SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2359

As Amended by House Committee on Judiciary

Brief*

HB 2359, as amended, would enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA) and the Kansas Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (KUGCOPAA), and would repeal existing statutes governing guardianship and conservatorship throughout the *Kansas Statutes Annotated*, effective January 1, 2026. The bill would also make conforming amendments to various statutes to reflect the new acts.

Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (New Sections 1 – 23)

Definitions (New Section 2)

The bill would define several terms used throughout UAGPPJA.

Foreign Jurisdiction (New Section 3)

The bill would allow a Kansas court to treat a foreign country as a state for the purposes of applying the UAGPPJA, with the exception of sections governing out-ofstate registrations of guardianship or protective orders.

^{*}Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at https://klrd.gov/

Interstate Communications (New Section 4)

The bill would allow a Kansas court, with participation by the parties, to communicate with another state concerning a proceeding arising under the UAGPPJA. The bill would require all communications except administrative matters be recorded by the court.

Interstate Requests for Assistance (New Section 5)

Under the UAGPPJA, Kansas courts could request another state's court to:

- Conduct evidentiary hearings;
- Compel testimony or evidence according to that state's procedures;
- Order evaluations or assessments of the respondent;
- Conduct investigations of persons involved in proceedings;
- Provide certified records of hearings, evidence, evaluations, or assessments;
- Issue orders ensuring appearance of necessary persons; and
- Authorize release of relevant records, including protected health information under federal regulations.

The bill would also require that when courts of other states request similar assistance in their guardianship or protective proceedings, Kansas courts have limited jurisdiction to either grant the request or make reasonable efforts to comply.

Out-of-State Depositions (New Section 6)

Under the bill, Kansas courts would be able to receive testimony from out-of-state witnesses through depositions or by telephone, audio-visual technology or other electronic means, or another legally-permissible means of taking out-ofstate testimony. Kansas courts would be required to cooperate with other state courts in determining appropriate locations for depositions or testimony.

Definitions Specific to Adult Guardianship and Protective Proceedings (New Section 7)

The bill would define several terms as used throughout provisions pertaining to jurisdiction of guardianship or other protective proceedings involving an adult. Terms defined include:

- "Emergency" would mean 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;
- "Home state" would mean 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
- "Significant-connection state" would mean 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. The bill would prescribe four factors the court must consider in determining whether a significant connection to a particular state exists:

- The location of the respondent's family and other persons required to be notified of the guardianship or protective proceeding;
- The length of time the respondent at any time was physically present in the state and the duration of any absence;
- The location of the respondent's property; and
- 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.

Jurisdiction (New Sections 8 – 15)

Under the bill, the UAGPPJA would provide the exclusive jurisdictional basis for establishing jurisdiction for the purpose of appointing a guardian or issuing a protective order for an adult. A Kansas court would have jurisdiction when Kansas is the respondent's home state or may exercise jurisdiction as a significant-connection state when either:

- The respondent has no home state, or the home state has declined jurisdiction in favor of Kansas; or
- The respondent has a home state, but no guardianship petition is pending in that state or another significant-connection state, and before the court makes the appointment or issues the order:
 - No petition is filed in the home state;

- No jurisdictional objections are filed by parties required to be notified of the proceeding; and
- The Kansas court determines it is an appropriate forum.

Kansas courts would also be able to exercise jurisdiction within constitutional limits neither home state nor significantconnection state jurisdiction exists and all other states with potential jurisdiction have declined or the requirements for special jurisdiction are satisfied. Kansas courts could have special jurisdiction to:

- Appoint a guardian to a respondent physically present in Kansas for a term not to exceed 90 days in an emergency;
- Issue a protective order with respect to real or tangible personal property located in Kansas; or
- Appoint a guardian or conservator for an incapacitated or protected person who has been granted a provisional order for transfer from another state.

A Kansas court would be required to dismiss a petition for the appointment of a guardian in an emergency upon request of the respondent's home state before or after the emergency appointment.

Exclusive and continuing jurisdiction. Once a Kansas court appoints a guardian or issues a protective order, it would maintain exclusive and continuing jurisdiction until the court terminates the proceeding or the appointment or order expires by its terms.

Declining Jurisdiction. The bill would provide direction to Kansas courts, including factors to be considered, in determining whether a Kansas court should decline jurisdiction in favor of a more appropriate forum for the proceeding. **Jurisdiction acquired by unjustifiable conduct.** The bill would list remedies available to a court when it determines that it acquired jurisdiction due to unjustifiable conduct by a party.

Notice. The bill would provide that notice of a proceeding involving a respondent whose home state is not Kansas must be sent to those persons entitled to notice in the respondent's home state.

Concurrent petitions. The bill would provide direction to Kansas courts in the case that a petition to appoint a guardian or issue a protective order is brought in a Kansas court and in another state and neither has been dismissed or withdrawn.

Transfer of Proceedings (New Section 16 – 17)

The bill would outline procedures for the transfer of guardianships or conservatorships appointed in Kansas to another state. Such transfers would require a petition be filed and could require a hearing before the court could issue an order provisionally granting the petition, upon the court's finding of several facts, as specified by the bill.

For a guardianship or conservatorship to be transferred from another state to Kansas, the guardian or conservator would be required to file a petition with the Kansas court to accept the transfer and would have similar notice and hearing requirements as specified in the previous paragraph.

Nonresident Guardian or Conservator (New Sections 18 – 20)

The bill would provide that when a guardian or conservator has been appointed in another state and no petition for the same is pending in Kansas, the guardian or conservator could register such protective arrangement in Kansas by filing it as a foreign judgment in any county, as appropriate. The bill would provide that upon registration, the guardian or conservator would have all powers authorized in the order of appointment except as prohibited by Kansas law and subject to any conditions imposed by nonresident parties.

Uniformity, Electronic Signatures in Global and National Commerce Act, Effective Date (New Sections 21 – 23)

Under the bill, consideration would be given to the need to promote uniformity of the law in the enactment of the UAGPPJA. The bill would also specify how the UAGPPJA impacts the Electronic Signatures in Global and National Commerce Act and would state the UAGPPJA would apply to guardianship and protective proceedings begun on or after January 1, 2026.

Kansas Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (New Sections 24 – 135)

Definitions (New Section 25)

The bill would define several key terms that are used throughout the KUGCOPAA, including:

- "Adult" would mean an individual at least 18 years of age or an emancipated individual under 18 years of age;
- "Conservator" would mean a person appointed by a court to make decisions with respect to the property or financial affairs of an individual subject to conservatorship, and the term would also include a co-conservator;

- "Guardian" would mean a person appointed by the court to make decisions with respect to the personal affairs of an individual, and the term would also include a co-guardian but would not include a guardian *ad litem*;
- "Expressly and with informed consent" would mean consent voluntarily given with sufficient knowledge of the subject matter involved, including a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, to enable the person giving consent to make an understanding and enlightened decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion;
- "Guardian *ad litem*" would mean a person appointed to inform the court about, and to represent, the needs and best interest of an individual;
- "Hydration" would mean water or fluid administered in any manner;
- "Less restrictive alternative" would mean an approach to meeting an individual's needs which restricts fewer rights of the individual than would the appointment of a guardian or conservator. The term would also include supported decisionmaking, appropriate technological assistance, appointment of a representative payee and appointment of an agent by the individual, including appointment under a power of attorney for health care or power of attorney for finances;
- "Letters of office" would mean a record issued by a court certifying a guardian's or conservator's authority to act;

- "Nutrition" would mean sustenance administered in any manner;
- "Person" would mean an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;
- "Person legally incapable of making health care decisions" would mean any person who:
 - Has been declared legally unable to make decisions affecting medical treatment or care; and
 - In the reasonable medical judgment of the attending physician, is unable to make decisions affecting medical treatment or other health care services; or
 - Is a minor;
- "Reasonable medical judgment" would mean 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;
- "Respondent" would mean an individual for whom appointment of a guardian or conservator or a protective arrangement instead of guardianship or conservatorship is sought; and
- "Supported decision making" would mean 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.

Principles of Law and Equity Supplemental to KUGCOPAA (New Section 26)

The bill would provide that unless displaced by a particular provision of KUGCOPAA, the principles of law and equity would supplement its provisions.

Jurisdiction (New Section 27)

The bill would state what jurisdiction exists for proceedings under KUGCOPAA dependent upon what type of party is involved and would further provide that a district court has jurisdiction over a guardianship or conservatorship for a minor domiciled, present in, or having property in Kansas to the extent jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.

Transfer of Proceedings for Persons Not Subject to UAGPPJA; Nonresident Guardian or Conservator (New Section 28)

The bill would provide direction for the transfer of proceedings under KUGCOPAA when the transfer of proceedings as specified in the UAGPPJA do not apply.

The bill would also prescribe the procedure for the appointment of a nonresident guardian or conservator to a minor in Kansas when jurisdiction for the proceeding has been established in Kansas.

Venue for Proceedings Involving Minor (New Section 29)

The bill would outline the appropriate venue for guardianship, conservatorship, or protective arrangement proceedings involving a minor in Kansas.

Rights of Parties in Proceedings (New Section 30)

The bill would specify the various rights that would be afforded to both petitioner and respondent in any proceeding under KUGCOPAA, including the right of a respondent to demand a jury trial on the issue of whether a basis exists for appointment of a guardian or conservator. The bill also would allow the consolidation of multiple proceedings involving the same individual as appropriate.

Letters of Office (New Section 31)

Under the bill, criteria would establish when letters of office to a guardian or conservator may be issued. Such letters would be issued upon the guardian or conservator filing:

- An acceptance of appointment;
- An oath or affirmation as required by the Kansas Probate Code;
- Evidence of completion of a basic instructional program concerning the duties and responsibilities of a guardian or conservator; and
- A personal information sheet containing any personal identifying information about the guardian or conservator required by the court, not to be disclosed to the public.

The letters of office would be required to contain a statement of any limitations on the powers of a guardian or conservator or on the property subject to conservatorship and to specify how co-guardians and co-conservators may act. Under the bill, the court may limit the powers of a guardian or conservator at any time after issuing new letters of office to reflect the limitation and providing notice to appropriate parties.

The bill would direct the Kansas Judicial Council to prepare a basic instructional program concerning the duties and responsibilities of a guardian and conservator and would allow the court to require any guardian or conservator appointed prior to January 1, 2026, to complete such program.

Personal Jurisdiction; Resident Agents (New Section 32)

The bill would provide that on acceptance of appointment, a guardian or conservator would submit to personal jurisdiction of the Kansas court with jurisdiction over the proceeding.

The bill would require every nonresident guardian or conservator to appoint an individual Kansas resident or a corporation, limited partnership, limited liability partnership, limited liability company, or business trust that has its principal place of business in Kansas to act as a resident agent. The bill would enumerate the resident agent's duties.

Co-Guardians and Co-Conservators (New Section 33)

The bill would allow co-guardians and co-conservators to be appointed by a court and would require the letters of office state how such co-guardians or co-conservators may act.

Successor Guardian or Conservator (New Section 34)

The bill would allow a successor guardian or conservator appointed by a court to serve immediately or upon some designated event, upon petition of a party authorized to petition for guardian or conservator.

Corporation as Guardian (New Section 35)

The bill would provide that any corporation organized under the Kansas General Corporation Code and certified by the Secretary for Children and Families may act as a guardian under KUGCOPAA. The bill would direct the Secretary establish criteria to determine whether the corporation should be certified and would provide further guidance on what the criteria should include. The Secretary would be authorized to adopt rules and regulations related to the certification of corporations as guardian.

The bill would prohibit any corporation that provides care, treatment, or housing, or is owner, part owner, or operator of any adult care home, lodging establishment, or institution that houses the individual subject to guardianship from being appointed as that individual's guardian.

Termination of Appointment (New Section 36)

A guardian or conservator appointment would terminate upon the guardian's or conservator's death, removal, or resignation, if the resignation is approved by the court. Death, removal, or resignation of the guardian or conservator would not affect any liability that may arise out of the protective arrangement.

Notice Required Under KUGCOPAA (New Sections 37 – 38)

The bill would specify what is required for proper notice of a hearing under KUGCOPAA and would prohibit a respondent, individual subject to guardianship, conservatorship, or other protective arrangement from waiving notice. However, any other person could waive notice in a signed record filed in the proceeding.

Appointment of Guardian ad Litem (New Section 39)

The bill would authorize the court to appoint a guardian *ad litem* at any time if it determines the individual's interest otherwise would not be adequately represented. A guardian *ad litem* may be appointed to represent multiple individuals or interests if no conflict of interest exists but could not also be the attorney representing the respondent.

Request for Notice (New Section 40)

The bill would provide that a person may file with the court a request for notice of proceedings under KUGCOPAA if not otherwise entitled to notice or if interested in the welfare of a respondent or individual subject to guardianship, conservatorship, or other protective arrangement.

Disclosures Required of Guardian or Conservator (New Section 41)

The bill would specify what a guardian or conservator must disclose to the court before accepting appointment related to prior convictions, insolvency, or prior acts of abuse or neglect.

Compensation and Reimbursement for Services Provided to Respondent; Costs (New Sections 42)

The bill would describe when an attorney or other person whose services resulted in an order beneficial to a respondent or person subject to guardianship, conservatorship, or protective arrangement is entitled to reasonable compensation and reimbursement for reasonable expenses from the property of that respondent or person, subject to the court's approval. The bill would also provide that costs incurred as a result of a proceeding brought under KUGCOPAA would be paid by the county in which the respondent or person under guardianship or conservatorship resides.

Compensation and Reimbursement for Guardian or Conservator (New Section 43)

Guardians and conservators would also be entitled to reasonable compensation and expenses from the respondent's property under KUGCOPAA, subject to the court's approval. The court would be required to consider a number of factors, as specified by the bill, in determining what is reasonable compensation.

Fiduciary Responsibility Instruction (New Section 45)

The bill would provide that a guardian or conservator may petition the court for a instruction concerning fiduciary responsibility or for ratification of a specific act related to the guardianship or conservatorship.

Exceptions to Guardian or Conservator Authority (New Section 46)

The bill would outline when the authority of a guardian or conservator to act on behalf of the individual may be rejected.

Third Party Service Providers (New Section 47)

The bill would provide that a guardian or conservator may retain third parties to provide services to an individual if consistent with the fiduciary duties of the guardian or conservator. The guardian or conservator would be required to exercise reasonable care, skill, and caution with respect to the retention of such third parties.

Temporary Substitute Guardians or Conservators (New Section 48)

The bill would specify when a court may appoint a temporary substitute guardian or conservator for a period not to exceed six months and would provide related procedural guidance for such appointments.

Nonresident Guardian or Conservator (New Section 49)

The bill would provide that when a guardian or conservator has been appointed in another state and no petition for the same is pending in Kansas, the guardian or conservator could register such protective arrangement in Kansas by filing it as a foreign judgment in any county, as appropriate. Under the bill, a guardian or conservator would have all powers authorized in the order of appointment upon registration, except as prohibited by Kansas law and subject to any conditions imposed by nonresident parties.

Grievance Process (New Sections 50)

The bill would outline the process by which an adult who is subject to guardianship or conservatorship or person interested in the welfare of that individual may file a grievance related to the arrangement. The court would be required to schedule a hearing if it finds the grievance supports a reasonable belief that removal, termination, or modification of the guardianship or conservatorship may be appropriate. The court could take any action supported by the evidence. The court could decline to act upon a subsequent grievance if a similar grievance was filed within the previous six months.

Provisions Specific to Minor Guardianships (New Sections 51 – 63)

When appointment may be made. The court could appoint a guardian if it finds the appointment is in the minor's best interests, and:

- Each of the minor's parents have given consent;
- All parental rights have been terminated;
- There is clear and convincing evidence that the parents are unwilling, unable, or unfit to exercise the powers of a guardian; or
- 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.

Petition for minor guardianship. Under the bill, a minor or person interested in the welfare of the minor may file a petition for the appointment of a guardian for the minor and would specify what information the petition must contain.

Hearing and notice. The bill would require a court to schedule a hearing upon the filing of the petition for minor guardianship, would describe who must be given notice for the hearing, and would specify what information such notice must contain.

Appointment of attorney. The bill would require the court to appoint an attorney to represent the minor subject to guardianship in certain circumstances. The court could also appoint an attorney to represent a parent of the minor if it determines there is a need for such representation.

Participation in hearing. The bill would prescribe who must participate in the hearing for minor guardianship, who may be excused from participation, and who may participate upon request.

Rules applicable to appointment. The bill would provide certain rules that would apply when the court has found an appointment of a guardian for a minor is proper, including what persons may be considered to be a guardian, who must receive notice of the appointment, and when such notice is insufficient.

Standby guardians. The bill would describe the process for appointing a standby guardian when no parent of the minor is willing or able to exercise the duties and powers granted to the guardian. Standby guardians could be appointed upon petition by a parent or a person nominated by a parent and the court's 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.

Emergency guardians. The bill would allow a court to appoint an emergency guardian for a minor in certain circumstances. Emergency guardianships could not exceed 30 days (with a limit of three extensions not more than 30 days each) and the guardian could only exercise the powers specified in the appointment. The bill would prescribe who must be provided reasonable notice of the hearing on emergency guardianship. Under the bill, the court could remove an emergency guardian at any time and the appointment of an emergency guardian could not provide a basis for the determination that a non-emergent guardianship is otherwise necessary.

Duties and powers of minor's guardian. The bill would enumerate the duties of a guardian, specifying that such guardian is a fiduciary and has the duties of a parent regarding the minor's support, care, education, health, safety, and welfare. The guardian would be required to act in the minor's best interest and exercise reasonable care, diligence, and prudence.

The bill would provide that a guardian would have the powers a parent otherwise would have regarding the minor, except as limited by court order, and would enumerate specific powers.

Authority over minor's estate. The bill would prohibit a guardian for a minor from exercising any control or authority over the minor's estate, unless specifically authorized by the court. If so authorized, the court would require the guardian to prepare an inventory of the minor's estate and require the posting of a bond in certain circumstances.

Termination of minor's guardian. The bill would prescribe in what circumstances a minor's guardianship may be terminated and related requirements for such termination.

Plan of care for minor. The bill would provide that a court may require, or the minor may choose, to develop a plan of care for the minor, taking into account the minor's needs, best interest, and preferences, to the extent known or reasonably ascertainable by the guardian. The bill would specify items that may be included in such plan. The minor, parent, or any other person entitled to notice related to the minor guardianship could object to the plan in writing within 21 days of the plan's filing.

Provisions Specific to Adult Guardianships (New Sections 64 – 82)

When appointment may be made. The court could appoint a guardian for an adult if it finds by clear and convincing evidence that:

- The respondent lacks the ability to meet essential requirements for physical health, safety, or selfcare because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supportive decision making; and
- The respondent's identified needs cannot be met by a protective arrangement instead of guardianship or other less restrictive alternative.

Under the bill, the court would be required to grant a guardian only those powers necessitated by the demonstrated needs and limitations of the respondent and it would direct the court to issue orders that will encourage development of the respondent's maximum self-determination and independence.

Petition for adult guardianship. The bill would allow the adult subject to guardianship and any person interested in that adult's welfare to file a petition for the appointment of a guardian for the adult and it would specify what information the petition must contain.

Hearing and notice. The bill would require a court to schedule a hearing upon the filing of the petition for adult guardianship, describe who must be given notice for the hearing, and specify what information such notice must contain.

Appointment of court liaison. The court could appoint a court liaison with training or experience in the type of abilities, limitations, and needs alleged in the petition for guardianship to interview the respondent and obtain the respondent's views on the proposed appointment of guardianship. The court liaison would also be authorized to investigate allegations contained in the petition and any other matter related to the petition as directed by the court. If a court liaison is appointed, such liaison would be required to file a report at least 10 days prior the hearing on the petition or other hearing as directed by the court. The bill would prescribe what information must be included in the report.

Appointment of attorney. The bill would require the court to appoint an attorney to represent the respondent, regardless of the respondent's ability to pay. The bill would specify the duties of the attorney would be to:

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

The bill would also describe the attorney's duties to inform the respondent of other relevant details of the proceeding.

Prima facie case for appointment of guardian. If the contents of a petition or evidence at the hearing support a *prima facie* case of the need for a guardian, the court would be required to order an an examination and evaluation of the respondent's alleged cognitive and function abilities and limitations. The bill would specify what information related to the examination or evaluation must be included in the report and would require the professional who prepared the report to submit it at least five days prior to the date of the trial.

Participation in hearing. The bill would require the respondent to attend the guardianship hearing before the guardianship could proceed and would allow the court to hold the hearing in an alternative location convenient to the respondent or allow the respondent to attend using real-time audio-visual technology. The bill would outline circumstances

in which participation of a respondent would not be required and would specify the rights granted to a respondent who chooses to participate in the hearing.

Sealing of records related to guardianship; access to records. While records related to guardianship proceedings for adults would generally be treated as public records, the bill would describe circumstances in which records may be sealed. The bill would specify who would be entitled to access court records related to the guardianship proceeding. The bill would require that reports made by court liaisons or professional evaluators of cognitive and functional abilities be sealed upon filing but could be accessed by certain specified individuals.

Order of priority for guardian. The bill would establish an order of priority for persons qualified to be guardian of an adult and would prescribe rules to follow when equal priority may exist.

Court order appointing guardian. The bill would specify what information must be included in a court order appointing a guardian for an adult.

Notice required after appointment made. The bill would require a copy of the appointment be given to the adult subject to the guardianship and all other persons entitled to notice within 14 days of the order for appointment is issued. The bill would also require, within 30 days of the appointment, a statement of the rights of the adult subject to the guardianship and available remedies to seek relief if those rights are denied be given to the adult subject to guardianship.

Emergency guardian for adult. The bill would allow a court to appoint an emergency guardian for an adult in certain circumstances. Emergency guardianships could not exceed 30 days (with a limit of three extensions not more than 30 days each) and the guardian could only exercise the powers specified in the order of appointment. The bill would specify

who must be provided reasonable notice of the hearing on emergency guardianship. The bill would provide that the court could remove an emergency guardian at any time, and the appointment of an emergency guardian could not provide a basis for the determination that a non-emergent guardianship is otherwise necessary.

Duties and powers of guardian. The bill would enumerate the duties of a guardian for an adult, specifying that such guardian is a fiduciary and must strive to assure that the personal, civil, and human rights of the adult subject to the guardianship are protected. The guardian would be required to promote the self-determination of the adult and, to the extent reasonably feasible, include the adult in decision making, act on the adult's own behalf, and develop or regain the capacity to manage the adult's personal affairs. The bill would specify certain actions the guardian would be required to take in furtherance of the above-stated goals.

The bill would require the guardian to 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. In determining the decision the adult would make if able, the guardian would be required to consider, to the extent actually known or reasonably ascertainable, the adult's:

- Current or previous directions;
- Preferences;
- Opinions;
- Cultural practices;
- Religious beliefs; and
- Values and actions.

The bill would enumerate the specific actions a guardian could take regarding the adult subject to guardianship, except as limited by court order.

Limitations on powers of guardian. The bill would specify those actions which a guardian would be prohibited from taking on behalf of an adult subject to guardianship and would provide applicable guardrails on actions that may be taken by the guardian.

Authority over adult's estate. The bill would prohibit a guardian for an adult from exercising any control or authority over the adult's estate unless specifically authorized by the court. If so authorized, the court would require the guardian to prepare an inventory of the adult's estate and require the posting of a bond in certain circumstances.

Plan of care for adult. The bill would provide that a court may require, or the adult may choose, to develop a plan of care for the adult, taking into account the adult's needs, best interest, preferences, values, and prior directions to the extent known or reasonably ascertainable by the guardian. The bill would specify items that may be included in such plan. The adult or any other person entitled to notice related to the adult guardianship could object to the plan in writing within 21 days of the plan's filing.

Annual report. The bill would require a guardian to file an annual report with the court regarding the conditions of the adult and accounting for funds and other property in the guardian's possession or control. The court could also require this report be filed at any other time in addition to the annual requirement. The bill would specify what information must be contained in the report and would allow the court appoint a court liaison to review this report.

Removal of guardian for good cause. The bill would allow a court to remove a guardian for an adult for failure to perform the guardian's duties or for other good cause and appoint a successor guardian, upon petition and after a hearing on the removal. **Petition for termination or modification.** The bill would allow the adult subject to guardianship, the guardian, or a person interested in the welfare of the adult petition for termination or modification of the guardianship. The bill would specify what information would be required to be included in the petition and provide related hearing and notice requirements for such petitions.

Provisions Specific to Conservatorships (New Sections 83 – 118)

[*Note*: Many provisions applicable to conservatorships in KUGCOPAA would be substantially similar to those described in the sections governing guardianships. Only substantive variations from provisions previously described and provisions exclusive to conservatorships are described below.]

Appointment of conservator for minor. The court could appoint a conservator for the property of financial affairs of a minor if it finds by a preponderance of the 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:
 - The minor owns funds or other property requiring management or protection that otherwise cannot be provided;
 - The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or
 - 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.

Appointment of conservator for adult. The court could appoint a conservator for the property or financial affairs of an adult if the court finds by clear and convincing evidence that:

- The adult is unable to manage property or financial affairs because:
 - 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
 - The adult is missing, detained, or unable to return to the U.S.;
- Appointment is necessary to:
 - Avoid harm to the adult or significant dissipation of the property of the adult; or
 - 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
 - The adult's identified needs cannot be met by a protective arrangement instead of conservatorship or other less restrictive alternative.

Ex parte orders to preserve and apply property. The bill would allow the court to issue an order to preserve and apply property of the respondent to support the respondent or respondent's dependent, without notice to others, while a petition for conservatorship is pending. The court would be allowed to appoint an emergency conservator to assist in implementing the order.

Petitions for relief by individual subject to conservatorship. An individual subject to conservatorship or

a person interested in that individual's welfare would be able to petition for an order:

- Modifying bond requirements;
- Requiring an accounting for the administration of the conservatorship estate;
- Directing distribution;
- Removing the conservator and appointing a temporary or successor conservator;
- Modifying the type of appointment or powers granted to the conservator;
- Rejecting or modifying the conservator's plan, inventory, or report; or
- Granting other appropriate relief.

Bond requirements. The bill would outline when a court may 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 could waive the bond requirement only if it finds that it is not necessary to protect the interests of the individual subject to conservatorship. The bill would also enumerate rules that apply to such bonds.

Best interest of individual subject to conservatorship. The bill would specify when a conservator would be authorized to act in accordance with the best interest of the individual subject to the conservatorship and would specify factors that must be considered by the conservator in making the best interest determination.

Expenditures or distributions of estate absent court authorization. The bill would specify when a conservator may make, expend, or distribute income or principal of the

conservatorship estate without specific court authorization. The bill would list factors that the conservator must consider in making such expenditures or distributions.

Court authorization required before certain powers exercised. The bill would specify 16 actions that require specific court authorization before the conservator may take such action and would outline the procedure for the court hearing and approval of the action.

Conservator's plan. The bill would require a conservator to file with the court a plan for protecting, managing, expending, and distributing the assets of the conservatorship estate, based on the needs of the individual subject to the conservatorship and taking into account the best interest of the individual within 60 days of the appointment of conservator.

Inventory of estate. The bill would require a conservator to prepare and file with the appointing court a detailed inventory of the conservatorship estate and information regarding title and beneficiary designations within 60 days of appointment.

Property rights of individual subject to conservatorship. The bill would specify the individual's interest in property included in the conservatorship estate is not transferable or assignable by the individual and is not subject levy or garnishment unless allowed as a claim against the estate pursuant to KUGCOPAA. The bill would also specify how contracts entered into with a person subject to conservatorship would be affected.

Substantial conflicts voidable. The bill would specify a transaction involving the conservatorship estate that is in substantial conflict with the conservator's fiduciary duties and the conservator's personal interests is voidable unless authorized by the court.

Good faith dealings with conservator. The bill would specify any person who deals or assists a conservator in good faith and for value would be protected against any claim that the conservator did not properly execute his or her power in the transaction.

Death of individual subject to conservatorship. Upon the death of an individual subject to a conservatorship, the conservator would be required to:

- Conclude administration of the conservatorship estate;
- Deliver any will of the individual in the conservator's possession; and
- Give notice of such delivery to anyone entitled to it.

Claims against estate. The bill would specify a conservator may pay a claim against the conservatorship estate or the individual subject to conservatorship and would provide instruction on how a claimant may bring a claim. The bill would also instruct on the priority of claims in the case where an estate is likely to be exhausted before all claims are paid.

Liability of conservator. The bill would specify when a conservator is or is not personally liable for some transaction involving the administration of the conservatorship estate.

Extension of minor conservatorship. The bill would allow a minor to extend a conservatorship until the age of 21 if the minor consents or the court finds by clear and convincing evidence that substantial harm to the minor's interests is likely without such extension. A conservatorship could be extended for two additional two-year terms pursuant to the bill. Any extension granted would require the conservator to provide a plan describing how the minor's assets would be distributed under the extension. Limitations on transfers involving minor. The bill would provide that transfers involving minors could not exceed \$25,000 in a 12-month period and would limit such transfers to certain persons and entities to pay for the support, care, education, health, or welfare of the minor. Funds not used for these purposes would be required to be preserved for future support of the minor, and if any balance remains when the minor becomes an adult or is emancipated, such balance would be required to be transferred to the minor.

Parent's responsibility to hold minor's property in trust. The bill would specify a parent has the right and responsibility to hold in trust and manage for the minor's benefit all personal and real property vested in the minor when the property does not exceed \$25,000, unless a guardian or conservator has been appointed for the minor.

Court authorized to make deposit or payment on behalf of minor without conservator. The bill would allow a court that has control over or possession of money not exceeding \$100,000, the right to which is vested in the minor, to deposit the money in an account, payable to a conservator or to the minor upon turning 18. The bill would allow a court that has control over or possession of money not exceeding \$25,000, which has vested in the minor, to pay the money to any person.

Court authorized to make deposit on behalf of adult. The bill would allow a court that has control over or possession of money not exceeding \$25,000, which is vested in an adult subject to guardianship, to deposit the money in an account, payable to a conservator or to the adult subject to guardianship upon termination of the guardianship.

Provisions Specific to Protective Arrangements (New Sections 119 – 135)

[*Note:* Many provisions governing protective arrangements in KUGCOPAA would be substantially similar

to those described in the previous sections governing guardianships and conservatorships. Only substantive variations from provisions previously described and provisions exclusive to protective arrangements are described below.]

When protective arrangement may be ordered instead of guardianship. Upon a finding by clear and convincing evidence that a protective arrangement instead of a guardianship should be ordered, the court may:

- Authorize or direct a transaction necessary to meet the respondent's need for health, safety or care, including:
 - A particular medical treatment or refusal of a particular medical treatment;
 - A move to a specified place of dwelling; or
 - Visitation between the respondent and another person;
- 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
- Order other arrangements on a limited basis that are appropriate.

When protective arrangement may be ordered instead of conservatorship. Upon a finding by clear and convincing evidence that a protective arrangement instead of a conservatorship should be ordered, the court may:

- Authorize or direct a transaction necessary to protect the financial interest or property of the respondent, including:
 - An action to establish eligibility for benefits;

- Payment, delivery, deposit, or retention of funds or property;
- Sale, mortgage, lease, or other transfer of property;
- Purchase of an annuity;
- Entry into a contractual relationship, including a contract to provide for personal care, supportive services, education, training, or employment;
- Addition to or establishment of a trust;
- 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
- Settlement of a claim; or
- 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.

Appointment of facilitator. The bill would allow a court to appoint a facilitator to assist in implementing a protective arrangement under KUGCOPAA.

Judicial Council forms. The bill would require that the Judicial Council develop forms for the purposes of KUGCOPAA.

Uniformity; Electronic Signatures in Global and National Commerce Act; effective date. The bill would specify consideration must be given to the need to promote uniformity of the law in the enactment of KUGCOPAA, would specify how the KUGCOPAA impacts the Electronic Signatures in Global and National Commerce Act, and would state the KUGCOPAA would apply to guardianships, conservatorships, and protective arrangements commenced on or after January 1, 2026.

Conforming Amendments (New Sections 136 – 166)

The bill would make several technical amendments to various statutes to reflect references to the UAGPPJA and KUGCOPAA.

Background

The bill was introduced by the House Committee on Judiciary at the request of a representative of the Kansas Judicial Council.

In 2020, the Judicial Council asked its Guardianship and Conservatorship Advisory Committee to review Kansas guardianship and conservatorship statutes, which had last been updated in 2002. The Judicial Council also asked the Advisory Committee to review two uniform acts concerning the topic. In December 2024, the Advisory Committee recommended Kansas adopt the UAGPPJA in its uniform version and a modified version of the UGCOPAA.

House Committee on Judiciary

In the House Committee hearing, representatives of the Guardianship and Conservatorship Advisory Committee of the Kansas Judicial Council and the U.S. Department of Defense provided **proponent** testimony. The proponents generally stated adopting the two acts would resolve interstate jurisdictional conflicts pertaining to guardianships, would increase the sense of self-determinism and agency for individuals subject to guardianship or conservatorship, and would authorize less restrictive alternatives to full guardianship or conservatorship.

Written-only proponent testimony was provided by a representative of the Office of the State Long-Term Care Ombudsman.

Opponent testimony was provided by representatives of Big Tent Coalition, Disability Rights Center of Kansas, Kansans for Life, Kansas Catholic Conference, and Self Advocate Coalition of Kansas. The opponents expressed concern regarding the amount of discretion a guardian would have to make certain end-of-life decisions.

Written-only opponent testimony was provided by a representative of the Kansas Council on Developmental Disabilities.

Neutral testimony was provided by a representative of the National Council on Severe Autism.

No other testimony was provided.

The House Committee amended the bill to incorporate additional provisions regarding a guardian's ability to make certain end-of-life decisions.

Fiscal Information

No fiscal note was available at the time the House Committee took action on the bill.

Guardianship; conservatorship; jurisdiction; protective arrangements; uniform act; Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; Kansas Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act