

# GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE ARRANGEMENTS ACT

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# GENERAL OBSERVATIONS

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- Person-Centered Philosophy
- Promotes Personal Autonomy
- Provides Alternatives to Appointment
- Expands the scope of interested parties
- Expands transparency and oversight when a guardianship or conservatorship is established

# APPLICATION & INTERPRETATION

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- The act applies to guardianship and protective proceedings “commenced after” January 1, 2026. (Sec. 134; K.S.A. 59-30,211)
- It is a uniform act. The court must give consideration of this fact in construing and applying the act to promote uniformity between states. (Sec. 132; K.S.A. 59-30,209).
- KUGCOPAA can be found at HB 2359 Sections 24 through 135, and new proposed KSA 59-30,101 through KSA 59-30,212.

# VENUE

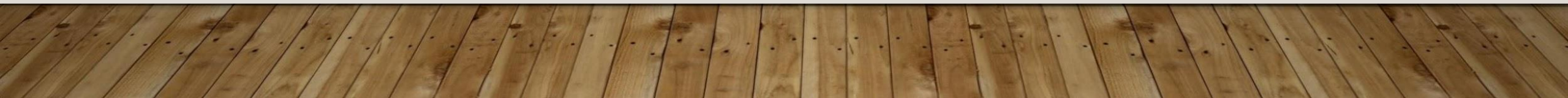
(SEC. 29; KSA 59-30,106)

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## GUARDIANSHIP OF AN ADULT

- County in which the respondent resides;
- If the respondent was admitted to an institution by a court order, the county where the court is located;
- In a proceeding for an emergency guardian, where the respondent is.

## CONSERVATORSHIP

- Where the respondent resides.
  - For non-residents, where property is located.
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# STANDARD FOR ADULT GUARDIANSHIP

(SEC. 64; KSA 59-30,141)

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- (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 (the Petition must explain why a less restrictive arrangement will not meet the alleged needs).
- Upon appropriate findings, the Court may treat the petition as one for a conservatorship or other protective arrangements and grant a less restrictive alternative.

# STANDARD TO ESTABLISH ADULT CONSERVATORSHIP

(SEC. 83; KSA 59-30,160)

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- Three-part test:
  - 1) Unable to manage affairs because of 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 United States;
  - 2) Appointment is necessary to avoid harm or significant dissipation of assets or to obtain or provide funds or 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 identified need cannot be met by a protective arrangement or less restrictive alternative.
- The court shall grant a conservator only those powers necessary and 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.

# LIMITED GUARDIANSHIPS AND CONSERVATORSHIP

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- The court may limit the powers at any time and issue new letters of office. (Sec. 31(d), KSA 59-30,108(d)).
- If full guardianship or conservatorship is sought, the petition must explain why a limited guardianship or conservatorship or less restrictive alternative is not appropriate. (Sec. 65, KSA 59-30,142 & Sec. 84, KSA 59-30,161).
- If the court grants a full guardianship or conservatorship the order must state the basis for such and include findings why a limited guardianship or conservatorship would not meet the functional needs of the respondent. (Sec. 73, KSA 59-30,150 & Sec. 93, KSA 59-30,170).

# NON-RESIDENT GUARDIANS OR CONSERVATORS

(SEC. 32; KSA 59-30,109)

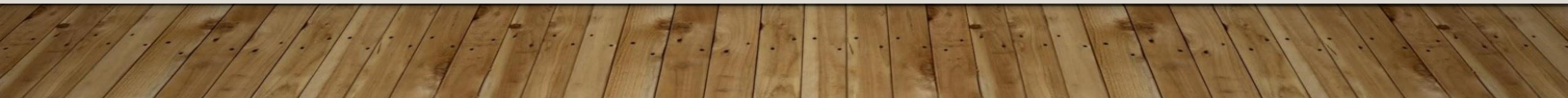
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- By accepting appointment, the guardian or conservator consents to jurisdiction as to matters relating to the guardianship and conservatorship.
- Must appoint a resident agent to accept service.
- The resident agent has the duty to keep in contact with the guardian and conservator and maintain current contact information. The resident agent has the duty to forward documents sent to him by the court or state.

# POTENTIALLY INTERESTED PARTIES

(SEC. 65, KSA 59-30,143 & SEC. 84, KSA 59-30,161)

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- A person interested in the adult's welfare or affairs may file a verified petition for appointment of guardian.
  - The petition must identify spouse, adult children, adult stepchildren, adult grandchildren, each parent and adult sibling of the respondent.
  - The petition must identify former stepchildren with whom the respondent had an ongoing relationship in the two-year period before filing.
  - The petition must identify persons primarily responsible for care of the respondent, any attorney currently representing the respondent, anyone who has routinely assisted the respondent with decision making during the six months immediately before the hearing, and list of other fiduciaries.
  - A person may “request” to be entitled to notice if interested in the welfare of the respondent. (Sec. 40, KSA 59-117).
  - The request must explain the interest of the person making the request.
  - *If the court approves the request*, the court shall give notice to the guardian or conservator, or the respondent if none have been appointed.
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# NOTICE

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- Unless otherwise provided, notice must be provided 14 days in advance of a hearing. (Sec. 37, KSA 59-30,114).
- Notice must be in 16-point font, in plain language, and to the extent feasible, in the language which the person to be notified is proficient. (Sec. 37, KSA 59-30,114).
- 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 notice must be personally served on the respondent. (Sec. 66, KSA 59-30,143 & Sec. 85, KSA 59-30,162).
- Notice of the proceeding is required to be given to the individuals set out on the preceding slide. *Id.* After the appointment of a guardian, notice of a hearing must be given to the person subject to the proceeding, the guardian, and any other person the court determines.

# DISCLOSURES

(SEC. 41, KSA 59-30,118)

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- Before accepting appointment as a guardian or conservator, the person shall disclose to the court if the person has been:
  - a debtor in a bankruptcy, insolvency, or receivership proceeding;
  - convicted of a felony, crime involving dishonesty, neglect, violence or use of physical force, or other crime relevant to the functions of a guardian or conservator;
  - Has committed an act of physical, mental, or emotional abuse or neglect or sexual abuse as validated by DCF pursuant to K.S.A. 38-2226; and
  - Has been found to have committed an act of abuse, neglect, or exploitation of an adult under K.S.A. 39-1434.
- If the guardian has engaged or anticipates engaging a service provider who the guardian knows has been convicted of a crime outlined above, the information must be disclosed to the court in writing.
- If the conservator engaged or anticipates engaging a service provider to manage finances who the conservator knows has been a debtor in a bankruptcy, insolvency, or receivership proceeding, the information must be disclosed to the court in writing.

# ATTORNEY REPRESENTING THE PERSON SUBJECT TO THE PROCEEDING

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- The court shall appoint an attorney to represent the respondent, regardless of the respondent's ability to pay. (Sec. 68, KSA 59-30,145 & Sec. 88, KSA 59-30,165).
- Preference to an attorney who has represented the respondent in other matters or to an attorney the respondent has requested.
- The attorney must meet with the respondent in person and explain the nature of the proceeding, determine the respondent's view, and inform the respondent of that the costs and expenses, including respondent's attorney fees, may be paid from the respondent's assets.
- The appointment does not expire at adjudication, but upon approval of a plan unless extended.
- The attorney representing the respondent shall make reasonable efforts to ascertain the respondent's wishes and advocate for those wishes. If the respondent's wishes cannot be ascertained, the attorney shall advocate for the result that is least restrictive consistent with the respondent's interests.
- Respondent may obtain his or her own counsel.

# GUARDIAN AD LITEM

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- A guardian ad litem is “a person appointed to inform the court about, and to represent, the needs and best interest of an individual.” (Sec. 25(k), KSA 59-30,102(k)).
- A guardian ad litem can be appointed if the person determines an individual’s interest is otherwise not adequately represented. (Sec. 39, KSA 59-30,116).
- The guardian ad litem may not be the same individual representing the respondent. *Id.*
- The court must state the duties of the guardian ad litem and reasons for appointment. *Id.*

# EVALUATIONS

(SEC. 69, KSA 59-30,146 and SEC. 89, KSA 59-30,166)

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- Upon the filing of a petition with supporting a prima facie case of the need of a guardian, the court shall order an evaluation.
- The evaluation shall include various information about the respondent, condition, prognosis, etc. , including information concerning functional abilities and limitations and a summary of tasks the respondent can manage without assistance.
- A report accompanying the petition may be accepted without further evaluation if it complies with the statute.

# PRIORITY OF NOMINATIONS

(SEC. 72, KSA 59-30,149 and SEC. 92, KSA 59-30,169)

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- The court shall consider persons “qualified” to be guardian or in the following order of priority:
  - A guardian or conservator, other than a temporary or emergency, currently acting for the respondent in another jurisdiction;
  - a person nominated by the respondent, including the respondent's most recent nomination made in a power of attorney;
  - an agent appointed by the respondent under a power of attorney;
  - a spouse of the respondent;
  - a family member or other individual who has shown special care and concern for the respondent; and
  - a person nominated by the spouse, adult child or other close family member of the respondent.
- If there are two people of the same level of priority, the court should determine who is best qualified.
- A person should not be appointed if they provide paid services, unless they are the best qualified and it is in the best interest of the respondent.

# LIAISONS

(SEC. 67, KSA 59-30,144 & SEC. 87, KSA 59-30,164)

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- The court has the ability to appoint a court liaison. The liaison must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.
- The liaison shall interview the respondent and explain the nature and purpose of the proceeding. This is not a substitute for counsel.
- The court may assign the liaison certain other duties, including investigation the allegations, relationships, circumstances, etc.
- If appointed, the liaison must file a report at least 10 days in advance of the hearing.
- The court may consider the recommendations of the court liaison.
- The court may appoint court liaisons to review annual reports.

# ATTENDANCE AND RIGHTS AT HEARING

(SEC. 70, KSA 59-147 & SEC. 90, KSA 59-30,167)

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- Petitioner and respondent have the right to attend trial.
- May demand a jury trial.
- Respondent must attend the hearing, unless it is shown by clear and convincing evidence that: 1) the respondent is choosing not to attend after being fully informed of the right to attend and potential consequences of failing to attend; 2) there is no practicable way for the respondent to attend and participate.
- If it is not reasonably feasible for the respondent to appear at the court, the court shall make reasonable efforts to hold the hearing elsewhere convenient to the respondent or allow attendance using audio-visual technology.
- Proposed guardian or conservator shall attend unless excused by the court for good cause.

# CONTINUED NOTICE

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- Orders served on the person subject to the proceeding and other interested parties after the orders are entered. (Sec. 28(f), KSA 59-30,105(f)).
- Order must explain the rights of the adult subject to the guardianship and procedures to seek relief if the adult is denied those rights. (Sec. 74, KSA 59-30,151 & Sec. 94, KSA 59-30,171). The statement must be in 16-point font and notify the person of the right to:
  - Seek termination or modification.
  - Seek removal.
  - Choose an attorney.
  - File a grievance.
  - Be involved in decisions.
  - Be advised of an object to a proposed move.
  - Communication, visit, or interact with others.
  - Receive a copy of the plan.
  - Object to the plan.

# STANDARD OF DECISION MAKING (GUARDIAN) (SEC. 76, KSA 59-30,153)

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- “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...”
- “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 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.”
- “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.”

# GUARDIAN'S AUTHORITY TO MANAGE FINANCES

(SEC. 78(F), KSA 59-30,155(F))

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- 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 at 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 that contains elements similar to those that would be contained in a conservator's plan;
    - (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.

# STANDARD OF DECISION MAKING (CONSERVATOR) (SEC. 99, KSA 59-30,176)

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- 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.
- 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.
- Otherwise, the conservator shall act in the best interest of the ward and manage assets prudently.



# MANDATORY GUARDIANSHIP PLAN

(SEC. 79, KSA 59-30,156)

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- A plan is required within 60 days of appointment, when there is a significant change, or when the guardian seeks to deviate significantly from the existing plan.
- The plan must cover living arrangements, services and supports the guardian will arrange, plan for visitation of individuals with whom the adult has a close relationship, nature and frequency of communication with the guardian, goals, and proposed changes.
- Notice must be given of the plan and the right to object within 21 days.
- The court must review the plan at the review hearing, which is scheduled 90 days after appointment. The plan may not be approved until it has been on file for 30 days.
- When approved, the plan must be provided to the adult subject to the proceeding.

# MANDATORY CONSERVATORSHIP PLAN

(SEC. 103, KSA 59-30,180)

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- A plan is required within 60 days of appointment, when there is a significant change, or when the conservator seeks to deviate significantly from the existing plan.
- An inventory is required within 60 days of appointment. (Sec. 104, KSA 59-30,181).
- The plan must include a budget, how the conservator will involve the individual in decisions, any step the conservator plans to take to develop or restore the ability of the individual to manage the conservatorship estate, and an estimate of the duration of the conservatorship.
- Notice must be given of the plan and the right to object to the plan within 21 days.
- The court must review the plan at the review hearing, which is scheduled 90 days after appointment. The plan may not be approved until it has been on file for 30 days.
- When approved, the plan must be provided to the adult subject to the proceeding.

# CONSERVATOR'S BOND

(SEC. 97, KSA 59-30,174)

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- 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 for regulated financial institutions qualified to do trust business in Kansas, 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.
- The amount of the bond is to be 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.
- A regulated financial-service institution qualified to do trust business in this state is not required to give a bond.

# RESTRICTIONS ON COMMUNICATION

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- 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.

(Sec. 78(b), KSA 59-30,155(b)).

# PETITION FOR INSTRUCTION

(SEC. 45, KSA 59-30,122).

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- The code expressly recognizes that a Guardian and Conservator may file a petition for instruction or to ratify an act.
- The Court may appoint counsel to represent the individual subject to the guardianship and conservatorship.

# GRIEVANCES

(SEC. 50, KSA 59-30,127).

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- The person subject to the proceeding or other interested person who reasonably believes the guardian or conservator is breaching his duty may file a grievance which will be forwarded to the judge who shall determine an appropriate response.
- A hearing shall be scheduled if a grievance supports a reasonable belief that removal of the guardian or conservator or termination or modification of the guardianship or conservatorship is appropriate.
- The court may take other action supported by the evidence, including ordering an accounting, inventory, updated plan, appointing a GAL, and appointing an attorney to represent the person subject to the proceeding.
- The court may decline to schedule a hearing if a similar grievance was filed within six months and the procedures were followed with regard to the prior grievance.

# CONTRACTS WITH INDIVIDUALS SUBJECT TO CONSERVATORSHIP

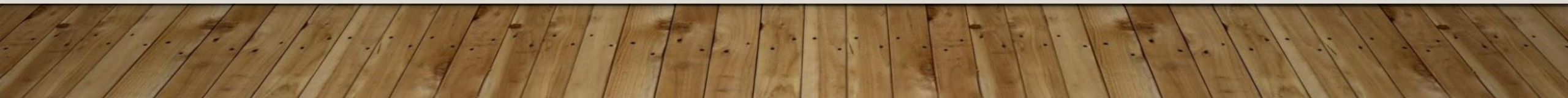
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- If an individual subject to conservatorship enters into a contract after having the right to enter the contract removed by the court, the contract is void against the individual and the individual's property but is enforceable against the person that contracted with the individual. (Sec. 106, KSA 59-30,183).

# CLAIMS

(SEC. 110, KSA 59-30,187)

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- 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. (Sec. 106)
  - Claims can be presented to the conservator or a court. Conservator must allow or disallow claim within 60 days.
  - Presentation of claim tolls the statute of limitations until 30 days of disallowance.
  - If claim is disallowed, creditor may petition the Court.
  - Order of priority for claims.
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# ABILITY TO REFUSE TO RECOGNIZE AUTHORITY

(SEC. 46, KSA 59-30,123)

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- Third parties are generally required to accept the authority of the guardian and conservator, unless the person has:
  - actual knowledge or a reasonable belief the letters of officer are invalid, or the guardian or conservator is exceeding or improperly exercising authority granted.
  - actual knowledge that that the individual subject to the proceeding is subject to physical or financial abuse, neglect, exploitation or abandonment by the guardian or conservator.
  - another person has made a report to law enforcement or DCF stating a good faith belief that the individual subject to the proceeding is subject to physical or financial abuse, neglect, exploitation or abandonment by the guardian or conservator.
- If you refuse to accept, you must report your refusal to the Court within 10 days and explain the reason for the refusal. The report is treated as a grievance.
- The guardian or conservator may file a petition requiring a third party to recognize authority.

# ANNUAL REPORTS

(SEC. 80, KSA 59-30,157 & SEC. 105, KSA 59-30,182)

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- Annual reports are required.
- Notice of the annual report and copies must be provided to the person subject to the proceedings and those persons as the judge determined are entitled to notice.
- The court must establish procedures for monitoring and review of the report and determine fees.
- Special reports are required under certain circumstances.

# REGISTRATION OF ORDERS

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- Orders from other states can be registered in our state as a foreign judgment and exercise the powers granted by the order except as prohibited by law. (Sec. 49, KSA 59-30,126).

# DIVORCE

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- The court by specific order may authorize a guardian or conservator for an adult to litigate as petitioner or respondent an action for divorce, dissolution or annulment of marriage. (Sec. 77, KSA 59-30,154).

# COMMITMENT TO MENTAL HEALTH FACILITY

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- 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, KSA 59-2945 *et seq.* (Sec. 78, KSA 59-30,155).

# END OF LIFE DECISION MAKING

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- A guardian may make decisions in accordance with Living Will executed pursuant to K.S.A 65-28,101 through 65-28,109. (Sec. 78, KSA 59-30,155).
- The guardian may act in accordance with a durable power of attorney that includes provisions relating to withdrawal of life-saving or life sustaining care.
- The court may grant the authority to withhold nutrition or hydration if, in the treating physician and a second 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. Requires a hearing prior to withholding and the appointment of an attorney to represent the adult subject to the proceeding.
- The Court may grant the authority to withdraw life sustaining care under a similar process.

# CONSERVATOR'S DUTY TO DELIVER WILL

(SEC. 109, KSA 59-30,186)

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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.

# TEMPORARY SUBSTITUTE GUARDIAN OR CONSERVATOR

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- The court may appoint a temporary substitute for a period not exceed six months when there is an action pending to remove the guardian or conservator or when the guardian or conservator is not effectively performing and immediate action is required. (Sec. 48, KSA 59-30,125)

# EMERGENCY APPOINTMENT

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- Emergency adult guardianship available under Section 75, KSA 59-30,152. Notice within 48 hours and hearing within five (5) days of appointment.
- Emergency conservatorship available under Section 95, KSA 59-30,172. Notice within 48 hours and hearing within five (5) days of appointment.
- While the petition for appointment of a conservator 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. (Sec. 86, KSA 59-30,163).

# ATTORNEY FEES AND EXPENSES

(SEC. 42, KSA 59-30,119)

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- Attorney for the respondent is entitled to reasonable compensation from the property of the respondent.
- Unless otherwise compensated, an attorney or person whose services resulted in an order beneficial to the individual subject to the proceeding is entitled to reasonable compensation for services and reasonable expenses.
- The court must approve compensation and expenses before payment.
- If the court dismisses a petition and finds it was brought in bad faith, the court may assess costs, evaluation costs, court liaison fees, and attorney fees against the petitioner or the petitioner's counsel.

# OTHER PROTECTIVE ARRANGEMENTS

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- Upon receiving a petition for a guardianship or conservatorship, the court may order a protective arrangement instead. (Sec. 119, KSA 59-30,196).
- A petition can also be filed for an other protective arrangement.
- The notice requirements, evaluation process, and attorney to represent the person subject to the proceeding provisions discussed with regard to guardianships and conservatorship are substantially similar.

# OTHER PROTECTIVE ARRANGEMENTS INSTEAD OF GUARDIANSHIP

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- To order an other protective arrangement instead of a guardianship, the court must find:
  - 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
  - the respondent's identified needs cannot be met by a less restrictive alternative.

(Sec. 120, KSA 59-30,197)

# OTHER PROTECTIVE ARRANGEMENTS INSTEAD OF CONSERVATORSHIP

(SEC. 121, KSA 59-30,198)

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- For a protective arrangement to be available, the following three elements must be met:
  - Unable to manage affairs because of 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 United States;
  - Appointment is necessary to avoid harm or significant dissipation of assets or to obtain or provide funds or property needed for the support, care education, health, or welfare of the adult or an individual entitled to the adult's support; and
  - The identified need cannot be met by a less restrictive alternative.

# OTHER PROTECTIVE ARRANGEMENTS INSTEAD OF CONSERVATORSHIP

(SEC. 121(C), KSA 59-30,198(C))

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- (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) enter 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;
  - (H) settlement of a claim;
- (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.



# OTHER PROTECTIVE ARRANGEMENTS INSTEAD OF CONSERVATORSHIP; RESTRICTION OF ACCESS (SEC. 121(D), KSA 59-30,198(D))

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- After hearing, 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.

# MINOR GUARDIANSHIPS

(SEC. 51, KSA 59-30,128)

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- 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.

# MINOR GUARDIANSHIPS AND CONSERVATORSHIPS

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- Personal service of notice to parents, any adult with whom the minor resides, each person who has custody for at least 60 days in the two years prior to filing or 730 days in the five years prior to filing (Sec. 53, KSA 59-30,130).
- If the minor is 12 or older, the minor is entitled to notice. (Sec. 28, KSA 59-30,105). The notice must include a statement of the right to request appointment of an attorney for the minor or object to appointment, and a description of the nature, purpose and consequences of the appointment. (Sec. 53, KSA 59-30,130).
- The court may appoint an attorney to represent a parent if the court determines the parent needs representations. (Sec. 54, KSA 59-30,131).
- The court may require the minor to attend the hearing. The proposed guardian shall attend the hearing, unless excused for good cause. (Sec. 55, KSA 59-30,132).
- Nomination of parents given priority. Best interest ultimately controls. (Sec. 56, KSA 59-30,133).
- May appoint a standby guardian on the petition of the parent if there is reason to believe the guardianship will be needed in the next two years. (Sec. 57, KSA 59-30,134).
- Plan is not always required for a guardian of a minor. (Sec. 63, KSA 59-30,140).
- Guardian may consent to marriage. Guardianship terminates upon marriage. (Sec. 60, KSA 59-30,137).
- Conservatorship can be extended beyond 18, but it requires consent of the minor and a showing substantial harm to the minor's interest is likely if it is not extended (Sec. 114, KSA 59-191).

