

59-3068. Appointment of guardian or conservator; priority of nominee; qualifications; compensation. (a) The court in appointing a guardian or conservator shall give priority in the following order to:

- (1) The nominee of the proposed ward or proposed conservatee, if such nomination is made within any durable power of attorney;
- (2) the nominee of a natural guardian;
- (3) the nominee of a minor who is the proposed ward or proposed conservatee, if the minor is over 14 years of age;
- (4) the nominee of the spouse, adult child or other close family member of the proposed ward or proposed conservatee; or
- (5) the nominee of the petitioner.

(b) (1) The court, in appointing a guardian or conservator, shall consider the workload, capabilities and potential conflicts of interest of the proposed guardian or conservator, or both, before making such appointment, and the court shall give particular attention in making such appointment to the number of other cases in which the proposed guardian or conservator, other than a corporation, is currently serving as guardian or conservator, or both, particularly if that number is more than 15 or more wards or conservatees, or both.

(2) If the proposed guardian or proposed conservator is a person who provides care or other services, or is an employee of an agency, partnership or corporation, which provides care or other services to persons with a disability similar in nature to the condition or conditions which contribute to the impairment of the ward or conservatee, then that person or employee may be appointed as the guardian or conservator only when the person or employee:

(A) Is the spouse, parent, grandparent, child, grandchild, sibling, niece, nephew, aunt or uncle of the ward or conservatee, and the court is satisfied that the person or employee is aware of issues of conflict of interest and, for persons appointed on or after January 1, 2009, has completed the basic instructional program referenced in subsection (j) of K.S.A. 59-3069, and amendments thereto;

(B) does not personally provide nor supervise the providing of care or other services to the ward or conservatee, and the person or employee is not in a position to be called upon to advocate for the agency, partnership or corporation, in opposition to the interests of the ward or conservatee; or

(C) is the only person readily available to be appointed and the court is satisfied that the person or employee is aware of issues of conflict of interest and, for persons appointed on or after January 1, 2009, has completed the basic instructional program referenced in subsection (j) of K.S.A. 59-3069, and amendments thereto.

(3) Nothing in this section shall prohibit a guardian or conservator from collecting a reasonable fee, as approved by the court, for carrying out the duties and responsibilities as guardian or conservator. Nothing in this section shall prohibit a guardian or a conservator associated with the Kansas guardianship program from receiving a stipend from that program.

(c) In appointing a guardian for a person who is an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing, the court shall consider, but shall not be limited to, the appointment of an individual as guardian who is sympathetic to and willing to support this system of healing.

(d) For purposes of this section, "employee" shall include any student, trainee or other classification of persons providing services to any agency, partnership or corporation, whether compensated or not.

History: L. 2002, ch. 114, § 19; L. 2008, ch. 64, § 8; July 1.