

2023 Kansas Statutes

58a-603. Settlor's powers; powers of withdrawal; incapacitation of settlor; hearing. (a) While a trust is revocable, the duties of the trustee are owed exclusively to the settlor. While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(b) During the period a power of withdrawal may be exercised, the holder of the power has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

(c) (1) If a settlor of a revocable trust is or becomes an incapacitated person, on petition of the settlor's legal representative, an adult member of the settlor's family or any interested person, including a person interested in the welfare of the settlor, for good cause shown, the court may: Order the trustee to exercise or refrain from exercising the trustee's authority in a manner inconsistent with the trustee's fiduciary responsibilities under the provisions of the trust; remove the trustee; require the trustee to account; and issue such other orders as the court finds will be in the best interests of the settlor.

(2) (A) 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 trustee or the trust estate for the expenses, including attorney fees, incurred with respect to such proceeding.

(B) None of the actions described in this section shall be taken by the court until after hearing upon reasonable notice to the trustee, the settlor, and any legal representative of the settlor, such as a conservator or attorney-in-fact under a durable power of attorney authorizing the attorney-in-fact to act on the behalf of the settlor in such matters.

(C) If there is no legal representative of the settlor, the court shall appoint a guardian ad litem to represent the settlor in such proceeding.

(D) 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.

History: L. 2002, ch. 133, § 47; L. 2004, ch. 158, § 10; L. 2006, ch. 23, § 10; L. 2022, ch. 16, § 21; July 1.