended to read as follows: 77-201. In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:

*First.* The repeal of a statute does not revive a statute previously repealed, nor does the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the statute repealed. The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of the prior provisions and not as a new enactment.

*Second.* Words and phrases shall be construed according to the context and the approved usage of the language, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings.

*Third.* Words importing the singular number only may be extended to several persons or things, and words importing the plural number only may be applied to one person or thing. Words importing the masculine gender only may be extended to females.

*Fourth.* Words giving a joint authority to three or more public officers or other persons shall be construed as given that authority to a majority of them, unless it is otherwise expressed in the act giving the

authority.

*Fifth.* "Highway" and "road" include public bridges and may be construed to be equivalent to "county way," "county road," "common road," "state road" and "territorial road."

*Sixth.* "Incompetent person" includes disabled persons and incapacitated persons as defined ~~herein~~ *in this section.*

*Seventh.* "Issue," as applied to the descent of estates, includes all the lawful lineal descendants of the ancestor.

*Eighth.* "Land," "real estate" and "real property" include lands, tenements and hereditaments, and all rights to them and interest in them, equitable as well as legal.

*Ninth.* "Personal property" includes money, goods, chattels, evidences of debt and things in action, and digital assets as defined in the revised uniform fiduciary access to digital assets act, K.S.A. 2024 Supp. 58-4801 through 58-4819, and amendments thereto.

*Tenth.* "Property" includes personal and real property.

*Eleventh.* "Month" means a calendar month, unless otherwise expressed. "Year" alone, and also the abbreviation "A.D.," is equivalent to the expression "year of our Lord."

*Twelfth.* "Oath" includes an affirmation in all cases where an affirmation may be substituted for an oath, and in similar cases "swear" includes affirm.

*Thirteenth.* "Person" may be extended to bodies politic and corporate.

*Fourteenth.* If the seal of a court or public office or officer is required by law to be affixed to any paper, "seal" includes an impression of the seal upon the paper alone, as well as upon wax or a wafer affixed to the paper. "Seal" also includes both a rubber stamp seal used with permanent ink and the word "seal" printed on court documents produced by computer systems, so that the seal may be legibly reproduced by photographic process.

*Fifteenth.* "State," when applied to the different parts of the United States, includes the District of Columbia and the territories. "United States" may include that district and those territories.

*Sixteenth.* "Town" may mean a civil township, unless a different meaning is plainly intended.

*Seventeenth.* "Will" includes codicils.

*Eighteenth.* "Written" and "in writing" may include printing, engraving, lithography and any other mode of representing words and letters, excepting those cases where the written signature or the mark of any person is required by law.

*Nineteenth.* "Sheriff" may be extended to any person performing the duties of the sheriff, either generally or in special cases.

*Twentieth.* "Deed" is applied to an instrument conveying lands but does not imply a sealed instrument. "Bond" and "indenture" do not necessarily imply a seal but in other respects mean the same kind of instruments as above. "Undertaking" means a promise or security in any form where required by law.

*Twenty-first.* "Executor" includes an administrator where the subject matter applies to an administrator.

*Twenty-second.* Roman numerals and Arabic figures are to be taken as a part of the English language.

*Twenty-third.* "Residence" means the place which is adopted by a person as the person's place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person's residence.

*Twenty-fourth.* "Usual place of residence" and "usual place of abode," when applied to the service of any process or notice, means the

place usually occupied by a person. If a person has no family, or does not have family with the person, the person's office or place of business or, if the person has no place of business, the room or place where the person usually sleeps shall be construed to be the person's place of residence or abode.

*Twenty-fifth.* "Householder" means a person who is 18 or more years of age and who owns or occupies a house as a place of residence and not as a boarder or lodger.

*Twenty-sixth.* "General election" refers to the election required to be held on the Tuesday following the first Monday in November of each even-numbered year.

*Twenty-seventh.* "Under legal disability" includes persons who are within the period of minority, or who are incapacitated, incompetent or imprisoned.

*Twenty-eighth.* When a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, relationship within the degree of second cousin, inclusive, shall disqualify the person from acting, except by consent of parties.

*Twenty-ninth.* "Head of a family" shall include any person who has charge of children, relatives or others living with the person.

*Thirtieth.* "Mentally ill person" means a mentally ill person as defined in K.S.A. 59-2946, and amendments thereto.

*Thirty-first.* "Incapacitated person" means an individual whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired to the degree that the person lacks the capacity to manage the person's estate, or to meet essential needs for the person's physical health, safety or welfare, as defined in ~~K.S.A. 59-3054~~ *section 25*, and amendments thereto, whether or not a guardian or a conservator has been appointed for that person.

*Thirty-second.* "Guardian" means an individual or a nonprofit corporation certified in accordance with ~~K.S.A. 59-3070~~ *section 35*, and amendments thereto, which has been appointed by a court to act on behalf of a ward and possessed of some or all of the powers and duties set out in ~~K.S.A. 59-3075~~ *sections 76 through 78*, and amendments thereto. "Guardian" does not mean natural guardian unless specified.

*Thirty-third.* "Natural guardian" means both the biological or adoptive mother and father of a minor if neither parent has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction. If either parent of a minor is deceased, or has been found to be an adult with an impairment in need of a guardian, as provided for in ~~K.S.A. 59-3050 through 59-3095~~ *the Kansas uniform guardianship, conservatorship and other protective arrangements act, sections 24 through 135*, and amendments thereto, or has had parental rights terminated by a court of competent jurisdiction, then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.

*Thirty-fourth.* "Conservator" means an individual or corporation appointed by the court to act on behalf of a conservatee and possessed of some or all of the powers and duties set out in ~~K.S.A. 59-3078~~ *sections 99 through 102*, and amendments thereto.

*Thirty-fifth.* "Minor" means any person defined by K.S.A. 38-101, and amendments thereto, as being within the period of minority.

*Thirty-sixth.* "Proposed ward" means a person for whom a petition for the appointment of a guardian pursuant to ~~K.S.A. 59-3058, 59-3059, 59-3060 or 59-3064~~ *sections 17, 18, 28, 49, 52 or 65*, and



amendments thereto, has been filed.

*Thirty-seventh.* "Proposed conservatee" means a person for whom a petition for the appointment of a conservator pursuant to ~~K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061~~ sections 17, 18, 28, 49, 52 or 65, and amendments thereto, has been filed.

*Thirty-eighth.* "Ward" means a person who has a guardian.

*Thirty-ninth.* "Conservatee" means a person who has a conservator.

*Fortieth.* "Manufactured home" means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-first.* "Mobile home" means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-second.* "Disabled person" includes incapacitated persons and incompetent persons as defined ~~herein~~ in this section.

Sec. 167. K.S.A. 9-1215, 17-2263, 17-2264, 21-5417, 38-2217, 44-513a, 44-1601, 58-662, 58-24a15, 59-1701, 59-2701, 59-2702, 59-2703, 59-2704, 59-2705, 59-2706, 59-2707, 59-2708, 59-2949, 59-2951, 59-2960, 59-29b49, 59-29b51, 59-3050, 59-3054, 59-3057, 59-3063, 59-3064, 59-3066, 59-3071, 59-3072, 59-3074, 59-3076, 59-3079, 59-3081, 59-3082, 59-3084, 59-3085, 59-3087, 59-3088, 59-3089, 59-3090, 59-3091, 59-3092, 59-3093, 59-3095, 59-3096, 73-507, 76-729, 76-12b04 and 77-201 and K.S.A. 2024 Supp. 58-656, 58-4802, 58-4814, 58a-103, 59-2401a, 59-2946, 59-2948, 59-29b46, 59-29b48, 59-29b60, 59-29c03, 59-3051, 59-3052, 59-3053, 59-3055, 59-3056, 59-3058, 59-3059, 59-3060, 59-3061, 59-3062, 59-3065, 59-3067, 59-3068, 59-3069, 59-3070, 59-3073, 59-3075, 59-3077, 59-3078, 59-3080, 59-3083, 59-3086, 59-3094, 59-3097 and 75-652 are hereby repealed.

Sec. 168. This act shall take effect and be in force from and after January 1, 2026, and its publication in the statute book.

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

\_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*