

## HOUSE BILL No. 2469

By Committee on Judiciary

2-9

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AN ACT concerning guardians and conservators; amending K.S.A. 17-2263, 17-2264, 17-5828, 17-5829, 38-1505, 39-789, 39-970, 44-513a, 58-629, 59-1701, 73-507, 76-12b04 and 77-201 and K.S.A. 2000 Supp. 9-1215, 9-1216, 58-24a15, 59-2946, 59-2948, 59-2949, 59-2951, 59-2960, 59-29b46, 59-29b48, 59-29b49, 59-29b51, 59-29b60, 60-304, 61-3004, 65-516, 65-5117 and 76-729 and repealing the existing sections; also repealing K.S.A. 59-3001, 59-3003, 59-3004, 59-3006, 59-3007, 59-3008, 59-3011, 59-3012, 59-3015, 59-3016, 59-3017, 59-3018, 59-3019, 59-3020, 59-3021, 59-3022, 59-3023, 59-3024, 59-3025, 59-3027, 59-3028, 59-3030, 59-3031, 59-3032, 59-3034, 59-3035, 59-3037 and 59-3038 and K.S.A. 2000 Supp. 59-3002, 59-3009, 59-3010, 59-3013, 59-3014, 59-3018a and 59-3026, 59-3029, 59-3036, 59-3039 and 60-304a.

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

New Section 1. The act shall be known and may be cited as the act for obtaining a guardian or a conservator, or both.

New Sec. 2. When used in the act for obtaining a guardian or a conservator, or both:

(a) "Adult with an impairment in need of a guardian or a conservator, or both" means a person 18 years of age or older, or a minor who is considered to be of the age of majority pursuant to K.S.A. 38-101, and amendments thereto, or upon whom the rights of majority have been conferred pursuant to K.S.A. 38-108, and amendments thereto, whose ability to receive and evaluate relevant information, or to effectively communicate decisions, or both, even with the use of assistive technologies or other supports, is impaired such that the person lacks the capacity to manage such person's estate, or to meet essential needs for physical health, safety or welfare, and who is in need of a guardian or a conservator, or both.

(b) "Conservatee" means a person who has a conservator.

(c) "Conservator" means an individual or a corporation who is appointed by the court to act on behalf of a conservatee and who is possessed of some or all of the powers and duties set out in section 29, and amendments thereto.

1 (d) "Guardian" means an individual, a corporation or a nonprofit cor-  
2 poration certified in accordance with section 21, and amendments  
3 thereto, who or which has been appointed by a court to act on behalf of  
4 a ward, and who or which is possessed of some or all of the powers and  
5 duties set out in section 26, amendments thereto. "Guardian" does not  
6 mean a "natural guardian" unless specified.

7 (e) "In need of a guardian" means a person who because of both an  
8 impairment and the lack of appropriate alternatives for meeting essential  
9 needs, requires the appointment of a guardian.

10 (f) "In need of a conservator" means a person who because of both  
11 an impairment and the lack of appropriate alternatives for managing such  
12 person's estate, requires the appointment of a conservator.

13 (g) "Manage such person's estate" means making those determina-  
14 tions and taking those actions which are reasonably necessary in order for  
15 a person to receive and account for personal or business income, benefits  
16 and property, whether real, personal or intangible, and except for reasons  
17 of indigency, to purchase or otherwise obtain necessary goods or services,  
18 to pay debts and expenses, to sell, exchange or otherwise dispose of prop-  
19 erty, and to plan for future accumulation, conservation, utilization, in-  
20 vestment, and other disposition of financial resources.

21 (h) "Meet essential needs for physical health, safety or welfare"  
22 means making those determinations and taking those actions which are  
23 reasonably necessary in order for a person to obtain or be provided with  
24 shelter, sustenance, personal hygiene or medical care, and without which  
25 serious illness or injury is likely to occur.

26 (i) "Minor" means any person defined by K.S.A. 38-101, and amend-  
27 ments thereto, as being within the period of minority.

28 (j) "Minor with an impairment in need of a guardian or a conservator,  
29 or both" means a person under 18 years of age who otherwise meets the  
30 definition of an "adult with an impairment in need of a guardian or con-  
31 servator, or both" and whose impairment is expected to continue beyond  
32 the age of 18.

33 (k) "Natural guardian" means both the biological or adoptive mother  
34 and father of a minor if neither parent has been found to be an adult with  
35 an impairment in need of a guardian or has had parental rights terminated  
36 by a court of competent jurisdiction. If either parent of a minor is de-  
37 ceased, or has been found to be an adult with an impairment in need of  
38 a guardian or has had parental rights terminated by a court of competent  
39 jurisdiction, then the other parent shall be the natural guardian, unless  
40 also deceased, or found to be an adult with an impairment in need of a  
41 guardian, or has had parental rights terminated by a court of competent  
42 jurisdiction, in which case no person shall qualify as the natural guardian.

43 (l) "Person who has been previously adjudged as impaired in another

1 state” means a person who has been duly adjudged by a court of com-  
2 petent jurisdiction of any other state to be unable to meet essential needs  
3 for physical health, safety or welfare or to manage such person’s estate  
4 and for whom a guardian or a conservator, or other similarly empowered  
5 fiduciary, has been appointed by that court, but who now resides within  
6 Kansas or for whom plans have been made by such person’s guardian or  
7 other fiduciary to relocate the person to Kansas.

8 (m) “Person in need of an ancillary conservator” means a person not  
9 residing within Kansas, who has been duly adjudged by a court of com-  
10 petent jurisdiction of another state to be unable to manage such person’s  
11 estate and for whom a conservator or other fiduciary of the person’s estate  
12 has been appointed by that court.

13 (n) “Proposed ward” means a person for whom a petition for the  
14 appointment of a guardian pursuant to section 9, 10, 11 or 12, and amend-  
15 ments thereto, has been filed.

16 (o) “Proposed conservatee” means a person for whom a petition for  
17 the appointment of a conservator pursuant to section 9, 10, 11, 12 or 13,  
18 and amendments thereto, has been filed.

19 (p) “Ward” means a person who has a guardian.

20 (q) The terms defined in K.S.A. 2000 Supp. 59-2946 and 59-29b46,  
21 and amendments thereto, have the meanings provided by those statutes.

22 New Sec. 3. In computing the date upon or by which any act must  
23 be done or hearing held under provisions of this article, the day on which  
24 an act or event occurred and from which a designated period of time is  
25 to be calculated shall not be included, but the last day in a designated  
26 period of time shall be included unless that day falls on a Saturday, Sunday  
27 or legal holiday, in which case the next day which is not a Saturday, Sunday  
28 or legal holiday shall be considered to be the last day.

29 New Sec. 4. (a) A natural guardian shall have the right to the custody  
30 of the natural guardian’s minor child and the right to exercise control over  
31 the person of the natural guardian’s minor child as provided by law, unless  
32 a guardian has been appointed for the minor. The natural guardian of  
33 such minor has the right and responsibility to hold in trust and manage  
34 such person’s estate for such person’s benefit all of the personal and real  
35 property vested in such minor when the total of such property does not  
36 exceed \$10,000 in value, unless a guardian or conservator has been ap-  
37 pointed for the minor.

38 (b) Nothing in this act shall be construed to relieve a natural guardian  
39 of any obligation imposed by law for the support, maintenance, care,  
40 treatment, habilitation or education of that natural guardian’s minor child.

41 New Sec. 5. (a) Any natural guardian, by last will, may nominate a  
42 conservator of only that portion of the estate of such guardian’s minor  
43 child, whether born at the time of the execution of the will or afterwards,

1 which is devised or bequeathed by such natural guardian to the child.

2 (b) A surviving natural guardian, by last will or by a trust instrument  
3 establishing an inter vivos trust, may nominate a guardian or conservator,  
4 or both, for any of such guardian's minor children, whether born at the  
5 time of the execution of the will or trust instrument or afterwards.

6 (c) The nominated guardian or conservator, if a fit and proper person,  
7 shall be strongly considered by the district court to be appointed pursuant  
8 to section 19, and amendments thereto, if it is found, during the trial held  
9 pursuant to section 17, and amendments thereto, that a guardian or con-  
10 servator, or both, should be appointed for the minor child of the testator  
11 or settlor.

12 New Sec. 6. (a) Any court having either control over or possession  
13 of any amount of money not exceeding \$50,000, the right to which is  
14 vested in a minor, shall have the discretion to authorize, without the  
15 appointment of a conservator or the giving of bond, and notwithstanding  
16 the authority of a natural guardian as provided for in section 4, and  
17 amendments thereto, the deposit of the money in a savings account of a  
18 bank, credit union or savings and loan association, payable either to a  
19 conservator, if one shall be appointed for the minor, or to the minor upon  
20 attaining the age of 18 years.

21 (b) Any court having either control over or possession of any amount  
22 of money not exceeding \$10,000, the right to which is vested in a minor,  
23 shall have the discretion to order the payment of the money to any person,  
24 including the natural guardian of the minor, or the minor. If the person  
25 is the conservator for the minor, the court may waive or recommend the  
26 waiver of the requirement of a bond. If the person is anyone other than  
27 the minor, the court shall order that person to hold in trust and manage  
28 such person's estate for such person's benefit.

29 (c) Any court having either control over or possession of any amount  
30 of money not exceeding \$10,000, the right to which is vested in a person  
31 for whom a guardian has been appointed, shall have the discretion to  
32 authorize, without the appointment of a conservator or the giving of bond,  
33 the deposit of the money in a savings account of a bank, credit union or  
34 savings and loan association, payable to the guardian for the benefit of  
35 the ward if authorized pursuant to subsection (e)(9) of section 26, and  
36 amendments thereto, payable to a conservator, if one shall be appointed  
37 for the person, or payable to the ward on restoration to capacity.

38 New Sec. 7. An adult person for whom no guardian or conservator  
39 has been appointed, and who is not a proposed ward or a proposed con-  
40 servatee may file in the district court of the county of residence of such  
41 person a verified petition requesting the appointment of a conservator  
42 for the petitioner. The petition shall include:

43 (a) The person's name, age, date of birth, address of permanent res-

1 idence and present address or whereabouts, if different from the person's  
2 permanent residence;

3 (b) the factual basis upon which the person alleges the need for the  
4 appointment of a conservator;

5 (c) the name, and address, and relationship to the person, if any, of  
6 the individual or corporation whom the person requests that the court  
7 appoint as the conservator and whether such individual or corporation  
8 should be required to file a bond. If the proposed conservator is under  
9 contract with the Kansas guardianship program, the petition shall state  
10 that fact;

11 (d) a request that the court make a determination that there is a need  
12 for the appointment of a conservator and that the court appoint a  
13 conservator;

14 (e) the names and addresses of the relatives nearest in kinship to the  
15 person;

16 (f) the general character and probable value of the real and personal  
17 property, including the amount and sources of income, of the person;

18 (g) the name, address of any existing fiduciary for the person and a  
19 description of that fiduciary relationship.

20 New Sec. 8. Upon the filing of a petition as provided for in section  
21 7, and amendments thereto, the court shall issue an order fixing the date,  
22 time and place of the trial on the petition and order that notice of this  
23 trial shall be given to such persons as the court shall direct. The trial may  
24 be held forthwith and without notice if the court determines that holding  
25 a trial forthwith and without notice is in the best interests of the peti-  
26 tioner. Upon completion of the trial, if the court finds that the petitioner  
27 has knowingly and voluntarily made this request and that it is in the best  
28 interests of the petitioner that a conservator be appointed, the court, upon  
29 the filing of an oath and a bond in such an amount as the court may direct  
30 pursuant to section 20, and amendments thereto, shall issue letters of  
31 conservatorship to the individual or corporation named in the petition, if  
32 fit and proper to be so appointed.

33 New Sec. 9. (a) (1) Any person may file in the district court of the  
34 county of residence of the proposed ward or proposed conservatee or of  
35 any county wherein the proposed ward or proposed conservatee may be  
36 found, a verified petition requesting the appointment of a guardian or a  
37 conservator, or both, for an adult with an impairment in need of a guard-  
38 ian or conservator, or both. If the proposed conservatee is not a resident  
39 of or present within the state of Kansas, such petition may be filed in the  
40 district court of any county in which any property of the proposed con-  
41 servatee is situated.

42 (2) If a petition is filed in the district court of a county other than the  
43 county of residence of the proposed ward or proposed conservatee, the

1 court may consider whether it is in the best interests of the proposed  
2 ward or proposed conservatee or in the interests of justice for the pro-  
3 ceedings to take place in that county.

4 (3) If the court finds it is not in the best interests of the proposed  
5 ward or proposed conservatee or in the interests of justice that the pro-  
6 ceedings take place in that county and the proposed ward or proposed  
7 conservatee is a nonresident of the state of Kansas, the court may dismiss  
8 the matter immediately, or may continue the matter for a specific period  
9 of time not to exceed 60 days to allow for the filing of proceedings in the  
10 state of residence. After the expiration of that period of time, or upon the  
11 filing of proceedings in the state of residence, the court shall dismiss the  
12 petition without prejudice.

13 (4) If the court finds it is not in the best interests of the proposed  
14 ward or proposed conservatee or in the interests of justice that the pro-  
15 ceedings take place in that county and the proposed ward or proposed  
16 conservatee is a resident of a different county in Kansas, the court may  
17 dismiss the matter immediately, or may transfer venue to the county of  
18 residence, or may continue the matter for a specific period of time not  
19 to exceed 60 days to allow for the filing of proceedings in the county of  
20 residence. After the expiration of that period of time, or upon the filing  
21 of proceedings in the county of residence, the court shall dismiss the  
22 petition without prejudice.

23 (b) The petition shall include:

24 (1) The petitioner's name and address;

25 (2) the proposed ward's or proposed conservatee's name, age, date  
26 of birth, address of permanent residence, and present address or where-  
27 abouts, if different from the proposed ward's or proposed conservatee's  
28 permanent residence;

29 (3) if the proposed ward or proposed conservatee is a nonresident of  
30 the county in which the petition is filed, a statement of why it is in the  
31 best interests of the proposed ward or proposed conservatee or in the  
32 interests of justice for the proceedings to take place in that county;

33 (4) if the proposed ward or proposed conservatee is under the age of  
34 18 years, the factual circumstances under which the petitioner alleges  
35 that the minor should be considered to be of the age of majority pursuant  
36 to the provisions of K.S.A. 38-101, and amendments thereto, or concern-  
37 ing when and where the rights of majority were conferred upon the minor  
38 pursuant to the provisions of K.S.A. 38-108, and amendments thereto;

39 (5) a statement that it is the petitioner's belief that the proposed ward  
40 or proposed conservatee is an adult with an impairment in need of a  
41 guardian or a conservator, or both;

42 (6) the factual basis upon which the petitioner makes that allegation;

43 (7) the names and addresses of any spouse, adult children and adult

1 grandchildren of the proposed ward or proposed conservatee, and those  
2 of any parent and adult siblings of the proposed ward or proposed con-  
3 servatee, or if no such names or addresses are known to the petitioner,  
4 the name and address of at least one adult who is nearest in kinship to  
5 the proposed ward or proposed conservatee, or if none, that fact. If no  
6 such names or addresses are known to the petitioner, but the petitioner  
7 has reason to believe such persons exist, then the petition shall state that  
8 fact and that the petitioner has made diligent inquiry to learn those names  
9 and addresses;

10 (8) the name and address of any person or agency having custody of  
11 the proposed ward or proposed conservatee, or any other person or  
12 agency who has assumed responsibility for the proposed ward or proposed  
13 conservatee, and the circumstances under which the proposed ward or  
14 proposed conservatee came into such person's or agency's care or control;

15 (9) the name and address of any person or corporation acting for or  
16 nominated to act on behalf of the proposed ward or proposed conservatee  
17 pursuant to any power of attorney, trust or other fiduciary relationship  
18 established by any court order, and a description of that authority or  
19 relationship. If not known, the petition shall state that the petitioner has  
20 made diligent inquiry to learn this information;

21 (10) a list and description of all court proceedings in which the pro-  
22 posed ward or conservatee is a party, or is the subject of, or may be a  
23 beneficiary of, or in which any rights of the proposed ward or proposed  
24 conservatee may be determined or affected, and the name and address  
25 of any attorney who represents the proposed ward or proposed conser-  
26 vatee in such matter. If not known, the petition shall state that the peti-  
27 tioner has made diligent inquiry to learn this information;

28 (11) in general terms, the location, type, and value of any real or  
29 personal property of the proposed ward or proposed conservatee, includ-  
30 ing the amount and sources of any income of the proposed ward or pro-  
31 posed conservatee. If not known, the petition shall state that the peti-  
32 tioner has made diligent inquiry to learn this information;

33 (12) the names and addresses of witnesses by whom the truth of the  
34 petition may be proved;

35 (13) the name, address, and relationship to the proposed ward or  
36 proposed conservatee, if any, of the individual or corporation whom the  
37 petitioner suggests that the court appoint as the guardian or as the con-  
38 servator, or both, and if the suggested guardian or conservator is under  
39 contract with the Kansas guardianship program, that fact;

40 (14) if the petitioner suggests the appointment of co-guardians or co-  
41 conservators, or both, a statement of the reasons why such appointment  
42 is sought and whether the petitioner suggests that the co-guardians or co-  
43 conservators, if appointed, should be able to act independently or whether

1 they should be required to act only in concert or only in concert with  
2 regard to specified matters; and

3 (15) a request that the court make a determination that the proposed  
4 ward or proposed conservatee is an adult with an impairment in need of  
5 a guardian or a conservator, or both, that the court enter one or more of  
6 the orders provided for in sections 14, 15 and 16, and amendments  
7 thereto, and that the court appoint a guardian or a conservator, or both,  
8 for the proposed ward or proposed conservatee.

9 (c) Any such petition may be accompanied by, or the court may re-  
10 quire that such petition be accompanied by, a report of an examination  
11 and evaluation which meets the requirements of section 15, and amend-  
12 ments thereto. In such case, the petition may include a request that the  
13 court accept this report in lieu of ordering any additional examination and  
14 evaluation pursuant to section 15, and amendments thereto.

15 (d) Any such petition may be accompanied by, or the court may re-  
16 quire that such petition be accompanied by, a proposed guardianship plan  
17 as provided for in section 27, and amendments thereto, or a proposed  
18 conservatorship plan as provided for in section 30, and amendments  
19 thereto, or both.

20 New Sec. 10. (a) (1) Any person may file in the district court of the  
21 county of residence of the proposed ward or proposed conservatee or of  
22 any county wherein the proposed ward or proposed conservatee may be  
23 found, a verified petition requesting the appointment of a guardian or a  
24 conservator, or both, for a minor in need of a guardian or conservator, or  
25 both. If the proposed conservatee is not a resident of or present within  
26 the state of Kansas, such petition may be filed in the district court of any  
27 county in which any property of the proposed conservatee is situated.

28 (2) If a petition is filed in the district court of a county other than the  
29 county of residence of the minor, the court may consider whether it is in  
30 the best interests of the minor or in the interests of justice for the pro-  
31 ceedings to take place in that county.

32 (3) If the court finds it is not in the best interests of the minor or in  
33 the interests of justice that the proceedings take place in that county and  
34 the minor is a nonresident of the state of Kansas, the court may dismiss  
35 the matter immediately, or may continue the matter for a specific period  
36 of time not to exceed 60 days to allow for the filing of proceedings in the  
37 state of residence. After the expiration of that period of time, or upon the  
38 filing of proceedings in the state of residence, the court shall dismiss the  
39 petition without prejudice.

40 (4) If the court finds it is not in the best interests of the minor or in  
41 the interests of justice that the proceedings take place in that county and  
42 the minor is a resident of a different county in Kansas, the court may  
43 dismiss the matter immediately, or may transfer venue to the county of



1 residence, or may continue the matter for a specific period of time not  
2 to exceed 60 days to allow for the filing of proceedings in the county of  
3 residence. After the expiration of that period of time, or upon the filing  
4 of proceedings in the county of residence, the court shall dismiss the  
5 petition without prejudice.

6 (b) The petition shall include:

7 (1) The petitioner's name and address;

8 (2) the minor's name, age, date of birth, address of permanent resi-  
9 dence, and present address or whereabouts, if different from the minor's  
10 permanent residence;

11 (3) if the minor is a nonresident of the county in which the petition  
12 is filed, a statement of why it is in the best interests of the minor or in  
13 the interests of justice for the proceedings to take place in that county;

14 (4) a statement that it is the petitioner's belief that the proposed ward  
15 or proposed conservatee is a minor in need of a guardian or conservator,  
16 or both;

17 (5) the factual basis upon which the petitioner makes that allegation;

18 (6) the names and addresses of any spouse of the minor, any natural  
19 guardian, any grandparent, any person nominated by a natural guardian  
20 to be the guardian or conservator, or both, any child or children of the  
21 minor, any permanent guardian appointed for the minor pursuant to  
22 K.S.A. 38-1584, and amendments thereto, any fiduciary appointed for the  
23 minor by any court order, and any other person or agency having or  
24 claiming a right to legal or physical custody of or visitation with the minor  
25 or who has assumed responsibility for or care of the minor, and the cir-  
26 cumstances under which the minor came into such person's or agency's  
27 care or control. If no such names or addresses are known to the petitioner,  
28 but the petitioner has reason to believe such persons exist, then the pe-  
29 tition shall state that fact and that the petitioner has made diligent inquiry  
30 to learn those names and addresses;

31 (7) a list and description of all court proceedings in which the minor  
32 is or has recently been a party, or is or has recently been the subject of,  
33 or was or may be a beneficiary of, or in which any rights of the minor  
34 were or may be determined or affected, including any proceedings con-  
35 cerning the custody of or visitation with the minor, any domestic relations  
36 matters, juvenile proceedings or adoptions, and the name and address of  
37 any attorney who represents or has represented the minor in any such  
38 matter. If not known, the petition shall state that the petitioner has made  
39 diligent inquiry to learn this information;

40 (8) in general terms, the location, type, and value of any real or per-  
41 sonal property of the minor, including the amount and sources of any  
42 income of the minor. If not known, the petition shall state that the peti-  
43 tioner has made diligent inquiry to learn this information;

1 (9) the names and addresses of witnesses by whom the truth of the  
2 petition may be proved;

3 (10) the name, address, and relationship to the minor, if any, of the  
4 individual or corporation whom the petitioner suggests that the court  
5 appoint as the guardian or as the conservator, or both;

6 (11) if the petitioner suggests the appointment of co-guardians or co-  
7 conservators, or both, a statement of the reasons why such appointment  
8 is sought and whether the petitioner suggests that the co-guardians or co-  
9 conservators, if appointed, should be able to act independently or whether  
10 they should be required to act only in concert or only in concert with  
11 regard to specified matters; and

12 (12) a request that the court make a determination that the proposed  
13 ward or proposed conservatee is a minor in need of a guardian or a con-  
14 servator, or both, that the court enter one or more of the orders provided  
15 for in sections 14 and 16, and amendments thereto, and that the court  
16 appoint a guardian or a conservator, or both, for the minor.

17 (c) Any such petition may be accompanied by, or the court may require  
18 that such petition be accompanied by, a proposed guardianship plan as  
19 provided for in section 27, and amendments thereto, or a proposed con-  
20 servatorship plan as provided for in section 30, and amendments thereto,  
21 or both.

22 New Sec. 11 (a) (1) Any person may file in the district court of the  
23 county of residence of the proposed ward or proposed conservatee or of  
24 any county wherein the proposed ward or proposed conservatee may be  
25 found, a verified petition requesting the appointment of a guardian or a  
26 conservator, or both, for a minor with an impairment in need of a guardian  
27 or conservator, or both. If the proposed conservatee is not a resident of  
28 or present within the state of Kansas, such petition may be filed in the  
29 district court of any county in which any property of the proposed con-  
30 servatee is situated. If a petition is filed in the district court of a county  
31 other than the county of residence of the minor, the court may consider  
32 whether it is in the best interests of the minor or in the interests of justice  
33 for the proceedings to take place in that county.

34 (2) If the court finds it is not in the best interests of the minor or in  
35 the interests of justice that the proceedings take place in that county and  
36 the minor is a nonresident of the state of Kansas, the court may dismiss  
37 the matter immediately, or may continue the matter for a specific period  
38 of time not to exceed 60 days to allow for the filing of proceedings in the  
39 state of residence. After the expiration of that period of time, or upon the  
40 filing of proceedings in the state of residence, the court shall dismiss the  
41 petition without prejudice.

42 (3) If the court finds it is not in the best interests of the minor or in  
43 the interests of justice that the proceedings take place in that county and

1 the minor is a resident of a different county in Kansas, the court may  
2 dismiss the matter immediately, or may transfer venue to the county of  
3 residence, or may continue the matter for a specific period of time not  
4 to exceed 60 days to allow for the filing of proceedings in the county of  
5 residence. After the expiration of that period of time, or upon the filing  
6 of proceedings in the county of residence, the court shall dismiss the  
7 petition without prejudice.

8 (b) The petition shall include:

9 (1) The petitioner's name and address;

10 (2) the minor's name, age, date of birth, address of permanent resi-  
11 dence, and present address or whereabouts, if different from the minor's  
12 permanent residence;

13 (3) if the minor is a nonresident of the county in which the petition  
14 is filed, a statement of why it is in the best interests of the minor or in  
15 the interests of justice for the proceedings to take place in that county;

16 (4) a statement that it is the petitioner's belief that the proposed ward  
17 or proposed conservatee is a minor with an impairment in need of a  
18 guardian or conservator, or both;

19 (5) the factual basis upon which the petitioner makes this allegation;

20 (6) the names and addresses of any spouse of the minor, any natural  
21 guardian, any grandparent, any person nominated by a natural guardian  
22 to be the guardian or conservator, or both, any child or children of the  
23 minor, any permanent guardian appointed for the minor pursuant to  
24 K.S.A. 38-1584, and amendments thereto, any fiduciary appointed for the  
25 minor by any court order, and any other person or agency having or  
26 claiming a right to legal or physical custody of or visitation with the minor  
27 or who has assumed responsibility for or care of the minor, and the cir-  
28 cumstances under which the minor came into such person's or agency's  
29 care or control. If no such names or addresses are known to the petitioner,  
30 but the petitioner has reason to believe such persons exist, then the pe-  
31 tition shall state that fact and that the petitioner has made diligent inquiry  
32 to learn those names and addresses;

33 (7) a list and description of all court proceedings in which the minor  
34 is or has recently been a party, or is or has recently been the subject of,  
35 or was or may be a beneficiary of, or in which any rights of the minor  
36 were or may be determined or affected, including any proceeding con-  
37 cerning the custody of or visitation with the minor, any domestic relations  
38 matters, juvenile proceedings or adoptions, and the name and address of  
39 any attorney who represents or has represented the minor in any such  
40 matter. If not known, the petition shall state that the petitioner has made  
41 diligent inquiry to learn this information;

42 (8) in general terms, the location, type, and value of any real or per-  
43 sonal property of the minor, including the amount and sources of any

1 income of the minor. If not known, the petition shall state that the peti-  
2 tioner has made diligent inquiry to learn this information;

3 (9) the names and addresses of witnesses by whom the truth of the  
4 petition may be proved;

5 (10) the name, address, and relationship to the minor, if any, of the  
6 individual or corporation whom the petitioner suggests that the court  
7 appoint as the guardian or as the conservator, or both;

8 (11) if the petitioner suggests the appointment of co-guardians or co-  
9 conservators, or both, a statement of the reasons why such appointment  
10 is sought and whether the petitioner suggests that the co-guardians or co-  
11 conservators, if appointed, should be able to act independently or whether  
12 they should be required to act only in concert or only in concert with  
13 regard to specified matters; and

14 (12) a request that the court make a determination that the proposed  
15 ward or proposed conservatee is a minor with an impairment in need of  
16 a guardian or conservator, or both, that the court enter one or more of  
17 the orders provided for in sections 14, 15 and 16, and amendments  
18 thereto, that the court appoint a guardian or a conservator, or both, for  
19 the minor and that the court order that this appointment shall extend  
20 beyond the minor's 18th birthday.

21 (c) Any such petition may be accompanied by, or the court may re-  
22 quire that such petition be accompanied by, a report of an examination  
23 and evaluation which meets the requirements of section 15, and amend-  
24 ments thereto. In such case, the petition may include a request that the  
25 court accept this report in lieu of ordering any additional examination and  
26 evaluation pursuant to section 15, and amendments thereto.

27 (d) Any such petition may be accompanied by, or the court may re-  
28 quire that such petition be accompanied by, a proposed guardianship plan  
29 as provided for in section 27, and amendments thereto, or a proposed  
30 conservatorship plan as provided for in section 30, and amendments  
31 thereto, or both.

32 New Sec. 12. (a) The guardian, conservator or other similarly em-  
33 powered fiduciary appointed in any other state for a person who has been  
34 previously adjudged as impaired in another state may file in the district  
35 court of the county wherein the proposed ward or proposed conservatee  
36 may be found or wherein the petitioner plans to relocate the proposed  
37 ward or proposed conservatee, a verified petition requesting that the  
38 court give full faith and credit to the prior adjudication and appoint a  
39 guardian or a conservator, or both, in Kansas. The petition shall also  
40 declare that immediately upon such appointment, the petitioner will take  
41 the necessary action to terminate the proceedings in the other state.

42 (b) The petition shall include:

43 (1) The petitioner's name and address;

1 (2) the proposed ward's or proposed conservatee's name, age, date  
2 of birth, address of permanent residence, and present address or where-  
3 abouts, if different from the proposed ward's or proposed conservatee's  
4 permanent residence;

5 (3) if the proposed ward or proposed conservatee is not already pres-  
6 ent within Kansas, the address and nature of the place located within  
7 Kansas to which the petitioner plans to relocate the proposed ward or  
8 proposed conservatee if the court does appoint a guardian or conservator,  
9 or both, in Kansas;

10 (4) the place where and the date upon which the petitioner was ap-  
11 pointed as the guardian, conservator or other similarly empowered fidu-  
12 ciary for the proposed ward or proposed conservatee and a statement that  
13 this appointment remains in full force and effect;

14 (5) the factual basis upon which the petitioner alleges the need for  
15 the appointment of a guardian or conservator, or both, in Kansas;

16 (6) the names and addresses of any spouse, adult children and adult  
17 grandchildren of the proposed ward or proposed conservatee, and those  
18 of any parent and adult siblings of the proposed ward or proposed con-  
19 servatee, or if no such names or addresses are known to the petitioner,  
20 the name and address of at least one adult who is nearest in kinship to  
21 the proposed ward or proposed conservatee, or if none, that fact. If no  
22 such names or addresses are known to the petitioner, but the petitioner  
23 has reason to believe such persons exist, then the petition shall state that  
24 fact and that the petitioner has made diligent inquiry to learn those names  
25 and addresses;

26 (7) the name and address of any person or corporation acting for or  
27 nominated to act on behalf of the proposed ward or proposed conservatee  
28 pursuant to any power of attorney, trust or other fiduciary relationship  
29 established by any court order, other than the appointment in the other  
30 state of the petitioner as the guardian, conservator or other similarly em-  
31 powered fiduciary for the proposed ward or proposed conservatee, and a  
32 description of that authority or relationship. If not known, the petition  
33 shall state that the petitioner has made diligent inquiry to learn this  
34 information;

35 (8) a list and description of all court proceedings in which the pro-  
36 posed ward or conservatee is a party, or is the subject of, or may be a  
37 beneficiary of, or in which any rights of the proposed ward or proposed  
38 conservatee may be determined or affected, and the name and address  
39 of any attorney who represents the proposed ward or proposed conser-  
40 vatee in such matter. If not known, the petition shall state that the peti-  
41 tioner has made diligent inquiry to learn this information;

42 (9) in general terms, the location, type and value of any real or per-  
43 sonal property of the proposed ward or proposed conservatee, including

1 the amount and sources of any income of the proposed ward or proposed  
2 conservatee. If not known, the petition shall state that the petitioner has  
3 made diligent inquiry to learn this information;

4 (10) the names and addresses of the witnesses by whom the truth of  
5 the petition may be proved;

6 (11) the name, address, and relationship to the proposed ward or  
7 proposed conservatee, if any, of the individual or corporation whom the  
8 petitioner suggests that the court appoint as the guardian or as the con-  
9 servator, or both, and if the suggested guardian or conservator is under  
10 contract with the Kansas guardianship program, that fact;

11 (12) if the petitioner suggests the appointment of co-guardians or co-  
12 conservators, or both, a statement of the reasons why such appointment  
13 is sought and whether the petitioner suggests that the co-guardians or co-  
14 conservators, if appointed, should be able to act independently or whether  
15 they should be required to act only in concert or only in concert with  
16 regard to specified matters;

17 (13) a declaration that, immediately upon the appointment of a  
18 guardian or conservator in this state, the petitioner will take the necessary  
19 action to terminate the proceedings in the other state; and

20 (14) a request that the court make a determination that the proposed  
21 ward or proposed conservatee is a person who has been previously ad-  
22 judged as impaired in another state, that the court enter one or more of  
23 the orders provided for in sections 14 and 16, and amendments thereto,  
24 and that the court appoint a guardian or conservator, or both, for the  
25 proposed ward or proposed conservatee in Kansas.

26 (c) Any such petition shall be accompanied by a duly authenticated  
27 copy of the order of adjudication and appointment and documents show-  
28 ing the continuing authority of the petitioner in the other state.

29 (d) Any such petition may be accompanied by, or the court may re-  
30 quire that such petition be accompanied by, a proposed guardianship plan  
31 as provided for in section 27, and amendments thereto, or a proposed  
32 conservatorship plan as provided for in section 30, and amendments  
33 thereto, or both.

34 New Sec. 13. (a) The conservator or other similarly empowered fi-  
35 duciary appointed in any other state for a person in need of an ancillary  
36 conservator may file in the district court of any county in which any prop-  
37 erty of the proposed conservatee is situated a verified petition requesting  
38 the appointment of an ancillary conservator in Kansas.

39 (b) The petition shall include:

40 (1) The petitioner's name and address, and a statement that the pe-  
41 titioner is the conservator or other similarly empowered fiduciary ap-  
42 pointed in another state, and that this appointment remains in full force  
43 and effect;

1 (2) the proposed conservatee's name, age, date of birth, address of  
2 permanent residence, and present address or whereabouts, if different  
3 from the proposed conservatee's permanent residence;

4 (3) a statement that the proposed conservatee is a person in need of  
5 an ancillary conservator;

6 (4) the factual basis upon which the petitioner alleges the need for  
7 an ancillary conservatorship in this state;

8 (5) the names and addresses of any spouse, adult children and adult  
9 grandchildren of the proposed conservatee, and those of any parent and  
10 adult siblings of the proposed conservatee, or if no such names or ad-  
11 dresses are known to the petitioner, the name and address of at least one  
12 adult who is nearest in kinship to the proposed conservatee. If no such  
13 names or addresses are known to the petitioner, but the petitioner has  
14 reason to believe such persons exist, then the petition shall state that fact  
15 and that the petitioner has made diligent inquiry to learn those names  
16 and addresses;

17 (6) the name and address of any person or corporation acting for or  
18 nominated to act on behalf of the proposed conservatee in this state pur-  
19 suant to any power of attorney, trust or other fiduciary relationship es-  
20 tablished by any court order, and a description of that authority or rela-  
21 tionship. If not known, the petition shall state that the petitioner has made  
22 diligent inquiry to learn this information;

23 (7) the location and value of the property within Kansas for which an  
24 ancillary conservatorship is being sought;

25 (8) the names and addresses of witnesses by whom the truth of the  
26 petition may be proved;

27 (9) the name, address and relationship to the proposed conservatee,  
28 if any, of the individual or corporation whom the petitioner suggests that  
29 the court appoint as the ancillary conservator, and if the suggested ancil-  
30 lary conservator is under contract with the Kansas guardianship program,  
31 that fact;

32 (10) if the petitioner suggests the appointment of co-ancillary con-  
33 servators, a statement of the reasons why such appointment is sought and  
34 whether the petitioner suggests that the co-ancillary conservators, if ap-  
35 pointed, should be able to act independently or whether they should be  
36 required to act only in concert or only in concert with regard to specified  
37 matters; and

38 (11) a request that the court make a determination that the proposed  
39 conservatee is a person in need of an ancillary conservator, that the court  
40 enter one or more of the orders provided for in sections 14 and 16, and  
41 amendments thereto, and that the court appoint an ancillary conservator  
42 for the proposed conservatee in this state.

43 (c) The petition shall be accompanied by a duly authenticated copy

1 of the order of adjudication and appointment and documents showing  
2 the continuing authority of the petitioner in the other state.

3 (d) Any such petition may be accompanied by, or the court may re-  
4 quire that such petition be accompanied by, a proposed conservatorship  
5 plan as provided for in section 30, and amendments thereto.

6 New Sec. 14. (a) Upon the filing of a petition as provided for in  
7 section 9, and amendments thereto, alleging that the proposed ward or  
8 proposed conservatee is an adult with an impairment in need of a guardian  
9 or conservator, or both, or as provided for in section 11, and amendments  
10 thereto, alleging that the proposed ward or proposed conservatee is a  
11 minor with an impairment in need of a guardian or conservator, or both,  
12 the district court shall issue the following:

13 (1) An order fixing the date, time and place of the trial on the petition.  
14 Such trial, in the court's discretion, may be conducted in a courtroom, a  
15 treatment facility or at some other suitable place. The time fixed in the  
16 order shall in no event be earlier than seven days or later than 21 days  
17 after the date of the filing of the petition. If a demand for a trial by jury  
18 is filed pursuant to subsection (b) of section 18, and amendments thereto,  
19 by the proposed ward or proposed conservatee, the court may continue  
20 the trial and fix a new time and place of the trial at a time beyond the 21  
21 days but within a reasonable time not to exceed 30 days from the date of  
22 the filing of the demand.

23 (2) An order requiring that the proposed ward or proposed conser-  
24 vatee appear at the time and place of the trial unless the court makes a  
25 finding prior to the trial that the presence of the proposed ward or pro-  
26 posed conservatee will be injurious to the person's health or welfare, or  
27 that the proposed ward's or proposed conservatee's impairment is such  
28 that the person could not meaningfully participate in the proceedings, or  
29 that the proposed ward or proposed conservatee has filed with the court  
30 a written waiver of such person's right to appear in person. In any such  
31 case, the court shall enter in the record of the proceedings the facts upon  
32 which the court has found that the presence of the proposed ward or  
33 proposed conservatee at the trial should be excused. Notwithstanding the  
34 foregoing provisions of this subsection, if the proposed ward or proposed  
35 conservatee files with the court at least one day prior to the date of the  
36 trial a written notice stating the person's desire to be present at the trial,  
37 the court shall order that the proposed ward or proposed conservatee  
38 must be present at the trial.

39 (3) An order appointing an attorney to represent the proposed ward  
40 or proposed conservatee. The court shall give preference, in the appoint-  
41 ment of this attorney, to any attorney who has represented the proposed  
42 ward or proposed conservatee in other matters if the court has knowledge  
43 of that prior representation, or to an attorney whom the proposed ward



1 or proposed conservatee has requested. The proposed ward or proposed  
2 conservatee, if an adult, shall have the right to engage an attorney of the  
3 proposed ward's or proposed conservatee's own choice and, in such case,  
4 the attorney appointed by the court shall be relieved of all duties. Any  
5 appointment made by the court shall terminate upon a final determina-  
6 tion of the petition and any appeal therefrom, unless the court continues  
7 the appointment by further order. Thereafter, an attorney may be ap-  
8 pointed by the court if requested, in writing, by the ward, conservatee,  
9 guardian or conservator, or upon the court's own motion.

10 (4) An order fixing the date, time and a place that is in the best  
11 interests of the proposed ward or proposed conservatee, at which the  
12 proposed ward or proposed conservatee shall have the opportunity to  
13 consult with the court appointed attorney. This consultation shall be  
14 scheduled to occur not later than five days prior to the scheduled trial on  
15 the petition, provided that if an examination and evaluation as provided  
16 for in section 15, and amendments thereto, is ordered, then this consul-  
17 tation shall be scheduled to occur prior to the time at which that exami-  
18 nation and evaluation is scheduled to occur.

19 (5) A notice as provided for in section 17, and amendments thereto.

20 (6) An order for an examination and evaluation as provided for in  
21 section 15, and amendments thereto. If the petition is accompanied by a  
22 report of an examination and evaluation of the proposed ward or proposed  
23 conservatee, as provided for in section 9 or 11, and amendments thereto,  
24 and the court determines that such report meets the requirements of  
25 section 15, and amendments thereto, the court may determine that no  
26 additional examination or evaluation is required and that none shall be  
27 ordered unless requested by the proposed ward or proposed conservatee  
28 pursuant to subsection (c) of section 15, and amendments thereto.

29 (b) Upon the filing of a petition as provided for in section 10, and  
30 amendments thereto, alleging that the proposed ward or proposed con-  
31 servatee is a minor in need of a guardian or conservator, or both, the  
32 court shall issue an order fixing the date, time and place of the trial on  
33 the petition. If the petition is filed on behalf of the minor by the minor's  
34 natural guardian, the time of the hearing designated in the order may be  
35 forthwith and without notice. In all other cases the trial shall be held no  
36 earlier than seven days or later than 21 days after the date of the filing  
37 of the petition, unless those persons or agencies entitled to notice pur-  
38 suant to subsection (d) of section 17, and amendments thereto, have en-  
39 tered their appearances, waived notice and consented to the appointment  
40 of the suggested guardian or conservator, or both, in which case the trial  
41 may be held forthwith and without notice.

42 (c) Upon the filing of a petition as provided for in section 12, and  
43 amendments thereto, alleging that the proposed ward or proposed con-

1 servatee is a person who has been previously adjudged as impaired in  
2 another state, the court shall issue an order fixing the date, time and place  
3 of the trial on the petition, which trial shall be held no earlier than seven  
4 days or later than 21 days after the date of the filing of the petition, unless  
5 those persons or agencies entitled to notice pursuant to subsection (f) of  
6 section 17, and amendments thereto, have entered their appearances,  
7 waived notice, agreed to the court's accepting jurisdiction of the case if  
8 transferred from the other state, and consented to the appointment in  
9 Kansas of the suggested guardian or conservator, or both, in which case  
10 the trial may be held forthwith and without notice.

11 (d) Upon the filing of a petition as provided for in section 13, and  
12 amendments thereto, alleging that the proposed conservatee is a person  
13 in need of an ancillary conservator and requesting the appointment of an  
14 ancillary conservator in Kansas, the court shall issue an order fixing the  
15 date, time and place of the trial on the petition, which trial shall be held  
16 no earlier than seven days or later than 21 days after the date of the filing  
17 of the petition, unless those persons or agencies entitled to notice pur-  
18 suant to subsection (e) of section 17, and amendments thereto, have en-  
19 tered their appearances, waived notice and consented to the appointment  
20 in Kansas of the suggested ancillary conservator, in which case the trial  
21 may be held forthwith and without notice.

22 New Sec. 15. (a) Upon the filing of a petition as provided for in  
23 section 9, and amendments thereto, alleging that the proposed ward or  
24 proposed conservatee is an adult with an impairment in need of a guardian  
25 or conservator, or both, or as provided for in section 11, and amendments  
26 thereto, alleging that the proposed ward or proposed conservatee is a  
27 minor with an impairment in need of a guardian or conservator, or both,  
28 the court shall order the proposed ward or proposed conservatee to sub-  
29 mit to an examination and evaluation to be conducted through a general  
30 hospital, psychiatric hospital, community mental health center, commu-  
31 nity developmental disability organization, or by a private physician, psy-  
32 chiatrist, psychologist or other professional appointed by the court who  
33 is qualified to evaluate the proposed ward's or proposed conservatee's  
34 alleged impairment. The order shall be served in the manner provided  
35 for in section 17, and amendments thereto, and may be served at the  
36 same time or after the notice provided for therein.

37 (b) Unless otherwise specified by the court, the report of the exam-  
38 ination and evaluation submitted to the court shall contain:

39 (1) The proposed ward's or proposed conservatee's name, age and  
40 date of birth;

41 (2) a description of the proposed ward's or proposed conservatee's  
42 physical and mental condition;

43 (3) a description of the nature and extent of the proposed ward's or

1 proposed conservatee's cognitive and functional abilities and limitations,  
2 including adaptive behaviors and social skills, and, as appropriate, edu-  
3 cational and developmental potential;

4 (4) a prognosis for any improvement and, as appropriate, any rec-  
5 ommendation for treatment or rehabilitation;

6 (5) a list and description of any prior assessments, evaluations or ex-  
7 aminations of the proposed ward or proposed conservatee, including the  
8 dates thereof, which were relied upon in the preparation of this  
9 evaluation;

10 (6) the date and location where this examination and evaluation oc-  
11 curred, and the name or names of the professional or professionals per-  
12 forming the examination and evaluation and such professional's  
13 qualifications;

14 (7) a statement by the professional that the professional has person-  
15 ally completed an independent examination and evaluation of the pro-  
16 posed ward or proposed conservatee, or by a professional on behalf of  
17 the professionals who have together completed an independent exami-  
18 nation and evaluation of the proposed ward or proposed conservatee that  
19 they have done so, and that the report submitted to the court contains  
20 the results of that examination and evaluation, and the professional's or  
21 professionals' opinion with regard to the issues of whether or not the  
22 proposed ward or proposed conservatee is an adult or a minor with an  
23 impairment in need of a guardian or conservator, or both, and, if ascer-  
24 tainable, whether it would be injurious to the proposed ward or proposed  
25 conservatee to be required to be present at the trial on the petition, or  
26 whether the proposed ward or proposed conservatee could meaningfully  
27 participate in those proceedings; and

28 (8) the signature of the professional who prepared the report.

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

33 (d) In lieu of entering an order for an examination and evaluation as  
34 provided for herein, the court may determine that the report accompa-  
35 nying the petition as provided for in subsection (c) of section 9 or sub-  
36 section (c) of section 11, and amendments thereto, is in compliance with  
37 the requirements of this section and that no further examination or eval-  
38 uation should be required, unless the proposed ward or proposed con-  
39 servatee, or such person's attorney, requests such an examination and  
40 evaluation in writing. Any such request shall be filed with the court, and  
41 a copy thereof delivered to the petitioner, at least four days prior to the  
42 date of the trial. Accompanying the request shall be a statement of the  
43 reasons why an examination and evaluation is requested and the name

1 and address of a qualified professional or facility willing and able to con-  
2 duct this examination and evaluation. If the court orders a further ex-  
3 amination and evaluation, the court may continue the trial and fix a new  
4 date, time and place of the trial at a time not to exceed 30 days from the  
5 date of the filing of the request.

6 New Sec. 16. (a) Upon the filing of a petition as provided for in  
7 section 9, 10, 11, 12 or 13, and amendments thereto, or at any time  
8 thereafter until the trial provided for in section 18, and amendments  
9 thereto, the court may enter any of the following:

10 (1) An order for an investigation and report concerning the proposed  
11 ward's or proposed conservatee's family relationships, past conduct, the  
12 nature and extent of any property or income of the proposed ward or  
13 proposed conservatee; whether the proposed ward or proposed conser-  
14 vatee is likely to injure self or others, or other matters as the court may  
15 specify. If requested to do so by the court, the secretary of social and  
16 rehabilitation services shall conduct this investigation. Otherwise, the  
17 court may appoint any other person who is qualified to conduct this in-  
18 vestigation, and the costs of this investigation shall be assessed as provided  
19 for in section 44, and amendments thereto.

20 (2) Any orders requested or authorized pursuant to section 15, and  
21 amendments thereto.

22 (3) For good cause shown, an order of continuance of the trial set  
23 pursuant to section 14, and amendments thereto.

24 (4) For good cause shown, an order of advancement of the trial set  
25 pursuant to section 14, and amendments thereto.

26 (5) For good cause shown, an order changing the place of the trial  
27 set pursuant to section 14, and amendments thereto.

28 (6) A notice in the manner provided for in section 17, and amend-  
29 ments thereto.

30 (b) Upon the filing of a petition as provided for in section 10, and  
31 amendments thereto, alleging that the proposed ward or proposed con-  
32 servatee is a minor in need of a guardian or conservator, or both, the  
33 court may issue any of the following:

34 (1) An order of temporary custody of the minor.

35 (2) An order requiring that the minor appear at the time and place  
36 of the trial set pursuant to subsection (b) of section 14, and amendments  
37 thereto. If an order to appear is entered, but is later rescinded, the court  
38 shall enter in the record of the proceedings the facts upon which the  
39 court found subsequent to the issuance of the order that the presence of  
40 the minor should be excused.

41 (3) An order appointing an attorney to represent the minor. The court  
42 shall give preference, in the appointment of the attorney, to any attorney  
43 who has represented the minor in other matters if the court has knowl-

1 edge of that prior representation, or to an attorney whom the minor, if  
2 14 years of age or older, has requested. Any appointment made by the  
3 court shall terminate upon a final determination of the petition and any  
4 appeal therefrom, unless the court continues the appointment by further  
5 order. Thereafter, an attorney may be appointed by the court if requested,  
6 in writing, by the guardian, conservator or minor, if 14 years of age or  
7 older, or upon the court's own motion.

8 (4) A notice in the manner provided for in section 17, and amend-  
9 ments thereto.

10 (5) An order for a psychological or other examination and evaluation  
11 of the minor as may be specified by the court. The court may order the  
12 minor to submit to such an examination and evaluation to be conducted  
13 through a general hospital, psychiatric hospital, community mental health  
14 center, community developmental disability organization, or by a private  
15 physician, psychiatrist, psychologist or other person appointed by the  
16 court who is qualified to examine and evaluate the minor. The costs of  
17 this examination and evaluation shall be assessed as provided for in section  
18 44, and amendments thereto.

19 (c) Upon the filing of a petition as provided for in section 11, and  
20 amendments thereto, alleging that the proposed ward or proposed con-  
21 servatee is a minor with an impairment in need of a guardian or conser-  
22 vator, or both, the court may issue an order of temporary custody of the  
23 minor.

24 (d) Upon the filing of a petition as provided for in section 12, and  
25 amendments thereto, alleging that the proposed ward or proposed con-  
26 servatee is a person who has been previously adjudged as impaired in  
27 another state, the court may issue any of the following:

28 (1) An order appointing an attorney to represent the proposed ward  
29 or proposed conservatee. In making this appointment, the court shall  
30 consider the appointment of any attorney who has represented the pro-  
31 posed ward or proposed conservatee in other matters if the court has  
32 knowledge of that prior representation. Any appointment made by the  
33 court shall terminate upon a final determination of the petition and any  
34 appeal therefrom, unless the court continues the appointment by further  
35 order. Thereafter, an attorney may be appointed at any time if requested,  
36 in writing, by the ward, conservatee, guardian or conservator, or upon the  
37 court's own motion.

38 (2) An order requiring that the proposed ward or proposed conser-  
39 vatee appear at the time and place of the trial set pursuant to subsection  
40 (d) of section 14, and amendments thereto. If an order to appear is en-  
41 tered, but later rescinded, the court shall enter in the record of the pro-  
42 ceedings the facts upon which the court found subsequent to the issuance  
43 of the order that the presence of the proposed ward or proposed conser-

1 vatee should be excused.

2 (3) An order for an examination and evaluation of the proposed ward  
3 or proposed conservatee as may be specified by the court. The court may  
4 order the proposed ward or proposed conservatee to submit to such an  
5 examination and evaluation to be conducted through a general hospital,  
6 psychiatric hospital, community mental health center, community devel-  
7 opmental disability organization, or by a private physician, psychiatrist,  
8 psychologist or other person appointed by the court who is qualified to  
9 examine and evaluate the proposed ward or proposed conservatee. The  
10 costs of this examination and evaluation shall be assessed as provided for  
11 in section 44, and amendments thereto.

12 (4) A notice in the manner provided for in section 17, and amendments  
13 thereto.

14 (e) Upon the filing of a petition as provided for in section 13, and  
15 amendments thereto, alleging that the proposed conservatee is a person  
16 in need of an ancillary conservator and requesting the appointment of an  
17 ancillary conservator in Kansas, the court may issue any of the following:

18 (1) An order appointing an attorney to represent the proposed con-  
19 servatee. In making this appointment, the court shall consider the ap-  
20 pointment of any attorney who has represented the proposed conservatee  
21 in other matters if the court has knowledge of that prior representation.  
22 Any appointment made by the court shall terminate upon a final deter-  
23 mination of the petition and any appeal therefrom, unless the court con-  
24 tinues the appointment by further order. Thereafter, an attorney may be  
25 appointed at any time if requested, in writing, by the conservatee or con-  
26 servator, or upon the court's own motion.

27 (2) A notice in the manner provided for in section 17, and amendments  
28 thereto.

29 New Sec. 17. (a) The notice required by subsection (a)(5) of sections  
30 14 and 16, and amendments thereto, and any notice which the court may  
31 require pursuant to section 16, and amendments thereto, shall state:

32 (1) That a petition has been filed alleging that the proposed ward or  
33 proposed conservatee is either an adult with an impairment in need of a  
34 guardian or conservator, or both, or a minor in need of a guardian or  
35 conservator, or both, or a minor with an impairment in need of a guardian  
36 or conservator, or both, or a person who has been previously adjudged as  
37 impaired in another state, or a person in need of an ancillary conservator,  
38 and requesting the appointment of a guardian or a conservator, or both,  
39 or an ancillary conservator in this state;

40 (2) the date, time and place when the trial upon the petition shall be  
41 held;

42 (3) whether the proposed ward or proposed conservatee has been  
43 ordered to appear at this trial, or whether the court has made any finding

1 which excuses the presence of the proposed ward or proposed conser-  
2 vatee at the trial;

3 (4) whether any attorney has been appointed by the court to repre-  
4 sent the proposed ward or proposed conservatee, and if so, the name of  
5 that attorney and the date, time and place where the proposed ward or  
6 proposed conservatee shall have the opportunity to consult with that  
7 attorney;

8 (5) whether the court has entered any order appointing a temporary  
9 guardian or a temporary conservator, or both, or a temporary ancillary  
10 conservator, and if so, the name and address of this individual or  
11 corporation;

12 (6) that if the court has appointed a temporary guardian or a tem-  
13 porary conservator, or both, or a temporary ancillary conservator, that the  
14 proposed ward or proposed conservatee, or certain others, may request  
15 a hearing upon that appointment if that request is made in writing and  
16 filed with the court not later than the third day following the entry of the  
17 ex parte order appointing a temporary guardian or temporary conservator,  
18 or both, or a temporary ancillary conservator, or of the service of that  
19 order upon the proposed ward or proposed conservatee, if later;

20 (7) the name and address of the individual or corporation whom the  
21 petitioner has suggested that the court appoint as the guardian or the  
22 conservator, or both, or as the ancillary conservator;

23 (8) that the proposed ward or proposed conservatee, if alleged to be  
24 an adult with an impairment in need of a guardian or a conservator, or  
25 both, has a right to demand a jury trial by filing a written request for such  
26 with the court at least four days prior to the date of the trial; and

27 (9) that if the proposed ward or proposed conservatee demands a jury  
28 trial, that the trial may have to be continued by the court for a reasonable  
29 time in order to empanel a jury, but that this continuance will not exceed  
30 30 days from the date of the filing of the demand.

31 (b) The court may order any of the following persons to serve the  
32 notice upon the proposed ward or proposed conservatee:

33 (1) The petitioner or the attorney for the petitioner;

34 (2) the attorney appointed by the court to represent the proposed  
35 ward or proposed conservatee;

36 (3) any law enforcement officer; or

37 (4) any other person whom the court finds to be a proper person to  
38 serve this notice.

39 (c) If the proposed ward or proposed conservatee is alleged to be an  
40 adult with an impairment in need of a guardian or conservator, or both:

41 (1) This notice shall be personally served on the proposed ward or  
42 proposed conservatee as soon as possible, but in no case later than 10  
43 days prior to the date of the trial and immediate return thereof shall be

1 made to the court by the person serving this notice. If the proposed ward  
2 or proposed conservatee cannot be personally served with this notice  
3 within Kansas, the court shall direct how this notice shall be served upon  
4 the proposed ward or proposed conservatee.

5 (2) This notice shall be served on the attorney of the proposed ward  
6 or proposed conservatee as soon as possible, but in no case later than 10  
7 days prior to the date of the trial and immediate return thereof shall be  
8 made to the court by the person serving this notice.

9 (3) The court may order that a copy of this notice shall be served on  
10 such other persons as the court determines and in such manner as the  
11 court directs.

12 (d) If the proposed ward or proposed conservatee is alleged to be a  
13 minor in need of a guardian or conservator, or both, or a minor with an  
14 impairment in need of a guardian or conservator, or both:

15 (1) This notice shall be served on the attorney appointed by the court  
16 to represent the minor, if one has been appointed, and on those persons  
17 and agencies, if any, required to be named by the petitioner pursuant to  
18 subsection (b)(5) of section 10, and amendments thereto, as soon as poss-  
19 sible, but in no case later than 10 days prior to the date of the trial and  
20 immediate return thereof shall be made to the court by the person serving  
21 this notice.

22 (2) The court may order that a copy of this notice shall be served on  
23 such other persons, including the minor, as the court determines and in  
24 such manner as the court directs.

25 (e) If the proposed ward or proposed conservatee is alleged to be a  
26 person who has been previously adjudged as impaired in another state:

27 (1) This notice shall be served on the attorney appointed by the court  
28 to represent the proposed ward or proposed conservatee, if one has been  
29 appointed, and on those persons and agencies, if any, required to be  
30 named by the petitioner pursuant to subsections (b)(6) and (b)(7) of sec-  
31 tion 12, and amendments thereto, as soon as possible, but in no case later  
32 than 10 days prior to the date of the trial and immediate return thereof  
33 shall be made to the court by the person serving this notice.

34 (2) The court may order that a copy of this notice shall be served on  
35 such other persons, including the proposed ward or proposed conserva-  
36 tee, as the court determines and in such manner as the court directs.

37 (f) If the proposed conservatee is alleged to be a person in need of  
38 an ancillary conservator:

39 (1) This notice shall be served on the attorney appointed by the court  
40 to represent the proposed conservatee, if one has been appointed, and  
41 on those persons and agencies, if any, required to be named by the pe-  
42 titioner pursuant to subsections (b)(5), (b)(6) and (b)(7) of section 13, and  
43 amendments thereto as soon as possible, but in no case later than 10 days



1 prior to the date of the trial and immediate return thereof shall be made  
2 to the court by the person serving this notice.

3 (2) The court may order that a copy of this notice shall be served on  
4 such other persons, including the proposed conservatee, as the court de-  
5 termines and in such manner as the court directs.

6 (g) If the proposed ward or proposed conservatee is a patient in any  
7 psychiatric hospital, this notice also shall be served on the head of that  
8 hospital.

9 New Sec. 18. (a) The trial upon a petition filed pursuant to section  
10 9, 10, 11, 12 or 13, and amendments thereto, shall be held at the time  
11 and place specified in the court's order entered pursuant to section 14,  
12 and amendments thereto, unless an order of advancement, continuance  
13 or change of place has been issued pursuant to section 16, and amend-  
14 ments thereto, and may be consolidated with the trial provided for in the  
15 care and treatment act for mentally ill persons, K.S.A. 2000 Supp. 59-  
16 2945 *et seq.*, and amendments thereto, or the care and treatment act for  
17 persons with an alcohol or substance abuse problem, K.S.A. 2000 Supp.  
18 59-29b45, and amendments thereto, if the petition also incorporates the  
19 allegations required by, and is filed in compliance with, the provisions of  
20 either of those acts.

21 (b) If the petition alleges that the proposed ward or proposed conser-  
22 servatee is an adult with an impairment in need of a guardian or conser-  
23 vator, or both, the trial may be held to a jury if, at least four days prior  
24 to the date of the trial, a written demand for jury trial is filed with the  
25 court by the proposed ward or proposed conservatee. In all other cases,  
26 the trial shall be held to the court.

27 (c) The jury, if one is demanded, shall consist of six persons and shall  
28 be selected as provided by law. Notwithstanding any provision of K.S.A.  
29 43-166, and amendments thereto, to the contrary, a panel of prospective  
30 jurors may be assembled by the clerk upon less than 20 days notice in  
31 this circumstance. From this panel, 12 qualified jurors who have been  
32 passed for cause shall be empaneled. Prior service as a juror in any other  
33 court shall not exempt, for that reason alone, any person from jury service  
34 hereunder. From the panel so obtained, the proposed ward or proposed  
35 conservatee, or the attorney for the proposed ward or proposed conser-  
36 vatee, shall strike one name; then the petitioner, or the petitioner's at-  
37 torney, shall strike one name; and so on alternatively until each has  
38 stricken three names so as to reach the jury of six persons. During this  
39 process, if either party neglects or refuses to aid in striking the names,  
40 the court shall strike a name on behalf of such party.

41 (d) The petitioner and the proposed ward or proposed conservatee  
42 shall each be afforded an opportunity to appear at the trial, to testify and  
43 to present and cross-examine witnesses. If the trial has been consolidated

1 with a trial being held pursuant to either the care and treatment act for  
2 mentally ill persons or the care and treatment act for persons with an  
3 alcohol or substance abuse problem persons not necessary for the conduct  
4 of the proceedings may be excluded as provided for in those Acts. The  
5 trial shall be conducted in as informal a manner as may be consistent with  
6 orderly procedure. The court shall have the authority to receive all rele-  
7 vant and material evidence which may be offered, including the testimony  
8 or written report, findings or recommendations of any professional or  
9 other person who has examined or evaluated the proposed ward or pro-  
10 posed conservatee and the testimony and written findings and recom-  
11 mendations of the secretary of social and rehabilitation services or any  
12 other person appointed by the court to conduct an investigation pursuant  
13 to section 15, and amendments thereto. Such evidence shall not be priv-  
14 ileged for the purpose of this trial.

15 (e) Upon completion of the trial:

16 (1) If the court finds by clear and convincing evidence that the pro-  
17 posed ward or proposed conservatee is an adult with an impairment in  
18 need of a guardian or a conservator, or both, or a minor in need of a  
19 guardian or a conservator, or both, or a minor with an impairment in need  
20 of a guardian or a conservator, or both, or a person who has been previ-  
21 ously adjudged as impaired in another state, the court, pursuant to section  
22 19, and amendments thereto, shall appoint a qualified and suitable indi-  
23 vidual or corporation as the guardian or conservator, or both, and shall  
24 specify what duties, responsibilities, powers and authorities as provided  
25 for in section 26, 27, 28, 29 or 30, and amendments thereto, the guardian  
26 or conservator shall have. If the court appoints co-guardians or co-con-  
27 servators, or both, the court shall specify whether such co-guardians or  
28 co-conservators, or both, shall have the authority to act independently, to  
29 act only in concert, or under what circumstances or with regard to what  
30 matter they may act independently and when they may act only in concert.

31 (2) If a jury has been demanded in the case of an adult and the jury  
32 finds by clear and convincing evidence that the proposed ward or pro-  
33 posed conservatee is unable to meet essential needs for physical health,  
34 safety or welfare, or is unable to manage such person's estate, then the  
35 court shall determine if the proposed ward or proposed conservatee is in  
36 need of a guardian or a conservator, or both, and if so, the court, pursuant  
37 to section 19, and amendments thereto, shall appoint a qualified and  
38 suitable individual or corporation as the guardian or conservator, or both,  
39 and shall specify what duties, responsibilities, powers and authorities as  
40 provided for in section 26, 27, 28, 29 or 30, and amendments thereto, the  
41 guardian or conservator shall have. If the court appoints co-guardians or  
42 co-conservators, or both, the court shall specify whether such co-guard-  
43 ians or co-conservators, or both, shall have the authority to act indepen-

1 dently or whether they shall be required to act only in concert.

2 (3) If the court finds by clear and convincing evidence that the pro-  
3 posed conservatee is a person in need of an ancillary conservator, the  
4 court, pursuant to section 19, and amendments thereto, shall appoint a  
5 qualified and suitable individual or corporation as the ancillary conser-  
6 vator, and shall specify what duties, responsibilities, powers and author-  
7 ities as provided for in section 29 or 30, and amendments thereto, the  
8 ancillary conservator shall have. If the court appoints co-ancillary conser-  
9 vators, the court shall specify whether such co-ancillary conservators shall  
10 have the authority to act independently or whether they shall be required  
11 to act only in concert.

12 (f) If the court does not find by clear and convincing evidence that  
13 the proposed ward or proposed conservatee is an adult with an impair-  
14 ment in need of a guardian or a conservator, or both, or a minor in need  
15 of a guardian or a conservator, or both, or a minor with an impairment  
16 in need of a guardian or a conservator, or both, or a person who has been  
17 previously adjudged as impaired in another state, or a person in need of  
18 an ancillary conservator, or does not find that the proposed ward or pro-  
19 posed conservatee is in need of a guardian or a conservator, even though  
20 the jury has determined that the proposed ward or proposed conservatee  
21 is unable to meet essential needs for physical health, safety or welfare, or  
22 is unable to manage such person's estate, because other alternative means  
23 exist and are sufficient to meet those needs of the proposed ward or  
24 proposed conservatee, then the court shall deny the requested  
25 appointments.

26 New Sec. 19. (a) The court in appointing a guardian or conservator  
27 shall give consideration to the individual or corporation suggested by:

- 28 (1) The petitioner;
- 29 (2) a natural guardian if such suggestion is made pursuant to section  
30 5, and amendments thereto, or made in any other manner;
- 31 (3) the proposed ward or proposed conservatee, if such suggestion is  
32 made within any power of attorney or made in any other manner;
- 33 (4) a minor who is the proposed ward or proposed conservatee, if  
34 over 14 years of age; or
- 35 (5) the spouse, adult child or other close family member of the pro-  
36 posed ward or proposed conservatee.

37 (b) The court, in appointing a guardian or conservator, shall consider  
38 the workload and capabilities of any suggested guardian or conservator  
39 before making such appointment, and the court shall give particular at-  
40 tention in making such appointment to the number of other cases in  
41 which the suggested guardian or conservator, other than a corporation, is  
42 currently serving as guardian or conservator, or both, particularly if that  
43 number is more than 15 or more wards or conservatees, or both.

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

6 New Sec. 20. (a) When the court appoints an individual or a corpo-  
7 ration as a guardian, the court shall require that the individual or a rep-  
8 resentative on behalf of the corporation file with the court an oath or  
9 affirmation as required by K.S.A. 59-1702, and amendments thereto.

10 (b) When the court appoints an individual or a corporation as a con-  
11 servator, except as provided for in subsections (c), (d) or (e), or in section  
12 6, and amendments thereto, the court shall require that the individual or  
13 a representative on behalf of the corporation file with the court a bond  
14 in the amount of 125% of the combined value of the tangible and intan-  
15 gible personal property in the conservatee's estate and the total of any  
16 annual income from any source which the conservator may be expected  
17 to receive on behalf of the conservatee, minus any reasonably expected  
18 expenses, conditioned upon the faithful discharge of all the duties of the  
19 conservator's trust according to law, and with sufficient sureties as deter-  
20 mined by the court.

21 (c) When the court appoints an individual or a corporation as a con-  
22 servator pursuant to a request for a voluntary conservatorship as provided  
23 for in section 7, and amendments thereto, and the person for whom the  
24 voluntary conservatorship is established has requested that the individual  
25 or corporation appointed not be required to file a bond, the court may  
26 waive the filing of a bond; provided that the court may later require the  
27 filing of a bond if circumstances so require.

28 (d) If, at the time of the appointment of a conservator, there is no  
29 property in the possession of the conservatee requiring a conservatorship,  
30 but the court finds that there is likely to be such at some point in time,  
31 the court may waive the filing of a bond at this time, and order that the  
32 conservator shall immediately file a report with the court upon either  
33 coming into possession of any property of the conservatee, or if the con-  
34 servatee becomes entitled to receive any property which should require  
35 a conservatorship. Upon the filing of such a report, the court, following  
36 any hearing the court may determine appropriate, may require the con-  
37 servator to file a bond as provided for herein.

38 (e) If the conservator appointed is the individual or corporation sug-  
39 gested by a testator or settlor as provided for in section 5, and amend-  
40 ments thereto, and the testator or settlor has provided by will or trust  
41 that no bond should be required of such conservator, the court may waive  
42 the filing of a bond; provided that the court later may require the filing  
43 of a bond if circumstances so require.

1 (f) If the conservator is a bank having trust authority or a trust com-  
2 pany organized and having its principal place of business within the state  
3 of Kansas, the court may waive the filing of a bond.

4 (g) If the conservator appointed is under contract with the Kansas  
5 guardianship program, the Kansas guardianship program shall act as sur-  
6 ety on the bond. The court shall order that a certified copy of the order  
7 appointing a conservator who is under contract with the Kansas guardi-  
8 anship program be sent to the director of the Kansas guardianship  
9 program.

10 (h) If the individual appointed as the guardian or as the conservator,  
11 or both, resides outside of Kansas, the court shall require that person,  
12 and in the case of a corporation being appointed as the guardian or the  
13 conservator, or both, the court shall require a representative of the cor-  
14 poration, to appoint, in writing, a resident agent pursuant to K.S.A. 59-  
15 1706, and amendments thereto.

16 (i) Upon the filing of the required oath or bond, and appointment  
17 and consent of a resident agent, the court shall issue letters of guardi-  
18 anship to the guardian or letters of conservatorship to the conservator, or  
19 both. The court may order that a certified copy of these letters be sent  
20 to such persons or agencies as the court specifies.

21 New Sec. 21. (a) A private, nonprofit corporation organized under  
22 the Kansas general corporation code may act as guardian for an individual  
23 found to be in need of a guardian under the act for obtaining a guardian  
24 or conservator, or both, if the private, nonprofit corporation has been  
25 certified by the secretary of social and rehabilitation services as a suitable  
26 agency to perform the duties of a guardian.

27 (b) The secretary of social and rehabilitation services shall establish  
28 criteria for determining whether a private, nonprofit corporation should  
29 be certified as a suitable agency to perform the duties of a guardian. The  
30 criteria shall be designed for the protection of the ward and shall include,  
31 but not be limited to, the following:

32 (1) Whether the private, nonprofit corporation is capable of perform-  
33 ing the duties of a guardian;

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

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

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

43 (c) Application for certification under this section shall be made to

1 the secretary of social and rehabilitation services in such manner as the  
2 secretary may direct. The secretary of social and rehabilitation services  
3 may suspend or revoke certification of a private, nonprofit corporation  
4 under this section, after notice and hearing, upon a finding that such  
5 corporation has failed to comply with the criteria established by rules and  
6 regulations under subsection (b). Such corporation shall not be appointed  
7 as a guardian during the period of time the certificate is suspended or  
8 revoked.

9 (d) No private, nonprofit corporation shall be eligible for certification  
10 under this section if such corporation provides residential care in an in-  
11 stitution or community based program or is the owner, part owner or  
12 operator of an adult care home, lodging establishment or institution en-  
13 gaged in the care, treatment or housing of any person who is physically  
14 or mentally disabled or aged.

15 (e) The secretary of social and rehabilitation services may adopt rules  
16 and regulations necessary to administer the provisions of this section.

17 New Sec. 22. (a) At any time after the filing of the petition provided  
18 for in section 9, 10, 11 or 12, and amendments thereto, but prior to the  
19 trial thereon, the court, upon the request of the proposed ward or pro-  
20 posed conservatee, or upon the court's own motion, may issue an order  
21 of referral for trial to the district court of:

22 (1) The county of residence of the proposed ward or proposed  
23 conservatee;

24 (2) the county wherein the proposed ward or proposed conservatee  
25 may be found; or

26 (3) any other county, if the referral has been requested by the pro-  
27 posed ward or proposed conservatee and the court finds that the proposed  
28 ward or proposed conservatee cannot obtain a fair trial otherwise.

29 (b) If the petition filed pursuant to section 9, 10, 11 or 12, and amend-  
30 ments thereto, is filed in a county in which the proposed ward or proposed  
31 conservatee is found because the proposed ward or proposed conservatee  
32 is confined to a psychiatric hospital, the court may not issue an order of  
33 referral for trial pursuant to this section unless the proposed ward or  
34 proposed conservatee has requested or consented to this referral.

35 (c) When any order of referral for trial has been issued pursuant to  
36 this section, the court shall transmit to the district court to which the  
37 referral has been made a certified copy of all pleadings and orders in the  
38 case.

39 (d) Upon receipt of an order of referral for trial and certified copies  
40 of the pleadings and orders in the case, the district court to which a  
41 referral has been made shall cause notice of the referral for trial to be  
42 given to all persons entitled to notice pursuant to section 17, and amend-  
43 ments thereto, and shall thereafter proceed in the case as if the petition

1 had been originally filed therein, except that if the original court having  
2 venue has previously set the matter for trial pursuant to section 14, and  
3 amendments thereto, but the court to which the order of referral for trial  
4 has been made cannot conduct the trial at that time because notice of a  
5 change of location of the trial cannot be served on any interested party  
6 at least 48 hours prior to the trial, or because of scheduling conflicts, then  
7 the court to which the matter has been transferred for trial may set a new  
8 date and time for the trial at a time not to exceed 21 days from the  
9 issuance of the order of referral for trial, and shall cause notice thereof  
10 to be given as provided for in section 17, and amendments thereto.

11 (e) At the conclusion of the trial held pursuant to section 18, and  
12 amendments thereto, the court to which the matter has been referred  
13 for trial shall determine the issues as provided for in subsection (d) of  
14 section 18, and amendments thereto, and may deny the request contained  
15 in the petition as the findings of the court require, but shall not appoint  
16 a guardian or a conservator even if the need for such has been shown. In  
17 such case, the court shall transmit the findings of the court following the  
18 trial, along with any statement of the costs incurred, and a certified copy  
19 of all pleadings filed and orders entered during the course of the referral  
20 and trial, to the original court having venue.

21 (f) Upon receipt of such findings, pleadings and orders, the original  
22 court having venue shall proceed as provided for under this act, and may  
23 appoint the guardian or conservator, or both.

24 New Sec. 23. (a) At any time after the trial and appointment of a  
25 guardian or conservator as provided for in section 18, and amendments  
26 thereto, and upon the written request of the guardian or conservator, or  
27 upon the court's own motion, and after notice to any persons as the court  
28 may direct, the court may transfer venue to another district court for  
29 good cause shown. In such case, the transferring court shall transmit to  
30 the court to which venue is being transferred a certified copy of all plead-  
31 ings and orders in the case.

32 (b) Any district court to which venue is transferred shall proceed in  
33 the case as if the petition and all proceedings to that point had originally  
34 been filed or occurred therein. In the event that, due to the transfer of  
35 venue, notice of a change of location of a hearing previously scheduled is  
36 required, but cannot be served on any interested party at least 48 hours  
37 prior to the hearing, or if any hearing previously scheduled by the trans-  
38 ferring court cannot be held as scheduled by the receiving court because  
39 of scheduling conflicts, then the receiving court may continue the hearing  
40 for up to seven full working days to allow adequate time for notice to be  
41 given and the hearing to be held.

42 New Sec. 24. (a) At any time after the filing of the petition provided  
43 for in section 9, 10, 11, 12 or 13, and amendments thereto, but prior to

1 the trial provided for in section 18, and amendments thereto, any person  
2 may file in addition to that original petition, or as a part thereof, a verified  
3 petition requesting the appointment of a temporary guardian or a tem-  
4 porary conservator, or both, except if the petition alleges that the pro-  
5 posed conservatee is a person in need of an ancillary conservator, and  
6 requests the appointment of an ancillary conservator in Kansas, in which  
7 case the petition may request the appointment of a temporary ancillary  
8 conservator. The petition shall include:

9 (1) The petitioner's name and address;

10 (2) the proposed ward's or proposed conservatee's name, age, date  
11 of birth, address of permanent residence, and present address or where-  
12 abouts, if different from the proposed ward's or proposed conservatee's  
13 permanent residence;

14 (3) a statement that it is the petitioner's belief that there is an im-  
15 minent danger to the physical health or safety of the proposed ward re-  
16 quiring immediate action to be taken to protect the proposed ward, or  
17 that there is an imminent danger that the estate of the proposed conser-  
18 vatee will be significantly depleted unless immediate action is taken to  
19 protect the estate, or both;

20 (4) the factual basis upon which the petitioner alleges this imminent  
21 danger;

22 (5) the names and addresses of witnesses by whom the truth of this  
23 petition may be proved;

24 (6) the name, address and relationship to the proposed ward or pro-  
25 posed conservatee, if any, of the individual or corporation whom the pe-  
26 titioner suggests that the court appoint as the temporary guardian or tem-  
27 porary conservator, or both, and if the proposed temporary guardian or  
28 temporary conservator is under contract with the Kansas guardianship  
29 program, that fact; and

30 (7) a request that the court make an ex parte determination that there  
31 exists such imminent danger, and that the court appoint a temporary  
32 guardian or a temporary conservator, or both, with such powers as the  
33 court deems necessary to protect the proposed ward or the estate of the  
34 proposed conservatee.

35 (b) If the court determines that there is probable cause to believe  
36 that the proposed ward or proposed conservatee is an adult with an im-  
37 pairment in need of a guardian or a conservator, or both, or is a minor in  
38 need of a guardian or a conservator, or both, or is a minor with an im-  
39 pairment in need of a guardian or a conservator, or both, or is a person  
40 who has been previously adjudged as impaired in another state, or is a  
41 person in need of an ancillary conservator, as alleged in the original pe-  
42 tition, and that there exists an imminent danger to the physical health or  
43 safety of the proposed ward, or that there exists an imminent danger that



1 the estate of the proposed conservatee will be significantly depleted, the  
2 court may enter an ex parte emergency order appointing a temporary  
3 guardian or a temporary conservator, or both, and the court shall specify  
4 what powers and duties as provided for in section 26, 27, 28, 29, 30 or  
5 31, and amendments thereto, the temporary guardian or temporary con-  
6 servator shall have. The court may further authorize the temporary guard-  
7 ian or temporary conservator to seek appropriate injunctive or other im-  
8 mediate relief from any appropriate court or other authority.

9 (c) If the court enters an ex parte order appointing a temporary  
10 guardian or a temporary conservator, or both, the proposed ward or pro-  
11 posed conservatee, the attorney for the proposed ward or proposed con-  
12 servatee, the spouse of the proposed ward or proposed conservatee, or  
13 in the case of a minor, the natural guardian of the minor, may request a  
14 hearing on the matter if a written request for such is filed with the court  
15 not later than the third day following the entry of the ex parte order, or  
16 of service of the ex parte order upon the proposed ward or proposed  
17 conservatee, if later. Upon receipt of such a request, the court shall fix  
18 the time and place for a hearing upon the request and shall direct how  
19 and to whom notice of such hearing shall be given.

20 (d) In lieu of entering an ex parte emergency order of appointment  
21 of a temporary guardian or a temporary conservator, or both, the court  
22 may deny the relief requested or set the time and place for a hearing to  
23 be held on the request for the appointment of a temporary guardian or  
24 a temporary conservator, or both, which hearing shall be held not later  
25 than the second day following the filing of the petition, excluding any  
26 Saturday, Sunday or legal holiday. The court may direct that notice  
27 thereof be given to the petitioner, the original petitioner, if different, the  
28 proposed ward or proposed conservatee, the spouse of the proposed ward  
29 or proposed conservatee, in the case of a minor, the natural guardian of  
30 the minor, and such other persons as the court determines appropriate.  
31 The court shall determine by whom and in what manner such notice shall  
32 be given. The court may enter an order requiring that the proposed ward  
33 or proposed conservatee appear at the time and place of the hearing  
34 unless the court makes a finding prior to the hearing that the presence  
35 of the proposed ward or proposed conservatee will be injurious to the  
36 person's health or welfare, or that the proposed ward's or proposed con-  
37 servatee's impairment is such that the person could not participate in the  
38 proceedings, or that the proposed ward or proposed conservatee has filed  
39 with the court a written waiver of such person's right to appear in person.  
40 In any such case, the court shall enter in the record of the proceedings  
41 the facts upon which the court has found that the presence of the pro-  
42 posed ward or proposed conservatee at the hearing should be excused.

43 (e) Any hearing held pursuant to subsection (c) or (d) shall be con-

1 ducted in as informal a manner as may be consistent with orderly pro-  
2 cedure. The rules governing evidentiary and procedural matters shall be  
3 applied in a manner so as to facilitate informal, efficient presentation of  
4 all relevant, probative evidence and resolution of the issues with due  
5 regard for the interests of all parties.

6 (f) If after any hearing held pursuant to subsection (c) or (d) the court  
7 determines that there is probable cause to believe that the proposed ward  
8 or proposed conservatee is an adult with an impairment in need of a  
9 guardian or a conservator, or both, or a minor in need of a guardian or a  
10 conservator, or both, or a minor with an impairment in need of a guardian  
11 or a conservator, or both, or a person who has been previously adjudged  
12 as impaired in another state, or a person in need of an ancillary conser-  
13 vator, as alleged in the original petition, and that there exists an imminent  
14 danger to the physical health or safety of the proposed ward, or that there  
15 exists an imminent danger that the estate of the proposed conservatee  
16 will be significantly depleted, the court may appoint, or continue the  
17 appointment of, a temporary guardian or a temporary conservator, or  
18 both, and the court shall specify what duties, responsibilities, powers and  
19 authorities as provided for in section 26, 27, 28, 29 or 30, and amendments  
20 thereto, the temporary guardian or temporary conservator shall have. The  
21 court may further authorize the temporary guardian or temporary con-  
22 servator to seek appropriate injunctive or other immediate relief from any  
23 appropriate court or other authority. Otherwise, if the court determines  
24 that there is probable cause to believe that the proposed ward or proposed  
25 conservatee is an adult with an impairment in need of a guardian or a  
26 conservator, or both, or a minor in need of a guardian or a conservator,  
27 or both, or a minor with an impairment in need of a guardian or a con-  
28 servator, or both, or a person who has been previously adjudged as im-  
29 paired in another state, or a person in need of an ancillary conservator,  
30 as alleged in the original petition, but that there is not probable cause to  
31 believe that there exists an imminent danger to the physical health or  
32 safety of the proposed ward, or that there exists an imminent danger that  
33 the estate of the proposed conservatee will be significantly depleted, the  
34 court shall deny the request for the appointment of a temporary guardian  
35 or a temporary conservator, or both, or shall terminate the earlier ap-  
36 pointment of the temporary guardian or temporary conservator, or both,  
37 but shall continue the matter to trial on the original petition provided for  
38 in section 18, and amendments thereto.

39 (g) The appointment and authority of any temporary guardian or tem-  
40 porary conservator shall expire at the conclusion of the trial provided for  
41 in section 18, and amendments thereto, if the petition is denied, or upon  
42 the issuance of appropriate letters to any guardian or conservator ap-  
43 pointed by the court at the conclusion of the trial, or as otherwise ordered

1 by the court, but such expiration shall not affect the validity of any action  
2 taken pursuant to the authority of the temporary guardian or temporary  
3 conservator during the time of such person's appointment. The temporary  
4 guardian or temporary conservator shall be required to provide an ac-  
5 counting as directed by the court.

6 (h) If, after any hearing held pursuant to subsection (c) or (d), the  
7 court finds that there has not been shown sufficient evidence to cause  
8 the court to believe that the proposed ward or proposed conservatee is  
9 an adult with an impairment in need of a guardian or a conservator, or  
10 both, or a minor in need of a guardian or a conservator, or both, or a  
11 minor with an impairment in need of a guardian or a conservator, or both,  
12 or a person who has been previously adjudged as impaired in another  
13 state, or a person in need of an ancillary conservator, as alleged in the  
14 original petition, the court shall dismiss the petition requesting the ap-  
15 pointment of a temporary guardian or a temporary conservator, or both,  
16 and may dismiss the original petition.

17 New Sec. 25. (a) Any person may file at any time after the filing of  
18 the petition provided for in section 9, 10, 11 or 12, and amendments  
19 thereto, in addition to that original petition, or as a part thereof, or at any  
20 time after the appointment of a guardian or a conservator as provided for  
21 in section 18, and amendments thereto, a verified petition requesting the  
22 appointment of a standby guardian or a standby conservator, or both. The  
23 petition shall include:

24 (1) The petitioner's name and address, and if the petitioner is the  
25 ward's or conservatee's court appointed guardian or conservator, that fact;

26 (2) the proposed ward's, ward's, proposed conservatee's or conser-  
27 vatee's name, age, date of birth, address of permanent residence, and  
28 present address or whereabouts, if different from the proposed ward's,  
29 ward's, proposed conservatee's or conservatee's permanent residence;

30 (3) the name and address of the ward's or conservatee's court ap-  
31 pointed guardian or conservator, if different from the petitioner;

32 (4) the factual basis upon which the petitioner alleges the need for a  
33 standby guardian or standby conservator, or both, or that it would be in  
34 the best interests of the proposed ward, ward, proposed conservatee or  
35 conservatee to have the court appoint a standby guardian or standby con-  
36 servator, or both;

37 (5) the names and addresses of witnesses by whom the truth of this  
38 petition may be proved;

39 (6) the name, address and relationship to the proposed ward, ward,  
40 proposed conservatee or conservatee, if any, of the individual or corpo-  
41 ration whom the petitioner suggests that the court appoint as the standby  
42 guardian or standby conservator, and if the suggested standby guardian  
43 or conservator is under contract with the Kansas guardianship program,

1 that fact; and

2 (7) a request that the court make a determination that there is a need  
3 for the court to appoint a standby guardian or a standby conservator, or  
4 both, or that it would be in the best interests of the proposed ward, ward,  
5 proposed conservatee or conservatee for the court to appoint a standby  
6 guardian or standby conservator, or both, and that the court make such  
7 appointment.

8 (b) When the court appoints either an individual or a corporation as  
9 a guardian or a conservator, or both, the court may appoint an additional  
10 individual or corporation as the standby guardian or standby conservator,  
11 or both. Such standby guardian or conservator shall be selected in ac-  
12 cordance with the provisions of section 19, and amendments thereto.

13 (c) If the court appoints a standby guardian, the court shall require  
14 that the individual or a representative on behalf of the corporation file  
15 with the court an oath or affirmation as required by K.S.A. 59-1702, and  
16 amendments thereto, and upon the filing of such oath or affirmation, the  
17 court may issue letters of authority to the standby guardian.

18 (d) If the court appoints a standby conservator, the court shall require  
19 that the individual or a representative on behalf of the corporation file  
20 with the court a bond in such amount and with such surety as the court  
21 shall specify, and upon the filing of such bond, if required, the court may  
22 issue letters of authority to the standby conservator.

23 (e) A standby guardian shall have the authority and responsibility to  
24 assume the duties, responsibilities, powers and authorities assigned to the  
25 guardian upon the temporary absence or impairment of the guardian, or  
26 the resignation or death of the guardian. Within 10 days of such assump-  
27 tion, the standby guardian shall file with the court a written notice of that  
28 fact and a written report of the circumstances which caused the standby  
29 guardian to have assumed those duties, responsibilities, powers and au-  
30 thorities. The report shall specify whether such assumption is intended  
31 to be only temporary and the date by which it is expected that the guard-  
32 ian shall be able to reassume such duties, responsibilities, powers and  
33 authorities, or that the guardian is thought to be permanently unable to  
34 reassume such duties, responsibilities, powers and authorities. This notice  
35 and report may be accompanied by or include a petition pursuant to  
36 section 39, and amendments thereto, requesting the appointment of a  
37 successor guardian.

38 (f) A standby conservator shall have the authority and responsibility  
39 to assume the duties, responsibilities, powers and authorities assigned to  
40 the conservator upon the temporary absence or impairment of the con-  
41 servator, or the resignation or death of the conservator, only if the standby  
42 conservator shall file with the court a written notice of temporary absence,  
43 impairment, resignation or death of the conservator. The notice shall

1 specify if the absence or impairment of the conservator is expected to be  
2 only temporary, the date by which it is expected that the conservator shall  
3 be able to reassume such duties, responsibilities, powers and authorities,  
4 and the reasons why the standby conservator believes it is necessary for  
5 the standby conservator to assume the duties, responsibilities, powers and  
6 authorities of the conservator. Otherwise, the notice shall advise the court  
7 that proceedings pursuant to section 39, and amendments thereto, to  
8 appoint a successor conservator are required, or the notice may be ac-  
9 companied by or include a petition requesting the appointment of a suc-  
10 cessor conservator. Upon receipt of such notice, the court may specify a  
11 bond that the standby conservator shall file with the court before assum-  
12 ing such duties, responsibilities, powers and authorities, or may authorize  
13 the standby conservator to assume such of the conservator's duties, re-  
14 sponsibilities, powers and authorities as the court shall specify.

15 (g) Upon receipt of a notice as provided for in subsection (e) or (f),  
16 the court may set a hearing to review the circumstances of the ward or  
17 conservatee as provided for in section 35 or 36, and amendments thereto,  
18 or may otherwise proceed pursuant to section 39, and amendments  
19 thereto, to remove the guardian or conservator, or both, and to appoint  
20 a successor guardian or conservator, or both.

21 (h) If before proceedings pursuant to section 39, and amendments  
22 thereto, to remove the guardian or conservator, or both, or to appoint a  
23 successor guardian or conservator, or both, have been commenced, the  
24 guardian or conservator is able to reassume the duties, responsibilities,  
25 powers and authorities of such appointment, the guardian or conservator,  
26 or both, shall so notify the court, in writing, of that reassumption and  
27 appropriately shall report to the court within the next scheduled report  
28 or accounting as required pursuant to section 34, and amendments  
29 thereto. Such report or accounting may include or attach a report or  
30 accounting of the standby guardian or standby conservator.

31 New Sec. 26. (a) (1) The individual or corporation appointed by the  
32 court to serve as the guardian shall carry out diligently and in good faith,  
33 the general duties and responsibilities, and shall have the general powers  
34 and authorities, provided for in this section as well as any specific duties,  
35 responsibilities, powers and authorities assigned to the guardian by the  
36 court. In doing so, a guardian shall at all times be subject to the control  
37 and direction of the court, and shall act in accordance with the provisions  
38 of any guardianship plan filed with the court pursuant to section 27, and  
39 amendments thereto. The court shall have the authority to appoint coun-  
40 sel for the guardian, and the fees of such attorney may be assessed as  
41 costs pursuant to section 44, and amendments thereto.

42 (2) A guardian shall become and remain personally acquainted with  
43 the ward, the spouse of the ward and with other interested persons as-

1 sociated with the ward and who are knowledgeable about the ward, the  
2 ward's needs and the ward's responsibilities. A guardian shall exercise  
3 authority only as necessitated by the ward's limitations. A guardian shall  
4 encourage the ward to participate in making decisions affecting the ward.  
5 A guardian shall encourage the ward to act on the ward's own behalf to  
6 the extent the ward is able. A guardian shall encourage the ward to de-  
7 velop or regain the skills and abilities necessary to meet the ward's own  
8 essential needs and to otherwise manage the ward's own affairs. In making  
9 decisions on behalf of the ward, a guardian shall consider the expressed  
10 desires and personal values of the ward to the extent known to the guard-  
11 ian. A guardian shall strive to assure that the personal, civil and human  
12 rights of the ward are protected. A guardian shall at all times act in the  
13 best interests of the ward and shall exercise reasonable care, diligence  
14 and prudence.

15 (b) A guardian shall have the following general duties, responsibili-  
16 ties, powers and authorities:

17 (1) If the ward is a minor, to have the custody and control of the  
18 minor, and to provide for the minor's care, treatment, habilitation, edu-  
19 cation, support and maintenance;

20 (2) if the ward is an adult, to take charge of the person of the ward,  
21 and to provide for the ward's care, treatment, habilitation, education,  
22 support and maintenance;

23 (3) to consider and either provide on behalf of the ward necessary or  
24 required consents or refuse the same;

25 (4) to assure that the ward resides in the least restrictive setting ap-  
26 propriate to the needs of the ward and which is reasonably available;

27 (5) to assure that the ward receives any necessary and reasonably  
28 available medical care, consistent with the provisions of section 28, and  
29 amendments thereto, when applicable, and any reasonably available non-  
30 medical care or other services as may be needed to preserve the health  
31 of the ward or to assist the ward to develop or retain skills and abilities;

32 (6) to promote and protect the comfort, safety, health and welfare of  
33 the ward;

34 (7) to make necessary determinations and arrangements for, and to  
35 give the necessary consents in regard to, the ward's funeral arrangements,  
36 burial or cremation, the performance of an autopsy upon the body of the  
37 ward, and anatomical gifts of the ward, subject to the provisions and  
38 limitations provided for in K.S.A. 65-2893 and 65-3210 and K.S.A. 2000  
39 Supp. 65-1734, and amendments thereto; and

40 (8) to exercise all powers and to discharge all duties necessary or  
41 proper to implement the provisions of this section.

42 (c) A guardian shall not be obligated by virtue of the guardian's ap-  
43 pointment to use the guardian's own financial resources for the support

1 of the ward.

2 (d) A guardian shall not be liable to a third person for the acts of the  
3 ward solely by virtue of the guardian's appointment, nor shall a guardian  
4 who exercises reasonable care in selecting a third person to provide any  
5 medical or other care, treatment or service for the ward be liable for any  
6 injury to the ward resulting from the wrongful conduct of that third  
7 person.

8 (e) A guardian shall not have the power:

9 (1) To prohibit the marriage or divorce of the ward;

10 (2) to consent, on behalf of the ward, to the termination of the ward's  
11 parental rights;

12 (3) to consent to the adoption of the ward, unless approved by the  
13 court;

14 (4) to consent, on behalf of the ward, to any psychosurgery, removal  
15 of any bodily organ, or amputation of any limb, unless such surgery, re-  
16 moval or amputation has been approved in advance by the court, except  
17 in an emergency and when necessary to preserve the life of the ward or  
18 to prevent serious and irreparable impairment to the physical health of  
19 the ward;

20 (5) to consent, on behalf of the ward, to the sterilization of the ward,  
21 unless approved by the court following a due process hearing held for  
22 the purposes of determining whether to approve such, and during which  
23 hearing the ward is represented by an attorney appointed by the court;

24 (6) to consent, on behalf of the ward, to the performance of any  
25 experimental biomedical or behavioral procedure on the ward, or for the  
26 ward to be a participant in any biomedical or behavioral experiment, with-  
27 out the prior review and approval of such by either an institutional review  
28 board as provided for in title 45, part 46 of the code of federal regulations,  
29 or if such regulations do not apply, then by a review committee estab-  
30 lished by the agency, institution or treatment facility at which the pro-  
31 cedure or experiment is proposed to occur, composed of members se-  
32 lected for the purposes of determining whether the proposed procedure  
33 or experiment:

34 (A) Does not involve any significant risk of harm to the physical or  
35 mental health of the ward, or the use of aversive stimulants, and is in-  
36 tended to preserve the life or health of the ward or to assist the ward to  
37 develop or regain skills or abilities; or

38 (B) involves a significant risk of harm to the physical or mental health  
39 of the ward, or the use of an aversive stimulant, but that the conducting  
40 of the proposed procedure or experiment is intended either to preserve  
41 the life of the ward, or to significantly improve the quality of life of the  
42 ward, or to assist the ward to develop or regain significant skills or abilities,  
43 and that the guardian has been fully informed concerning the potential

1 risks and benefits of the proposed procedure or experiment or of any  
2 aversive stimulant proposed to be used, and as to how and under what  
3 circumstances the aversive stimulant may be used, and has specifically  
4 consented to such;

5 (7) to consent, on behalf of the ward, to the withholding of life-saving  
6 medical care, treatment, services or procedures, except:

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

10 (B) if the ward, prior to the court's appointment of a guardian pur-  
11 suant to section 18, and amendments thereto, shall have executed a du-  
12 rable power of attorney for health care decisions pursuant to K.S.A. 58-  
13 629, and amendments thereto, and such shall not have been revoked by  
14 the ward prior thereto, and there is included therein any provision rele-  
15 vant to the withholding of life-saving medical care, treatment, services or  
16 procedures, then the guardian shall have the authority to act as provided  
17 for therein, even if the guardian has revoked or otherwise amended that  
18 power of attorney pursuant to the authority of K.S.A. 58-627, and amend-  
19 ments thereto, or the guardian may allow the agent appointed by the  
20 ward to act on the ward's behalf if the guardian has not revoked or oth-  
21 erwise amended that power of attorney; or

22 (C) in the circumstances where the ward's treating physician shall  
23 certify in writing to the guardian that the ward is suffering from an illness  
24 for which further treatment, other than for the relief of pain, would not  
25 likely prolong the life of the ward other than by artificial means, nor would  
26 be likely to restore to the ward any significant degree of capabilities be-  
27 yond those the ward currently possesses, and which opinion is concurred  
28 in by either a second physician or by any "medical ethics" or similar  
29 committee established by the hospital or treatment facility at which the  
30 ward is being treated, for the purposes of reviewing such circumstances  
31 and the appropriateness of any type of "comfort care only" physician's  
32 order;

33 (8) to consent, on behalf of the ward, to the withdrawal of life-sus-  
34 taining medical care, treatment, services or procedures, except:

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

38 (B) if the ward, prior to the court's appointment of a guardian pur-  
39 suant to section 18, and amendments thereto, shall have executed a du-  
40 rable power of attorney for health care decisions pursuant to K.S.A. 58-  
41 629, and amendments thereto, and such shall not have been revoked by  
42 the ward prior thereto, and there is included therein any provision rele-  
43 vant to the withdrawal of life-sustaining medical care, treatment, services



1 or procedures, then the guardian shall have the authority to act as pro-  
2 vided for therein, even if the guardian has revoked or otherwise amended  
3 that power of attorney pursuant to the authority of K.S.A. 58-627, and  
4 amendments thereto, or the guardian may allow the agent appointed by  
5 the ward to act on the ward's behalf if the guardian has not revoked or  
6 otherwise amended that power of attorney; or

7 (C) in the circumstances where the ward's treating physician shall  
8 certify in writing to the guardian that the ward is in a vegetative state  
9 without likelihood of reversal or is suffering from an illness for which  
10 further treatment, other than for the relief of pain, would not likely pro-  
11 long the life of the ward other than by artificial means, nor would be likely  
12 to restore to the ward any significant degree of capabilities beyond those  
13 the ward currently possesses, and which opinion is concurred in by either  
14 a second physician or by any "medical ethics" or similar committee es-  
15 tablished by the hospital or treatment facility at which the ward is being  
16 treated, for the purposes of reviewing such circumstances and the appro-  
17 priateness of any type of physician's order which would have the effect  
18 of withdrawing life-sustaining care;

19 (9) to exercise any control or authority over the ward's estate, except  
20 if the court shall specifically authorize such. The court may assign such  
21 authority to the guardian, including the authority to establish certain  
22 trusts as provided in section 31, and amendments thereto, and may waive  
23 the requirement of the posting of a bond, only if:

24 (A) Initially, the combined value of any funds and property in the  
25 possession of the ward or in the possession of any other person or entity,  
26 but which the ward is otherwise entitled to possess, equals \$10,000 or  
27 less; and

28 (B) either the court requires the guardian to report to the court the  
29 commencement of the exercising of such authority, or requires the guard-  
30 ian to specifically request of the court the authority to commence the  
31 exercise of such authority, as the court shall specify; and

32 (C) the court also requires the guardian, whenever the combined  
33 value of such funds and property exceeds \$10,000, to:

34 (i) File a guardianship plan as provided for in section 27, and amend-  
35 ments thereto, which contains elements similar to those which would be  
36 contained in a conservatorship plan as provided for in section 29, and  
37 amendments thereto;

38 (ii) petition the court for appointment of a conservator as provided  
39 for in section 9, 10 or 11, and amendments thereto; or

40 (iii) notify the court as the court shall specify that the value of the  
41 conservatee's estate has equaled or exceeded \$10,000, if the court has  
42 earlier appointed a conservator but did not issue letters of conservatorship  
43 pending such notification; and

1 (10) to place the ward in a treatment facility as defined in section 28,  
2 and amendments thereto, except if authorized by the court as provided  
3 for therein.

4 (f) The guardian shall file with the court reports concerning the status  
5 of the ward and the actions of the guardian as the court shall direct  
6 pursuant to section 35, and amendments thereto.

7 New Sec. 27. (a) At any time, the court may require the guardian,  
8 or the guardian may at any time choose, to develop and file with the court  
9 a plan for the care of the ward. This plan shall be developed consistent  
10 with the provisions of subsection (a) of section 26, and amendments  
11 thereto. This plan may provide for, but need not be limited to providing  
12 for:

13 (1) Where the ward will reside, including any proposal to admit the  
14 ward to any nursing facility;

15 (2) what degree of autonomy the ward will have with regard to mak-  
16 ing choices concerning such matters as attending any educational or vo-  
17 cational training, employment, volunteering for any type of service or  
18 activity, traveling independently, and obtaining either routine or specified  
19 medical care without the guardian's consent, and what restrictions the  
20 guardian will place upon the ward with regard to such choices; and

21 (3) what restrictions, if any, the guardian will place on whom the ward  
22 may associate with, and if so, the names of any persons the guardian will  
23 restrict from association with the ward.

24 (b) If the court has not also appointed a conservator for the ward,  
25 the court may further require the guardian, or the guardian may choose,  
26 to include as a part of the guardian's plan, what restrictions, if any, the  
27 guardian will place upon the ward's use of the ward's financial assets or  
28 the ward's access to those assets. In any case, the court shall not approve  
29 any guardianship plan which does not comply with the provisions of sub-  
30 section (e)(9) of section 26, and amendments thereto, if applicable.

31 (c) If required by the court, the court may set a date by which this  
32 guardianship plan shall be filed with the court. Otherwise, the guardian  
33 may at any time file a plan with the court. Upon the filing of a plan, the  
34 court may require the guardian to give notice thereof to such persons as  
35 the court directs. Any interested party may request that the court conduct  
36 a hearing concerning any plan filed with the court. The court may require  
37 the guardian to amend or withdraw any plan filed.

38 (d) Any guardianship plan filed with the court shall be effectuated by  
39 the guardian to the maximum extent possible consistent with any changing  
40 circumstances of the ward. Within each report concerning the status of  
41 the ward submitted to the court as the court directs pursuant to section  
42 35, and amendments thereto, the guardian shall explain any actions taken  
43 in deviance from the plan and the reasons therefor.

1 (e) At any time deemed appropriate by the guardian, the guardian  
2 may file a revised guardianship plan consistent with the provisions of this  
3 section.

4 New Sec. 28. (a) At any time after the filing of the petition provided  
5 for in section 9, 10, 11 or 12, and amendments thereto, any person may  
6 file in addition to that original petition, or as a part thereof, or at any time  
7 after the appointment of a temporary guardian as provided for in section  
8 24, and amendments thereto, or a guardian as provided for in section 18,  
9 and amendments thereto, the temporary guardian or guardian may file,  
10 a verified petition requesting that the court grant authority to the tem-  
11 porary guardian or guardian to admit the proposed ward or ward to a  
12 treatment facility and to consent to the care and treatment of the pro-  
13 posed ward or ward therein. The petition shall include:

14 (1) The petitioner's name and address, and if the petitioner is the  
15 proposed ward's or ward's court appointed temporary guardian or guard-  
16 ian, that fact;

17 (2) the proposed ward's or ward's name, age, date of birth, address  
18 of permanent residence, and present address or whereabouts, if different  
19 from the proposed ward's or ward's permanent residence;

20 (3) the name and address of the proposed ward's or ward's court  
21 appointed temporary guardian or guardian, if different from the  
22 petitioner;

23 (4) the factual basis upon which the petitioner alleges the need for  
24 the proposed ward or ward to be admitted to and treated at a treatment  
25 facility, or for the proposed ward or ward to continue to be treated at the  
26 treatment facility to which the proposed ward or ward has already been  
27 admitted, or for the guardian to have continuing authority to admit the  
28 ward for care and treatment at a treatment facility pursuant to subsection  
29 (b)(3) of K.S.A. 2000 Supp. 59-2949, or subsection (b)(3) of K.S.A. 2000  
30 Supp. 59-29b49, and amendments thereto;

31 (5) the names and addresses of witnesses by whom the truth of this  
32 petition may be proved; and

33 (6) a request that the court find that the proposed ward or ward is in  
34 need of being admitted to and treated at a treatment facility, and that the  
35 court grant to the temporary guardian or guardian the authority to admit  
36 the proposed ward or ward to a treatment facility and to consent to the  
37 care and treatment of the proposed ward or ward therein.

38 (b) The petition may be accompanied by a report of an examination  
39 and evaluation of the proposed ward or ward conducted by an appropri-  
40 ately qualified professional, which shows that the criteria set out in sub-  
41 section (e) of K.S.A. 2000 Supp. 59-2946, and amendments thereto, or  
42 K.S.A. 76-12b03, and amendments thereto, are met.

43 (c) Upon the filing of such a petition, the court shall issue the

1 following:

2 (1) An order fixing the date, time and place of a hearing on the pe-  
3 tition. Such hearing, in the court's discretion, may be conducted in a  
4 courtroom, a treatment facility or at some other suitable place. The time  
5 fixed in the order shall in no event be earlier than seven days or later  
6 than 21 days after the date of the filing of the petition. The court may  
7 consolidate this hearing with the trial upon the original petition filed  
8 pursuant to section 9, 10, 11 or 12, and amendments thereto, or with the  
9 trial provided for in the care and treatment act for mentally ill persons or  
10 the care and treatment act for persons with an alcohol or substance abuse  
11 problem, if the petition also incorporates the allegations required by, and  
12 is filed in compliance with, the provisions of either of those acts.

13 (2) An order requiring that the proposed ward or ward appear at the  
14 time and place of the hearing on the petition unless the court makes a  
15 finding prior to the hearing that the presence of the proposed ward or  
16 ward will be injurious to the person's health or welfare, or that the pro-  
17 posed ward's or ward's impairment is such that the person could not  
18 meaningfully participate in the proceedings, or that the proposed ward  
19 or ward has filed with the court a written waiver of such ward's right to  
20 appear in person. In any such case, the court shall enter in the record of  
21 the proceedings the facts upon which the court has found that the pres-  
22 ence of the proposed ward or ward at the hearing should be excused.  
23 Notwithstanding the foregoing provisions of this subsection, if the pro-  
24 posed ward or ward files with the court at least one day prior to the date  
25 of the hearing a written notice stating the person's desire to be present  
26 at the hearing, the court shall order that the person must be present at  
27 the hearing.

28 (3) An order appointing an attorney to represent the proposed ward  
29 or ward. The court shall give preference, in the appointment of this at-  
30 torney, to any attorney who has represented the proposed ward or ward  
31 in other matters, if the court has knowledge of that prior representation.  
32 The proposed ward, or the ward with the consent of the ward's conser-  
33 vator, if one has been appointed, shall have the right to engage an attorney  
34 of the proposed ward's or ward's choice and, in such case, the attorney  
35 appointed by the court shall be relieved of all duties by the court. Any  
36 appointment made by the court shall terminate upon a final determina-  
37 tion of the petition and any appeal therefrom, unless the court continues  
38 the appointment by further order.

39 (4) An order fixing the date, time and a place that is in the best  
40 interest of the proposed ward or ward, at which the proposed ward or  
41 ward shall have the opportunity to consult with such ward's attorney. This  
42 consultation shall be scheduled to occur prior to the time at which the  
43 examination and evaluation ordered pursuant to subsection (d)(1), if or-

1 dered, is scheduled to occur.

2 (5) A notice similar to that provided for in section 17, and amend-  
3 ments thereto.

4 (d) Upon the filing of such a petition, the court may issue the  
5 following:

6 (1) An order for a psychological or other examination and evaluation  
7 of the proposed ward or ward, as may be specified by the court. The court  
8 may order the proposed ward or ward to submit to such an examination  
9 and evaluation to be conducted through a general hospital, psychiatric  
10 hospital, community mental health center, community developmental dis-  
11 ability organization, or by a private physician, psychiatrist, psychologist or  
12 other person appointed by the court who is qualified to examine and  
13 evaluate the proposed ward or ward. The costs of this examination and  
14 evaluation shall be assessed as provided for in section 44, and amend-  
15 ments thereto.

16 (2) If the petition is accompanied by a report of an examination and  
17 evaluation of the proposed ward or ward as provided for in subsection  
18 (b), an order granting temporary authority to the temporary guardian or  
19 guardian to admit the proposed ward or ward to a treatment facility and  
20 to consent to the care and treatment of the proposed ward or ward  
21 therein. Any such order shall expire immediately after the hearing upon  
22 the petition, or as the court may otherwise specify, or upon the discharge  
23 of the proposed ward or ward by the head of the treatment facility, if the  
24 proposed ward or ward is discharged prior to the time at which the order  
25 would otherwise expire.

26 (3) For good cause shown, an order of continuance of the hearing.

27 (4) For good cause shown, an order of advancement of the hearing.

28 (5) For good cause shown, an order changing the place of the hearing.

29 (e) The hearing on the petition shall be held at the time and place  
30 specified in the court's order issued pursuant to subsection (c), unless an  
31 order of advancement, continuance, or a change of place of the hearing  
32 has been issued pursuant to subsection (d). The petitioner and the pro-  
33 posed ward or ward shall each be afforded an opportunity to appear at  
34 the hearing, to testify and to present and cross-examine witnesses. If the  
35 hearing has been consolidated with a trial being held pursuant to either  
36 the care and treatment act for mentally ill persons or the care and treat-  
37 ment act for persons with an alcohol or substance abuse problem, persons  
38 not necessary for the conduct of the proceedings may be excluded as  
39 provided for in those acts. The hearing shall be conducted in as informal  
40 a manner as may be consistent with orderly procedure. The court shall  
41 have the authority to receive all relevant and material evidence which  
42 may be offered, including the testimony or written report, findings or  
43 recommendations of any professional or other person who has examined

1 or evaluated the proposed ward or ward pursuant to any order issued by  
2 the court pursuant to subsection (d). Such evidence shall not be privileged  
3 for the purpose of this hearing.

4 (f) Upon completion of the hearing, if the court finds by clear and  
5 convincing evidence that the criteria set out in subsection (e) of K.S.A.  
6 2000 Supp. 59-2946 or K.S.A. 76-12b03, and amendments thereto, are  
7 met, and after a careful consideration of reasonable alternatives to ad-  
8 mission of the proposed ward or ward to a treatment facility, the court  
9 may enter an order granting such authority to the temporary guardian or  
10 guardian as is appropriate, including continuing authority to the guardian  
11 to readmit the ward to an appropriate treatment facility as may later  
12 become necessary. Any such grant of continuing authority shall expire  
13 two years after the date of final discharge of the ward from such a treat-  
14 ment facility if the ward has not had to be readmitted to a treatment  
15 facility during that two-year period of time. Thereafter, any such grant of  
16 continuing authority may be renewed only after the filing of another pe-  
17 tition seeking authority in compliance with the provision of this section.

18 (g) Nothing herein shall be construed so as to prohibit the head of a  
19 treatment facility from admitting a proposed ward or ward to that facility  
20 as a voluntary patient if the head of the treatment facility is satisfied that  
21 the proposed ward or ward at that time has the capacity to understand  
22 such ward's illness and need for treatment, and to consent to such ward's  
23 admission and treatment. Upon any such admission, the head of the treat-  
24 ment facility shall give notice to the temporary guardian or guardian as  
25 soon as possible of the ward's admission, and shall provide to the tem-  
26 porary guardian or guardian copies of any consents the proposed ward or  
27 ward has given. Thereafter, the temporary guardian or guardian shall  
28 timely either seek to obtain proper authority pursuant to this section to  
29 admit the proposed ward or ward to a treatment facility and to consent  
30 to further care and treatment, or shall otherwise assume responsibility  
31 for the care of the proposed ward or ward, consistent with the authority  
32 of the temporary guardian or guardian, and may arrange for the discharge  
33 from the facility of the proposed ward or ward, unless the head of the  
34 treatment facility shall file a petition requesting the involuntary commit-  
35 ment of the proposed ward or ward to that or some other facility.

36 (h) As used herein, "treatment facility" means the Kansas neurolog-  
37 ical institute, Larned state hospital, Osawatomie state hospital, Parsons  
38 state hospital and training center, the rainbow mental health facility, any  
39 intermediate care facility for the mentally retarded, any psychiatric hos-  
40 pital licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and  
41 any other facility for mentally ill persons or mentally retarded or devel-  
42 opmentally disabled persons licensed pursuant to K.S.A. 75-3307b, and  
43 amendments thereto, if the proposed ward or ward is to be admitted as

1 an inpatient or resident of that facility.

2 New Sec. 29. (a) (1) The individual or corporation appointed by the  
3 court to serve as the conservator shall carry out diligently and in good  
4 faith the general duties and responsibilities, and shall have the general  
5 powers and authorities, provided for in this section, as well as any specific  
6 duties, responsibilities, powers and authorities assigned to the conservator  
7 by the court. In doing so, a conservator at all times shall be subject to the  
8 control and direction of the court, and shall act in accordance with the  
9 provisions of any conservatorship plan filed with the court pursuant to  
10 section 30, and amendments thereto. The court shall have the authority  
11 to appoint counsel for the conservator, and the fees of such attorney may  
12 be assessed as costs pursuant to section 44, and amendments thereto.

13 (2) A conservator, in the exercise of the conservator's responsibilities  
14 and authorities, should become aware of the conservatee's needs and  
15 responsibilities. A conservator shall exercise authority only as necessitated  
16 by the conservatee's limitations. A conservator shall encourage the con-  
17 servatee to participate in the making of decisions affecting the conser-  
18 vatee's estate. A conservator shall encourage the conservatee to manage  
19 as much of the conservatee's estate as the conservatee is able to manage.  
20 A conservator shall consider and, to the extent possible, act in accordance  
21 with the expressed desires and personal values of the conservatee. A con-  
22 servator shall assist the conservatee in developing or regaining the skills  
23 and abilities necessary in order for the conservatee to be able to manage  
24 the conservatee's own estate. A conservator shall strive to assure that the  
25 personal, civil and human rights of the conservatee are protected. A con-  
26 servator shall at all times act in the best interests of the conservatee and  
27 shall exercise reasonable care, diligence and prudence.

28 (b) A conservator shall have the following general duties, responsi-  
29 bilities, powers and authorities:

30 (1) To pay the reasonable charges for the support, maintenance, care,  
31 treatment, habilitation and education of the conservatee in a manner suit-  
32 able to the conservatee's station in life and the value of the conservatee's  
33 estate; but nothing herein shall be construed to release a natural guardian  
34 from the ordinary obligations imposed by law for the support, mainte-  
35 nance, care, treatment, habilitation and education of the natural guard-  
36 ian's minor children;

37 (2) to pay all just and lawful debts of the conservatee and the reason-  
38 able charges for the support, maintenance, care, treatment, habilitation  
39 and education of the conservatee's spouse and minor children;

40 (3) to separately possess and manage all the assets of the estate of  
41 the conservatee and to collect all debts and assert all claims in favor of  
42 the conservatee, and with the approval of the court, to compromise the  
43 same. The conservator shall keep any property of the conservatee's estate

1 insured against theft, other loss or damage, in reasonable amounts based  
2 upon the value of the estate, and for the benefit of the conservatee or  
3 the conservatee's estate;

4 (4) to prosecute and defend all actions in the name of the conservatee  
5 or as necessary to protect the interests of the conservatee;

6 (5) to sell assets of the conservatee's estate when the interests of the  
7 conservatee or conservatee's estate require the sale thereof;

8 (6) to possess and manage any ongoing business that the conservatee  
9 was managing and operating prior to the appointment of the conservator,  
10 and to divest the conservatee's estate of any interests therein, with the  
11 approval of the court, when the conservator deems it in the best interests  
12 of the conservatee or the conservatee's estate to do so; and

13 (7) to invest all funds in a manner which is reasonably prudent in  
14 view of the value of the conservatee's estate, except as may be currently  
15 needed for payment of any debts and charges as provided for herein. If  
16 the conservator shall expend or invest any funds from the conservatee's  
17 estate for the purchase of any policy of insurance or annuity contract, the  
18 conservator shall reserve to the conservatee the right to change the ben-  
19 efiary thereof upon the termination of the conservatorship and of any  
20 guardianship which may have been established for the conservatee.

21 (c) A conservator shall not be obligated by virtue of the conservator's  
22 appointment to use the conservator's own financial resources for the sup-  
23 port of the conservatee.

24 (d) A conservator shall not be personally liable:

25 (1) To a third person for the acts of the conservatee solely by virtue  
26 of the conservator's appointment, nor shall a conservator who exercises  
27 reasonable care in selecting a third person to provide any service to the  
28 conservatee's estate be liable for any loss to the conservatee's estate re-  
29 sulting from the wrongful conduct of that third person;

30 (2) on any mortgage note or by reason of the covenants in any in-  
31 strument of conveyance duly executed by the conservator in the conser-  
32 vator's representative capacity as authorized by the court;

33 (3) on a contract properly entered into in a fiduciary capacity in the  
34 course of administration of the estate unless the conservator fails to reveal  
35 in the contract the representative capacity and to identify the estate;

36 (4) for obligations arising from ownership or control of property of  
37 the estate or for other acts or omissions occurring in the course of ad-  
38 ministration of the estate unless the conservator is personally at fault;

39 (5) for any environmental condition on or injury resulting from any  
40 environmental condition on land owned or acquired by the conservatee's  
41 estate; or

42 (6) for retaining, until maturity, any security or investment which is  
43 included in the conservatee's estate at the time of the establishment of



1 the conservatorship, even though such security or investment may not be  
2 considered prudent or reasonable.

3 (e) A conservator shall be entitled to receive on behalf of the con-  
4 servatee's estate any distributive share of the assets of an estate or trust,  
5 and shall have the same right as any other distributee or beneficiary to  
6 accept or demand distribution in kind, and may retain, until maturity, any  
7 security or investment so distributed to the conservator, even though such  
8 security or investment may not be considered prudent or reasonable.

9 (f) A conservator shall not have the power:

10 (1) To use the assets of a minor's estate to pay any obligation imposed  
11 by law upon the minor's natural guardian or natural guardians, including  
12 the support, maintenance, care, treatment, habilitation or education of  
13 the minor, except with the specific approval of the court granted upon a  
14 showing of extreme hardship;

15 (2) to sell, convey, lease or mortgage the conservatee's interest in the  
16 homestead of the conservatee, except with the approval of the court, and  
17 no conservator's deed or other instrument executed by virtue of the  
18 court's approval shall be valid unless the spouse, or if the spouse has been  
19 adjudicated a person with an impairment in need of a conservator, the  
20 conservator appointed for the spouse, shall join therein as one of the  
21 grantors thereof;

22 (3) to lease, except with the approval of the court, the possession or  
23 use of any real estate within the conservatee's estate for any period of  
24 greater than three years;

25 (4) to sell, convey or mortgage, except with approval of the court, any  
26 real estate within the conservatee's estate;

27 (5) to sell, convey, lease or mortgage, except with approval of the  
28 court, any oil, gas or other mineral interest within the conservatee's estate;

29 (6) to sell, convey, lease or mortgage, except with the approval of the  
30 court, the inchoate interest of the conservatee in any real estate the title  
31 to which is in the spouse of the conservatee, and no conservator's deed  
32 or other instrument executed by virtue of the court's approval shall be  
33 valid unless the spouse, or if the spouse has been adjudicated a person  
34 with an impairment in need of a conservator, the conservator appointed  
35 for the spouse, shall join therein as one of the grantors thereof;

36 (7) to extend, except with the approval of the court, an existing mort-  
37 gage in favor of the conservatee or conservatee's estate, for a period of  
38 more than five years;

39 (8) to extend, except with the approval of the court, an existing mort-  
40 gage which obligates the conservatee or the conservatee's estate, unless  
41 the extension agreement contains the same prepayment privileges, the  
42 rate of interest does not exceed the lowest rate in the mortgage extended,  
43 and the extension does not exceed five years; or

1 (9) to make any gift on behalf of the conservatee, except with the  
2 approval of the court upon a finding that:

3 (A) The conservatee had either in the past as a habit made similar  
4 gifts or declared an intent to make such a gift;

5 (B) sufficient funds and assets will remain in the conservatee's estate  
6 after the making of such a gift to meet the expected needs and respon-  
7 sibilities of the conservatee; and

8 (C) any person or entity who would have received the property to be  
9 gifted had the conservatee died at the time of the gift, but who is not the  
10 person or entity giving the gift, has either consented to or agreed with  
11 the giving of the gift, in writing, or has received notice of the proposal to  
12 make the gift and been given the opportunity to request a hearing thereon  
13 by the court to be held prior to the court's approving the gift.

14 (g) The conservator shall file with the court, within 30 days of the  
15 court's issuance of letters of conservatorship as provided for in section  
16 20, and amendments thereto, an initial inventory of all of the property  
17 and assets of the conservatee's estate, including any sources of regular  
18 income to the estate.

19 (h) The conservator shall file with the court accountings and other  
20 reports concerning the status of the estate and the actions of the conser-  
21 vator as the court shall direct pursuant to section 34, and amendments  
22 thereto.

23 New Sec. 30. (a) At any time, the court may require the conservator,  
24 or the conservator may at any time choose, to develop and file with the  
25 court a plan for the administration of the conservatee's estate. This plan  
26 shall be developed consistent with the provisions of section 29, and  
27 amendments thereto. This plan may provide for, but need not be limited  
28 to providing for:

29 (1) What autonomy the conservatee will have with regard to keeping  
30 and utilizing any earnings from employment or gifts which the conser-  
31 vatee may have or receive; and

32 (2) what responsibility the conservator shall have with regard to pro-  
33 tecting the eligibility of the conservatee for any type of public or other  
34 benefit.

35 (b) If required by the court, the court may set a date by which this  
36 conservatorship plan shall be filed with the court. Otherwise, the conser-  
37 vator may at any time file a plan with the court. Upon the filing of a plan,  
38 the court may require the conservator to give notice thereof to such per-  
39 sons as the court directs. Any interested party may request that the court  
40 conduct a hearing concerning any plan filed with the court. The court  
41 may require the conservator to amend or withdraw any plan filed.

42 (c) Any conservatorship plan filed with the court shall be effectuated  
43 by the conservator to the maximum extent possible consistent with any

1 changing circumstances of the conservatee. Within each accounting sub-  
2 mitted to the court as the court directs pursuant to section 34, and amend-  
3 ments thereto, the conservator shall explain any actions taken in deviance  
4 from the plan and the reasons therefor.

5 (d) At any time deemed appropriate by the conservator, the conser-  
6 vator may file a revised conservatorship plan consistent with the provi-  
7 sions of this section.

8 New Sec. 31. (a) At any time the conservator, or the guardian if the  
9 guardian has been granted the authority to exercise control or authority  
10 over the ward's estate pursuant to subsection (d)(9) of section 26, and  
11 amendments thereto, may file a verified petition requesting that the court  
12 grant authority to the conservator or guardian to establish an irrevocable  
13 trust which will enable the conservatee or ward to qualify for benefits  
14 from any federal, state or local government program, or which will ac-  
15 celerate the conservatee's or ward's qualification for such benefits.

16 (b) The petition shall include:

17 (1) The conservator's or guardian's name and address, and if the con-  
18 servator is the petitioner and is both the conservator and the guardian, a  
19 statement of that fact, or if the guardian is the petitioner, a statement that  
20 the court has previously granted to the guardian the authority to exercise  
21 control or authority over the ward's estate;

22 (2) the conservatee's or ward's name, age, date of birth, address of  
23 permanent residence, and present address or whereabouts, if different  
24 from the conservatee's or ward's permanent residence;

25 (3) the name and address of the conservatee's court appointed guard-  
26 ian, if a guardian has been appointed by the court and is different from  
27 the conservator;

28 (4) the names and addresses of any spouse, adult children and adult  
29 grandchildren of the conservatee or ward, and those of any parents and  
30 adult siblings of the conservatee or ward, or if no such names or addresses  
31 are known to the petitioner, the name and address of at least one adult  
32 who is nearest in kinship to the conservatee, or if none, that fact. If no  
33 such names and addresses are known to the petitioner, but the petitioner  
34 has reason to believe such persons exist, then the petition shall state that  
35 fact and that the petitioner has made diligent inquiry to learn those names  
36 and addresses;

37 (5) a statement of whether the secretary of social and rehabilitation  
38 services has an interest in the matter by virtue of the purpose of the trust  
39 being to enable the conservatee or ward to qualify for benefits from any  
40 program administered by the secretary;

41 (6) the names and addresses of other persons, if any, whom the pe-  
42 titioner knows to have an interest in the matter, or a statement that the  
43 petitioner knows of no other persons having an interest in the matter;

1 (7) a description of the funds or assets of the conservatee or ward  
2 which the petitioner proposes to transfer to a trust;

3 (8) the factual basis upon which the petitioner alleges the need for  
4 such a trust;

5 (9) the names and addresses of witnesses by whom the truth of this  
6 petition may be proved; and

7 (10) a request that the court find that the conservator or guardian  
8 should be granted such authority, and that the court grant to the conser-  
9 vator or guardian the authority to establish such a trust.

10 (c) The petition shall be accompanied by a draft of the instrument  
11 by which the trust is proposed to be established.

12 (d) Upon the filing of such a petition, the court shall issue an order  
13 fixing the date, time and place of a hearing upon the petition, which  
14 hearing may be held forthwith and without further notice if those persons  
15 named within the petition pursuant to the requirements of subsections  
16 (b)(4), (b)(5) and (b)(6), as applicable, have entered their appearances,  
17 waived notice and agreed to the court's granting to the conservator or  
18 guardian the authority to establish the proposed trust. Otherwise, the  
19 court shall require the petitioner to give notice of this hearing to such  
20 persons and in such manner as the court may direct, including therewith  
21 a copy of the proposed trust instrument. This notice shall advise such  
22 persons that if they have any objections to this authority being granted to  
23 the conservator or guardian, that they must file their written objections  
24 with the court prior to the scheduled hearing or that they must appear at  
25 the hearing to present those objections. The court may appoint an attor-  
26 ney to represent the conservatee or ward in this matter similarly as pro-  
27 vided for in subsection (a)(3) of section 14, and amendments thereto, and  
28 in such event, the court shall require the petitioner to also give this notice  
29 to that attorney.

30 (e) At the conclusion of the hearing, if the court finds by a prepon-  
31 derance of the evidence that:

32 (1) The establishment of such a trust will enable the conservatee or  
33 ward to qualify for benefits from any federal, state or local government  
34 program, or will accelerate the qualification of the conservatee or ward  
35 for such benefits;

36 (2) the conservatee or ward will be the sole beneficiary of such trust;

37 (3) the term of the trust will not extend beyond the lifetime of the  
38 conservatee or ward;

39 (4) the provisions of the trust will provide for the distribution of the  
40 trust estate for the benefit of the conservatee or ward for special needs  
41 not satisfied from governmental benefits and that distributions will be  
42 made in compliance with any requirements of the governmental program  
43 from which the conservatee or ward receives such benefits, and further,

1 that distributions will only be made in similar manner and under similar  
2 circumstances as the conservatee's or ward's estate would otherwise have  
3 been distributed by the conservator or guardian for the benefit of the  
4 conservatee or ward had the trust not been established; and

5 (5) the provisions of the trust will provide that, upon termination of  
6 the trust, the remaining trust estate will first be expended to reimburse  
7 the governmental entities for the benefits which have been provided to  
8 the conservatee or ward, if required as a condition for the conservatee's  
9 or ward's qualification for such benefits, and then shall be paid over and  
10 assigned to:

11 (A) The conservator, should this termination of the trust occur during  
12 any time the conservatorship remains open, or the guardian, should this  
13 termination of the trust occur during any time the guardianship remains  
14 open;

15 (B) the conservatee or ward, should this termination of the trust oc-  
16 cur during any time the conservatorship or guardianship has been ter-  
17 minated and the conservatee or ward restored to capacity; or

18 (C) the legal representative of the conservatee's or ward's estate,  
19 should this termination of the trust occur by virtue of the conservatee's  
20 or ward's death, then the court may grant to the conservator or guardian  
21 the authority to establish such a trust and to transfer specified property  
22 or assets from the conservatee's or ward's estate to the trust. The court  
23 shall order the conservator or guardian to report any such transfer within  
24 the conservator's or guardian's next accounting as required by section 34,  
25 and amendments thereto.

26 (f) The court may require as a condition of the court's granting to the  
27 conservator or guardian the authority to establish such a trust that the  
28 sole trustee of the trust be the court appointed conservator or guardian,  
29 and that the conservator or guardian, acting as the trustee, shall be subject  
30 to the same requirements and limitations as provided for in this act con-  
31 cerning conservatorships and shall report and account to the court con-  
32 cerning the trust estate the same as if the trust estate remained within  
33 the conservatee's or ward's estate.

34 New Sec. 32. (a) At any time after the 17th birthday of a minor con-  
35 servatee who has not been adjudged to be a minor with an impairment  
36 in need of a guardian or conservator, or both, but before 30 days prior to  
37 the minor's 18th birthday, the conservator may file a verified petition  
38 requesting that the court grant authority to the conservator to establish a  
39 plan for the extended distribution of the minor's estate to the minor after  
40 the minor's 18th birthday. The petition shall include:

41 (1) The conservator's name and address, and if the conservator is also  
42 the minor's court appointed guardian, that fact;

43 (2) the minor's name, age, date of birth, address of permanent resi-

1 dence, and present address or whereabouts, if different from the minor's  
2 permanent residence;

3 (3) the name and address of the minor's court appointed guardian, if  
4 a guardian has been appointed by the court and is different from the  
5 petitioner;

6 (4) the names and addresses of any spouse of the minor, and those  
7 of any parent and adult siblings of the minor, or if none, that fact. If no  
8 such names or addresses are known to the petitioner, but the petitioner  
9 has reason to believe that such persons exist, then the petition shall state  
10 that fact and that the petitioner has made diligent inquiry to learn those  
11 names and addresses;

12 (5) a description of the funds or assets of the minor's estate which  
13 the conservator proposes to distribute to the minor over an extended  
14 period following the minor's 18th birthday;

15 (6) the factual basis upon which the conservator alleges the need for  
16 such an extended distribution plan;

17 (7) a description of the plan proposed by the conservator and how  
18 and by what means the distribution will occur if the court grants to the  
19 conservator the authority to establish such a plan;

20 (8) the names and addresses of witnesses by whom the truth of this  
21 petition may be proved; and

22 (9) a request that the court find that the conservator should be  
23 granted such authority, and that the court grant to the conservator the  
24 authority to establish such an extended distribution plan.

25 (b) Upon the filing of such a petition, the court shall issue an order  
26 fixing the date, time and place of a hearing on the petition, which hearing  
27 may be held forthwith and without further notice if the minor and those  
28 other persons named within the petition pursuant to the requirements of  
29 subsection (a)(4), as applicable, have entered their appearance, waived  
30 notice, and agreed to the court's granting to the conservator the authority  
31 to establish the plan for the extended distribution of the minor's estate  
32 as contained within the petition. Otherwise, the court shall require the  
33 conservator to give notice of this hearing to the minor and those other  
34 persons in such manner as the court may direct. The court shall require  
35 that the notice be accompanied by a copy of the petition containing a  
36 description of the plan proposed by the conservator. The court shall re-  
37 quire that the notice advise the minor and those other persons that if  
38 they have any objections to this authority being granted to the conser-  
39 vator, that they must file their written objections with the court prior to  
40 the scheduled hearing or that they must appear at the hearing to present  
41 those objections. The court may appoint an attorney to represent the  
42 minor in this matter similarly as provided for in subsection (a)(3) of sec-  
43 tion 14, and amendments thereto, and in such event, the court shall re-

1 quire the conservator to also give this notice to that attorney.

2 (c) At the conclusion of the hearing, if the court finds by a prepon-  
3 derance of the evidence that:

4 (1) It is in the best interests of the minor to grant this authority to  
5 the conservator;

6 (2) the plan approved by the court will fully distribute all of the funds  
7 and assets of the minor's estate to the minor by the minor's 25th birthday;  
8 and

9 (3) the plan approved by the court adequately provides for meeting  
10 the expected needs of the minor from the minor's 18th birthday until the  
11 final distribution of the funds or assets which the court authorizes to be  
12 set aside or transferred from the estate are paid over to the minor, in-  
13 cluding provisions for accelerated distribution in extraordinary circum-  
14 stances, which may require court approval, then the court may grant to  
15 the conservator the authority to establish such a plan and to effectuate it.  
16 The court shall order the conservator to report any expenditure or transfer  
17 of funds or assets from the minor's estate for the purposes of effectuating  
18 this plan within the conservator's next accounting as required by section  
19 34, and amendments thereto.

20 (d) The court may require that the conservator continue to administer  
21 the plan after the minor becomes 18 years of age. The court may extend  
22 the conservatorship with regard to the funds or assets of the minor's estate  
23 which are set aside to effectuate the plan and in such case the conservator  
24 shall continue to be subject to the same requirements and limitations as  
25 provided for in this act concerning conservatorships and shall report and  
26 account to the court concerning the plan's execution, even though other  
27 funds or assets of the minor's estate are paid over to the minor upon the  
28 minor's becoming 18 years of age.

29 (e) The minor shall be without the power, voluntarily or involuntarily,  
30 to sell, mortgage, pledge, hypothecate, assign, alienate, anticipate, trans-  
31 fer or convey any interest in the principal or the income from any funds  
32 or assets of the minor's estate set aside or transferred to effectuate a plan  
33 for extended distribution as herein provided until such is actually paid to  
34 the minor.

35 New Sec. 33. (a) Any person having a claim for payment against the  
36 conservatee or the conservatee's estate, other than for any tort for which  
37 the claimant has not been awarded judgment, or any person having a  
38 claim for payment for any goods or services provided to the conservatee  
39 or the conservatee's estate by the claimant in reliance upon actions or the  
40 authority of the conservator, may file with the court a verified petition  
41 requesting payment for such. The petition shall include:

42 (1) The petitioner's name and address;

43 (2) the conservator's name and address;

1 (3) the amount of the claim, and the factual basis upon which the  
2 petitioner makes this claim;

3 (4) a statement that demand for payment of the claim has been made  
4 upon the conservator, but that the conservator refuses or has failed to pay  
5 the claim; and

6 (5) a request that the court determine that the claim is owed to the  
7 petitioner, and for an order of the court directing the conservator to pay  
8 the claim.

9 (b) Upon the filing of such a petition, the court shall issue an order  
10 fixing the date, time and place of a hearing on the petition. The court  
11 shall require the petitioner to give notice of this hearing to the conservator  
12 and to such other persons as the court may direct. The court may appoint  
13 an attorney to represent the conservatee in this matter similarly as pro-  
14 vided for in subsection (a)(3) of section 14, and amendments thereto.

15 (c) At the completion of the hearing, if the court finds, by a prepon-  
16 derance of the evidence, that the petitioner is owed the claim, or some  
17 part thereof, the court shall issue an order to the conservator to pay the  
18 same from the conservatee's estate, or to pay so much of the claim as the  
19 court allows, and to include such in the conservator's next report and  
20 accounting. Otherwise, the court shall deny the petitioner's request. The  
21 court may assess against the claimant the costs and expenses, including  
22 reasonable attorney fees, incurred by the conservator in defending against  
23 the claim if the court denies the petition.

24 New Sec. 34. (a) The guardian or conservator appointed by the court  
25 pursuant to section 18, and amendments thereto, annually, and at other  
26 times as the court may specify, shall file with the court, in such form as  
27 the supreme court may require by rule, or in the absence of such rule or  
28 in supplement thereto, as the court may require, reports and accountings  
29 concerning the status of the ward or conservatee, the estate of the ward  
30 or conservatee, and the actions of the guardian or conservator.

31 (b) The guardian or conservator, or both, shall file a special report or  
32 accounting with the court upon the occurrence of any of the following:

33 (1) A change of address of the guardian or conservator;

34 (2) a change of residence or placement of the ward or conservatee;

35 (3) a significant change in the health or impairment of the ward or  
36 conservatee;

37 (4) the acquisition by the ward of any real property, or the receipt or  
38 accumulation of other property or income by the ward or by the guardian  
39 on behalf of the ward, which causes the total value of the ward's estate  
40 to equal or exceed \$10,000; or

41 (5) the death of the ward or conservatee.

42 (c) Upon the death of the guardian or conservator, or upon the guard-  
43 ian or conservator being adjudged in this state to be an adult with an



1 impairment in need of a guardian or a conservator, or both, or being  
2 similarly adjudged in any other state, a representative on behalf of the  
3 guardian or conservator, as the court may allow, shall file a final report  
4 or accounting on behalf of that guardian or conservator.

5 (d) If the guardian or conservator is under contract with the Kansas  
6 guardianship program, the court shall order that the guardian or conser-  
7 vator file with the Kansas guardianship program a copy of each report or  
8 accounting filed with the court.

9 (e) At the termination of the guardianship, or upon the resignation,  
10 impairment, death or removal of the guardian, the guardian or a repre-  
11 sentative on behalf of the guardian, as the court may allow, shall file with  
12 the court a final report concerning the status of the ward and of the  
13 actions and recommendations of the guardian.

14 (f) At the termination of the conservatorship, or upon the resignation,  
15 impairment, death or removal of the conservator, the conservator or a  
16 representative on behalf of the conservator, as the court may allow, shall  
17 file with the court a final report and accounting concerning the status of  
18 the conservatee, of the conservatee's estate, and of the actions and rec-  
19 ommendations of the conservator. The conservator, the conservator's es-  
20 tate and the conservator's surety shall not be finally discharged until such  
21 final report and accounting is filed, and the accounting allowed and settled  
22 as provided for in section 37, and amendments thereto. The conservator's  
23 surety, in the surety's discretion, may file any report or accounting it  
24 deems appropriate, or perform the duties of the conservator upon the  
25 resignation, death, impairment or removal of the conservator, subject to  
26 the authority of the standby conservator, if a standby conservator has been  
27 appointed by the court pursuant to section 25, and amendments thereto.

28 New Sec. 35. (a) Upon the filing of a report by the guardian pursuant  
29 to section 34, and amendments thereto, the court or a designee of the  
30 court shall review the report, the court's prior orders, any guardianship  
31 plan which has been filed with the court pursuant to section 27, and  
32 amendments thereto, and which remains in effect, and any reports which  
33 the guardian has previously filed, to determine whether:

34 (1) The current report reflects reasonable administration of the  
35 guardianship;

36 (2) the guardian is performing assigned duties and responsibilities, or  
37 exercising granted powers and authorities, in a manner consistent with  
38 the prior orders of the court and with any guardianship plan in effect;

39 (3) additional duties, responsibilities, powers or authorities should be  
40 granted to the guardian, or limitations should be made with regard  
41 thereto, or other modifications should be made within the guardianship  
42 to protect the interests of the ward or the ward's estate; or

43 (4) further proceedings as provided for in this act may be appropriate.

1 (b) Upon the filing of any report, or based upon other information  
2 which comes to the court's attention concerning matters contained within  
3 the report or which should be contained within the report, the court may  
4 set a hearing upon the matter and may require the guardian to appear  
5 before the court. The court may require the guardian to give notice of  
6 this hearing to such persons and in such manner as the court may direct.  
7 The court may appoint an attorney to represent the ward in this matter  
8 similarly as provided for in subsection (a)(3) of section 14, and amend-  
9 ments thereto. The court may require the guardian, and may allow the  
10 ward, the conservator, if a conservator has been appointed, and other  
11 interested persons, to present evidence concerning the actions of the  
12 guardian or the recommendations of such persons.

13 (c) At the conclusion of the court's review of the guardian's report,  
14 or following any hearing held as provided for in subsection (b), the court  
15 shall issue an order either approving or disapproving the guardian's re-  
16 port. The court may approve a reasonable guardian's fee which shall be  
17 assessed to the ward's estate. The court within its order may grant to or  
18 withdraw from the guardian specified duties, responsibilities, powers or  
19 authorities as provided for in section 26, and amendments thereto, may  
20 specifically order the guardian with regard to the performance of assigned  
21 duties, responsibilities, powers or authorities, including requiring the  
22 guardian to file an amended report, may require the guardian to develop  
23 and file with the court a guardianship plan as provided for in section 27,  
24 and amendments thereto, or the court may proceed pursuant to section  
25 39, and amendments thereto, to remove the guardian and to appoint a  
26 successor guardian, or the court may proceed pursuant to section 41 or  
27 42, and amendments thereto, to restore the ward to capacity or terminate  
28 the guardianship.

29 (d) If the court, pursuant to subsection (e)(9) of section 26, and  
30 amendments thereto, has authorized the guardian to exercise any control  
31 or authority over the ward's estate, then, in addition to or as a part of  
32 each report filed by the guardian pursuant to this section, the guardian  
33 also shall account for the ward's estate. In reviewing the guardian's report,  
34 the court also shall review the guardian's accounting and at the conclusion  
35 thereof, if the court finds that the accounting accurately accounts for the  
36 ward's estate and shows appropriate administration on the part of the  
37 guardian, the court shall issue an order approving the accounting.

38 New Sec. 36. (a) Upon the filing of a report or accounting by the  
39 conservator pursuant to section 34, and amendments thereto, the court  
40 or a designee of the court shall review the report or accounting, the court's  
41 prior orders, any conservatorship plan which has been filed with the court  
42 pursuant to section 30, and amendments thereto, and which remains in  
43 effect, and any reports and accountings which the conservator has pre-

1 viously filed, to determine whether:

2 (1) The current report or accounting reflects reasonable administra-  
3 tion of the conservatorship;

4 (2) the conservator is performing assigned duties and responsibilities,  
5 or exercising granted powers and authorities, in a manner consistent with  
6 the prior orders of the court and with any conservatorship plan in effect;

7 (3) additional duties, responsibilities, powers or authorities should be  
8 granted to the conservator, or limitations should be made with regard  
9 thereto, or other modifications should be made within the conservator-  
10 ship to protect the interests of the conservatee or the conservatee's estate;  
11 or

12 (4) further proceedings as provided for in this act may be appropriate.

13 (b) Upon the filing of any report or accounting, or based upon other  
14 information which comes to the court's attention concerning matters con-  
15 tained within the report or accounting or which should be contained  
16 within the report or accounting, the court may set a hearing upon the  
17 matter and may require the conservator to appear before the court. The  
18 court may require the conservator to give notice of this hearing to such  
19 persons and in such manner as the court may direct. The court may  
20 appoint an attorney to represent the conservatee in this matter similarly  
21 as provided for in subsection (a)(3) of section 14, and amendments  
22 thereto. The court may require the conservator, and may allow the con-  
23 servatee, the guardian, if a guardian has been appointed, and other in-  
24 terested persons, to present evidence concerning the actions of the con-  
25 servator or the recommendations of such persons.

26 (c) At the conclusion of the court's review of the conservator's report  
27 or accounting, or following any hearing held as provided for in subsection  
28 (b), the court shall issue an order either approving or disapproving the  
29 conservator's report or accepting or rejecting the conservator's account-  
30 ing. The court within its order may grant to or withdraw from the con-  
31 servator specified duties, responsibilities, powers or authorities as pro-  
32 vided for in section 29, and amendments thereto, may specifically order  
33 the conservator with regard to the performance of assigned duties, re-  
34 sponsibilities, powers or authorities, including requiring the conservator  
35 to file an amended report or accounting, may require the conservator to  
36 develop and file with the court a conservatorship plan as provided for in  
37 section 30, and amendments thereto, or the court may proceed pursuant  
38 to section 39, and amendments thereto, to remove the conservator and  
39 to appoint a successor conservator, or the court may proceed pursuant to  
40 section 41 or 42, and amendments thereto, to restore the conservatee to  
41 capacity or terminate the conservatorship.

42 (d) No order issued pursuant to this section shall be construed to  
43 have finally allowed or settled any conservator's accounting, except if pro-

1 proceedings have been held in compliance with section 37, and amendments  
2 thereto.

3 New Sec. 37. (a) At the time of or at any time after the filing of an  
4 accounting by the conservator, the conservator may file with the court a  
5 verified petition requesting a hearing on that accounting for the purposes  
6 of allowance and settlement. The petition shall include:

7 (1) The conservator's name and address, and if the conservator is also  
8 the guardian, that fact;

9 (2) the conservatee's name, age, date of birth, address of permanent  
10 residence, and present address or whereabouts, if different from the con-  
11 servatee's permanent residence;

12 (3) the name and address of the court appointed guardian, if different  
13 from the conservator;

14 (4) the names and addresses of any spouse, adult children and adult  
15 grandchildren of the conservatee, and those of any parent and adult sib-  
16 lings of the conservatee, or if no such names or addresses are known to  
17 the petitioner, the name and address of at least one adult who is nearest  
18 in kinship to the conservatee, or if none, that fact. If no such names or  
19 addresses are known to the conservator, but the conservator has reason  
20 to believe that such persons exist, then the petition shall state that fact  
21 and that the conservator has made diligent inquiry to learn those names  
22 and addresses;

23 (5) the names and addresses of other persons, if any, whom the con-  
24 servator knows to have an interest in the matter, or a statement that the  
25 petitioner knows of no other persons having an interest in the matter;

26 (6) designation of the accounting period for which allowance and set-  
27 tlement is sought; and

28 (7) a request that this accounting be accepted and that the court issue  
29 an order providing that all matters related thereto are finally allowed and  
30 settled.

31 (b) Upon the filing of such a petition, the court shall issue an order  
32 fixing the date, time and place of a hearing on the petition, which hearing  
33 may be held forthwith and without further notice if those persons named  
34 within the petition pursuant to the requirement of subsections (a)(3),  
35 (a)(4) and (a)(5), as applicable, have entered their appearances, waived  
36 notice, and agreed to the court's accepting the accounting and issuing an  
37 order of final allowance and settlement. Otherwise, the court shall require  
38 the conservator to give notice of this hearing to such persons in such  
39 manner as the court may specify, including therewith a copy of the con-  
40 servator's petition and a copy or copies of the accounting or accountings  
41 for which the conservator requests an order of final allowance and settle-  
42 ment. This notice shall advise such persons that if they have any objections  
43 to the accounting or accountings for which final allowance and settlement

1 is sought that they must file their written objections with the court prior  
2 to the scheduled hearing or that they must appear at the hearing to pres-  
3 ent those objections. The court may appoint an attorney to represent the  
4 conservatee in this matter similarly as provided for in subsection (a)(3) of  
5 section 14, and amendments thereto, and in such event, the court shall  
6 require the conservator to also give this notice to that attorney.

7 (c) In the absence of a petition having been filed by the conservator  
8 pursuant to this section, the court may set a hearing to determine whether  
9 an order of final allowance and settlement should be issued with regard  
10 to any accounting which has been previously filed by the conservator, and  
11 may require the conservator or some other person to give notice thereof  
12 as provided for herein.

13 (d) The hearing shall be conducted in as informal a manner as may  
14 be consistent with orderly procedure. The court shall have the authority  
15 to receive all relevant and material evidence which may be offered, in-  
16 cluding the testimony or written report, findings or recommendations of  
17 any professional or other person who has familiarity with the conservatee  
18 or the conservatee's estate. The court may review the court's prior orders,  
19 any conservatorship plan which has been filed pursuant to section 30, and  
20 amendments thereto, and any reports and accountings which have been  
21 filed by the guardian or conservator, or both, even if previously approved  
22 or allowed, to determine whether the current accounting seems reason-  
23 able in light of the past reports or accountings, and to determine whether  
24 any further proceedings under this act may be appropriate. The court  
25 shall give to the conservator, to the conservatee, and to other interested  
26 persons, the opportunity to present evidence to the court concerning the  
27 actions of the conservator, the conservatee's estate and the recommen-  
28 dations of such persons.

29 (e) At the conclusion of the hearing, if the court finds, by a prepon-  
30 derance of the evidence, that the accounting accurately accounts for the  
31 conservatee's estate, shows appropriate administration on the part of the  
32 conservator, that any fees of the conservator are reasonable, and that due  
33 notice and an opportunity to be heard has been provided to any interested  
34 parties, the court shall approve the accounting and order that it is allowed  
35 and settled. Such allowance and settlement shall relieve the conservator  
36 and the conservator's sureties from liability for all acts and omissions  
37 which are fully and accurately described in the accounting, including the  
38 investments of the assets of the conservatee's estate.

39 (f) If the court finds by a preponderance of the evidence that the  
40 conservator has innocently misused any funds or assets of the conserva-  
41 tee's estate, the court shall order the conservator to repay such funds or  
42 return such assets to the conservatee's estate. If the court finds that the  
43 conservator has embezzled or converted for the conservator's own per-

1 sonal use any funds or assets of the conservatee's estate, the court shall  
2 find the conservator liable for double the value of those funds or assets,  
3 as provided for in K.S.A. 59-1704, and amendments thereto. The court  
4 may order the forfeiture of the conservator's bond, or such portion  
5 thereof as equals the value of such funds or assets, including any lost  
6 earnings and the costs of recovering those funds or assets, including rea-  
7 sonable attorney fees, as the court may allow, and may require of the  
8 surety satisfaction thereof. Neither the conservator, nor the conservator's  
9 estate or surety, shall be finally released from such bond until the satis-  
10 fication thereof.

11 (g) At no time shall the conservator, or the conservator's estate or  
12 surety, be finally released from the bond required by the court pursuant  
13 to section 20, and amendments thereto until a final accounting has been  
14 filed, allowed and settled as provided for herein.

15 (h) Upon the filing of a final accounting, delivery of any remaining  
16 funds and assets of the conservatee's estate to the person entitled thereto,  
17 and presentation to the court of a receipt for such, the court may issue a  
18 final order of allowance and settlement as provided for herein, and only  
19 thereby finally shall release the conservator, the conservator's estate and  
20 the conservator's surety.

21 New Sec. 38. (a) A verified petition requesting the court to modify  
22 its prior order appointing co-guardians or co-conservators, or both, by  
23 either changing the authority of the co-guardians or co-conservators, or  
24 both, to act independently, to act only in concert, or to act only in concert  
25 with regard to certain matters, or to remove one or both of the co-guard-  
26 ians or co-conservators, or both, and to appoint only a single guardian or  
27 a single conservator, or both, shall include:

28 (1) The petitioner's name and address, and if the petitioner is one of  
29 the ward's or conservatee's court appointed co-guardians or co-conser-  
30 vators, that fact;

31 (2) the ward's or conservatee's name, age, date of birth, address of  
32 permanent residence, and present address or whereabouts, if different  
33 from the ward's or conservatee's permanent residence;

34 (3) the names and addresses of each of the court appointed co-guard-  
35 ians or co-conservators, or both, who are not the petitioner;

36 (4) the factual basis upon which the petitioner alleges the need for  
37 the court to modify its prior order of appointment, and whether the pe-  
38 titioner requests that the court require the co-guardians or co-conser-  
39 vators, or both, to act independently, to act only in concert, or to act only  
40 in concert with regard to certain matters, or whether the petitioner re-  
41 quests that the court remove one of the co-guardians or co-conservators,  
42 or both, and appoint only a single guardian or a single conservator, or  
43 both;

1 (5) the names and addresses of witnesses by whom the truth of the  
2 petition may be proved;

3 (6) if the petitioner is requesting the appointment of a single guardian  
4 or a single conservator, or both, to replace the co-guardians or co-con-  
5 servators, or both, the name, address, and relationship to the ward or  
6 conservatee, if any, of the individual or corporation whom the petitioner  
7 suggests that the court appoint as the single guardian or single conser-  
8 vator, or both, and if the suggested single guardian or single conservator  
9 is under contract with the Kansas guardianship program, that fact; and

10 (7) a request that the court make a determination that the co-guard-  
11 ians or co-conservators, or both, should each have the authority to act  
12 independently, should be required to act only in concert or only in concert  
13 with regard to certain matters, or that the co-guardians or co-conserva-  
14 tors, or both, should be replaced with a single guardian or a single con-  
15 servator, or both.

16 (b) Upon the filing of such a petition, the court shall issue an order  
17 fixing the date, time and place of a hearing on the petition, which hearing  
18 may be held forthwith and without further notice if each of the co-guard-  
19 ians or co-conservators, as applicable, and, if in the opinion of the court,  
20 all other persons necessary to the matter, have entered their appearance,  
21 waived notice, and agreed to the court granting the petitioner's request.  
22 Otherwise, the court shall require the petitioner to give notice of this  
23 hearing to such persons and in such manner as the court may specify,  
24 including therewith a copy of the petition. The court shall require the  
25 petitioner to give this notice to any co-guardians or co-conservators, or  
26 both. The court may appoint an attorney to represent the ward or con-  
27 servatee in this matter, similarly as provided for in subsection (a)(3) of  
28 section 14, and amendments thereto, and in such event, the court shall  
29 require the petitioner to also give this notice to that attorney.

30 (c) In the absence of a petition having been filed pursuant to this  
31 section, but whenever the court believes that it may be in the best inter-  
32 ests of the ward or conservatee to consider modification of the court's  
33 prior order appointing co-guardians or co-conservators, or both, the court  
34 may set a hearing thereon, and may require one of the co-guardians or  
35 co-conservators to give notice thereof as provided for herein.

36 (d) The hearing shall be conducted in as informal a manner as may  
37 be consistent with orderly procedure. The court shall have the authority  
38 to receive all relevant and material evidence which may be offered, in-  
39 cluding the testimony or written report, findings or recommendations of  
40 any professional or other person who has familiarity with the ward or  
41 conservatee or the conservatee's estate. The court may review the court's  
42 prior orders, any guardianship plan or conservatorship plan which has  
43 been filed pursuant to section 27 or 30, and amendments thereto, and

1 any reports or accountings which have been filed by the co-guardians or  
2 co-conservators, or both, even if previously approved or allowed. The  
3 court shall give to the co-guardians or co-conservators, or both, to the  
4 ward or conservatee, and to other interested persons, the opportunity to  
5 present information to the court concerning the actions of the co-guard-  
6 ians or co-conservators, or both, and of the recommendations of such  
7 persons.

8 (e) At the conclusion of the hearing, if the court finds that it is in the  
9 best interests of the ward or conservatee to do so, the court may modify  
10 its prior orders to provide that the co-guardians or co-conservators, or  
11 both, shall have the authority to act independently, to act only in concert,  
12 in certain circumstances or with regard to certain matters to act indepen-  
13 dently and in certain other circumstances or with regard to certain other  
14 matters to act only in concert, or the court may remove the co-guardians  
15 or co-conservators, or both, and appoint a single guardian or a single  
16 conservator, or both. In making any such appointments, the court shall  
17 act in accordance with sections 19 and 20, and amendments thereto.

18 (f) If the court finds by a preponderance of the evidence that a co-  
19 conservator has innocently misused any funds or assets of the conserva-  
20 tee's estate, the court shall order the co-conservator to repay such funds  
21 or return such assets to the conservator's estate. If the court finds that a  
22 co-conservator has embezzled or converted for the co-conservator's per-  
23 sonal use any funds or assets of the conservatee's estate, the court shall  
24 find the co-conservator liable for double the value of those funds or assets,  
25 as provided for in K.S.A. 59-1704, and amendments thereto. The court  
26 may order the forfeiture of the co-conservator's bond, or such portion  
27 thereof as equals the value of such funds or assets, including any lost  
28 earnings and the costs of recovering those funds or assets, including rea-  
29 sonable attorney fees, as the court may allow, and may require of the  
30 surety satisfaction thereof. Neither the conservator, nor the conservator's  
31 estate or surety, shall be finally released from such bond until the satis-  
32 faction thereof.

33 (g) No co-conservator, nor the co-conservator's estate or surety, shall  
34 be finally released from their bond until a final accounting has been filed,  
35 allowed and settled as provided for in section 37, and amendments  
36 thereto.

37 New Sec. 39. (a) A verified petition may be filed requesting the court  
38 to accept the resignation of the guardian or the conservator, or both, to  
39 remove the guardian or conservator, or both, or to appoint a successor  
40 guardian or conservator, or both, and shall include:

- 41 (1) The petitioner's name and address, and if the petitioner is the  
42 ward's or conservatee's court appointed guardian or conservator, that fact;
- 43 (2) the ward's or conservatee's name, age, date of birth, address of



1 permanent residence, and present address or whereabouts, if different  
2 from the ward's or conservatee's permanent residence;

3 (3) the name and address of the court appointed guardian or conser-  
4 vator, or both, if different from the petitioner;

5 (4) the factual basis upon which the petitioner alleges the need for  
6 the removal of the guardian or conservator, or both, or the appointment  
7 of a successor guardian or conservator, or both. If the current guardian  
8 or conservator is requesting the court to accept the guardian's or conser-  
9 vator's resignation, the petition shall include a statement to that effect  
10 and state the reasons why the guardian or conservator, or both, desires  
11 to resign;

12 (5) the names and addresses of witnesses by whom the truth of this  
13 petition may be proved;

14 (6) the name, address, and relationship to the ward or conservatee,  
15 if any, of the individual or corporation whom the petitioner suggests that  
16 the court appoint as the successor guardian or conservator, and if the  
17 suggested successor guardian or conservator is under contract with the  
18 Kansas guardianship program, that fact; and

19 (7) a request that the court make a determination that the guardian  
20 or conservator should be allowed to resign or should be removed, or that  
21 a successor guardian or conservator, or both, should be appointed.

22 (b) Upon the filing of such a petition, the court shall issue an order  
23 fixing the date, time and place of a hearing on the petition, which hearing  
24 may be held forthwith and without further notice if, in the opinion of the  
25 court, all persons necessary to the matter have entered their appearances,  
26 waived notice, and agreed to the court's entering the order requested.  
27 Otherwise, the court shall require the petitioner to give notice of this  
28 hearing to such persons and in such manner as the court may direct,  
29 including therewith a copy of the petition. This notice shall advise such  
30 persons that if they have any objections to the petition that they must file  
31 their written objections with the court prior to the scheduled hearing or  
32 that they must appear at the hearing to present those objections. If the  
33 petitioner is not the guardian or conservator, the court shall require the  
34 petitioner to give this notice to the guardian or conservator, or both. The  
35 court may appoint an attorney to represent the ward or conservatee in  
36 this matter, similarly as provided for in subsection (a)(3) of section 14,  
37 and amendments thereto, and in such event, the court shall require the  
38 petitioner also to give this notice to that attorney.

39 (c) In the absence of a petition having been filed, but at any time  
40 when the court has reason to believe that removal of the guardian or  
41 conservator, or both, may be necessary, the court may set a hearing  
42 thereon, and may require the guardian, conservator or some other person  
43 to give notice thereof as provided for herein. Nothing herein shall be

1 construed such that the court does not have the authority to suspend  
2 immediately the powers and authorities of a guardian or conservator, or  
3 both, whenever the court determines that it is in the best interests of the  
4 ward or conservatee to do so.

5 (d) The hearing shall be conducted in as informal a manner as may  
6 be consistent with orderly procedure. The court shall have the authority  
7 to receive all relevant and material evidence which may be offered, in-  
8 cluding the testimony or written report, findings or recommendations of  
9 any professional or other person who has familiarity with the ward or  
10 conservatee or the conservatee's estate. The court may review the courts  
11 prior orders, any guardianship plan or conservatorship plan filed pursuant  
12 to section 27 or 30, and amendments thereto, which is in effect, and any  
13 reports or accountings which have been filed by the guardian or conser-  
14 vator, or both, even if previously approved or allowed. The court shall  
15 give to the guardian or conservator, or both, to the ward or conservatee,  
16 and to other interested persons, the opportunity to present evidence to  
17 the court concerning the actions of the guardian or conservator, or both,  
18 and of the recommendations of such persons.

19 (e) At the conclusion of the hearing, if the court finds, by a prepon-  
20 derance of the evidence, that the guardian or conservator, or both, should  
21 be permitted to resign, or should be removed for failure to fulfill the  
22 duties or responsibilities of being a guardian or conservator, or for the  
23 manner in which the guardian or conservator has exercised the powers  
24 or authorities granted to the guardian or conservator, the court may so  
25 order and in such case shall revoke the letters of guardianship or conser-  
26 vatorship, or both, previously issued pursuant to section 20, and amend-  
27 ments thereto. The court may appoint a successor guardian or conser-  
28 vator, or both. In making any such appointments, the court shall act in  
29 accordance with sections 19 and 20, and amendments thereto.

30 (f) If the court finds that the conservator has innocently misused any  
31 funds or assets of the conservatee's estate, the court shall order the con-  
32 servator to repay such funds or return such assets to the conservatee's  
33 estate. If the court finds that the conservator has embezzled or converted  
34 for the conservator's personal use any funds or assets of the conservatee's  
35 estate, the court shall find the conservator liable for double the value of  
36 those funds or assets, as provided for in K.S.A. 59-1704, and amendments  
37 thereto. The court may order the forfeiture of the conservator's bond, or  
38 such portion thereof as equals the value of such funds or assets, including  
39 any lost earnings and the costs of recovering those funds or assets, in-  
40 cluding reasonable attorney fees, as the court may allow, and may require  
41 of the surety satisfaction thereof. Neither the conservator, nor the con-  
42 servator's estate or surety, shall be finally released from such bond until  
43 the satisfaction thereof.

1 New Sec. 40. (a) At any time the court has reason to believe that the  
2 guardian or conservator, or both, has failed to faithfully or diligently carry  
3 out such person's duties or responsibilities or to properly exercise such  
4 person's powers or authorities in a manner consistent with the provisions  
5 of section 26 or 29, and amendments thereto, or with any prior order of  
6 the court, the court may issue to the guardian or conservator, or both, an  
7 order to appear before the court at a specified date, time and place to  
8 show just cause why the court should not find that such person has failed  
9 to faithfully or diligently carry out such person's duties or responsibilities  
10 or to properly exercise such person's powers or authorities.

11 (b) At such hearing, the court shall give to the guardian or conser-  
12 vator, or both, the opportunity to present evidence concerning their ac-  
13 tions. The court shall also have the authority to receive all relevant and  
14 material evidence which may be offered by other interested parties, in-  
15 cluding the testimony or written report, findings or recommendations of  
16 any professional or other person who has familiarity with the ward or  
17 conservatee, or the conservatee's estate. The court may review the court's  
18 prior orders, any guardianship plan or conservatorship plan filed pursuant  
19 to section 27 or 30, and amendments thereto, which is in effect, and any  
20 reports or accountings which have been filed by the guardian or conser-  
21 vator, or both, even if previously approved or allowed.

22 (c) At the conclusion of the hearing, if the court finds, by a prepon-  
23 derance of the evidence, that the guardian or conservator, or both, has  
24 failed to faithfully or diligently carry out such person's duties or respon-  
25 sibilities or to properly exercise such person's powers or authorities, the  
26 court may remove the guardian or conservator, or both, and in such case,  
27 the court shall revoke the letters of guardianship or conservatorship, or  
28 both, previously issued pursuant to section 20, and amendments thereto.  
29 Otherwise, the court may issue appropriate orders further directing the  
30 guardian or conservator, or both, with regard to the performance of such  
31 person's duties or responsibilities or the exercise of such person's powers  
32 or authorities, or the court may dismiss the proceedings.

33 (d) If the court finds that the guardian or conservator has innocently  
34 misused any funds or assets of the ward's or conservatee's estate, the court  
35 shall order the guardian or conservator to repay such funds or return such  
36 assets to the ward's or conservatee's estate. If the court finds that the  
37 guardian or conservator has embezzled or converted for such person's  
38 personal use any funds or assets of the ward's or conservatee's estate, the  
39 court shall find the guardian or conservator liable for double the value of  
40 those funds or assets, as provided for in K.S.A. 59-1704, and amendments  
41 thereto, and in such case, neither the guardian or conservator, or the  
42 guardian's or conservator's estate, shall be finally released until the sat-  
43 isfaction thereof. The court may order the forfeiture of the conservator's

1 bond, or such portion thereof as equals the value of such funds or assets,  
2 including any lost earnings and the costs of recovering those funds or  
3 assets, including reasonable attorney fees, as the court may allow, and  
4 may require of the surety satisfaction thereof, and in such case the court  
5 shall not finally release the conservator's surety until such order has been  
6 satisfied.

7 (e) If the guardian or conservator, or both, fail or refuse to appear as  
8 ordered, the court may proceed as provided for in article 12 of chapter  
9 20 of the Kansas Statutes Annotated or K.S.A. 59- 2217a, and amend-  
10 ments thereto.

11 New Sec. 41. (a) The ward or conservatee may at any time file a  
12 verified petition with the court requesting that the court find that the  
13 ward or conservatee is no longer impaired, and request that the court  
14 restore the ward or conservatee to capacity.

15 (b) The petition shall include:

16 (1) The ward's or conservatee's name, age, date of birth, address of  
17 permanent residence, and present address or whereabouts, if different  
18 from the ward's or conservatee's permanent residence;

19 (2) the name and address of the ward's or conservatee's court ap-  
20 pointed guardian or conservator, or both;

21 (3) the factual basis upon which the ward or conservatee alleges that  
22 they are no longer impaired;

23 (4) the names and addresses of the witnesses by whom the truth of  
24 the petition may be proved; and

25 (5) a request that the court find that the ward or conservatee is no  
26 longer impaired, and therefore entitled to be restored to capacity.

27 (c) (1) Upon the filing of such a petition, the court shall review the  
28 petition to determine whether probable cause exists to warrant further  
29 proceedings. If the court finds probable cause to warrant further pro-  
30 ceedings, the court shall issue an order fixing the date, time and place of  
31 a hearing on the petition, which hearing shall be held not later than 30  
32 days following the filing of the petition. If the court does not find within  
33 the petition facts sufficient to constitute probable cause to warrant further  
34 proceedings, the court nonetheless may issue an order for an examination  
35 and evaluation of the ward or conservatee to determine if there is suffi-  
36 cient cause for further proceedings. The court may order the ward or  
37 conservatee to submit to such an examination and evaluation to be con-  
38 ducted through a general hospital, psychiatric hospital, community mental  
39 health center, community developmental disability organization, or by a  
40 private physician, psychiatrist, psychologist or other person appointed by  
41 the court who is qualified to examine and evaluate the ward or conser-  
42 vatee. The costs of this examination and evaluation shall be assessed as  
43 provided for in section 44, and amendments thereto.

1 (2) If the court does not find probable cause to warrant further pro-  
2 ceedings and the court does not issue an order for an examination and  
3 evaluation, or if the court has within the past six months conducted either  
4 the trial upon the original petition provided for in section 18, and amend-  
5 ments thereto, or a hearing on a previous petition for restoration, the  
6 court may decline to set a hearing on the petition and may dismiss the  
7 petition without further proceedings.

8 (d) If the court orders an examination and evaluation, and the report  
9 of that examination and evaluation contains information upon which the  
10 court finds probable cause to warrant further proceedings, the court shall  
11 issue an order fixing the date, time and place of a hearing on the petition,  
12 which hearing shall be held not later than 30 days following receipt of  
13 the report of the examination and evaluation. Otherwise, the court may  
14 dismiss the petition without further proceedings.

15 (e) The court may at any time on its own motion issue an order fixing  
16 the date, time and place of a hearing on whether the ward or conservatee  
17 should be restored to capacity.

18 (f) If the court issues an order setting the petition for a hearing, or  
19 issues an order on its own motion, the court may issue the following:

20 (1) An order appointing an attorney to represent the ward or conser-  
21 vatee in this matter, similarly as provided for in subsection (a)(3) of section  
22 14, and amendments thereto;

23 (2) an order requiring that the ward or conservatee appear at the time  
24 and place of the hearing on the petition. If an order to appear is entered,  
25 but is later rescinded, the court shall enter in the record of the proceed-  
26 ings the facts upon which the court found subsequent to the issuance of  
27 the order that the presence of the ward or conservatee should be excused;

28 (3) a notice of the hearing to the guardian or conservator, or both,  
29 and to other interested parties. The court may order the attorney for the  
30 ward or conservatee, or another appropriate person, to serve this notice  
31 as the court may direct;

32 (4) an order of referral for hearing to the district court of the county  
33 of residence of the ward or conservatee, or of the county wherein the  
34 ward or conservatee may be found, except that no order of referral for  
35 hearing shall be issued if objected to by the ward or conservatee. The  
36 district court to which an order of referral for hearing is made shall pro-  
37 ceed in the case as if the petition for restoration had been filed therein,  
38 except that upon completion of the hearing the court shall transmit the  
39 findings of the court, along with any statement of the costs incurred, and  
40 a certified copy of all pleadings filed and orders entered during the course  
41 of the referral, to the original court having venue. Thereafter, the original  
42 court shall proceed as provided for under this act;

43 (5) for good cause shown, an order of continuance of the hearing;

1 (6) for good cause shown, an order of advancement of the hearing;  
2 and

3 (7) for good cause shown, an order changing the place of the hearing.

4 (g) The hearing upon the petition, or the court's own motion, shall  
5 be conducted in as informal a manner as may be consistent with orderly  
6 procedure. The court shall have the authority to receive all relevant and  
7 material evidence which may be offered, including the testimony or writ-  
8 ten report, findings or recommendations of any professional or other per-  
9 son who has familiarity with the ward or conservatee.

10 (h) At the conclusion of the hearing, if the court does not find, by  
11 clear and convincing evidence, that the ward or conservatee is impaired,  
12 the court shall order that the ward or conservatee is restored to capacity  
13 and shall proceed to terminate the guardianship or conservatorship, or  
14 both, as provided for in subsection (i) or (j) of section 14, and amendments  
15 thereto. Otherwise, the court shall make such further orders in the guard-  
16 ianship or conservatorship, or both, as may be appropriate under this act.

17 New Sec. 42. (a) At any time following the appointment of a guardian  
18 or a conservator, any person, including the ward or conservatee, may file  
19 a verified petition with the court requesting that the court find that the  
20 ward or conservatee is no longer in need of a guardian or a conservator,  
21 or both, and requesting that the court terminate the guardianship or con-  
22 servatorship, or both.

23 (b) The petition shall include:

24 (1) The petitioner's name and address, and if the petitioner is the  
25 ward's or conservatee's court appointed guardian or conservator, or both,  
26 that fact;

27 (2) the ward's or conservatee's name, age, date of birth, address of  
28 permanent residence, and present address or whereabouts, if different  
29 from the ward's or conservatee's permanent residence;

30 (3) the name and address of the ward's or conservatee's court ap-  
31 pointed guardian or conservator, or both, if different from the petitioner;

32 (4) the factual basis upon which the petitioner alleges that the ward  
33 or conservatee is no longer in need of a guardian or conservator, or both;

34 (5) the names and addresses of the witnesses by whom the truth of  
35 the petition may be proved; and

36 (6) a request that the court find that the ward or conservatee is no  
37 longer in need of a guardian or conservator, or both, and that the court  
38 terminate the guardianship or conservatorship, or both.

39 (c) (1) Upon the filing of such a petition, the court shall review the  
40 petition to determine whether probable cause exists to warrant further  
41 proceedings. If the court finds probable cause to warrant further pro-  
42 ceedings, the court shall issue an order fixing the date, time and place of  
43 a hearing on the petition, which hearing shall be held not later than 30

1 days following the filing of the petition. If the court does not find within  
2 the petition facts sufficient to constitute probable cause to warrant further  
3 proceedings, the court nonetheless may issue an order for an investigation  
4 and report concerning the circumstances of the ward or conservatee. The  
5 court may appoint any qualified person to conduct this investigation. The  
6 costs of this investigation shall be assessed as provided for in section 44,  
7 and amendments thereto.

8 (2) If the court does not find probable cause to warrant further pro-  
9 ceedings and the court does not issue an order for an investigation and  
10 report, or if the court has within the past six months conducted either  
11 the trial upon the original petition provided for in section 18, and amend-  
12 ments thereto, or a hearing on a previous petition for termination, the  
13 court may decline to set a hearing on the petition and may dismiss the  
14 petition without further proceedings.

15 (d) If the court orders an investigation, and the report of that inves-  
16 tigation contains information upon which the court finds probable cause  
17 to warrant further proceedings, the court shall issue an order fixing the  
18 date, time and place of a hearing on the petition, which hearing shall be  
19 held not later than 30 days following receipt of the report of the inves-  
20 tigation. Otherwise, the court may dismiss the petition without further  
21 proceedings.

22 (e) The court may at any time on its own motion issue an order fixing  
23 the date, time and place of a hearing on whether the guardianship or  
24 conservatorship, or both, should be terminated.

25 (f) If the court issues an order setting the petition for a hearing, or  
26 issues an order on its own motion, the court may issue the following:

27 (1) An order appointing an attorney to represent the ward or conser-  
28 vatee in this matter, similarly as provided for in subsection (a)(3) of section  
29 14, and amendments thereto;

30 (2) a notice of the hearing to the guardian or conservator, or both,  
31 and to other interested parties. The court may order the petitioner, or  
32 another appropriate person, to serve this notice as the court may direct;

33 (3) for good cause shown, an order of continuance of the hearing;

34 (4) for good cause shown, an order of advancement of the hearing;  
35 and

36 (5) for good cause shown, an order changing the place of the hearing.

37 (g) The hearing upon the petition, or the court's own motion, shall  
38 be conducted in as informal a manner as may be consistent with orderly  
39 procedure. The court shall have the authority to receive all relevant and  
40 material evidence which may be offered, including the testimony or writ-  
41 ten report, findings or recommendations of any professional or other per-  
42 son who has familiarity with the ward or conservatee or the conservatee's  
43 estate.

1 (h) At the conclusion of the hearing, if the court does not find, by  
2 clear and convincing evidence, that the ward or conservatee is in need of  
3 a guardian or conservator, or both, the court shall order that the guardi-  
4 anship or conservatorship, or both, be terminated as provided for herein.  
5 The court may assign to the guardian or conservator additional respon-  
6 sibilities, duties, powers or authorities as the court determines appropri-  
7 ate to facilitate the closure of the guardianship or conservatorship, or  
8 both, including, if the ward or conservatee is deceased, authority to the  
9 guardian or conservator to pay from the ward's or conservatee's estate  
10 any reasonable funeral expenses, any medical expenses from the ward's  
11 or conservatee's last illness, and any claim for medical assistance paid for  
12 pursuant to K.S.A. 39-709, and amendments thereto, with due regard to  
13 the rights of a surviving spouse, if any, and creditors.

14 (i) Upon the court ordering that the guardianship be terminated, the  
15 guardian shall give any necessary notices with regard to the termination  
16 of the guardian's authority, shall assist the ward to establish an independ-  
17 ent residence, if applicable, and shall file a final report with the court  
18 concerning the actions of the guardian. The court shall review the report  
19 and if the court finds matters in order, the court shall approve this final  
20 report and shall finally discharge the guardian.

21 (j) Upon the court ordering that the conservatorship be terminated,  
22 the conservator shall take any necessary action to close the conservator's  
23 administration of the conservatee's estate, and to deliver the property and  
24 assets of the conservatee's estate to the conservatee or otherwise as the  
25 court may direct. If the conservatee is deceased, and the funeral and last  
26 illness expenses, payment of any claim for medical expenses paid for pur-  
27 suant to K.S.A. 39-709, and amendments there, payment of the fees of  
28 the conservator as the court may allow, and payment of the costs of the  
29 final accounting and closing of the conservatee's estate, will deplete the  
30 estate, the conservator shall show such depletion on the final accounting.  
31 If the court approves, allows and settles this final accounting pursuant to  
32 the provisions of section 37, and amendments thereto, the court finally  
33 shall discharge the conservator and the conservator's surety. If such ex-  
34 penses will not deplete the estate, the remaining property and assets of  
35 the conservatee's estate shall be delivered by the conservator to the ap-  
36 propriate person or agency as determined by the court, and the conser-  
37 vator shall report such fact to the court in a final accounting. Upon the  
38 filing of a final accounting, and presentation to the court of a receipt for  
39 such property and assets, if the court approves, allows and settles this  
40 final accounting pursuant to the provisions of section 37, and amendments  
41 thereto, the court finally shall discharge the conservator and the conser-  
42 vator's surety. Neither the conservator, nor the conservator's estate or  
43 surety, shall be finally discharged until all of the property and assets of



1 the conservatee's estate have been dispersed as directed by the court.

2 New Sec. 43. (a) The court at any time, upon the request of any party  
3 or upon the court's own motion, may issue a written order directing that  
4 any medical or treatment records, evaluations or investigative reports filed  
5 with the court, attached to any pleading, produced in response to any  
6 order issued by the court, or introduced in evidence, shall be separately  
7 maintained in a confidential manner, to be disclosed only:

8 (1) Upon the written consent or request of the proposed ward or  
9 proposed conservatee, if no guardian or conservator is appointed by the  
10 court;

11 (2) upon the written consent of the guardian or conservator;

12 (3) upon the written consent of the former ward or former conser-  
13 vatee, if restored to capacity pursuant to section 41, and amendments  
14 thereto;

15 (4) upon the order of any court of record after a determination has  
16 been made by the court that such records or reports are necessary for  
17 the conduct of proceedings before the court and are otherwise admissible  
18 as evidence;

19 (5) to any state or national accreditation agency or for a scholarly  
20 study, but the court shall require, before such disclosure is made, a pledge  
21 from that state or national accreditation agency or scholarly investigator  
22 that such agency or investigator will not disclose the name of any patient  
23 or former patient to any person not otherwise authorized by law to receive  
24 such information; or

25 (6) in proceedings under this act, upon the written request of any  
26 attorney representing any party.

27 (b) To the extent the provisions of K.S.A. 65-5601 through 65-5605,  
28 or K.S.A. 2000 Supp. 59-2979 or 59-29b79, and amendments thereto, are  
29 applicable to medical or treatment records of any patient or former pa-  
30 tient who may be the subject of proceedings under this act, the provisions  
31 of K.S.A. 65-5601 through 65-5605 or K.S.A. 59-2979 or 59-29b79, and  
32 amendments thereto, as applicable, shall control the disposition of infor-  
33 mation contained in such records. Willful violation of this section is a class  
34 C misdemeanor.

35 New Sec. 44. (a) In each proceeding the court shall allow and order  
36 paid to any individual or institution as a part of the costs thereof a rea-  
37 sonable fee and expenses for any professional services ordered performed  
38 by the court pursuant to this act other than those performed by any in-  
39 dividual or institution under the jurisdiction of the department of social  
40 and rehabilitation services, but including the fee of counsel for the pro-  
41 posed ward or proposed conservatee or ward or conservatee when counsel  
42 is appointed by the court. The court may allow and order paid the fee of  
43 counsel for the petitioner. Other costs and fees may be allowed and paid

1 as are allowed by law for similar services in other cases. The costs shall  
2 be taxed to the estate of the proposed ward or proposed conservatee or  
3 ward or conservatee, to those bound by law to support the proposed ward  
4 or proposed conservatee or ward or conservatee, to other parties when-  
5 ever it would be just and equitable to do so, or to the county of residence  
6 of the proposed ward or proposed conservatee or ward or conservatee as  
7 the court having venue shall direct.

8 (b) In any contested proceeding or matter the court, in its discretion,  
9 may require one or more parties to give security for the costs thereof, or  
10 in lieu thereof to file a poverty affidavit as provided for in the code of  
11 civil procedure.

12 (c) Any district court receiving a statement of costs from another  
13 district court shall approve the same for payment out of the general fund  
14 of its county except that it may refuse to approve the same for payment  
15 only on the grounds that the proposed ward or proposed conservatee or  
16 ward or conservatee is not a resident of that county. In such case it shall  
17 transmit the statement of costs to the secretary of social and rehabilitation  
18 services who shall determine the question of residence and certify those  
19 findings to each district court. If the claim for costs is not paid within 30  
20 days after such certification, an action may be maintained thereon by the  
21 claimant county in the district court of the claimant county against the  
22 debtor county. The findings made by the secretary of social and rehabil-  
23 itation services as to the residence of the proposed ward or proposed  
24 conservatee or ward or conservatee shall be applicable only to the as-  
25 sessment of costs. Any county of residence which pays from its general  
26 fund court costs to the district court of another county may recover the  
27 same in any court of competent jurisdiction from the estate of the pro-  
28 posed ward or proposed conservatee or ward or conservatee or from those  
29 bound by law to support the proposed ward or proposed conservatee or  
30 ward or conservatee, unless the court finds that the proceedings in which  
31 such costs were incurred were instituted without probable cause and not  
32 in good faith.

33 New Sec. 45. (a) Any person who has been adjudged a disabled per-  
34 son prior to the effective date of this act and who has not been restored  
35 to capacity, for the purposes of this act, shall be considered to be either:

36 (1) An adult with an impairment in need of a guardian or conservator,  
37 or both;

38 (2) a minor in need of a guardian or conservator, or both;

39 (3) a minor with an impairment in need of a guardian or conservator,  
40 or both;

41 (4) a person previously adjudged as impaired in another state; or

42 (5) a person in need of an ancillary conservator.

43 (b) Within one year from the effective date of this act, any person

1 with an interest in the matter may file a verified petition requesting that  
2 the court determine whether the ward or conservatee meets the defini-  
3 tion of impaired as contained within this act, or meets the requirements  
4 of being in need of a guardian or conservator. Thereafter, all proceedings  
5 shall be as provided for in this act.

6 (c) No act of a guardian or conservator performed prior to the effec-  
7 tive date of this act, which was performed in compliance with any pro-  
8 vision of the act for obtaining a guardian or conservator, or both, in effect  
9 prior to the effective date of this act, shall be deemed unlawful because  
10 of any provision of this act.

11 (d) Upon and after the effective date of this act, all acts of any guard-  
12 ian or conservator appointed by any court prior to the effective date of  
13 this act shall comply with the provisions of this act.

14 Sec. 46. K.S.A. 2000 Supp. 9-1215 is hereby amended to read as  
15 follows: 9-1215. Subject to the provisions of this section and K.S.A. 9-  
16 1216 and amendments thereto, an individual adult or minor, hereafter  
17 referred to as the owner, may enter into a written contract with any bank  
18 located in this state providing that the balance of the owner's deposit  
19 account, or the balance of the owner's legal share of a deposit account,  
20 at the time of death of the owner shall be made payable on the death of  
21 the owner to one or more persons or, if the persons predecease the owner,  
22 to another person or persons, hereafter referred to as the beneficiary or  
23 beneficiaries. If any beneficiary is a minor at the time the account, or any  
24 portion of the account, becomes payable to the beneficiary and the bal-  
25 ance, or portion of the balance, exceeds the amount specified by ~~K.S.A.~~  
26 ~~59-3003~~ *section 4*, and amendments thereto, the moneys shall be payable  
27 only to a conservator of the minor beneficiary.

28 Transfers pursuant to this section shall not be considered testamentary  
29 or be invalidated due to nonconformity with the provisions of chapter 59  
30 of the Kansas Statutes Annotated.

31 Every contract authorized by this section shall be considered to contain  
32 a right on the part of the owner during the owner's lifetime both to  
33 withdraw funds on deposit in the account in the manner provided in the  
34 contract, in whole or in part, as though no beneficiary has been named,  
35 and to change the designation of beneficiary. The interest of the bene-  
36 ficiary shall be considered not to vest until the death of the owner and,  
37 if there is a claim pursuant to subsection (g) of K.S.A. 39-709 and amend-  
38 ments thereto, until such claim is satisfied.

39 No change in the designation of the beneficiary shall be valid unless  
40 executed in the form and manner prescribed by the bank and delivered  
41 to the bank prior to the death of the owner.

42 For the purposes of this section, the balance of the owner's deposit  
43 account or the balance of the owner's legal share of a deposit account

1 shall not be construed to include any portion of the account which under  
2 the law of joint tenancy is the property of another joint tenant of the  
3 account upon the death of the owner.

4 As used in this section, "person" means any individual, individual or  
5 corporate fiduciary or nonprofit religious or charitable organization as  
6 defined by K.S.A. 79-4701, and amendments thereto.

7 Sec. 47. K.S.A. 2000 Supp. 9-1216 is hereby amended to read as  
8 follows: 9-1216. When the owner and the bank have entered into a con-  
9 tract authorized in K.S.A. 9-1215, and amendments thereto, the owner's  
10 deposit account subject to the contract or any part of or interest on the  
11 account shall be paid by the bank to the owner or pursuant to the owner's  
12 order during the owner's lifetime. On the owner's death, the deposit  
13 account or any part of or interest on the account shall be paid by the bank  
14 to the secretary of social and rehabilitation services for a claim pursuant  
15 to subsection (g) of K.S.A. 39-709 and amendments thereto or, if there  
16 is no such claim or if any portion of the account remains after such claim  
17 is satisfied, to the designated beneficiary or beneficiaries. If any desig-  
18 nated beneficiary is a minor at the time the account, or any portion of  
19 the account, becomes payable to the beneficiary and the balance, or por-  
20 tion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *sec-*  
21 *tion 4*, and amendments thereto, the bank shall pay the moneys or any  
22 interest on them only to a conservator of the minor beneficiary. The  
23 receipt of the conservator shall release and discharge the bank for the  
24 payment.

25 Sec. 48. K.S.A. 17-2263 is hereby amended to read as follows: 17-  
26 2263. Subject to the provisions of this section and K.S.A. 17-2264 and  
27 amendments thereto, an individual adult or minor, hereafter referred to  
28 as the shareholder, may enter into a written contract with any credit union  
29 located in this state providing that the balance of the shareholder's ac-  
30 count, or the balance of the shareholder's legal share of an account, at  
31 the time of death of the shareholder shall be made payable on the death  
32 of the shareholder to one or more persons or, if the persons predecease  
33 the owner, to another person or persons, hereafter referred to as the  
34 beneficiary or beneficiaries. If any beneficiary is a minor at the time the  
35 account, or any portion of the account, becomes payable to the beneficiary  
36 and the balance, or portion of the balance, exceeds the amount specified  
37 by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the moneys shall  
38 be payable only to a conservator of the minor beneficiary.

39 Transfers pursuant to this section shall not be considered testamentary  
40 or be invalidated due to nonconformity with the provisions of chapter 59  
41 of the Kansas Statutes Annotated.

42 Every contract authorized by this section shall be considered to contain  
43 a right on the part of the shareholder during the shareholder's lifetime

1 both to withdraw funds on deposit in the account in the manner provided  
2 in the contract, in whole or in part, as though no beneficiary has been  
3 named, and to change the designation of beneficiary. The interest of the  
4 beneficiary shall be considered not to vest until the death of the share-  
5 holder and, if there is a claim pursuant to subsection (g) of K.S.A. 39-709  
6 and amendments thereto, until such claim is satisfied.

7 No change in the designation of the beneficiary shall be valid unless  
8 executed in the form and manner prescribed by the credit union and  
9 delivered to the credit union prior to the death of the shareholder.

10 For the purposes of this section, the balance of the shareholder's ac-  
11 count or the balance of the shareholder's legal share of an account shall  
12 not be construed to include any portion of the account which under the  
13 law of joint tenancy is the property of another joint tenant of the account  
14 upon the death of the owner.

15 As used in this section, "person" means any individual, individual or  
16 corporate fiduciary or nonprofit religious or charitable organization as  
17 defined by K.S.A. 79-4701 and amendments thereto.

18 Sec. 49. K.S.A. 17-2264 is hereby amended to read as follows: 17-  
19 2264. When the shareholder and the credit union have entered into a  
20 contract authorized in K.S.A. 17-2263 and amendments thereto, the  
21 shareholder's account subject to the contract or any part of or interest on  
22 the account shall be paid by the credit union to the shareholder or pur-  
23 suant to the shareholder's order during the shareholder's lifetime. On the  
24 shareholder's death, the deposit account or any part of or interest on the  
25 account shall be paid by the credit union to the secretary of social and  
26 rehabilitation services for a claim pursuant to subsection (g) of K.S.A. 39-  
27 709 and amendments thereto or, if there is no such claim or if any portion  
28 of the account remains after such claim is satisfied, to the designated  
29 beneficiary or beneficiaries. If any designated beneficiary is a minor at  
30 the time the account, or any portion of the account, becomes payable to  
31 the beneficiary and the balance, or portion of the balance, exceeds the  
32 amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto,  
33 the credit union shall pay the moneys or any interest on them only to a  
34 conservator of the minor beneficiary. The receipt of the conservator shall  
35 release and discharge the credit union for the payment.

36 Sec. 50. K.S.A. 17-5828 is hereby amended to read as follows: 17-  
37 5828. Subject to the provisions of this section and K.S.A. 17-5829 and  
38 amendments thereto, an individual adult or minor, hereafter referred to  
39 as the owner, may enter into a written contract with any savings and loan  
40 association located in this state providing that the balance of the owner's  
41 deposit account, or the balance of the owner's legal share of a deposit  
42 account, at the time of death of the owner shall be made payable on the  
43 death of the owner to one or more persons or, if the persons predecease

1 the owner, to another person or persons, hereafter referred to as the  
2 beneficiary or beneficiaries. If any beneficiary is a minor at the time the  
3 account, or any portion of the account, becomes payable to the beneficiary  
4 and the balance, or portion of the balance, exceeds the amount specified  
5 by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the moneys shall  
6 be payable only to a conservator of the minor beneficiary.

7 Transfers pursuant to this section shall not be considered testamentary  
8 or be invalidated due to nonconformity with the provisions of chapter 59  
9 of the Kansas Statutes Annotated.

10 Every contract authorized by this section shall be considered to contain  
11 a right on the part of the owner during the owner's lifetime both to  
12 withdraw funds on deposit in the account in the manner provided in the  
13 contract, in whole or in part, as though no beneficiary has been named,  
14 and to change the designation of beneficiary. The interest of the bene-  
15 ficiary shall be considered not to vest until the death of the owner and,  
16 if there is a claim pursuant to subsection (g) of K.S.A. 39-709 and amend-  
17 ments thereto, until such claim is satisfied.

18 No change in the designation of the beneficiary shall be valid unless  
19 executed in the form and manner prescribed by the savings and loan  
20 association and delivered to the savings and loan association prior to the  
21 death of the owner.

22 For the purposes of this section, the balance of the owner's deposit  
23 account or the balance of the owner's legal share of a deposit account  
24 shall not be construed to include any portion of the account which under  
25 the law of joint tenancy is the property of another joint tenant of the  
26 account upon the death of the owner.

27 As used in this section, "person" means any individual, individual or  
28 corporate fiduciary or nonprofit religious or charitable organization as  
29 defined by K.S.A. 79-4701 and amendments thereto.

30 Sec. 51. K.S.A. 17-5829 is hereby amended to read as follows: 17-  
31 5829. When the owner and the savings and loan association have entered  
32 into a contract authorized in K.S.A. 17-5828 and amendments thereto,  
33 the owner's deposit account subject to the contract or any part of or  
34 interest on the account shall be paid by the savings and loan association  
35 to the owner or pursuant to the owner's order during the owner's lifetime.  
36 On the owner's death, the deposit account or any part of or interest on  
37 the account may be paid by the savings and loan association to the sec-  
38 retary of social and rehabilitation services for a claim pursuant to subsec-  
39 tion (g) of K.S.A. 39-709 and amendments thereto or, if there is no such  
40 claim or if any portion of the account remains after such claim is satisfied,  
41 to the designated beneficiary or beneficiaries. If any designated benefi-  
42 ciary is a minor at the time the account, or any portion of the account,  
43 becomes payable to the beneficiary and the balance, or portion of the

1 balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and  
2 amendments thereto, the savings and loan association shall pay the mon-  
3 eys or any interest on them only to a conservator of the minor beneficiary.  
4 The receipt of the conservator shall release and discharge the savings and  
5 loan association for the payment.

6 Sec. 52. K.S.A. 38-1505 is hereby amended to read as follows: 38-  
7 1505. (a) *Appointment of guardian ad litem; duties.* Upon the filing of a  
8 petition the court shall appoint a person who is an attorney to serve as  
9 guardian *ad litem* for a child who is the subject of proceedings under this  
10 code. The guardian *ad litem* shall make an independent investigation of  
11 the facts upon which the petition is based and shall appear for and rep-  
12 resent the child.

13 (b) *Attorney for parent or custodian.* A parent or custodian of a child  
14 alleged or adjudged to be a child in need of care may be represented by  
15 an attorney, other than the guardian *ad litem* appointed for the child, in  
16 connection with all proceedings under this code. If at any stage of the  
17 proceedings a parent desires but is financially unable to employ an attor-  
18 ney, the court shall appoint an attorney for the parent. It shall not be  
19 necessary to appoint an attorney to represent a parent who fails or refuses  
20 to attend the hearing after having been properly served with process in  
21 accordance with K.S.A. 38-1534 and amendments thereto. A parent or  
22 custodian who is not a minor, a mentally ill person as defined in K.S.A.  
23 2000 Supp. 59-2946 and amendments thereto or a disabled person as  
24 defined in K.S.A. ~~59-3002~~ *77-201* and amendments thereto may waive  
25 counsel either in writing or on the record.

26 (c) *Attorney for parent who is a minor, mentally ill or disabled.* The  
27 court shall appoint an attorney for a parent who is a minor, a mentally ill  
28 person as defined in K.S.A. ~~59-2902~~ *2000 Supp. 59-2946* and amend-  
29 ments thereto or a disabled person as defined in K.S.A. ~~59-3002~~ *77-201*  
30 and amendments thereto, unless the court determines that there is an  
31 attorney retained who will appear and represent the interests of the per-  
32 son in the proceedings under this code.

33 (d) *Continuation of representation.* A guardian *ad litem* appointed for  
34 a child or an attorney appointed for a parent or custodian shall continue  
35 to represent the client at all subsequent hearings in proceedings under  
36 this code, including any appellate proceedings, unless relieved by the  
37 court upon a showing of good cause or upon transfer of venue.

38 (e) *Fees for counsel.* A guardian *ad litem* or attorney appointed for  
39 parties to proceedings under this section shall be allowed a reasonable  
40 fee for their services, which may be assessed as an expense in the pro-  
41 ceedings as provided in K.S.A. 38-1511 and amendments thereto.

42 Sec. 53. K.S.A. 39-789 is hereby amended to read as follows: 39-789.  
43 Assistance shall not be withheld from any institutionalized person or any

1 person seeking home and community based services who would otherwise  
2 qualify for assistance under this act but who, by reason of ~~disability~~ *being*  
3 *a disabled person* as defined by K.S.A. ~~59-3002~~ *77-201*, and amendments  
4 thereto, is unable to give the consent prerequisite to the property and  
5 income transfers described in this act, provided that the spouse of the  
6 individual seeking assistance seeks a court order of maintenance, an order  
7 of conservatorship or of property and income division pursuant to this act  
8 within one year from the beginning of the first benefit period.

9 Sec. 54. K.S.A. 39-970 is hereby amended to read as follows: 39-970.

10 (a) (1) On and after July 1, 1998, no person shall knowingly operate an  
11 adult care home if, in the adult care home, there works any person who  
12 has been convicted of or has been adjudicated a juvenile offender because  
13 of having committed an act which if done by an adult would constitute  
14 the commission of capital murder, pursuant to K.S.A. 21-3439 and  
15 amendments thereto, first degree murder, pursuant to K.S.A. 21-3401  
16 and amendments thereto, second degree murder, pursuant to subsection  
17 (a) of K.S.A. 21-3402 and amendments thereto, voluntary manslaughter,  
18 pursuant to K.S.A. 21-3403 and amendments thereto, assisting suicide  
19 pursuant to K.S.A. 21-3406 and amendments thereto, mistreatment of a  
20 dependent adult, pursuant to K.S.A. 21-3437 and amendments thereto,  
21 rape, pursuant to K.S.A. 21-3502 and amendments thereto, indecent lib-  
22 erties with a child, pursuant to K.S.A. 21-3503 and amendments thereto,  
23 aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504 and  
24 amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-  
25 3506 and amendments thereto, indecent solicitation of a child, pursuant  
26 to K.S.A. 21-3510 and amendments thereto, aggravated indecent solici-  
27 tation of a child, pursuant to K.S.A. 21-3511 and amendments thereto,  
28 sexual exploitation of a child, pursuant to K.S.A. 21-3516 and amend-  
29 ments thereto, sexual battery, pursuant to K.S.A. 21-3517 and amend-  
30 ments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518  
31 and amendments thereto, or similar statutes of other states or the federal  
32 government.

33 (2) On and after July 1, 1998, a person operating an adult care home  
34 may employ an applicant who has been convicted of any of the following  
35 if five or more years have elapsed since the applicant satisfied the sen-  
36 tence imposed or was discharged from probation, a community correc-  
37 tional services program, parole, postrelease supervision, conditional re-  
38 lease or a suspended sentence; or if five or more years have elapsed since  
39 the applicant has been finally discharged from the custody of the com-  
40 missioner of juvenile justice or from probation or has been adjudicated a  
41 juvenile offender, whichever time is longer: A felony conviction for a  
42 crime which is described in: (A) article 34 of chapter 21 of the Kansas  
43 Statutes Annotated and amendments thereto, except those crimes listed



1 in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas  
2 Statutes Annotated and amendments thereto, except those crimes listed  
3 in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) a  
4 conviction of an attempt under K.S.A. 21-3301 and amendments thereto  
5 to commit any act listed in this subsection or subsection (a)(1); or (D)  
6 similar statutes of other states or the federal government.

7 (b) No person shall operate an adult care home if such person has  
8 been found to be a ~~disabled person~~ in need of a guardian or conservator,  
9 or both *as provided in sections 1 through 45, and amendments thereto.*

10 (c) The secretary of health and environment shall have access to any  
11 criminal history record information in the possession of the Kansas bureau  
12 of investigation concerning persons working in an adult care home. The  
13 secretary shall have access to these records for the purpose of determining  
14 whether or not the adult care home meets the requirements of this sec-  
15 tion. The Kansas bureau of investigation may charge to the department  
16 of health and environment a reasonable fee for providing criminal history  
17 record information under this subsection.

18 (d) For the purpose of complying with this section, the operator of  
19 an adult care home shall request from the department of health and  
20 environment information obtained by the secretary of health and envi-  
21 ronment which relates to a person who works in the adult care home, or  
22 is being considered for employment by the adult care home, for the pur-  
23 pose of determining whether such person is subject to the provision of  
24 this section. For the purpose of complying with this section, the operator  
25 of an adult care home shall receive from any employment agency which  
26 provides employees to work in the adult care home written certification  
27 that such employees are not prohibited from working in the adult care  
28 home under this section. For the purpose of complying with this section,  
29 information relating to convictions and adjudications by the federal gov-  
30 ernment or to convictions and adjudications in states other than Kansas  
31 shall not be required until such time as the secretary of health and en-  
32 vironment determines the search for such information could reasonably  
33 be performed and the information obtained within a two-week period.  
34 For the purpose of complying with this section, a person who operates  
35 an adult care home may hire an applicant for employment on a conditional  
36 basis pending the results from the department of health and environment  
37 of a request for information under this subsection. No adult care home,  
38 the operator or employees of an adult care home or an employment  
39 agency, or the operator or employees of an employment agency, shall be  
40 liable for civil damages resulting from any decision to employ, to refuse  
41 to employ or to discharge from employment any person based on such  
42 adult care home's compliance with the provisions of this section if such  
43 adult care home or employment agency acts in good faith to comply with

1 this section.

2 (e) The secretary of health and environment shall charge each person  
3 requesting information under this section a fee equal to cost, not to ex-  
4 ceed \$10, for each name about which an information request has been  
5 submitted to the department under this section.

6 (f) No person who works for an adult care home and who is currently  
7 licensed or registered by an agency of this state to provide professional  
8 services in the state and who provides such services as part of the work  
9 which such person performs for the adult care home shall be subject to  
10 the provisions of this section.

11 (g) A person who volunteers in an adult care home shall not be sub-  
12 ject to the provisions of this section because of such volunteer activity.

13 (h) No person who has been employed by the same adult care home  
14 for five consecutive years immediately prior to the effective date of this  
15 act shall be subject to the provisions of this section while employed by  
16 such adult care home.

17 (i) The operator of an adult care home shall not be required under  
18 this section to conduct a background check on an applicant for employ-  
19 ment with the adult care home if the applicant has been the subject of a  
20 background check under this act within one year prior to the application  
21 for employment with the adult care home. The operator of an adult care  
22 home where the applicant was the subject of such background check may  
23 release a copy of such background check to the operator of an adult care  
24 home where the applicant is currently applying.

25 (j) No person who is in the custody of the secretary of corrections  
26 and who provides services, under direct supervision in nonpatient areas,  
27 on the grounds or other areas designated by the superintendent of the  
28 Kansas soldiers' home or the Kansas veterans' home shall be subject to  
29 the provisions of this section while providing such services.

30 (k) This section shall be part of and supplemental to the adult care  
31 home licensure act.

32 Sec. 55. K.S.A. 44-513a is hereby amended to read as follows: 44-  
33 513a. Whenever a minor person shall be entitled to compensation under  
34 the provisions of the workers compensation act, the administrative law  
35 judge is authorized to direct such compensation to be paid in accordance  
36 with ~~K.S.A. 59-3001~~ *et seq. sections 1 through 45*, and amendments  
37 thereto.

38 Sec. 56. K.S.A. 58-629 is hereby amended to read as follows: 58-629.

39 (a) A durable power of attorney for health care decisions may convey to  
40 the agent the authority to:

41 (1) Consent, refuse consent, or withdraw consent to any care, treat-  
42 ment, service or procedure to maintain, diagnose or treat a physical or  
43 mental condition, and to make decisions about organ donation, autopsy,

1 and disposition of the body;

2 (2) make all necessary arrangements for the principal at any hospital,  
3 psychiatric hospital or psychiatric treatment facility, hospice, nursing  
4 home or similar institution; to employ or discharge health care personnel  
5 to include physicians, psychiatrists, psychologists, dentists, nurses, ther-  
6 apists or any other person who is licensed, certified, or otherwise au-  
7 thorized or permitted by the laws of this state to administer health care  
8 as the agent shall deem necessary for the physical, mental and emotional  
9 well being of the principal; and

10 (3) request, receive and review any information, verbal or written,  
11 regarding the principal's personal affairs or physical or mental health in-  
12 cluding medical and hospital records and to execute any releases of other  
13 documents that may be required in order to obtain such information.

14 (b) The powers of the agent herein shall be limited to the extent set  
15 out in writing in the durable power of attorney for health care decisions,  
16 and shall not include the power to revoke or invalidate a previously ex-  
17 isting declaration by the principal in accordance with the natural death  
18 act. No agent powers conveyed pursuant to this section shall be effective  
19 until the occurrence of the principal's ~~disability or incapacity, as defined~~  
20 ~~in K.S.A. 59-3002 and amendments thereto, impairment~~ as determined  
21 by the principal's attending physician, as defined in subsection (a) of  
22 K.S.A. 65-28,102 and amendments thereto, unless the durable power of  
23 attorney for health care decisions specifically provides otherwise. Nothing  
24 in this act shall be construed as prohibiting an agent from providing treat-  
25 ment by spiritual means through prayer alone and care consistent there-  
26 with, in lieu of medical care and treatment, in accordance with the tenets  
27 and practices of any church or religious denomination of which the prin-  
28 cipal is a member.

29 (c) In exercising the authority under the durable power of attorney  
30 for health care decisions, the agent has a duty to act consistent with the  
31 expressed desires of the principal.

32 (d) Neither the treating health care provider, as defined by subsec-  
33 tion (c) of K.S.A. 65-4921 and amendments thereto, nor an employee of  
34 the treating health care provider, nor an employee, owner, director or  
35 officer of a facility described in K.S.A. 58-629(a)(2) may be designated as  
36 the agent to make health care decisions under a durable power of attorney  
37 for health care decisions unless:

38 (1) Related to the principal by blood, marriage or adoption; or

39 (2) the principal and agent are members of the same community of  
40 persons who are bound by vows to a religious life and who conduct or  
41 assist in the conduct of religious services and actually and regularly engage  
42 in religious, benevolent, charitable or educational ministrations or the  
43 performance of health care services.

1 (e) A durable power of attorney for health care decisions shall be:

2 (1) Dated and signed in the presence of two witnesses at least 18  
3 years of age neither of whom shall be the agent, related to the principal  
4 by blood, marriage or adoption, entitled to any portion of the estate of  
5 the principal according to the laws of intestate succession of this state or  
6 under any will of the principal or codicil thereto, or directly financially  
7 responsible for the principal's health care; or

8 (2) acknowledged before a notary public.

9 (f) Death of the principal shall not prohibit or invalidate acts of the  
10 agent in arranging for organ donation, autopsy or disposition of body.

11 (g) Any person who in good faith acts pursuant to the terms of a  
12 durable power of attorney for health care decisions without knowledge  
13 of its invalidity shall be immune from liability that may be incurred or  
14 imposed from such action.

15 Sec. 57. K.S.A. 2000 Supp. 58-24a15 is hereby amended to read as  
16 follows: 58-24a15. Conservators shall not invest funds under their control  
17 and management in investments other than those specifically permitted  
18 by ~~K.S.A. 59-3019~~ *section 29*, and amendments thereto, except upon the  
19 entry of an order of a court of competent jurisdiction, after a hearing on  
20 a verified petition. Before authorizing any such investment, the court shall  
21 require evidence of value and advisability of such purchase.

22 Sec. 58. K.S.A. 59-1701 is hereby amended to read as follows: 59-  
23 1701. (a) No bank, savings and loan association or other corporation shall  
24 be appointed or authorized directly or indirectly to act as a fiduciary in  
25 this state except:

26 (1) A bank, savings and loan association or other corporation organ-  
27 ized under the laws of, and having its principal place of business in, this  
28 state;

29 (2) a national bank, federal savings bank or federal savings and loan  
30 association located in this state;

31 (3) a bank, savings and loan association or other corporation organ-  
32 ized under the laws of, and having its principal place of business in, an-  
33 other state which permits a bank, savings and loan association or other  
34 corporation which is similarly organized in this state to act in a like fi-  
35 duciary capacity in the other state under similar conditions;

36 (4) a national bank, federal savings bank or federal savings and loan  
37 association located in another state which permits a national bank, federal  
38 savings bank or federal savings and loan association located in this state  
39 to act in a like fiduciary capacity in the other state under similar  
40 conditions;

41 (5) a nonprofit corporation certified in accordance with ~~K.S.A. 59-~~  
42 ~~3037~~ *section 21*, and amendments thereto, to the extent provided by that  
43 statute; or

1 (6) as provided in K.S.A. 59-1707 and 59-1708, and amendments  
2 thereto.

3 (b) No officer, employee or agent of a bank, savings and loan asso-  
4 ciation or corporation which is not authorized to act as a fiduciary in this  
5 state shall be permitted to act as a fiduciary, whether such officer, em-  
6 ployee or agent is a resident or a nonresident of this state, when in fact  
7 such officer, employee or agent is acting as a fiduciary on behalf of such  
8 bank, savings and loan association or corporation.

9 (c) No bank, savings and loan association or other corporation, other  
10 than a nonprofit corporation certified in accordance with ~~K.S.A. 59-3037~~  
11 *section 21*, and amendments thereto, shall be appointed guardian of the  
12 person of a ward.

13 Sec. 59. K.S.A. 2000 Supp. 59-2946 is hereby amended to read as  
14 follows: 59-2946. When used in the care and treatment act for mentally  
15 ill persons:

16 (a) "Discharge" means the final and complete release from treat-  
17 ment, by either the head of a treatment facility acting pursuant to K.S.A.  
18 2000 Supp. 59-2950 and amendments thereto or by an order of a court  
19 issued pursuant to K.S.A. 2000 Supp. 59-2973 and amendments thereto.

20 (b) "Head of a treatment facility" means the administrative director  
21 of a treatment facility or such person's designee.

22 (c) "Law enforcement officer" shall have the meaning ascribed to it  
23 in K.S.A. 22-2202, and amendments thereto.

24 (d) (1) "Mental health center" means any community mental health  
25 center organized pursuant to the provisions of K.S.A. 19-4001 through  
26 19-4015 and amendments thereto, or mental health clinic organized pur-  
27 suant to the provisions of K.S.A. 65-211 through 65-215 and amendments  
28 thereto, or a mental health clinic organized as a not-for-profit or a for-  
29 profit corporation pursuant to K.S.A. 17-1701 through 17-1775 and  
30 amendments thereto or K.S.A. 17-6001 through 17-6010 and amend-  
31 ments thereto, and licensed in accordance with the provisions of K.S.A.  
32 75-3307b and amendments thereto.

33 (2) "Participating mental health center" means a mental health center  
34 which has entered into a contract with the secretary of social and reha-  
35 bilitation services pursuant to the provisions of K.S.A. 39-1601 through  
36 39-1612 and amendments thereto.

37 (e) "Mentally ill person" means any person who is suffering from a  
38 mental disorder which is manifested by a clinically significant behavioral  
39 or psychological syndrome or pattern and associated with either a painful  
40 symptom or an impairment in one or more important areas of functioning,  
41 and involving substantial behavioral, psychological or biological dysfunc-  
42 tion, to the extent that the person is in need of treatment.

43 (f) (1) "Mentally ill person subject to involuntary commitment for

1 care and treatment” means a mentally ill person, as defined in subsection  
2 (e), who also lacks capacity to make an informed decision concerning  
3 treatment, is likely to cause harm to self or others, and whose diagnosis  
4 is not solely one of the following mental disorders: Alcohol or chemical  
5 substance abuse; antisocial personality disorder; mental retardation; or-  
6 ganic personality syndrome; or an organic mental disorder.

7 (2) “Lacks capacity to make an informed decision concerning treat-  
8 ment” means that the person, by reason of the person’s mental disorder,  
9 is unable, despite conscientious efforts at explanation, to understand ba-  
10 sically the nature and effects of hospitalization or treatment or is unable  
11 to engage in a rational decision-making process regarding hospitalization  
12 or treatment, as evidenced by an inability to weigh the possible risks and  
13 benefits.

14 (3) “Likely to cause harm to self or others” means that the person,  
15 by reason of the person’s mental disorder: (a) Is likely, in the reasonably  
16 foreseeable future, to cause substantial physical injury or physical abuse  
17 to self or others or substantial damage to another’s property, as evidenced  
18 by behavior threatening, attempting or causing such injury, abuse or dam-  
19 age; except that if the harm threatened, attempted or caused is only harm  
20 to the property of another, the harm must be of such a value and extent  
21 that the state’s interest in protecting the property from such harm out-  
22 weighs the person’s interest in personal liberty; or (b) is substantially  
23 unable, except for reason of indigency, to provide for any of the person’s  
24 basic needs, such as food, clothing, shelter, health or safety, causing a  
25 substantial deterioration of the person’s ability to function on the person’s  
26 own.

27 No person who is being treated by prayer in the practice of the religion  
28 of any church which teaches reliance on spiritual means alone through  
29 prayer for healing shall be determined to be a mentally ill person subject  
30 to involuntary commitment for care and treatment under this act unless  
31 substantial evidence is produced upon which the district court finds that  
32 the proposed patient is likely in the reasonably foreseeable future to cause  
33 substantial physical injury or physical abuse to self or others or substantial  
34 damage to another’s property, as evidenced by behavior threatening, at-  
35 tempting or causing such injury, abuse or damage; except that if the harm  
36 threatened, attempted or caused is only harm to the property of another,  
37 the harm must be of such a value and extent that the state’s interest in  
38 protecting the property from such harm outweighs the person’s interest  
39 in personal liberty.

40 (g) “Patient” means a person who is a voluntary patient, a proposed  
41 patient or an involuntary patient.

42 (1) “Voluntary patient” means a person who is receiving treatment at  
43 a treatment facility pursuant to K.S.A. 2000 Supp. 59-2949 and amend-

1 ments thereto.

2 (2) "Proposed patient" means a person for whom a petition pursuant  
3 to K.S.A. 2000 Supp. 59-2952 or ~~K.S.A. 2000 Supp. 59-2957~~ and amend-  
4 ments thereto has been filed.

5 (3) "Involuntary patient" means a person who is receiving treatment  
6 under order of a court or a person admitted and detained by a treatment  
7 facility pursuant to an application filed pursuant to subsection (b) or (c)  
8 of K.S.A. 2000 Supp. 59-2954 and amendments thereto.

9 (h) "Physician" means a person licensed to practice medicine and  
10 surgery as provided for in the Kansas healing arts act or a person who is  
11 employed by a state psychiatric hospital or by an agency of the United  
12 States and who is authorized by law to practice medicine and surgery  
13 within that hospital or agency.

14 (i) "Psychologist" means a licensed psychologist, as defined by K.S.A.  
15 74-5302 and amendments thereto.

16 (j) "Qualified mental health professional" means a physician or psy-  
17 chologist who is employed by a participating mental health center or who  
18 is providing services as a physician or psychologist under a contract with  
19 a participating mental health center, a licensed masters level psychologist,  
20 a licensed marriage and family therapist, a licensed professional coun-  
21 selor, a licensed specialist social worker or a licensed master social worker  
22 or a registered nurse who has a specialty in psychiatric nursing, who is  
23 employed by a participating mental health center and who is acting under  
24 the direction of a physician or psychologist who is employed by, or under  
25 contract with, a participating mental health center.

26 (1) "Direction" means monitoring and oversight including regular,  
27 periodic evaluation of services.

28 (2) "Licensed master social worker" means a person licensed as a  
29 master social worker by the behavioral sciences regulatory board under  
30 K.S.A. 65-6301 through 65-6318 and amendments thereto.

31 (3) "Licensed specialist social worker" means a person licensed in a  
32 social work practice specialty by the behavioral sciences regulatory board  
33 under K.S.A. 65-6301 through 65-6318 and amendments thereto.

34 (4) "Licensed masters level psychologist" means a person licensed as  
35 a licensed masters level psychologist by the behavioral sciences regulatory  
36 board under K.S.A. 74-5361 through 74-5373 and amendments thereto.

37 (5) "Registered nurse" means a person licensed as a registered pro-  
38 fessional nurse by the board of nursing under K.S.A. 65-1113 through 65-  
39 1164 and amendments thereto.

40 (k) "Secretary" means the secretary of social and rehabilitation  
41 services.

42 (l) "State psychiatric hospital" means Larned state hospital, Osawa-  
43 tomie state hospital, Rainbow mental health facility or Topeka state

1 hospital.

2 (m) "Treatment" means any service intended to promote the mental  
3 health of the patient and rendered by a qualified professional, licensed  
4 or certified by the state to provide such service as an independent prac-  
5 titioner or under the supervision of such practitioner.

6 (n) "Treatment facility" means any mental health center or clinic,  
7 psychiatric unit of a medical care facility, state psychiatric hospital, psy-  
8 chologist, physician or other institution or person authorized or licensed  
9 by law to provide either inpatient or outpatient treatment to any patient.

10 (o) The terms defined in ~~K.S.A. 59-3002~~ *section 2*, and amendments  
11 thereto shall have the meanings provided by that section.

12 Sec. 60. K.S.A. 2000 Supp. 59-2948 is hereby amended to read as  
13 follows: 59-2948. (a) The fact that a person may have voluntarily accepted  
14 any form of psychiatric treatment, or become subject to a court order  
15 entered under authority of this act, shall not be construed to mean that  
16 such person shall have lost any civil right they otherwise would have as a  
17 resident or citizen, any property right or their legal capacity, except as  
18 may be specified within any court order or as otherwise limited by the  
19 provisions of this act or the reasonable rules and regulations which the  
20 head of a treatment facility may for good cause find necessary to make  
21 for the orderly operations of that facility. No person held in custody under  
22 the provisions of this act shall be denied the right to apply for a writ of  
23 habeas corpus.

24 (b) There shall be no implication or presumption that a patient within  
25 the terms of this act is for that reason alone a ~~disabled person as defined~~  
26 ~~in K.S.A. 59-3002~~ *in need of a guardian or a conservator as provided for*  
27 *in sections 1 through 45*, and amendments thereto.

28 Sec. 61. K.S.A. 2000 Supp. 59-2949 is hereby amended to read as  
29 follows: 59-2949. (a) A mentally ill person may be admitted to a treatment  
30 facility as a voluntary patient when there are available accommodations  
31 and the head of the treatment facility determines such person is in need  
32 of treatment therein, and that the person has the capacity to consent to  
33 treatment, except that no such person shall be admitted to a state psy-  
34 chiatric hospital without a written statement from a qualified mental  
35 health professional authorizing such admission.

36 (b) Admission shall be made upon written application:

37 (1) If such person is 18 years of age or older the person may make  
38 such application for themself; or

39 (2) (A) If such person is less than 18 years of age, a parent may make  
40 such application for their child; or

41 (B) if such person is less than 18 years of age, but 14 years of age or  
42 older the person may make such written application on their own behalf  
43 without the consent or written application of their parent, legal guardian



1 or any other person. Whenever a person who is 14 years of age or older  
2 makes written application on their own behalf and is admitted as a vol-  
3 untary patient, the head of the treatment facility shall promptly notify the  
4 child's parent, legal guardian or other person known to the head of the  
5 treatment facility to be interested in the care and welfare of the minor of  
6 the admittance of that child; or

7 (3) if such person has a legal guardian, the legal guardian may make  
8 such application ~~only after obtaining~~ *provided that if the legal guardian*  
9 *is required to obtain* authority to do so pursuant to ~~K.S.A. 59-3018a~~ *a sec-*  
10 *tion 28*, and amendments thereto. If the legal guardian is seeking admis-  
11 sion of their ward upon an order giving the guardian continuing authority  
12 to admit the ward to an ~~appropriate psychiatric~~ *a treatment facility, as*  
13 *defined in section 28, and amendments thereto*, the head of the treatment  
14 facility may require a statement from the patient's attending physician or  
15 from the local health officer of the area in which the patient resides  
16 confirming that the patient is in need of psychiatric treatment in a treat-  
17 ment facility before accepting the ward for admission, and shall divert  
18 any such person to a less restrictive treatment alternative, as may be  
19 appropriate.

20 (c) No person shall be admitted as a voluntary patient under the pro-  
21 visions of this act to any treatment facility unless the head of the treatment  
22 facility has informed such person or such person's parent, legal guardian,  
23 or other person known to the head of the treatment facility to be inter-  
24 ested in the care and welfare of a minor, in writing, of the following:

25 (1) The rules and procedures of the treatment facility relating to the  
26 discharge of voluntary patients;

27 (2) the legal rights of a voluntary patient receiving treatment from a  
28 treatment facility as provided for in K.S.A. 2000 Supp. 59-2978 and  
29 amendments thereto; and

30 (3) in general terms, the types of treatment which are available or  
31 would not be available to a voluntary patient from that treatment facility.

32 (d) Nothing in this act shall be construed as to prohibit a proposed  
33 or involuntary patient with capacity to do so from making an application  
34 for admission as a voluntary patient to a treatment facility. Any proposed  
35 or involuntary patient desiring to do so shall be afforded an opportunity  
36 to consult with their attorney prior to making any such application. If the  
37 head of the treatment facility accepts the application and admits the pa-  
38 tient as a voluntary patient, then the head of the treatment facility shall  
39 notify, in writing, the patient's attorney, the patient's legal guardian, if the  
40 patient has a legal guardian, and the district court which has jurisdiction  
41 over the patient of the patient's voluntary status. When a notice of vol-  
42 untary admission is received, the court shall file the same which shall  
43 terminate the proceedings.

1 Sec. 62. K.S.A. 2000 Supp. 59-2951 is hereby amended to read as  
2 follows: 59-2951. (a) A voluntary patient shall be entitled to be discharged  
3 from a treatment facility, by the head of the treatment facility, by no later  
4 than the third day, excluding Saturdays, Sundays and holidays, after re-  
5 ceipt of the patient's written request for discharge. If the voluntary patient  
6 is a patient in a state psychiatric hospital, that hospital shall immediately  
7 give either oral or facsimile notice to the participating mental health cen-  
8 ter serving the area where the patient intends to reside and shall consider  
9 any recommendations from that mental health center which may be re-  
10 ceived prior to the time set for discharge as specified in the notice.

11 (b) (1) If the voluntary patient is an adult admitted upon the appli-  
12 cation of a legal guardian or pursuant to an order of the court issued  
13 pursuant to ~~K.S.A. 59-3018a~~ *section 28*, and amendments thereto, any  
14 request for discharge must be made, in writing, by the legal guardian.

15 (2) If the voluntary patient is a minor, the written request for dis-  
16 charge shall be made by the child's parent or legal guardian except if the  
17 minor was admitted upon their own written application to become a vol-  
18 untary patient made pursuant to K.S.A. 2000 Supp. 59-2949 and amend-  
19 ments thereto, then the minor may make the request. In the case of a  
20 minor 14 or more years of age who had made written application to be-  
21 come a voluntary patient on their own behalf and who has requested to  
22 be discharged, the head of the treatment facility shall promptly inform  
23 the child's parent, legal guardian, or other person known to the head of  
24 the treatment facility to be interested in the care and welfare of the minor  
25 of the minor's request for discharge.

26 Sec. 63. K.S.A. 2000 Supp. 59-2960 is hereby amended to read as  
27 follows: 59-2960. (a) Upon the filing of the petition provided for in K.S.A.  
28 2000 Supp. 59-2957 and amendments thereto, the district court shall  
29 issue the following:

30 (1) An order fixing the time and place of the trial upon the petition.  
31 Such hearing, in the court's discretion, may be conducted in a courtroom,  
32 a treatment facility or at some other suitable place. The time fixed in the  
33 order shall in no event be earlier than 7 days or later than 14 days after  
34 the date of the filing of the petition. If a demand for a trial by jury is later  
35 filed by the proposed patient, the court may continue the trial and fix a  
36 new time and place of the trial at a time that may exceed beyond the 14  
37 days but shall be fixed within a reasonable time not exceeding 30 days  
38 from the date of the filing of the demand.

39 (2) An order that the proposed patient appear at the time and place  
40 of the hearing and providing that the proposed patient's presence will be  
41 required at the hearing unless the attorney for the proposed patient shall  
42 make a request that the proposed patient's presence be waived and the  
43 court finds that the proposed patient's presence at the hearing would be

1 injurious to the proposed patient's welfare. The order shall further pro-  
2 vide that notwithstanding the foregoing provision, if the proposed patient  
3 requests in writing to the court or to such person's attorney that the  
4 proposed patient wishes to be present at the hearing, the proposed pa-  
5 tient's presence cannot be waived.

6 (3) An order appointing an attorney to represent the proposed patient  
7 at all stages of the proceedings and until all orders resulting from such  
8 proceedings are terminated. The court shall give preference, in the ap-  
9 pointment of this attorney, to any attorney who has represented the pro-  
10 posed patient in other matters if the court has knowledge of that prior  
11 representation. The proposed patient shall have the right to engage an  
12 attorney of the proposed patient's own choice and, in such event, the  
13 attorney appointed by the court shall be relieved of all duties by the court.

14 (4) An order that the proposed patient shall appear at a time and  
15 place that is in the best interests of the patient where the proposed patient  
16 will have the opportunity to consult with the proposed patient's court-  
17 appointed attorney, which time shall be at least 5 days prior to the date  
18 set for the trial under K.S.A. 2000 Supp. 59-2965 and amendments  
19 thereto.

20 (5) An order for a mental evaluation as provided for in K.S.A. 2000  
21 Supp. 59-2961 and amendments thereto.

22 (6) A notice as provided for in K.S.A. 2000 Supp. 59-2963 and amend-  
23 ments thereto.

24 (7) If the petition also contains allegations as provided for in ~~K.S.A.~~  
25 ~~59-3009~~ *section 9, 10, 11, 12 or 13*, and amendments thereto, those orders  
26 necessary to make a determination of the need for a legal guardian or  
27 conservator, or both, to act on behalf of the proposed patient. For these  
28 purposes, the trials required by K.S.A. 2000 Supp. 59-2965 and ~~K.S.A.~~  
29 ~~59-3013~~ *section 18*, and amendments thereto, may be consolidated.

30 (b) Nothing in this section shall prevent the court from granting an  
31 order of continuance, for good cause shown, to any party for no longer  
32 than 7 days, except that such limitation does not apply to a request for  
33 an order of continuance made by the proposed patient or to a request  
34 made by any party if the proposed patient absents him or herself such  
35 that further proceedings can not be held until the proposed patient has  
36 been located. The court also, upon the request of any party, may advance  
37 the date of the hearing if necessary and in the best interests of all  
38 concerned.

39 Sec. 64. K.S.A. 2000 Supp. 59-29b46 is hereby amended to read as  
40 follows: 59-29b46. When used in the care and treatment act for persons  
41 with an alcohol or substance abuse problem:

42 (a) "Discharge" means the final and complete release from treat-  
43 ment, by either the head of a treatment facility acting pursuant to K.S.A.

1 2000 Supp. 59-29b50 and amendments thereto or by an order of a court  
2 issued pursuant to K.S.A. 2000 Supp. 59-29b73 and amendments thereto.

3 (b) "Head of a treatment facility" means the administrative director  
4 of a treatment facility or such person's designee.

5 (c) "Law enforcement officer" shall have the meaning ascribed to it  
6 in K.S.A. 22-2202 and amendments thereto.

7 (d) "Other facility for care or treatment" means any mental health  
8 clinic, medical care facility, nursing home, the detox units at either Osa-  
9 watomie state hospital or Larned state hospital, any physician or any other  
10 institution or individual authorized or licensed by law to give care or  
11 treatment to any person.

12 (e) "Patient" means a person who is a voluntary patient, a proposed  
13 patient or an involuntary patient.

14 (1) "Voluntary patient" means a person who is receiving treatment at  
15 a treatment facility pursuant to K.S.A. 2000 Supp. 59-29b49 and amend-  
16 ments thereto.

17 (2) "Proposed patient" means a person for whom a petition pursuant  
18 to K.S.A. 2000 Supp. 59-29b52 or 59-29b57 and amendments thereto has  
19 been filed.

20 (3) "Involuntary patient" means a person who is receiving treatment  
21 under order of a court or a person admitted and detained by a treatment  
22 facility pursuant to an application filed pursuant to subsection (b) or (c)  
23 of K.S.A. 2000 Supp. 59-29b54 and amendments thereto.

24 (f) "Person with an alcohol or substance abuse problem" means a  
25 person who: (1) Lacks self-control as to the use of alcoholic beverages or  
26 any substance as defined in subsection (k); or

27 (2) uses alcoholic beverages or any substance as defined in subsection  
28 (k) to the extent that the person's health may be substantially impaired  
29 or endangered without treatment.

30 (g) (1) "Person with an alcohol or substance abuse problem subject  
31 to involuntary commitment for care and treatment" means a person with  
32 an alcohol or substance abuse problem, as defined in subsection (f), who  
33 also is incapacitated by alcohol or any substance and is likely to cause  
34 harm to self or others.

35 (2) "Incapacitated by alcohol or any substance" means that the per-  
36 son, as the result of the use of alcohol or any substance as defined in  
37 subsection (k), has impaired judgment resulting in the person: (A) Being  
38 incapable of realizing and making a rational decision with respect to the  
39 need for treatment; or

40 (B) lacking sufficient understanding or capability to make or com-  
41 municate responsible decisions concerning either the person's well-being  
42 or estate.

43 (3) "Likely to cause harm to self or others" means that the person,

1 by reason of the person's use of alcohol or any substance: (A) Is likely, in  
2 the reasonably foreseeable future, to cause substantial physical injury or  
3 physical abuse to self or others or substantial damage to another's prop-  
4 erty, as evidenced by behavior threatening, attempting or causing such  
5 injury, abuse or damage; except that if the harm threatened, attempted  
6 or caused is only harm to the property of another, the harm must be of  
7 such a value and extent that the state's interest in protecting the property  
8 from such harm outweighs the person's interest in personal liberty; or

9 (B) is substantially unable, except for reason of indigency, to provide  
10 for any of the person's basic needs, such as food, clothing, shelter, health  
11 or safety, causing a substantial deterioration of the person's ability to  
12 function on the person's own.

13 (h) "Physician" means a person licensed to practice medicine and  
14 surgery as provided for in the Kansas healing arts act or a person who is  
15 employed by a state psychiatric hospital or by an agency of the United  
16 States and who is authorized by law to practice medicine and surgery  
17 within that hospital or agency.

18 (i) "Psychologist" means a licensed psychologist, as defined by K.S.A.  
19 74-5302 and amendments thereto.

20 (j) "State certified alcohol and drug abuse counselor" means a person  
21 approved by the secretary of social and rehabilitation services to perform  
22 assessments using the American Society of Addiction Medicine criteria  
23 and employed at a state funded and designated assessment center.

24 (k) "Substance" means: (1) The same as the term "controlled sub-  
25 stance" as defined in K.S.A. 65-4101 and amendments thereto; or

26 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

27 (1) "Treatment" means the broad range of emergency, outpatient,  
28 intermediate and inpatient services and care, including diagnostic evalu-  
29 ation, medical, psychiatric, psychological and social service care, voca-  
30 tional rehabilitation and career counseling, which may be extended to  
31 persons with an alcohol or substance abuse problem.

32 (m) (1) "Treatment facility" means a public or private treatment fa-  
33 cility, or any facility of the United States government available to treat a  
34 person for an alcohol or other substance abuse problem, but such term  
35 shall not include a licensed medical care facility, a licensed adult care  
36 home, a facility licensed under K.S.A. 75-3307b and amendments thereto,  
37 a community-based alcohol and drug safety action program certified un-  
38 der K.S.A. 8-1008 and amendments thereto, and performing only those  
39 functions for which the program is certified to perform under K.S.A. 8-  
40 1008 and amendments thereto, or a psychologist or physician, who may  
41 treat in the usual course of the psychologist's or physician's professional  
42 practice individuals incapacitated by alcohol or other substances, but who  
43 are not exclusively engaged in the usual course of the individual's profes-

1 sional practice in treating such individuals, or any state institution, even  
2 if detoxification services may have been obtained at such institution.

3 (2) "Private treatment facility" means a private agency providing fa-  
4 cilities for the care and treatment or lodging of persons with either an  
5 alcohol or other substance abuse problem and meeting the standards  
6 prescribed in either K.S.A. 65-4013 or ~~K.S.A. 65-4603~~ and amendments  
7 thereto, and licensed under either K.S.A. 65-4014 or ~~K.S.A. 65-4607~~ and  
8 amendments thereto.

9 (3) "Public treatment facility" means a treatment facility owned and  
10 operated by any political subdivision of the state of Kansas and licensed  
11 under either K.S.A. 65-4014 or ~~K.S.A. 65-4603~~ and amendments thereto,  
12 as an appropriate place for the care and treatment or lodging of persons  
13 with an alcohol or other substance abuse problem.

14 (n) The terms defined in ~~K.S.A. 59-3002 section 21~~ and amendments  
15 thereto shall have the meanings provided by that section.

16 Sec. 65. K.S.A. 2000 Supp. 59-29b48 is hereby amended to read as  
17 follows: 59-29b48. (a) The fact that a person may have voluntarily ac-  
18 cepted any form of treatment for an alcohol or substance abuse problem,  
19 or become subject to a court order entered under authority of this act,  
20 shall not be construed to mean that such person shall have lost any civil  
21 right they otherwise would have as a resident or citizen, any property  
22 right or their legal capacity, except as may be specified within any court  
23 order or as otherwise limited by the provisions of this act or the reasonable  
24 rules and regulations which the head of a treatment facility may for good  
25 cause find necessary to make for the orderly operations of that facility.  
26 No person held in custody under the provisions of this act shall be denied  
27 the right to apply for a writ of habeas corpus.

28 (b) There shall be no implication or presumption that a patient within  
29 the terms of this act is for that reason alone a ~~disabled person as defined~~  
30 ~~in K.S.A. 59-3002 in need of a guardian or a conservator, or both, as~~  
31 ~~provided in sections 1 through 45,~~ and amendments thereto.

32 Sec. 66. K.S.A. 2000 Supp. 59-29b49 is hereby amended to read as  
33 follows: 59-29b49. (a) A person with an alcohol or substance abuse prob-  
34 lem may be admitted to a treatment facility as a voluntary patient when  
35 there are available accommodations and the head of the treatment facility  
36 determines such person is in need of treatment therein, and that the  
37 person has the capacity to consent to treatment.

38 (b) Admission shall be made upon written application:

39 (1) If such person is 18 years of age or older the person may make  
40 such application for themself; or

41 (2) (A) If such person is less than 18 years of age, a parent may make  
42 such application for their child; or

43 (B) if such person is less than 18 years of age, but 14 years of age or

1 older, the person may make such written application on their own behalf  
2 without the consent or written application of their parent, legal guardian  
3 or any other person. Whenever a person who is 14 years of age or older  
4 makes written application on their own behalf and is admitted as a vol-  
5 untary patient, the head of the treatment facility shall promptly notify the  
6 child's parent, legal guardian or other person known to the head of the  
7 treatment facility to be interested in the care and welfare of the minor of  
8 the admittance of that child; or

9 (3) if such person has a legal guardian, the legal guardian may make  
10 such application ~~only after obtaining~~ *provided that if the legal guardian*  
11 *is required to obtain* authority to do so pursuant to ~~K.S.A. 59-3018a~~ *sec-*  
12 *tion 28, and amendments thereto, then only in accordance with the pro-*  
13 *visions thereof.* If the legal guardian is seeking admission of their ward  
14 upon an order giving the guardian continuing authority to admit the ward  
15 to ~~an appropriate~~ *a treatment facility as defined in section 28, and amend-*  
16 *ments thereto,*, the head of the treatment facility may require a statement  
17 from the patient's attending physician or from the local health officer of  
18 the area in which the patient resides confirming that the patient is in need  
19 of treatment for an alcohol or substance abuse problem in a treatment  
20 facility before accepting the ward for admission, and shall divert any such  
21 person to a less restrictive treatment alternative as may be appropriate.

22 (c) No person shall be admitted as a voluntary patient under the pro-  
23 visions of this act to any treatment facility unless the head of the treatment  
24 facility has informed such person or such person's parent, legal guardian,  
25 or other person known to the head of the treatment facility to be inter-  
26 ested in the care and welfare of a minor, in writing, of the following:

27 (1) The rules and procedures of the treatment facility relating to the  
28 discharge of voluntary patients;

29 (2) the legal rights of a voluntary patient receiving treatment from a  
30 treatment facility as provided for in K.S.A. 2000 Supp. 59-29b78 and  
31 amendments thereto; and

32 (3) in general terms, the types of treatment which are available or  
33 would not be available to a voluntary patient from that treatment facility.

34 (d) Nothing in this act shall be construed as to prohibit a proposed  
35 or involuntary patient with capacity to do so from making an application  
36 for admission as a voluntary patient to a treatment facility. Any proposed  
37 or involuntary patient desiring to do so shall be afforded an opportunity  
38 to consult with their attorney prior to making any such application. If the  
39 head of the treatment facility accepts the application and admits the pa-  
40 tient as a voluntary patient, then the head of the treatment facility shall  
41 notify, in writing, the patient's attorney, the patient's legal guardian, if the  
42 patient has a legal guardian, and the district court which has jurisdiction  
43 over the patient of the patient's voluntary status. When a notice of vol-

1 ununtary admission is received, the court shall file the same which shall  
2 terminate the proceedings.

3 Sec. 67. K.S.A. 2000 Supp. 59-29b51 is hereby amended to read as  
4 follows: 59-29b51. (a) A voluntary patient shall be entitled to be dis-  
5 charged from a treatment facility, by the head of the treatment facility,  
6 by no later than the third day, excluding Saturdays, Sundays and holidays,  
7 after receipt of the patient's written request for discharge.

8 (b) (1) If the voluntary patient is an adult admitted upon the appli-  
9 cation of a legal guardian or pursuant to an order of the court issued  
10 pursuant to ~~K.S.A. 59-3018a~~ *section 28*, and amendments thereto, any  
11 request for discharge must be made, in writing, by the legal guardian.

12 (2) If the voluntary patient is a minor, the written request for dis-  
13 charge shall be made by the child's parent or legal guardian except if the  
14 minor was admitted upon their own written application to become a vol-  
15 untary patient made pursuant to K.S.A. 2000 Supp. 59-29b49 and amend-  
16 ments thereto, then the minor may make the request. In the case of a  
17 minor 14 or more years of age who had made written application to be-  
18 come a voluntary patient on their own behalf and who has requested to  
19 be discharged, the head of the treatment facility shall promptly inform  
20 the child's parent, legal guardian or other person known to the head of  
21 the treatment facility to be interested in the care and welfare of the minor  
22 of the minor's request for discharge.

23 Sec. 68. K.S.A. 2000 Supp. 59-29b60 is hereby amended to read as  
24 follows: 59-29b60. (a) Upon the filing of the petition provided for in  
25 K.S.A. 2000 Supp. 59-29b57 and amendments thereto, the district court  
26 shall issue the following:

27 (1) An order fixing the time and place of the trial upon the petition.  
28 Such hearing, in the court's discretion, may be conducted in a courtroom,  
29 a treatment facility or at some other suitable place. The time fixed in the  
30 order shall in no event be earlier than seven days or later than 14 days  
31 after the date of the filing of the petition. If a demand for a trial by jury  
32 is later filed by the proposed patient, the court may continue the trial and  
33 fix a new time and place of the trial at a time that may exceed beyond  
34 the 14 days but shall be fixed within a reasonable time not exceeding 30  
35 days from the date of the filing of the demand.

36 (2) An order that the proposed patient appear at the time and place  
37 of the hearing and providing that the proposed patient's presence will be  
38 required at the hearing unless the attorney for the proposed patient shall  
39 make a request that the proposed patient's presence be waived and the  
40 court finds that the proposed patient's presence at the hearing would be  
41 injurious to the proposed patient's welfare. The order shall further pro-  
42 vide that notwithstanding the foregoing provision, if the proposed patient  
43 requests in writing to the court or to such person's attorney that the



1 proposed patient wishes to be present at the hearing, the proposed pa-  
2 tient's presence cannot be waived.

3 (3) An order appointing an attorney to represent the proposed patient  
4 at all stages of the proceedings and until all orders resulting from such  
5 proceedings are terminated. The court shall give preference, in the ap-  
6 pointment of this attorney, to any attorney who has represented the pro-  
7 posed patient in other matters if the court has knowledge of that prior  
8 representation. The proposed patient shall have the right to engage an  
9 attorney of the proposed patient's own choice and, in such event, the  
10 attorney appointed by the court shall be relieved of all duties by the court.

11 (4) An order that the proposed patient shall appear at a time and  
12 place that is in the best interests of the patient where the proposed patient  
13 will have the opportunity to consult with the proposed patient's court-  
14 appointed attorney, which time shall be at least 5 days prior to the date  
15 set for the trial under K.S.A. 2000 Supp. 59-29b65 and amendments  
16 thereto.

17 (5) An order for an evaluation as provided for in K.S.A. 2000 Supp.  
18 59-29b61 and amendments thereto.

19 (6) A notice as provided for in K.S.A. 2000 Supp. 59-29b63 and  
20 amendments thereto.

21 (7) If the petition also contains allegations as provided for in ~~K.S.A.~~  
22 ~~59-3009~~ *section 9, 10, 11, 12 or 13*, and amendments thereto, those orders  
23 necessary to make a determination of the need for a legal guardian or  
24 conservator, or both, to act on behalf of the proposed patient. For these  
25 purposes, the trials required by K.S.A. 2000 Supp. 59-29b65 and ~~K.S.A.~~  
26 ~~59-3013~~ *section 18*, and amendments thereto, may be consolidated.

27 (8) If the petitioner shall not have named a proposed treatment fa-  
28 cility to which the proposed patient may be sent as provided for subsec-  
29 tion (b)(8) of K.S.A. 2000 Supp. 59-29b57 and amendments thereto, but  
30 instead stated that the secretary of social and rehabilitation services has  
31 been notified and requested to determine which treatment facility the  
32 proposed patient should be sent to, then the court shall issue an order  
33 requiring the secretary, or the secretary's designee, to make that deter-  
34 mination and to notify the court of the name and address of that treatment  
35 facility by such time as the court shall specify in the court's order.

36 (b) Nothing in this section shall prevent the court from granting an  
37 order of continuance, for good cause shown, to any party for no longer  
38 than seven days, except that such limitation does not apply to a request  
39 for an order of continuance made by the proposed patient or to a request  
40 made by any party if the proposed patient is absent such that further  
41 proceedings can not be held until the proposed patient has been located.  
42 The court also, upon the request of any party, may advance the date of  
43 the hearing if necessary and in the best interests of all concerned.

1 Sec. 69. K.S.A. 2000 Supp. 60-304 is hereby amended to read as  
2 follows: 60-304. As used in this section, "serving" means making service  
3 by any of the methods described in K.S.A. 60-303, and amendments  
4 thereto, unless a specific method of making service is prescribed in this  
5 section. Except for service by publication under K.S.A. 60-307, and  
6 amendments thereto, service of process under this article shall be made  
7 as follows:

8 (a) *Individual.* Upon an individual other than a minor or a disabled  
9 person, by serving the individual or by serving an agent authorized by  
10 appointment or by law to receive service of process, but if the agent is  
11 one designated by statute to receive service, such further notice as the  
12 statute requires shall be given. Service by certified mail shall be addressed  
13 to an individual at the individual's dwelling house or usual place of abode  
14 and to an authorized agent at the agent's usual or designated address. If  
15 service by certified mail to the individual's dwelling house or usual place  
16 of abode is refused or unclaimed, the sheriff, party or party's attorney  
17 seeking service may complete service by certified mail, restricted delivery,  
18 by serving the individual at a business address after filing a return on  
19 service stating the certified mailing to the individual at such individual's  
20 dwelling house or usual place of abode has been refused or unclaimed  
21 and a business address is known for such individual.

22 (b) *Minor.* Upon a minor, by serving the minor and also either the  
23 minor's guardian or conservator if the minor has one within the state or  
24 the minor's father or mother or other person having the minor's care or  
25 control or with whom such minor resides, or if service cannot be made  
26 upon any of them, then as provided by order of the judge. Service by  
27 certified mail shall be addressed to an individual at the individual's dwell-  
28 ing house or usual place of abode and to a corporate guardian or conser-  
29 vator at such guardian or conservator's usual place of business.

30 (c) *Disabled person.* Upon a disabled person, as defined in K.S.A.  
31 ~~59-3002~~ 77-201, and amendments thereto, by serving (1) such person's  
32 guardian, conservator or a competent adult member of such person's  
33 family with whom the person resides, or if such person is living in an  
34 institution, then the director or chief executive officer of the institution  
35 or, if service cannot be made upon any of them, then as provided by order  
36 of the judge, and (2) unless the judge otherwise orders, the disabled  
37 person. Service by certified mail shall be addressed to a director or chief  
38 executive officer of an institution at the institution, to any other individual  
39 at the individual's dwelling house or usual place of abode, and to a cor-  
40 porate guardian or conservator at such guardian or conservator's usual  
41 place of business.

42 (d) *Governmental bodies.* (1) Upon a county, by serving one of the  
43 county commissioners or the county clerk or the county treasurer; (2)

1 upon a township, by serving the clerk or the trustee; (3) upon a city, by  
2 serving the clerk or the mayor; (4) upon any other public corporation,  
3 body politic, district or authority by serving the clerk or secretary or, if  
4 not to be found, to any officer, director or manager thereof; and (5) upon  
5 the state or any governmental agency of the state, when subject to suit,  
6 by serving the attorney general or an assistant attorney general. Service  
7 by certified mail shall be addressed to the appropriate official at the of-  
8 ficial's governmental office. Income withholding orders for support and  
9 orders of garnishment of earnings of state officers and employees shall  
10 be served upon the state or governmental agency of the state in the man-  
11 ner provided by K.S.A. 60-723 and amendments thereto.

12 (e) *Corporations, domestic or foreign limited liability company, do-*  
13 *estic or foreign limited partnership, domestic or foreign limited liability*  
14 *partnership, and partnerships.* Upon a domestic or foreign corporation,  
15 domestic or foreign limited liability company, domestic or foreign limited  
16 partnership, domestic or foreign limited liability partnership or upon a  
17 partnership or other unincorporated association, when by law it may be  
18 sued as such, (1) by serving an officer, manager, partner or a resident,  
19 managing or general agent, or (2) by leaving a copy of the summons and  
20 petition at any business office of the defendant with the person having  
21 charge thereof, or (3) by serving any agent authorized by appointment or  
22 required by law to receive service of process, and if the agent is one  
23 authorized by law to receive service and the law so requires, by also  
24 mailing a copy to the defendant. Service by certified mail on an officer,  
25 partner or agent shall be addressed to such person at the person's usual  
26 place of business.

27 (f) *Corporation, limited liability company, limited partnership or*  
28 *limited liability partnership resident agent.* Whenever any domestic cor-  
29 poration, domestic limited liability company, domestic limited partner-  
30 ship, or any foreign corporation, foreign limited liability company, or for-  
31 eign limited partnership authorized to transact business or transacting  
32 business without authority in this state, fails to appoint or maintain in this  
33 state a resident agent upon whom service of legal process or service of  
34 any such notice or demand may be had, whenever the resident agent of  
35 such corporation, limited liability company or limited partnership cannot  
36 with reasonable diligence be found at the registered office in this state,  
37 the secretary of state shall be irrevocably authorized as the agent and  
38 representative of the corporation, limited liability company or limited  
39 partnership to accept service of any process or service of any notice or  
40 demand required or permitted by law to be served upon the corporation,  
41 limited liability company or limited partnership. Service on the secretary  
42 of state of any process, notice or demand against the corporation, limited  
43 liability company or limited partnership shall be made by delivering to

1 the secretary of state by personal service or by certified mail, the original  
2 and two copies of the process and two copies of the petition, notice or  
3 demand, or the clerk of the court may send the original process and two  
4 copies of both the process and the petition, notice or demand directly to  
5 the secretary of state by certified mail. In the event that any process,  
6 notice or demand is served on the secretary of state, the secretary shall  
7 immediately cause a copy of such process, notice or demand to be for-  
8 forwarded by certified mail, addressed to the corporation, limited liability  
9 company or limited partnership at its principal office as it appears in the  
10 records of the secretary of state, or to the registered or principal office  
11 of the corporation, limited liability company or limited partnership in the  
12 state of its incorporation or formation. The secretary of state shall keep  
13 a record of all processes, notices and demands served upon the secretary  
14 under this subsection, and shall record in the record the time of the  
15 service and the action of the secretary with reference to it. A fee of \$40  
16 shall be paid to the secretary of state by the party requesting the service  
17 of process, to cover the cost of such service of process, except the sec-  
18 retary of state may waive the fee for state agencies. That fee shall not be  
19 included within or paid from any deposit as security for any costs or  
20 docket fee required by K.S.A. 60-2001 or ~~61-2501~~ K.S.A. 2000 Supp. 61-  
21 4001, and amendments thereto.

22 (g) *Insurance companies or associations.* Service of summons or other  
23 process may also be made on any insurance company or association, or-  
24 ganized under the laws of the state of Kansas by service on the commis-  
25 sioner of insurance in the same manner as that provided for service on  
26 foreign insurance companies. All the requirements of law relating to serv-  
27 ice on foreign insurance companies so far as applicable shall also apply  
28 to domestic insurance companies.

29 (h) *Service upon an employee.* If the plaintiff or the plaintiff's agent  
30 or attorney files an affidavit that to the best of the affiant's knowledge  
31 and belief the defendant is a nonresident who is employed in this state,  
32 or that the place of residence of the defendant is unknown, the affiant  
33 may direct that the service of summons or other process be made by the  
34 sheriff or other duly authorized person by directing an officer, partner,  
35 managing or general agent, or the person having charge of the office or  
36 place of employment at which the defendant is employed, to make the  
37 defendant available for the purpose of permitting the sheriff or other duly  
38 authorized person to serve the summons or other process.

39 Sec. 70. K.S.A. 2000 Supp. 61-3004 is hereby amended to read as  
40 follows: 61-3004. (a) Service shall be made promptly and, in any event,  
41 in time to make a timely return of service as required by K.S.A. 2000  
42 Supp. 61-3005, and amendments thereto.

43 (b) If the defendant is a nonresident who is employed in this state,

1 or if the place of residence of the defendant is unknown, the plaintiff may  
2 direct that the service of summons or other process shall be made by  
3 directing an officer, partner, managing or general agent, or the person  
4 having charge of the office or place of employment at which the defendant  
5 is employed, to make the defendant available for the purpose of permit-  
6 ting the summons or other process to be served on the defendant at the  
7 defendant's place of employment.

8 (c) As used in this section, "serving" means making service by any of  
9 the methods described in K.S.A. 2000 Supp. 61-3003, and amendments  
10 thereto, unless a specific method of making service is prescribed in this  
11 section. Except for service by publication, service of process shall be made  
12 as follows:

13 (1) Service upon an individual other than a minor or disabled person  
14 shall be made by serving the individual or by serving an agent authorized  
15 by appointment or by law to receive service of process, but if the agent  
16 is one designated by statute to receive service, such further notice as the  
17 statute requires shall be given. Service by certified mail or first-class mail  
18 shall be addressed to an individual at the individual's dwelling house or  
19 usual place of abode and to an authorized agent at the agent's usual or  
20 designated address.

21 (2) Service upon a minor, disabled person as defined by K.S.A. ~~59-~~  
22 ~~3002~~ 77-201, and amendments thereto, foreign or domestic corporations,  
23 partnerships, insurance companies or associations shall be made in ac-  
24 cordance with the applicable provisions of K.S.A. 60-304, and amend-  
25 ments thereto.

26 (3) Service upon a governmental entity shall be made in accordance  
27 with the applicable provisions of K.S.A. 60-304, and amendments thereto.

28 Sec. 71. K.S.A. 2000 Supp. 65-516 is hereby amended to read as  
29 follows: 65-516. (a) No person shall knowingly maintain a child care fa-  
30 cility or maintain a family day care home if, in the child care facility or  
31 family day care home, there resides, works or regularly volunteers any  
32 person who:

33 (1) (A) Has a felony conviction for a crime against persons, (B) has  
34 a felony conviction under the uniform controlled substances act, (C) has  
35 a conviction of any act which is described in articles 34, 35 or 36 of chapter  
36 21 of the Kansas Statutes Annotated ~~and acts amendatory thereof or sup-~~  
37 ~~plemental, and amendments~~ thereto or a conviction of an attempt under  
38 K.S.A. 21-3301 and amendments thereto to commit any such act, or (D)  
39 has been convicted of any act which is described in K.S.A. 21-4301 or 21-  
40 4301a and amendments thereto or similar statutes of other states or the  
41 federal government;

42 (2) has been adjudicated a juvenile offender because of having com-  
43 mitted an act which if done by an adult would constitute the commission

1 of a felony and which is a crime against persons, is any act described in  
2 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated ~~and~~  
3 ~~acts amendatory thereof or supplemental, and amendments~~ thereto, or is  
4 any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto  
5 or similar statutes of other states or the federal government;

6 (3) has committed an act of physical, mental or emotional abuse or  
7 neglect or sexual abuse as validated by the department of social and re-  
8 habilitation services pursuant to K.S.A. 38-1523 and amendments thereto  
9 and (A) the person has failed to successfully complete a corrective action  
10 plan which had been deemed appropriate and approved by the depart-  
11 ment of social and rehabilitation services, or (B) the record has not been  
12 expunged pursuant to rules and regulations adopted by the secretary of  
13 social and rehabilitation services;

14 (4) has had a child declared in a court order in this or any other state  
15 to be deprived or a child in need of care based on an allegation of physical,  
16 mental or emotional abuse or neglect or sexual abuse;

17 (5) has had parental rights terminated pursuant to the Kansas juvenile  
18 code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a  
19 similar statute of other states;

20 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et*  
21 *seq.*, and amendments thereto, or an immediate intervention agreement  
22 pursuant to K.S.A. 38-1635 and amendments thereto involving a charge  
23 of child abuse or a sexual offense; or

24 (7) has an infectious or contagious disease.

25 (b) No person shall maintain a child care facility or a family day care  
26 home if such person has been found to be a ~~disabled~~ person in need of  
27 a guardian or a conservator, or both, *as provided in sections 1 through*  
28 *45, and amendments thereto.*

29 (c) Any person who resides in a child care facility or family day care  
30 home and who has been found to be a ~~disabled person~~ in need of a  
31 guardian or a conservator, or both, shall be counted in the total number  
32 of children allowed in care.

33 (d) In accordance with the provisions of this subsection (d), the sec-  
34 retary shall have access to any court orders or adjudications of any court  
35 of record, any records of such orders or adjudications, criminal history  
36 record information in the possession of the Kansas bureau of investigation  
37 and any report of investigations as authorized by subsection (e) of K.S.A.  
38 38-1523 and amendments thereto in the possession of the department of  
39 social and rehabilitation services or court of this state concerning persons  
40 working, regularly volunteering or residing in a child care facility or a  
41 family day care home. The secretary shall have access to these records  
42 for the purpose of determining whether or not the home meets the  
43 requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

1 (e) No child care facility or family day care home or the employees  
2 thereof, shall be liable for civil damages to any person refused employ-  
3 ment or discharged from employment by reason of such facility's or  
4 home's compliance with the provisions of this section if such home acts  
5 in good faith to comply with this section.

6 (f) For the purpose of subsection (a)(3), an act of abuse or neglect  
7 shall not be considered to have been validated by the department of social  
8 and rehabilitation services unless the alleged perpetrator has: (1) Had an  
9 opportunity to be interviewed and present information during the inves-  
10 tigation of the alleged act of abuse or neglect; and (2) been given notice  
11 of the agency decision and an opportunity to appeal such decision to the  
12 secretary and to the courts pursuant to the act for judicial review and civil  
13 enforcement of agency actions.

14 Sec. 72. K.S.A. 2000 Supp. 65-5117 is hereby amended to read as  
15 follows: 65-5117. (a) (1) On and after July 1, 1998, no person shall know-  
16 ingly operate a home health agency if, for the home health agency, there  
17 works any person who has been convicted of or has been adjudicated a  
18 juvenile offender because of having committed an act which if done by  
19 an adult would constitute the commission of capital murder, pursuant to  
20 K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant  
21 to K.S.A. 21-3401 and amendments thereto, second degree murder, pur-  
22 suant to subsection (a) of K.S.A. 21-3402 and amendments thereto, vol-  
23 untary manslaughter, pursuant to K.S.A. 21-3403 and amendments  
24 thereto, assisting suicide, pursuant to K.S.A. 21-3406 and amendments  
25 thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437  
26 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amend-  
27 ments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503  
28 and amendments thereto, aggravated indecent liberties with a child, pur-  
29 suant to K.S.A. 21-3504 and amendments thereto, aggravated criminal  
30 sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent  
31 solicitation of a child, pursuant to K.S.A. 21-3510 and amendments  
32 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-  
33 3511 and amendments thereto, sexual exploitation of a child, pursuant to  
34 K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to  
35 K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery,  
36 pursuant to K.S.A. 21-3518 and amendments thereto, or similar statutes  
37 of other states or the federal government.

38 (2) On and after July 1, 1998, a person operating a home health  
39 agency may employ an applicant who has been convicted of any of the  
40 following if five or more years have elapsed since the applicant satisfied  
41 the sentence imposed or was discharged from probation, a community  
42 correctional services program, parole, postrelease supervision, conditional  
43 release or a suspended sentence; or if five or more years have elapsed

1 since the applicant has been finally discharged from the custody of the  
2 commissioner of juvenile justice or from probation or has been adjudi-  
3 cated a juvenile offender, whichever time is longer: A felony conviction  
4 for a crime which is described in: (A) article 34 of the Kansas Statutes  
5 Annotated and amendments thereto, except those crimes listed in sub-  
6 section (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes  
7 Annotated and amendments thereto, except those crimes listed in sub-  
8 section (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) a con-  
9 viction of an attempt under K.S.A. 21-3301 and amendments thereto to  
10 commit any act listed in this subsection or subsection (a)(1); or (D) similar  
11 statutes of other states or the federal government.

12 (b) No person shall operate a home health agency if such person has  
13 been found to be a ~~disabled~~ person in need of a guardian or a conservator,  
14 or both, *as provided in sections 1 through 45, and amendments thereto.*

15 (c) The secretary of health and environment shall have access to any  
16 criminal history record information in the possession of the Kansas bureau  
17 of investigation concerning persons working for a home health agency.  
18 The secretary shall have access to these records for the purpose of de-  
19 termining whether or not the home health agency meets the require-  
20 ments of this section. The Kansas bureau of investigation may charge to  
21 the department of health and environment a reasonable fee for providing  
22 criminal history record information under this subsection.

23 (d) For the purpose of complying with this section, the operator of a  
24 home health agency shall request from the department of health and  
25 environment information obtained by the secretary of health and envi-  
26 ronment which relates to a person who works for the home health agency  
27 or is being considered for employment by the home health agency, for  
28 the purpose of determining whether such person is subject to the pro-  
29 visions of this section. For the purpose of complying with this section,  
30 information relating to convictions and adjudications by the federal gov-  
31 ernment or to convictions and adjudications in states other than Kansas  
32 shall not be required until such time as the secretary of health and en-  
33 vironment determines the search for such information could reasonably  
34 be performed and the information obtained within a two-week period.  
35 For the purpose of complying with this section, a person who operates a  
36 home health agency may hire an applicant for employment on a condi-  
37 tional basis pending the results from the department of health and en-  
38 vironment of a request for information under this subsection. No home  
39 health agency, the operator or employees of a home health agency or an  
40 employment agency, or the operator or employees of an employment  
41 agency, which provides employees to work for the home health agency  
42 shall be liable for civil damages resulting from any decision to employ, to  
43 refuse to employ or to discharge from employment any person based on



1 such home health agency's compliance with the provisions of this section  
2 if such home health agency or employment agency acts in good faith to  
3 comply with this section.

4 (e) The secretary of health and environment shall charge each person  
5 requesting information under this section a fee equal to cost, not to ex-  
6 ceed \$10, for each name about which an information request has been  
7 submitted under this section.

8 (f) No person who works for a home health agency and who is cur-  
9 rently licensed or registered by an agency of this state to provide profes-  
10 sional services in this state and who provides such services as part of the  
11 work which such person performs for the home health agency shall be  
12 subject to the provisions of this section.

13 (g) A person who volunteers to assist a home health agency shall not  
14 be subject to the provisions of this section because of such volunteer  
15 activity.

16 (h) No person who has been employed by the same home health  
17 agency for five consecutive years immediately prior to the effective date  
18 of this act shall be subject to the requirements of this section while em-  
19 ployed by such home health agency.

20 (i) The operator of a home health agency shall not be required under  
21 this section to conduct a background check on an applicant for employ-  
22 ment with the home health agency if the applicant has been the subject  
23 of a background check under this act within one year prior to the appli-  
24 cation for employment with the home health agency. The operator of a  
25 home health agency where the applicant was the subject of such back-  
26 ground check may release a copy of such background check to the op-  
27 erator of a home health agency where the applicant is currently applying.

28 (j) This section shall be part of and supplemental to the provisions of  
29 article 51 of chapter 65 of the Kansas Statutes Annotated and acts amen-  
30 datory thereof or supplemental thereto.

31 Sec. 73. K.S.A. 73-507 is hereby amended to read as follows: 73-507.  
32 Upon the filing of a petition for the appointment of a curator, under the  
33 provisions of this act, the court shall cause such notice to be given as  
34 provided by the act for obtaining a guardian or conservator, or both  
35 (~~K.S.A. 59-3001~~ *et seq. sections 1 through 45, and amendments thereto*).

36 Sec. 74. K.S.A. 2000 Supp. 76-729 is hereby amended to read as  
37 follows: 76-729. (a) Persons enrolling at the state educational institutions  
38 under the control and supervision of the state board of regents who, if  
39 such persons are adults, have been domiciliary residents of the state of  
40 Kansas or, if such persons are minors, whose parents have been domicil-  
41 iary residents of the state of Kansas for at least 12 months prior to en-  
42 rollment for any term or session at a state educational institution are  
43 residents for fee purposes. A person who has been a resident of the state

1 of Kansas for fee purposes and who leaves the state of Kansas to become  
2 a resident of another state or country shall retain status as a resident of  
3 the state of Kansas for fee purposes if the person returns to domiciliary  
4 residency in the state of Kansas within 12 months of departure. All other  
5 persons are nonresidents of the state of Kansas for fee purposes.

6 (b) The state board of regents may authorize the following persons,  
7 or any class or classes thereof, and their spouses and dependents to pay  
8 an amount equal to resident fees:

9 (1) Persons who are employees of a state educational institution;

10 (2) persons who are in military service;

11 (3) persons who are domiciliary residents of the state, who were in  
12 active military service prior to becoming domiciliary residents of the state,  
13 who were present in the state for a period of not less than two years  
14 during their tenure in active military service, whose domiciliary residence  
15 was established in the state within 30 days of discharge or retirement  
16 from active military service under honorable conditions, but whose dom-  
17 iciliary residence was not timely enough established to meet the residence  
18 duration requirement of subsection (a);

19 (4) persons having special domestic relations circumstances;

20 (5) persons who have lost their resident status within six months of  
21 enrollment;

22 (6) persons who are not domiciliary residents of the state, who have  
23 graduated from a high school accredited by the state board of education  
24 within six months of enrollment, who were domiciliary residents of the  
25 state at the time of graduation from high school or within 12 months prior  
26 to graduation from high school, and who are entitled to admission at a  
27 state educational institution pursuant to K.S.A. 72-116, and amendments  
28 thereto;

29 (7) persons who are domiciliary residents of the state, whose domi-  
30 ciliary residence was established in the state for the purpose of accepting,  
31 upon recruitment by an employer, or retaining, upon transfer required  
32 by an employer, a position of full-time employment at a place of employ-  
33 ment in Kansas, but the domiciliary residence of whom was not timely  
34 enough established to meet the residence duration requirement of sub-  
35 section (a), and who are not otherwise eligible for authorization to pay an  
36 amount equal to resident fees under this subsection; and

37 (8) persons who have graduated from a high school accredited by the  
38 state board of education within six months of enrollment and who, at the  
39 time of graduation from such a high school or while enrolled and in at-  
40 tendance at such a high school prior to graduation therefrom, were de-  
41 pendents of a person in military service within the state; if the person,  
42 whose dependent is eligible for authorization to pay an amount equal to  
43 resident fees under this provision, does not establish domiciliary resi-

1 dence in the state upon retirement from military service, eligibility of the  
2 dependent for authorization to pay an amount equal to resident fees shall  
3 lapse.

4 (c) As used in this section:

5 (1) "Parents" means and includes natural parents, adoptive parents,  
6 stepparents, guardians and custodians.

7 (2) "Guardian" has the meaning ascribed thereto by ~~K.S.A. 59-3002~~  
8 *section 2*, and amendments thereto.

9 (3) "Custodian" means a person, agency or association granted legal  
10 custody of a minor under the Kansas code for care of children.

11 (4) "Domiciliary resident" means a person who has present and fixed  
12 residence in Kansas where the person intends to remain for an indefinite  
13 period and to which the person intends to return following absence.

14 (5) "Full-time employment" means employment requiring at least  
15 1,500 hours of work per year.

16 Sec. 75. K.S.A. 76-12b04 is hereby amended to read as follows: 76-  
17 12b04. If in the opinion of the superintendent an applicant for admission  
18 meets the definition of ~~"disabled person" as set forth in K.S.A. 59-3002~~  
19 *a person in need of a guardian or a conservator, or both, as provided in*  
20 *sections 1 through 45*, and amendments thereto, the person shall not be  
21 admitted to an institution except for the purposes of conducting a court  
22 ordered evaluation pursuant to ~~subsection (a)(6) of K.S.A. 59-3010~~ *section*  
23 *15*, and amendments thereto until a court has determined the legal status  
24 of the person under the act for obtaining a guardian or conservator, or  
25 both. The provisions of this paragraph shall not be applicable if a court  
26 has already determined the legal status of the applicant under the act.

27 Sec. 76. K.S.A. 77-201 is hereby amended to read as follows: 77-201.  
28 In the construction of the statutes of this state the following rules shall  
29 be observed, unless the construction would be inconsistent with the man-  
30 ifest intent of the legislature or repugnant to the context of the statute:

31 *First.* The repeal of a statute does not revive a statute previously re-  
32 pealed, nor does the repeal affect any right which accrued, any duty im-  
33 posed, any penalty incurred or any proceeding commenced, under or by  
34 virtue of the statute repealed. The provisions of any statute, so far as they  
35 are the same as those of any prior statute, shall be construed as a contin-  
36 uation of the prior provisions and not as a new enactment.

37 *Second.* Words and phrases shall be construed according to the context  
38 and the approved usage of the language, but technical words and phrases,  
39 and other words and phrases that have acquired a peculiar and appro-  
40 priate meaning in law, shall be construed according to their peculiar and  
41 appropriate meanings.

42 *Third.* Words importing the singular number only may be extended to  
43 several persons or things, and words importing the plural number only

1 may be applied to one person or thing. Words importing the masculine  
2 gender only may be extended to females.

3 *Fourth.* Words giving a joint authority to three or more public officers  
4 or other persons shall be construed as given that authority to a majority  
5 of them, unless it is otherwise expressed in the act giving the authority.

6 *Fifth.* "Highway" and "road" include public bridges and may be con-  
7 strued to be equivalent to "county way," "county road," "common road,"  
8 "state road" and "territorial road."

9 *Sixth.* "Incompetent person" includes disabled ~~person as defined in~~  
10 ~~K.S.A. 59-3002 and amendments thereto~~ *persons and incapacitated per-*  
11 *sons as defined herein.*

12 *Seventh.* "Issue," as applied to the descent of estates, includes all the  
13 lawful lineal descendants of the ancestor.

14 *Eighth.* "Land," "real estate" and "real property" include lands, tene-  
15 ments and hereditaments, and all rights to them and interest in them,  
16 equitable as well as legal.

17 *Ninth.* "Personal property" includes money, goods, chattels, evidences  
18 of debt and things in action.

19 *Tenth.* "Property" includes personal and real property.

20 *Eleventh.* "Month" means a calendar month, unless otherwise ex-  
21 pressed. "Year" alone, and also the abbreviation "A.D.," is equivalent to  
22 the expression "year of our Lord."

23 *Twelfth.* "Oath" includes an affirmation in all cases where an affirma-  
24 tion may be substituted for an oath, and in similar cases "swear" includes  
25 affirm.

26 *Thirteenth.* "Person" may be extended to bodies politic and corporate.

27 *Fourteenth.* If the seal of a court or public office or officer is required  
28 by law to be affixed to any paper, "seal" includes an impression of the  
29 seal upon the paper alone, as well as upon wax or a wafer affixed to the  
30 paper. "Seal" also includes both a rubber stamp seal used with permanent  
31 ink and the word "seal" printed on court documents produced by com-  
32 puter systems, so that the seal may be legibly reproduced by photographic  
33 process.

34 *Fifteenth.* "State," when applied to the different parts of the United  
35 States, includes the District of Columbia and the territories. "United  
36 States" may include that district and those territories.

37 *Sixteenth.* "Town" may mean a civil township, unless a different mean-  
38 ing is plainly intended.

39 *Seventeenth.* "Will" includes codicils.

40 *Eighteenth.* "Written" and "in writing" may include printing, engrav-  
41 ing, lithography and any other mode of representing words and letters,  
42 excepting those cases where the written signature or the mark of any  
43 person is required by law.

1 *Nineteenth.* "Sheriff" may be extended to any person performing the  
2 duties of the sheriff, either generally or in special cases.

3 *Twentieth.* "Deed" is applied to an instrument conveying lands but  
4 does not imply a sealed instrument. "Bond" and "indenture" do not nec-  
5 essarily imply a seal but in other respects mean the same kind of instru-  
6 ments as above. "Undertaking" means a promise or security in any form  
7 where required by law.

8 *Twenty-first.* "Executor" includes an administrator where the subject-  
9 matter applies to an administrator.

10 *Twenty-second.* Roman numerals and Arabic figures are to be taken as  
11 a part of the English language.

12 *Twenty-third.* "Residence" means the place which is adopted by a per-  
13 son as the person's place of habitation and to which, whenever the person  
14 is absent, the person has the intention of returning. When a person eats  
15 at one place and sleeps at another, the place where the person sleeps  
16 shall be considered the person's residence.

17 *Twenty-fourth.* "Usual place of residence" and "usual place of abode,"  
18 when applied to the service of any process or notice, means the place  
19 usually occupied by a person. If a person has no family, or does not have  
20 family with the person, the person's office or place of business or, if the  
21 person has no place of business, the room or place where the person  
22 usually sleeps shall be construed to be the person's place of residence or  
23 abode.

24 *Twenty-fifth.* "Householder" means a person who is 18 or more years  
25 of age and who owns or occupies a house as a place of residence and not  
26 as a boarder or lodger.

27 *Twenty-sixth.* "General election" refers to the election required to be  
28 held on the Tuesday following the first Monday in November of each  
29 even-numbered year.

30 *Twenty-seventh.* "Under legal disability" includes persons who are  
31 within the period of minority, *or who are* incapacitated, *in competent* or  
32 imprisoned.

33 *Twenty-eighth.* When a person is required to be disinterested or in-  
34 different in acting on any question or matter affecting other parties, re-  
35 lationship within the degree of second cousin, inclusive, shall disqualify  
36 the person from acting, except by consent of parties.

37 *Twenty-ninth.* "Head of a family" shall include any person who has  
38 charge of children, relatives or others living with the person.

39 *Thirtieth.* "Mentally ill person" means a mentally ill person as defined  
40 in K.S.A. ~~1997~~ 2000 Supp. 59-2946 and amendments thereto.

41 *Thirty-first.* "Incapacitated person" means ~~disabled person as defined~~  
42 ~~in K.S.A. 59-3002 and amendments thereto~~ *an individual whose ability*  
43 *to receive and evaluate relevant information, or to effectively communi-*

1 *cate decisions, or both, even with the use of assistive technologies or other*  
2 *supports, is impaired to the degree that the person lacks the capacity to*  
3 *manage the person's estate, or to meet essential needs for their physical*  
4 *health, safety or welfare, as defined in section 2, and amendments thereto,*  
5 *whether or not a guardian or a conservator has been appointed for that*  
6 *person.*

7 *Thirty-second.* "Guardian" means an individual or a nonprofit corpo-  
8 ration certified in accordance with ~~K.S.A. 59-3037~~ *section 21*, and amend-  
9 ments thereto which has been appointed by a court to act on behalf of a  
10 ward and possessed of some or all of the powers and duties set out in  
11 ~~K.S.A. 59-3018~~ *section 26*, and amendments thereto. "Guardian" does  
12 not mean natural guardian unless specified.

13 *Thirty-third.* "Natural guardian" means both the *biological or adoptive*  
14 *mother and father and mother* of a minor if neither parent has been found  
15 to be ~~a disabled person~~ *an adult with an impairment in need of a guardian*  
16 *or has had parental rights terminated by a court of competent jurisdiction.*  
17 *If either parent of a minor dies, is found to be a disabled person is de-*  
18 *ceased, or has been found to be an adult with an impairment in need of*  
19 *a guardian, as provided for in sections 1 through 45, and amendments*  
20 *thereto or has had parental rights terminated by a court of competent*  
21 *jurisdiction, then the other parent shall be the natural guardian, unless*  
22 *also deceased, or found to be an adult with an impairment in need of a*  
23 *guardian, or has had parental rights terminated by a court of competent*  
24 *jurisdiction, in which case no person shall qualify as the natural guardian.*

25 *Thirty-fourth.* "Conservator" means an individual or corporation ap-  
26 pointed by the court to act on behalf of a conservatee and possessed of  
27 some or all of the powers and duties set out in ~~K.S.A. 59-3019~~ *section 29*,  
28 and amendments thereto.

29 *Thirty-fifth.* "Minor" means any person defined by K.S.A. 38-101 and  
30 amendments thereto as being within the period of minority.

31 *Thirty-sixth.* "Proposed ward" means a person for whom ~~an application~~  
32 *a petition* for the appointment of a guardian pursuant to ~~K.S.A. 59-3006~~  
33 *section 9, 10, 11 or 12*, and amendments thereto has been filed.

34 *Thirty-seventh.* "Proposed conservatee" means a person for whom a  
35 petition for the appointment of a conservator pursuant to ~~K.S.A. 59-3006~~  
36 *section 9, 10, 11 or 12*, and amendments thereto has been filed.

37 *Thirty-eighth.* "Ward" means a person who has a guardian.

38 *Thirty-ninth.* "Conservatee" means a person who has a conservator.

39 *Fortieth.* "Manufactured home" means a structure which:

40 (1) Is transportable in one or more sections which, in the traveling  
41 mode, is 8 body feet or more in width or 40 body feet or more in length,  
42 or, when erected on site, is 320 or more square feet, and which is built  
43 on a permanent chassis and designed to be used as a dwelling, with or

1 without permanent foundation, when connected to the required utilities,  
2 and includes the plumbing, heating, air conditioning and electrical sys-  
3 tems contained therein; and

4 (2) is subject to the federal manufactured home construction and  
5 safety standards established pursuant to 42 U.S.C. § 5403.

6 *Forty-first.* "Mobile home" means a structure which:

7 (1) Is transportable in one or more sections which, in the traveling  
8 mode, is 8 body feet or more in width and 36 body feet or more in length  
9 and is built on a permanent chassis and designed to be used as a dwelling,  
10 with or without a permanent foundation, when connected to the required  
11 utilities, and includes the plumbing, heating, air conditioning and elec-  
12 trical systems contained therein; and

13 (2) is not subject to the federal manufactured home construction and  
14 safety standards established pursuant to 42 U.S.C. § 5403.

15 *Forty-second.* "Disabled person" includes incapacitated persons and  
16 incompetent persons as defined herein.

17 New Sec. 77. If any provision of this act for obtaining a guardian or  
18 a conservator, or both, or the application thereof to any person or cir-  
19 cumstances is held invalid, the invalidity shall not affect other provisions  
20 or applications of this act which can be given effect with the invalid pro-  
21 vision or application, and to this end the provisions of this act are  
22 severable.

23 Sec. 78. K.S.A. 17-2263, 17-2264, 17-5828, 17-5829, 38-1505, 39-  
24 789, 39-970, 44-513a, 58-629, 59-1701, 59-3001, 59-3003, 59-3004, 59-  
25 3006, 59-3007, 59-3008, 59-3011, 59-3012, 59-3015, 59-3016, 59-3017,  
26 59-3018, 59-3019, 59-3020, 59-3021, 59-3022, 59-3023, 59-3024, 59-  
27 3025, 59-3027, 59-3028, 59-3030, 59-3031, 59-3032, 59-3034, 59-3035,  
28 59-3037, 59-3038, 73-507, 76-12b04 and 77-201 and K.S.A. 2000 Supp.  
29 9-1215, 9-1216, 58-24a15, 59-2946, 59-2948, 59-2949, 59-2951, 59-2960,  
30 59-29b46, 59-29b48, 59-29b49, 59-29b51, 59-29b60, 59-3002, 59-3009,  
31 59-3010, 59-3013, 59-3014, 59-3018a, 59-3026, 59-3029, 50-3036, 59-  
32 3039, 60-304, 60-304a, 61-3004, 65-516, 65-5117 and 76-729 are hereby  
33 repealed.

34 Sec. 79. This act shall take effect and be in force from and after its  
35 publication in the statute book.

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