

Substitute for HOUSE BILL No. 2469

AN ACT concerning guardians and conservators; amending K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828, 17-5829, 38-1505, 39-789, 44-513a, 58-629, 59-1701, 59-2203, 73-507, 76-12b04 and 77-201 and K.S.A. 2001 Supp. 39-970, 58-24a15, 59-2401, 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. 2001 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. No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be an adult with an impairment in need of a guardian under this act for that reason alone, nor considered to lack the capacity to meet essential needs for physical health, safety or welfare because of such person’s reliance upon such treatment.

(b) “Appropriate alternative” means any program or service, or the use of a legal device or representative, which enables a person with an impairment to adequately meet essential needs for physical health, safety or welfare, or to reasonably manage such person’s estate. Appropriate alternatives may include, but are not limited to, a power of attorney, a durable power of attorney, a power of attorney for health care decisions, a living will, a trust, a joint tenancy or a representative payee.

(c) “Conservatee” means a person who has a conservator.

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

(e) “Guardian” means an individual or a corporation certified in accordance with section 21, and amendments thereto, who or which is appointed by a court to act on behalf of a ward, and who or which is possessed of some or all of the powers and duties set out in section 26, amendments thereto. “Guardian” does not mean a “natural guardian” unless specified.

(f) “In need of a guardian” means a person who because of both an impairment and the lack of appropriate alternatives for meeting essential needs, requires the appointment of a guardian.

(g) “In need of a conservator” means a person who because of both an impairment and the lack of appropriate alternatives for managing such person’s estate, requires the appointment of a conservator.

(h) “Manage such person’s estate” means making those determinations and taking those actions which are reasonably necessary in order for a person to receive and account for personal or business income, benefits and property, whether real, personal or intangible, and except for reasons of indigency, to purchase or otherwise obtain necessary goods or services, to pay debts and expenses, to sell, exchange or otherwise dispose of property, and to plan for future accumulation, conservation, utilization, investment, and other disposition of financial resources.

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

(j) “Minor” means any person defined by K.S.A. 38-101, and amendments thereto, as being within the period of minority.

(k) “Minor with an impairment in need of a guardian or a conservator, or both” means a person under 18 years of age who otherwise meets the definition of an “adult with an impairment in need of a guardian or conservator, or both” and whose impairment is expected to continue beyond the age of 18.

(l) “Natural guardian” means both the biological or adoptive mother and father of a minor if neither parent has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction. If either parent of a minor is deceased, or has been found to be an adult with an impairment in need of a guardian or has had parental rights terminated by a court of competent jurisdiction, then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.

(m) “Person who has been previously adjudged as impaired in another state” means a person who has been duly adjudged by a court of competent jurisdiction of any other state to be unable to meet essential needs for physical health, safety or welfare or to manage such person’s estate and for whom a guardian or a conservator, or other similarly empowered fiduciary, has been appointed by that court, but who now resides within Kansas or for whom plans have been made by such person’s guardian or other fiduciary to relocate the person to Kansas.

(n) “Person in need of an ancillary conservator” means a person not residing within Kansas, who has been duly adjudged by a court of competent jurisdiction of another state to be unable to manage such person’s estate and for whom a conservator or other fiduciary of the person’s estate has been appointed by that court, and who has property in Kansas for which a conservator is required.

(o) “Proposed ward” means a person for whom a petition for the appointment of a guardian pursuant to section 9, 10, 11 or 12, and amendments thereto, has been filed.

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

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

(r) The terms defined in K.S.A. 2001 Supp. 59-2946 and 59-29b46, and amendments thereto, have the meanings provided by those statutes.

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

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

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

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

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

(c) The nominated guardian or conservator, if a fit and proper person, shall be appointed by the district court pursuant to section 19, and amendments thereto, if it is found, during the trial held pursuant to section 18, and amendments thereto, that a guardian or conservator, or both, should be appointed for the minor child of the testator or settlor.

New Sec. 6. (a) Any court having either control over or possession of any amount of money not exceeding \$100,000, the right to which is vested in a minor, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, and notwithstanding the authority of a natural guardian as provided for in section 4, and amendments thereto, the deposit of the money in a savings account of a bank, credit union, savings and loan association or any other investment account that the court may authorize, payable either to a conservator, if one shall be appointed for the minor, or to the minor upon attaining the age of 18 years.

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

(c) Any court having either control over or possession of any amount of money not exceeding \$10,000, the right to which is vested in a person for whom a guardian has been appointed, shall have the discretion to authorize, without the appointment of a conservator or the giving of bond, the deposit of the money in a savings account of a bank, credit union or savings and loan association, payable to the guardian for the benefit of the ward if authorized pursuant to subsection (e)(8) of section 26, and amendments thereto, payable to a conservator, if one shall be appointed for the person, or payable to the ward on restoration to capacity.

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

(a) The person's name, age, date of birth, address of permanent residence and present address or whereabouts, if different from the person's permanent residence;

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

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

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

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

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

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

New Sec. 8. Upon the filing of a petition as provided for in section 7, and amendments thereto, the court shall issue an order fixing the date, time and place of the trial on the petition and order that notice of this trial shall be given to such persons as the court shall direct. The trial may be held forthwith and without notice if the court determines that holding a trial forthwith and without notice is in the best interests of the petitioner. Upon completion of the trial, if the court finds that the petitioner has knowingly and voluntarily made this request and that it is in the best interests of the petitioner that a conservator be appointed, the court, upon the filing of an oath and a bond in such an amount as the court may direct

pursuant to section 20, and amendments thereto, shall issue letters of conservatorship to the individual or corporation named in the petition, if fit and proper to be so appointed.

New Sec. 9. (a) (1) Any person may file in the district court of the county of residence of the proposed ward or proposed conservatee or of any county wherein the proposed ward or proposed conservatee may be found, a verified petition requesting the appointment of a guardian or a conservator, or both, for an adult with an impairment in need of a guardian or conservator, or both. If the proposed conservatee is not a resident of or present within the state of Kansas, such petition may be filed in the district court of any county in which any property of the proposed conservatee is situated.

(2) If a petition is filed in the district court of a county other than the county of residence of the proposed ward or proposed conservatee, the court may consider whether it is in the best interests of the proposed ward or proposed conservatee or in the interests of justice for the proceedings to take place in that county.

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

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

(b) The petition shall include:

(1) The petitioner's name and address;

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

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

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

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

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

(7) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to the proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

(8) the name and address of any person or agency having custody of

the proposed ward or proposed conservatee, or any other person or agency who has assumed responsibility for the proposed ward or proposed conservatee, and the circumstances under which the proposed ward or proposed conservatee came into such person's or agency's care or control;

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

(10) a list and description of all court proceedings in which the proposed ward or conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(11) in general terms, the location, type, and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

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

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

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

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

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of section 15, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to section 15, and amendments thereto.

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

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

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

(3) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a nonresident of the state of Kansas, the court may dismiss

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

(4) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

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

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

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

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

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

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

(8) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

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

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

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

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

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a proposed guardianship plan as provided for in section 27, and amendments thereto, or a proposed conservatorship plan as provided for in section 30, and amendments thereto, or both.

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

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

(3) If the court finds it is not in the best interests of the minor or in the interests of justice that the proceedings take place in that county and the minor is a resident of a different county in Kansas, the court may dismiss the matter immediately, or may transfer venue to the county of residence, or may continue the matter for a specific period of time not to exceed 60 days to allow for the filing of proceedings in the county of residence. After the expiration of that period of time, or upon the filing of proceedings in the county of residence, the court shall dismiss the petition without prejudice.

(b) The petition shall include:

(1) The petitioner's name and address;

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

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

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

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

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

(7) a list and description of all court proceedings in which the minor is or has recently been a party, or is or has recently been the subject of, or was or may be a beneficiary of, or in which any rights of the minor were or may be determined or affected, including any proceeding concerning the custody of or visitation with the minor, any domestic relations matters, juvenile proceedings or adoptions, and the name and address of any attorney who represents or has represented the minor in any such

matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(8) in general terms, the location, type, and value of any real or personal property of the minor, including the amount and sources of any income of the minor. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

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

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

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

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

(c) Any such petition may be accompanied by, or the court may require that such petition be accompanied by, a report of an examination and evaluation which meets the requirements of section 15, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional examination and evaluation pursuant to section 15, and amendments thereto.

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

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

(b) The petition shall include:

(1) The petitioner's name and address;

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

(3) if the proposed ward or proposed conservatee is not already present within Kansas, the address and nature of the place located within Kansas to which the petitioner plans to relocate the proposed ward or proposed conservatee if the court does appoint a guardian or conservator, or both, in Kansas;

(4) the place where and the date upon which the petitioner was appointed as the guardian, conservator or other similarly empowered fiduciary for the proposed ward or proposed conservatee and a statement that this appointment remains in full force and effect;

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

(6) the names and addresses of any spouse, adult children and adult grandchildren of the proposed ward or proposed conservatee, and those of any parent and adult siblings of the proposed ward or proposed conservatee, or if no such names or addresses are known to the petitioner, the name and address of at least one adult who is nearest in kinship to



the proposed ward or proposed conservatee, or if none, that fact. If no such names or addresses are known to the petitioner, but the petitioner has reason to believe such persons exist, then the petition shall state that fact and that the petitioner has made diligent inquiry to learn those names and addresses;

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

(8) a list and description of all court proceedings in which the proposed ward or conservatee is a party, or is the subject of, or may be a beneficiary of, or in which any rights of the proposed ward or proposed conservatee may be determined or affected, and the name and address of any attorney who represents the proposed ward or proposed conservatee in such matter. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

(9) in general terms, the location, type and value of any real or personal property of the proposed ward or proposed conservatee, including the amount and sources of any income of the proposed ward or proposed conservatee. If not known, the petition shall state that the petitioner has made diligent inquiry to learn this information;

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

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

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

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

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

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

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

New Sec. 13. (a) The conservator or other similarly empowered fiduciary appointed in any other state for a person in need of an ancillary conservator may file in the district court of any county in which any property of the proposed conservatee is situated a verified petition requesting the appointment of an ancillary conservator in Kansas.

(b) The petition shall include:

(1) The petitioner's name and address, and a statement that the petitioner is the conservator or other similarly empowered fiduciary appointed in another state, and that this appointment remains in full force and effect;

(2) the proposed conservatee's name, age, date of birth, address of

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

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

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

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

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

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

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

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

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

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

(c) The petition shall be accompanied by a duly authenticated copy of the order of adjudication and appointment and documents showing the continuing authority of the petitioner in the other state.

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

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

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

(2) An order requiring that the proposed ward or proposed conservatee appear at the time and place of the trial unless the court makes a finding prior to the trial that the presence of the proposed ward or pro-

posed conservatee will be injurious to the person's health or welfare, or that the proposed ward's or proposed conservatee's impairment is such that the person could not meaningfully participate in the proceedings, or that the proposed ward or proposed conservatee has filed with the court a written waiver of such person's right to appear in person. In any such case, the court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or proposed conservatee at the trial should be excused. Notwithstanding the foregoing provisions of this subsection, if the proposed ward or proposed conservatee files with the court at least one day prior to the date of the trial a written notice stating the person's desire to be present at the trial, the court shall order that the proposed ward or proposed conservatee must be present at the trial.

(3) An order appointing an attorney to represent the proposed ward or proposed conservatee. The court shall give preference, in the appointment of this attorney, to any attorney who has represented the proposed ward or proposed conservatee in other matters if the court has knowledge of that prior representation, or to an attorney whom the proposed ward or proposed conservatee has requested. The proposed ward or proposed conservatee, if an adult, shall have the right to engage an attorney of the proposed ward's or proposed conservatee's own choice and, in such case, the attorney appointed by the court shall be relieved of all duties. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed by the court if requested, in writing, by the ward, conservatee, guardian or conservator, or upon the court's own motion.

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

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

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

(b) Upon the filing of a petition as provided for in section 10, and amendments thereto, alleging that the proposed ward or proposed conservatee is a minor in need of a guardian or conservator, or both, the court shall issue an order fixing the date, time and place of the trial on the petition. If the petition is filed on behalf of the minor by the minor's natural guardian, the time of the hearing designated in the order may be forthwith and without notice. In all other cases the trial shall be held no earlier than seven days or later than 21 days after the date of the filing of the petition, unless those persons or agencies entitled to notice pursuant to subsection (d) of section 17, and amendments thereto, have entered their appearances, waived notice and consented to the appointment of the suggested guardian or conservator, or both, in which case the trial may be held forthwith and without notice.

(c) Upon the filing of a petition as provided for in section 12, and amendments thereto, alleging that the proposed ward or proposed conservatee is a person who has been previously adjudged as impaired in another state, the court shall issue an order fixing the date, time and place of the trial on the petition, which trial shall be held no earlier than seven days or later than 21 days after the date of the filing of the petition, unless those persons or agencies entitled to notice pursuant to subsection (f) of section 17, and amendments thereto, have entered their appearances, waived notice, agreed to the court's accepting jurisdiction of the case if

transferred from the other state, and consented to the appointment in Kansas of the suggested guardian or conservator, or both, in which case the trial may be held forthwith and without notice.

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

New Sec. 15. (a) Upon the filing of a petition as provided for in section 9, and amendments thereto, alleging that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or conservator, or both, or as provided for in section 11, and amendments thereto, alleging that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both, the court shall order the proposed ward or proposed conservatee to submit to an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other professional appointed by the court who is qualified to evaluate the proposed ward's or proposed conservatee's alleged impairment. The order shall be served in the manner provided for in section 17, and amendments thereto, and may be served at the same time or after the notice provided for therein.

(b) Unless otherwise specified by the court, the report of the examination and evaluation submitted to the court shall contain:

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

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

(3) a description of the nature and extent of the proposed ward's or proposed conservatee's cognitive and functional abilities and limitations, including adaptive behaviors and social skills, and, as appropriate, educational and developmental potential;

(4) a prognosis for any improvement and, as appropriate, any recommendation for treatment or rehabilitation;

(5) a list and description of any prior assessments, evaluations or examinations of the proposed ward or proposed conservatee, including the dates thereof, which were relied upon in the preparation of this evaluation;

(6) the date and location where this examination and evaluation occurred, and the name or names of the professional or professionals performing the examination and evaluation and such professional's qualifications;

(7) a statement by the professional that the professional has personally completed an independent examination and evaluation of the proposed ward or proposed conservatee, or by a professional on behalf of the professionals who have together completed an independent examination and evaluation of the proposed ward or proposed conservatee that they have done so, and that the report submitted to the court contains the results of that examination and evaluation, and the professional's or professionals' opinion with regard to the issues of whether or not the proposed ward or proposed conservatee is an adult or a minor with an impairment who may be in need of a guardian or conservator, or both, and, if ascertainable, whether it would be injurious to the proposed ward or proposed conservatee to be required to be present at the trial on the petition, or whether the proposed ward or proposed conservatee could meaningfully participate in those proceedings; and

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

(c) The professional shall file with the court, at least five days prior to the date of the trial, such professional's written report concerning the

examination and evaluation ordered by the court. The report shall be made available by the court to counsel for all parties.

(d) In lieu of entering an order for an examination and evaluation as provided for herein, the court may determine that the report accompanying the petition as provided for in subsection (c) of section 9 or subsection (c) of section 11, and amendments thereto, is in compliance with the requirements of this section and that no further examination or evaluation should be required, unless the proposed ward or proposed conservatee, or such person's attorney, requests such an examination and evaluation in writing. Any such request shall be filed with the court, and a copy thereof delivered to the petitioner, at least four days prior to the date of the trial. Accompanying the request shall be a statement of the reasons why an examination and evaluation is requested and the name and address of a qualified professional or facility willing and able to conduct this examination and evaluation. If the court orders a further examination and evaluation, the court may continue the trial and fix a new date, time and place of the trial at a time not to exceed 30 days from the date of the filing of the request.

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

(1) An order for an investigation and report concerning the proposed ward's or proposed conservatee's family relationships, past conduct, the nature and extent of any property or income of the proposed ward or proposed conservatee; whether the proposed ward or proposed conservatee is likely to injure self or others, or other matters as the court may specify. If requested to do so by the court, the secretary of social and rehabilitation services shall conduct this investigation. Otherwise, the court may appoint any other person who is qualified to conduct this investigation, and the costs of this investigation shall be assessed as provided for in section 45, and amendments thereto.

(2) Any orders requested or authorized pursuant to section 24, and amendments thereto.

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

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

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

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

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

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

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

(3) An order appointing an attorney to represent the minor. The court shall give preference, in the appointment of the attorney, to any attorney who has represented the minor in other matters if the court has knowledge of that prior representation, or to an attorney whom the minor, if 14 years of age or older, has requested. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order. Thereafter, an attorney may be appointed by the court if requested, in writing, by the guardian, conservator or minor, if 14 years of age or older, or upon the court's own motion.

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

(5) An order for a psychological or other examination and evaluation of the minor as may be specified by the court. The court may order the

minor to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the minor. The costs of this examination and evaluation shall be assessed as provided for in section 45, and amendments thereto.

(c) Upon the filing of a petition as provided for in section 11, and amendments thereto, alleging that the proposed ward or proposed conservatee is a minor with an impairment in need of a guardian or conservator, or both, the court may issue an order of temporary custody of the minor.

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

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

(2) An order requiring that the proposed ward or proposed conservatee appear at the time and place of the trial set pursuant to subsection (d) of section 14, and amendments thereto. If an order to appear is entered, but later rescinded, the court shall enter in the record of the proceedings the facts upon which the court found subsequent to the issuance of the order that the presence of the proposed ward or proposed conservatee should be excused.

(3) An order for an examination and evaluation of the proposed ward or proposed conservatee as may be specified by the court. The court may order the proposed ward or proposed conservatee to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the proposed ward or proposed conservatee. The costs of this examination and evaluation shall be assessed as provided for in section 45, and amendments thereto.

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

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

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

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

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

(1) That a petition has been filed alleging that the proposed ward or proposed conservatee is either an adult with an impairment in need of a guardian or conservator, or both, or a minor in need of a guardian or conservator, or both, or a minor with an impairment in need of a guardian

or conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, and requesting the appointment of a guardian or a conservator, or both, or an ancillary conservator in this state;

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

(3) whether the proposed ward or proposed conservatee has been ordered to appear at this trial, or whether the court has made any finding which excuses the presence of the proposed ward or proposed conservatee at the trial;

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

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

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

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

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

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

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

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

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

(3) any law enforcement officer; or

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

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

(1) This notice shall be personally served on the proposed ward or proposed conservatee as soon as possible, but in no case later than 10 days prior to the date of the trial and immediate return thereof shall be made to the court by the person serving this notice. If the proposed ward or proposed conservatee cannot be personally served with this notice within Kansas, the court shall direct how this notice shall be served upon the proposed ward or proposed conservatee.

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

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

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

(1) This notice shall be served on the attorney appointed by the court to represent the minor, if one has been appointed, and on those persons and agencies, if any, required to be named by the petitioner pursuant to

either subsection (b)(6) of section 10, and amendments thereto, or subsection (b)(6) of section 11, and amendments thereto, as soon as possible, but in no case later than 10 days prior to the date of the trial and immediate return thereof shall be made to the court by the person serving this notice.

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

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

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

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

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

(1) This notice shall be served on the attorney appointed by the court to represent the proposed conservatee, if one has been appointed, and on those persons and agencies, if any, required to be named by the petitioner pursuant to subsections (b)(5) and (b)(6) of section 13, and amendments thereto as soon as possible, but in no case later than 10 days prior to the date of the trial and immediate return thereof shall be made to the court by the person serving this notice.

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

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

New Sec. 18. (a) The trial upon a petition filed pursuant to section 9, 10, 11, 12 or 13, and amendments thereto, shall be held at the time and place specified in the court's order entered pursuant to section 14, and amendments thereto, unless an order of advancement, continuance or change of place has been issued pursuant to section 16, and amendments thereto, and may be consolidated with the trial provided for in the care and treatment act for mentally ill persons, K.S.A. 2001 Supp. 59-2945 *et seq.*, and amendments thereto, or the care and treatment act for persons with an alcohol or substance abuse problem, K.S.A. 2001 Supp. 59-29b45, and amendments thereto, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.

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

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



(d) The petitioner and the proposed ward or proposed conservatee shall each be afforded an opportunity to appear at the trial, to testify and to present and cross-examine witnesses. If the trial has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The trial shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the proposed ward or proposed conservatee and the testimony and written findings and recommendations of the secretary of social and rehabilitation services or any other person appointed by the court to conduct an investigation pursuant to section 16, and amendments thereto. Such evidence shall not be privileged for the purpose of this trial.

(e) Upon completion of the trial:

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

(2) If a jury has been demanded in the case of an adult and the jury finds by clear and convincing evidence that the proposed ward or proposed conservatee is unable to meet essential needs for physical health, safety or welfare, or is unable to manage such person's estate, then the court shall determine if the proposed ward or proposed conservatee is in need of a guardian or a conservator, or both, and if so, the court, pursuant to section 19, and amendments thereto, shall appoint a qualified and suitable individual or corporation as the guardian or conservator, or both, and shall specify what duties, responsibilities, powers and authorities as provided for in section 26, 27, 28, 29 or 30, and amendments thereto, the guardian or conservator shall have. If the court appoints co-guardians or co-conservators, or both, the court shall specify whether such co-guardians or co-conservators, or both, shall have the authority to act independently or whether they shall be required to act only in concert.

(3) If the court finds by clear and convincing evidence that the proposed conservatee is a person in need of an ancillary conservator, the court, pursuant to section 19, and amendments thereto, shall appoint a qualified and suitable individual or corporation as the ancillary conservator, and shall specify what duties, responsibilities, powers and authorities as provided for in section 29 or 30, and amendments thereto, the ancillary conservator shall have. If the court appoints co-ancillary conservators, the court shall specify whether such co-ancillary conservators shall have the authority to act independently or whether they shall be required to act only in concert.

(f) If the court does not find by clear and convincing evidence that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, or does not find that the proposed ward or proposed conservatee is in need of a guardian or a conservator, even though the jury has determined that the proposed ward or proposed conservatee is unable to meet essential needs for physical health, safety or welfare, or is unable to manage such person's estate, because other appropriate al-

ternatives exist and are sufficient to meet those needs of the proposed ward or proposed conservatee, then the court shall deny the requested appointments.

New Sec. 19. (a) The court in appointing a guardian or conservator shall give priority in the following order to:

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

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

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

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

(b) When the court appoints an individual or a corporation as a conservator, except as provided for in subsections (c), (d) or (e), or in section 6, and amendments thereto, the court shall require that the individual or a representative on behalf of the corporation file with the court a bond in the amount of 125% of the combined value of the tangible and intangible personal property in the conservatee's estate and the total of any annual income from any source which the conservator may be expected to receive on behalf of the conservatee, minus any reasonably expected expenses, conditioned upon the faithful discharge of all the duties of the conservator's trust according to law, and with sufficient sureties as the court may determine necessary or appropriate.

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

(d) If, at the time of the appointment of a conservator, there is no property in the possession of the conservatee requiring a conservatorship, but the court finds that there is likely to be such at some point in time, the court may waive the filing of a bond and order that the conservator shall immediately file a report with the court upon either the conservator coming into possession of any property of the conservatee, or if the conservatee becomes entitled to receive any property which the conservator believes should be placed within the conservatorship. Upon the filing of such a report, the court, following any hearing the court may determine appropriate, may require the conservator to file a bond as provided for herein.

(e) If the conservator appointed is the individual or corporation suggested by a testator or settlor as provided for in section 5, and amendments thereto, and the testator or settlor has provided by will or trust that no bond should be required of such conservator, the court may waive the filing of a bond; provided that the court may later require the filing of a bond if circumstances so require.

(f) If the conservator is a bank having trust authority or a trust com-

pany organized and having its principal place of business within the state of Kansas, the court may waive the filing of a bond.

(g) If the conservator appointed is under contract with the Kansas guardianship program, the department of social and rehabilitation services shall act as surety on the bond. The court shall order that a certified copy of the order appointing a conservator who is under contract with the Kansas guardianship program be sent to the director of the Kansas guardianship program.

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

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

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

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

(1) Whether the corporation is capable of performing the duties of a guardian;

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

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

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

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

(d) No corporation shall be eligible for appointment as provided for in section 19, and amendments thereto, as the guardian of any person if such corporation provides care, treatment or housing to that person or is the owner, part owner or operator of any adult care home, lodging establishment or institution utilized for the care, treatment or housing of that person.

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

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

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

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

(3) any other county, if the referral has been requested by the pro-

posed ward or proposed conservatee and the court finds that the proposed ward or proposed conservatee cannot obtain a fair trial otherwise.

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

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

(d) Upon receipt of an order of referral for trial and certified copies of the pleadings and orders in the case, the district court to which a referral has been made shall cause notice of the referral for trial to be given to all persons entitled to notice pursuant to section 17, and amendments thereto, and shall thereafter proceed in the case as if the petition had been originally filed therein, except that if the original court having venue has previously set the matter for trial pursuant to section 14, and amendments thereto, but the court to which the order of referral for trial has been made cannot conduct the trial at that time because notice of a change of location of the trial cannot be served on any interested party at least 48 hours prior to the trial, or because of scheduling conflicts, then the court to which the matter has been transferred for trial may set a new date and time for the trial at a time not to exceed 21 days from the issuance of the order of referral for trial, and shall cause notice thereof to be given as provided for in section 17, and amendments thereto.

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

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

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

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

New Sec. 24. (a) At any time after the filing of the petition provided for in section 9, 10, 11, 12 or 13, and amendments thereto, but prior to the trial provided for in section 18, and amendments thereto, if it appears that there may be an imminent danger to the physical health or safety of the proposed ward requiring immediate action to be taken to protect the proposed ward, or that there may be an imminent danger that the estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect the estate, or both, any person may file in addition to that original petition, or as a part thereof, a verified petition

requesting the appointment of a temporary guardian or a temporary conservator, or both, except if the petition alleges that the proposed conservatee is a person in need of an ancillary conservator, and requests the appointment of an ancillary conservator in Kansas, in which case the petition may request the appointment of a temporary ancillary conservator. The petition shall include:

- (1) The petitioner's name and address;
- (2) the proposed ward's or proposed conservatee's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or proposed conservatee's permanent residence;
- (3) a statement that it is the petitioner's belief that there is an imminent danger to the physical health or safety of the proposed ward requiring immediate action to be taken to protect the proposed ward, or that there is an imminent danger that the estate of the proposed conservatee will be significantly depleted unless immediate action is taken to protect the estate, or both;
- (4) the factual basis upon which the petitioner alleges this imminent danger;
- (5) the names and addresses of witnesses by whom the truth of this petition may be proved;
- (6) the name, address and relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as the temporary guardian or temporary conservator, or both, and if the proposed temporary guardian or temporary conservator is under contract with the Kansas guardianship program, that fact; and
- (7) a request that the court make an ex parte determination that there exists such imminent danger, and that the court appoint a temporary guardian or a temporary conservator, or both, with such powers as the court deems necessary to protect the proposed ward or the estate of the proposed conservatee.

(b) (1) If the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or is a minor in need of a guardian or a conservator, or both, or is a minor with an impairment in need of a guardian or a conservator, or both, or is a person who has been previously adjudged as impaired in another state, or is a person in need of an ancillary conservator, as alleged in the original petition, and that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the court may enter an ex parte emergency order appointing a temporary guardian or a temporary conservator, or both.

(2) The court shall specify what powers and duties as provided for in section 26, 27, 28, 29, 30 or 31, and amendments thereto, the temporary guardian or temporary conservator shall have. The court may further authorize the temporary guardian or temporary conservator to seek appropriate injunctive or other immediate relief from any appropriate court or other authority.

(3) Subject to the provisions of subsection (g), the court shall specify within its order when the authority of the temporary guardian or temporary conservator, or both, shall expire, but in no case shall the court specify a date beyond 30 days following the issuance of the order. The court may issue successive orders extending the authority of a temporary guardian or temporary conservator, or both, only upon the filing of a written request for such, and following a hearing held similarly as provided for in subsection (e) to determine the need for and appropriateness of any such extension.

(4) The court shall order that a copy of any order issued pursuant to this subsection be promptly served upon the proposed ward or proposed conservatee, the attorney for the proposed ward or proposed conservatee, the spouse of the proposed ward or proposed conservatee, and in the case of a minor, the natural guardian of the minor, along with notice. Such notice shall specify the rights of the proposed ward or proposed conservatee, and of others, consistent with the provisions of subsection (c).

(c) If the court enters an ex parte order appointing a temporary guardian or a temporary conservator, or both, the proposed ward or pro-

posed conservatee, the attorney for the proposed ward or proposed conservatee, the spouse of the proposed ward or proposed conservatee, or in the case of a minor, the natural guardian of the minor, may request a hearing on the matter if a written request for such is filed with the court not later than the third day following the entry of the ex parte order, or of service of the ex parte order upon the proposed ward or proposed conservatee, if later. Upon receipt of such a request, the court shall fix the time and place for a hearing upon the request, which hearing shall be held not later than the second day following the filing of the request, excluding any Saturday, Sunday or legal holiday, and shall direct how and to whom notice of such hearing shall be given.

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

(e) Any hearing held pursuant to subsection (b)(3), (c) or (d) shall be conducted in as informal a manner as may be consistent with orderly procedure. The rules governing evidentiary and procedural matters shall be applied in a manner so as to facilitate informal, efficient presentation of all relevant, probative evidence and resolution of the issues with due regard for the interests of all parties.

(f) If after any hearing held pursuant to subsection (c) or (d) the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, as alleged in the original petition, and that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the court may appoint, or continue the appointment of, a temporary guardian or a temporary conservator, or both, and the court shall specify what duties, responsibilities, powers and authorities as provided for in section 26, 27, 28, 29 or 30, and amendments thereto, the temporary guardian or temporary conservator shall have. The court may further authorize the temporary guardian or temporary conservator to seek appropriate injunctive or other immediate relief from any appropriate court or other authority. Otherwise, if the court determines that there is good cause to believe that the proposed ward or proposed conservatee is an adult with an impairment in need of a guardian or a conservator, or both, or a minor in need of a guardian or a conservator, or both, or a minor with an impairment in need of a guardian or a conservator, or both, or a person who has been previously adjudged as impaired in another state, or a person in need of an ancillary conservator, as alleged in the original petition, but that there is not good cause to believe that there exists an imminent danger to the physical health or safety of the proposed ward, or that there exists an imminent danger that the estate of the proposed conservatee will be significantly depleted, the

court shall deny the request for the appointment of a temporary guardian or a temporary conservator, or both, or shall terminate the earlier appointment of the temporary guardian or temporary conservator, or both, but shall continue the matter to trial on the original petition provided for in section 18, and amendments thereto.

(g) The appointment and authority of any temporary guardian or temporary conservator shall expire at the conclusion of the trial provided for in section 18, and amendments thereto, if the petition is denied, or upon the issuance of appropriate letters to any guardian or conservator appointed by the court at the conclusion of the trial, or as otherwise ordered by the court, but such expiration shall not affect the validity of any action taken pursuant to the authority of the temporary guardian or temporary conservator during the time of such person's appointment. The temporary guardian or temporary conservator shall be required to provide an accounting as directed by the court.

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

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

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

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

(3) the name and address of the ward's or conservatee's court appointed guardian or conservator, if different from the petitioner;

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

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

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

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

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

(c) If the court appoints a standby guardian, the court shall require that the individual or a representative on behalf of the corporation file

with the court an oath or affirmation as required by K.S.A. 59-1702, and amendments thereto, and upon the filing of such oath or affirmation, the court may issue letters of authority to the standby guardian.

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

(e) A standby guardian shall have the authority and responsibility to assume the duties, responsibilities, powers and authorities assigned to the guardian upon the temporary absence or impairment of the guardian, or the resignation or death of the guardian. Within 10 days of such assumption, the standby guardian shall file with the court a written notice of that fact and a written report of the circumstances which caused the standby guardian to have assumed those duties, responsibilities, powers and authorities. The report shall specify whether such assumption is intended to be only temporary and the date by which it is expected that the guardian shall be able to reassume such duties, responsibilities, powers and authorities, or that the guardian is thought to be permanently unable to reassume such duties, responsibilities, powers and authorities. This notice and report may be accompanied by or include a petition pursuant to section 39, and amendments thereto, requesting the appointment of a successor guardian.

(f) A standby conservator shall have the authority and responsibility to assume the duties, responsibilities, powers and authorities assigned to the conservator upon the temporary absence or impairment of the conservator, or the resignation or death of the conservator, only if the standby conservator shall file with the court a written notice of temporary absence, impairment, resignation or death of the conservator. The notice shall specify if the absence or impairment of the conservator is expected to be only temporary, the date by which it is expected that the conservator shall be able to reassume such duties, responsibilities, powers and authorities, and the reasons why the standby conservator believes it is necessary for the standby conservator to assume the duties, responsibilities, powers and authorities of the conservator. Otherwise, the notice shall advise the court that proceedings pursuant to section 39, and amendments thereto, to appoint a successor conservator are required, or the notice may be accompanied by or include a petition requesting the appointment of a successor conservator. Upon receipt of such notice, the court may specify a bond that the standby conservator shall file with the court before assuming such duties, responsibilities, powers and authorities, or may authorize the standby conservator to assume such of the conservator's duties, responsibilities, powers and authorities as the court shall specify.

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

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

New Sec. 26. (a) (1) The individual or corporation appointed by the court to serve as the guardian shall carry out diligently and in good faith, the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section as well as any specific duties, responsibilities, powers and authorities assigned to the guardian by the court. In doing so, a guardian shall at all times be subject to the control and direction of the court, and shall act in accordance with the provisions of any guardianship plan filed with the court pursuant to section 27, and



amendments thereto. The court shall have the authority to appoint counsel for the guardian, and the fees of such attorney may be assessed as costs pursuant to section 45, and amendments thereto.

(2) A guardian shall become and remain personally acquainted with the ward, the spouse of the ward and with other interested persons associated with the ward and who are knowledgeable about the ward, the ward's needs and the ward's responsibilities. A guardian shall exercise authority only as necessitated by the ward's limitations. A guardian shall encourage the ward to participate in making decisions affecting the ward. A guardian shall encourage the ward to act on the ward's own behalf to the extent the ward is able. A guardian shall encourage the ward to develop or regain the skills and abilities necessary to meet the ward's own essential needs and to otherwise manage the ward's own affairs. In making decisions on behalf of the ward, a guardian shall consider the expressed desires and personal values of the ward to the extent known to the guardian. A guardian shall strive to assure that the personal, civil and human rights of the ward are protected. A guardian shall at all times act in the best interests of the ward and shall exercise reasonable care, diligence and prudence.

(b) A guardian shall have the following general duties, responsibilities, powers and authorities:

(1) If the ward is a minor, to have the custody and control of the minor, and to provide for the minor's care, treatment, habilitation, education, support and maintenance;

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

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

(4) to assure that the ward resides in the least restrictive setting appropriate to the needs of the ward and which is reasonably available;

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

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

(7) to make necessary determinations and arrangements for, and to give the necessary consents in regard to, the ward's funeral arrangements, burial or cremation, the performance of an autopsy upon the body of the ward, and anatomical gifts of the ward, subject to the provisions and limitations provided for in K.S.A. 65-2893 and 65-3210 and K.S.A. 2001 Supp. 65-1734, and amendments thereto; and

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

(c) A guardian shall not be obligated by virtue of the guardian's appointment to use the guardian's own financial resources for the support of the ward.

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

(e) A guardian shall not have the power:

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

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

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

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

(5) to consent, on behalf of the ward, to the sterilization of the ward,

unless approved by the court following a due process hearing held for the purposes of determining whether to approve such, and during which hearing the ward is represented by an attorney appointed by the court;

(6) to consent, on behalf of the ward, to the performance of any experimental biomedical or behavioral procedure on the ward, or for the ward to be a participant in any biomedical or behavioral experiment, without the prior review and approval of such by either an institutional review board as provided for in title 45, part 46 of the code of federal regulations, or if such regulations do not apply, then by a review committee established by the agency, institution or treatment facility at which the procedure or experiment is proposed to occur, composed of members selected for the purposes of determining whether the proposed procedure or experiment:

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

(B) involves a significant risk of harm to the physical or mental health of the ward, or the use of an aversive stimulant, but that the conducting of the proposed procedure or experiment is intended either to preserve the life of the ward, or to significantly improve the quality of life of the ward, or to assist the ward to develop or regain significant skills or abilities, and that the guardian has been fully informed concerning the potential risks and benefits of the proposed procedure or experiment or of any aversive stimulant proposed to be used, and as to how and under what circumstances the aversive stimulant may be used, and has specifically consented to such;

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

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

(B) if the ward, prior to the court's appointment of a guardian pursuant to section 18, and amendments thereto, shall have executed a durable power of attorney for health care decisions pursuant to K.S.A. 58-629, and amendments thereto, and such shall not have been revoked by the ward prior thereto, and there is included therein any provision relevant to the withholding or withdrawal of life-saving or life-sustaining medical care, treatment, services or procedures, then the guardian shall have the authority to act as provided for therein, even if the guardian has revoked or otherwise amended that power of attorney pursuant to the authority of K.S.A. 58-627, and amendments thereto, or the guardian may allow the agent appointed by the ward to act on the ward's behalf if the guardian has not revoked or otherwise amended that power of attorney; or

(C) in the circumstances where the ward's treating physician shall certify in writing to the guardian that the ward is in a persistent vegetative state or is suffering from an illness or other medical condition for which further treatment, other than for the relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses, and which opinion is concurred in by either a second physician or by any medical ethics or similar committee to which the health care provider has access established for the purposes of reviewing such circumstances and the appropriateness of any type of physician's order which would have the effect of withholding or withdrawing life-saving or life sustaining medical care, treatment, services or procedures. Such written certification shall be approved by an order issued by the court;

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

(A) Initially, the combined value of any funds and property in the possession of the ward or in the possession of any other person or entity,

but which the ward is otherwise entitled to possess, equals \$10,000 or less; and

(B) either the court requires the guardian to report to the court the commencement of the exercising of such authority, or requires the guardian to specifically request of the court the authority to commence the exercise of such authority, as the court shall specify; and

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

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

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

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

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

(f) The guardian shall file with the court reports concerning the status of the ward and the actions of the guardian as the court shall direct pursuant to section 34, and amendments thereto.

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

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

(2) what degree of autonomy the ward will have with regard to making choices concerning such matters as attending any educational or vocational training, employment, volunteering for any type of service or activity, traveling independently, and obtaining either routine or specified medical care without the guardian's consent, and what restrictions the guardian will place upon the ward with regard to such choices; and

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

(b) If the court has not also appointed a conservator for the ward, the court may further require the guardian, or the guardian may choose, to include as a part of the guardian's plan, what restrictions, if any, the guardian will place upon the ward's use of the ward's financial assets or the ward's access to those assets. In any case, the court shall not approve any guardianship plan which does not comply with the provisions of subsection (e)(8) of section 26, and amendments thereto, if applicable.

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

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

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

New Sec. 28. (a) At any time after the filing of the petition provided for in section 9, 10, 11 or 12, and amendments thereto, any person may file in addition to that original petition, or as a part thereof, or at any time

after the appointment of a temporary guardian as provided for in section 24, and amendments thereto, or a guardian as provided for in section 18, and amendments thereto, the temporary guardian or guardian may file, a verified petition requesting that the court grant authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility, as defined in subsection (h), and to consent to the care and treatment of the proposed ward or ward therein. The petition shall include:

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

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

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

(4) the factual basis upon which the petitioner alleges the need for the proposed ward or ward to be admitted to and treated at a treatment facility, or for the proposed ward or ward to continue to be treated at the treatment facility to which the proposed ward or ward has already been admitted, or for the guardian to have continuing authority to admit the ward for care and treatment at a treatment facility pursuant to subsection (b)(3) of K.S.A. 2001 Supp. 59-2949, or subsection (b)(3) of K.S.A. 2001 Supp. 59-29b49, and amendments thereto;

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

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

(b) The petition may be accompanied by a report of an examination and evaluation of the proposed ward or ward conducted by an appropriately qualified professional, which shows that the criteria set out in K.S.A. 39-1803, subsection (e) of K.S.A. 2001 Supp. 59-2946, subsection (f) of K.S.A. 2001 Supp. 59-29b46 or K.S.A. 76-12b03, and amendments thereto, are met.

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

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

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

(3) An order appointing an attorney to represent the proposed ward or ward. The court shall give preference, in the appointment of this at-

torney, to any attorney who has represented the proposed ward or ward in other matters, if the court has knowledge of that prior representation. The proposed ward, or the ward with the consent of the ward's conservator, if one has been appointed, shall have the right to engage an attorney of the proposed ward's or ward's choice and, in such case, the attorney appointed by the court shall be relieved of all duties by the court. Any appointment made by the court shall terminate upon a final determination of the petition and any appeal therefrom, unless the court continues the appointment by further order.

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

(5) A notice similar to that provided for in section 17, and amendments thereto.

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

(1) An order for a psychological or other examination and evaluation of the proposed ward or ward, as may be specified by the court. The court may order the proposed ward or ward to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the proposed ward or ward. The costs of this examination and evaluation shall be assessed as provided for in section 45, and amendments thereto.

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

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

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

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

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

(f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the criteria set out in K.S.A. 39-1803, subsection (e) of K.S.A. 2001 Supp. 59-2946, subsection (f) of K.S.A. 2001 Supp. 59-29b46 or K.S.A. 76-12b03, and amendments thereto, are met, and after a careful consideration of reasonable alternatives to admission of the proposed ward or ward to a treatment facility, the court may enter an order granting such authority to the temporary guardian or guardian as is appropriate, including continuing authority to the guardian to readmit the

ward to an appropriate treatment facility as may later become necessary. Any such grant of continuing authority shall expire two years after the date of final discharge of the ward from such a treatment facility if the ward has not had to be readmitted to a treatment facility during that two-year period of time. Thereafter, any such grant of continuing authority may be renewed only after the filing of another petition seeking authority in compliance with the provision of this section.

(g) Nothing herein shall be construed so as to prohibit the head of a treatment facility from admitting a proposed ward or ward to that facility as a voluntary patient if the head of the treatment facility is satisfied that the proposed ward or ward at that time has the capacity to understand such ward's illness and need for treatment, and to consent to such ward's admission and treatment. Upon any such admission, the head of the treatment facility shall give notice to the temporary guardian or guardian as soon as possible of the ward's admission, and shall provide to the temporary guardian or guardian copies of any consents the proposed ward or ward has given. Thereafter, the temporary guardian or guardian shall timely either seek to obtain proper authority pursuant to this section to admit the proposed ward or ward to a treatment facility and to consent to further care and treatment, or shall otherwise assume responsibility for the care of the proposed ward or ward, consistent with the authority of the temporary guardian or guardian, and may arrange for the discharge from the facility of the proposed ward or ward, unless the head of the treatment facility shall file a petition requesting the involuntary commitment of the proposed ward or ward to that or some other facility.

(h) As used herein, "treatment facility" means the Kansas neurological institute, Larned state hospital, Osawatomie state hospital, Parsons state hospital and training center, the rainbow mental health facility, any intermediate care facility for the mentally retarded, any psychiatric hospital licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and any other facility for mentally ill persons or mentally retarded or developmentally disabled persons licensed pursuant to K.S.A. 75-3307b, and amendments thereto, if the proposed ward or ward is to be admitted as an inpatient or resident of that facility.

New Sec. 29. (a) (1) The individual or corporation appointed by the court to serve as the conservator shall carry out diligently and in good faith the general duties and responsibilities, and shall have the general powers and authorities, provided for in this section, as well as any specific duties, responsibilities, powers and authorities assigned to the conservator by the court. In doing so, a conservator at all times shall be subject to the control and direction of the court, and shall act in accordance with the provisions of any conservatorship plan filed with the court pursuant to section 30, and amendments thereto. The court shall have the authority to appoint counsel for the conservator, and the fees of such attorney may be assessed as costs pursuant to section 45, and amendments thereto.

(2) A conservator, in the exercise of the conservator's responsibilities and authorities, should become aware of the conservatee's needs and responsibilities. A conservator shall exercise authority only as necessitated by the conservatee's limitations. A conservator shall encourage the conservatee to participate in the making of decisions affecting the conservatee's estate. A conservator shall encourage the conservatee to manage as much of the conservatee's estate as the conservatee is able to manage. A conservator shall consider and, to the extent possible, act in accordance with the expressed desires and personal values of the conservatee. A conservator shall assist the conservatee in developing or regaining the skills and abilities necessary in order for the conservatee to be able to manage the conservatee's own estate. A conservator shall strive to assure that the personal, civil and human rights of the conservatee are protected. A conservator shall at all times act in the best interests of the conservatee and shall exercise reasonable care, diligence and prudence.

(b) A conservator shall have the following general duties, responsibilities, powers and authorities:

(1) To pay the reasonable charges for the support, maintenance, care, treatment, habilitation and education of the conservatee in a manner suitable to the conservatee's station in life and the value of the conservatee's estate; but nothing herein shall be construed to release a natural guardian from the ordinary obligations imposed by law for the support, mainte-

nance, care, treatment, habilitation and education of the natural guardian's minor children;

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

(3) to separately possess and manage all the assets of the estate of the conservatee and to collect all debts and assert all claims in favor of the conservatee, and with the approval of the court, to compromise the same. The conservator shall keep any property of the conservatee's estate insured against theft, other loss or damage, in reasonable amounts based upon the value of the estate, and for the benefit of the conservatee or the conservatee's estate;

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

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

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

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

(c) A conservator shall not be obligated by virtue of the conservator's appointment to use the conservator's own financial resources for the support of the conservatee.

(d) A conservator shall not be personally liable:

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

(2) on any mortgage note or by reason of the covenants in any instrument of conveyance duly executed by the conservator in the conservator's representative capacity as authorized by the court;

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

(4) for obligations arising from ownership or control of property of the estate or for other acts or omissions occurring in the course of administration of the estate unless the conservator is personally at fault;

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

(6) for retaining, until maturity, any security or investment which is included in the conservatee's estate at the time of the establishment of the conservatorship, even though such security or investment may not be considered prudent or reasonable.

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

(f) A conservator shall not have the power:

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

(2) to sell, convey, lease or mortgage the conservatee's interest in the homestead of the conservatee, except with the approval of the court, and

no conservator's deed or other instrument executed by virtue of the court's approval shall be valid unless the spouse, or if the spouse has been adjudicated a person with an impairment in need of a conservator, the conservator appointed for the spouse, shall join therein as one of the grantors thereof;

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

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

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

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

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

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

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

(A) The conservatee had either in the past as a habit made similar gifts or declared an intent to make such a gift, or under the circumstances, would have made such a gift or gifts;

(B) sufficient funds and assets will remain in the conservatee's estate after the making of such a gift to meet the expected needs and responsibilities of the conservatee; and

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

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

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

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

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

(2) what responsibility the conservator shall have with regard to protecting the eligibility of the conservatee for any type of public or other benefit.

(b) If required by the court, the court may set a date by which this conservatorship plan shall be filed with the court. Otherwise, the conservator may at any time file a plan with the court. Upon the filing of a plan, the court may require the conservator to give notice thereof to such persons as the court directs. Any interested party may request that the court



conduct a hearing concerning any plan filed with the court. The court may require the conservator to amend or withdraw any plan filed.

(c) Any conservatorship plan filed with the court shall be effectuated by the conservator to the maximum extent possible consistent with any changing circumstances of the conservatee. Within each accounting submitted to the court as the court directs pursuant to section 34, and amendments thereto, the conservator shall explain any actions taken in deviance from the plan and the reasons therefor.

(d) At any time deemed appropriate by the conservator, the conservator may file a revised conservatorship plan consistent with the provisions of this section.

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

(b) The petition shall include:

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

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

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

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

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

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

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

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

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

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

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

(d) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing upon the petition, which hearing may be held forthwith and without further notice if those persons named within the petition pursuant to the requirements of subsections (b)(4), (b)(5) and (b)(6), as applicable, have entered their appearances, waived notice and agreed to the court's granting to the conservator or guardian the authority to establish the proposed trust. Otherwise, the court shall require the petitioner to give notice of this hearing to such persons and in such manner as the court may direct, including therewith

a copy of the proposed trust instrument. This notice shall advise such persons that if they have any objections to this authority being granted to the conservator or guardian, that they must file their written objections with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the conservatee or ward in this matter similarly as provided for in subsection (a)(3) of section 14, and amendments thereto, and in such event, the court shall require the petitioner to also give this notice to that attorney.

(e) At the conclusion of the hearing, if the court finds by a preponderance of the evidence that:

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

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

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

(4) the provisions of the trust will provide for the distribution of the trust estate for the benefit of the conservatee or ward for special needs not satisfied from governmental benefits and that such distributions made for special needs not satisfied from governmental benefits will only be made in similar manner and under similar circumstances as the conservatee's or ward's estate would otherwise have been distributed by the conservator or guardian for the benefit of the conservatee or ward had the trust not been established;

(5) if the provisions of the trust will grant discretion to the trustee to terminate the trust during the lifetime of the conservatee or ward, that such provisions shall preclude the exercise thereof if such termination of the trust will disqualify the conservatee or ward from being eligible for any governmental benefits; and

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

(A) To the conservator, if the termination occurs during the lifetime of the conservatee and the conservatorship remains open, or to the guardian, if the termination occurs during the lifetime of the ward and the guardianship remains open, or to the conservatee or ward, in the event the conservatorship or guardianship has been terminated and the conservatee or ward has been restored to capacity; or

(B) if the termination of the trust occurs by virtue of the conservatee's or ward's death, as follows: (i) If a testamentary power of appointment was granted to the conservatee or ward in the trust instrument, pursuant to the conservatee's or ward's valid exercise of such testamentary power of appointment which specifically references such power of appointment; or (ii) in the absence of any such power of appointment or to the extent such power was not validly exercised by the conservatee or ward over the entirety of the trust assets, to: (a) The devisees and legatees the trustee determines would have otherwise received such trust assets, and in the manner they would have received it, under the provisions of the conservatee's or ward's last will and testament had such last will and testament been admitted to probate and the trust assets constituted a portion of the conservatee's or ward's estate; (b) in the absence of a valid duly probated last will and testament of the conservatee or ward, the persons who would have received such trust assets, and in the manner they would receive it, under the intestacy laws of the state of residence of the conservatee or ward at the time of the death of the conservatee or ward had such trust assets constituted a portion of the estate of the conservatee or ward; or (c) the personal representative of the estate of the conservatee or ward, then the court may grant to the conservator or guardian the authority to establish such a trust and to transfer specified property or assets from the conservatee's or ward's estate to the trust. The court shall order the conservator or guardian to report any such transfer within the conservator's or guardian's next accounting as required by section 34, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

(b) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing may be held forthwith and without further notice if the minor and those other persons named within the petition pursuant to the requirements of subsection (a)(4), as applicable, have entered their appearance, waived notice, and agreed to the court's granting to the conservator the authority to establish the plan for the extended distribution of the minor's estate as contained within the petition. Otherwise, the court shall require the conservator to give notice of this hearing to the minor and those other persons in such manner as the court may direct. The court shall require that the notice be accompanied by a copy of the petition containing a description of the plan proposed by the conservator. The court shall require that the notice advise the minor and those other persons that if they have any objections to this authority being granted to the conservator, that they must file their written objections with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the minor in this matter similarly as provided for in subsection (a)(3) of section 14, and amendments thereto, and in such event, the court shall require the conservator to also give this notice to that attorney.

(c) At the conclusion of the hearing, if the court finds by a preponderance of the evidence that:

(1) Based upon the value, nature and character of the assets within the minor's estate, the minor does not possess the maturity and judgment to make determinations and act responsibly with regard to such estate,

and that therefore it is in the best interests of the minor that the court grant this authority to the conservator;

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

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

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

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

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

- (1) The petitioner's name and address;
- (2) the conservator's name and address;
- (3) the amount of the claim, and the factual basis upon which the petitioner makes this claim;
- (4) a statement that demand for payment of the claim has been made upon the conservator, but that the conservator refuses or has failed to pay the claim; and
- (5) a request that the court determine that the claim is owed to the petitioner, and for an order of the court directing the conservator to pay the claim.

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

(c) At the completion of the hearing, if the court finds, by a preponderance of the evidence, that the petitioner is owed the claim, or some part thereof, the court shall issue an order to the conservator to pay the same from the conservatee's estate, or to pay so much of the claim as the court allows, and to include such in the conservator's next report and accounting. Otherwise, the court shall deny the petitioner's request.

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

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

- (1) A change of address of the guardian or conservator;
- (2) a change of residence or placement of the ward or conservatee;
- (3) a significant change in the health or impairment of the ward or conservatee;
- (4) the acquisition by the ward of any real property, or the receipt or accumulation of other property or income by the ward or by the guardian on behalf of the ward, which causes the total value of the ward's estate to equal or exceed \$10,000; or
- (5) the death of the ward or conservatee.

(c) Upon the death of the guardian or conservator, or upon the guardian or conservator being adjudged in this state to be an adult with an impairment in need of a guardian or a conservator, or both, or being similarly adjudged in any other state, a representative on behalf of the guardian or conservator, as the court may allow, shall file a final report or accounting on behalf of that guardian or conservator.

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

(e) At the termination of the guardianship, or upon the resignation, impairment, death or removal of the guardian, the guardian or a representative on behalf of the guardian, as the court may allow, shall file with the court a final report concerning the status of the ward and of the actions and recommendations of the guardian.

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

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

- (1) The current report reflects reasonable administration of the guardianship;
- (2) the guardian is performing assigned duties and responsibilities, or exercising granted powers and authorities, in a manner consistent with the prior orders of the court and with any guardianship plan in effect;
- (3) additional duties, responsibilities, powers or authorities should be granted to the guardian, or limitations should be made with regard thereto, or other modifications should be made within the guardianship to protect the interests of the ward or the ward's estate; or
- (4) further proceedings as provided for in this act may be appropriate.

(b) Upon the filing of any report, or based upon other information which comes to the court's attention concerning matters contained within the report or which should be contained within the report, the court may set a hearing upon the matter and may require the guardian to appear before the court. The court may require the guardian to give notice of this hearing to such persons and in such manner as the court may direct. The court may appoint an attorney to represent the ward in this matter similarly as provided for in subsection (a)(3) of section 14, and amendments thereto. The court may require the guardian, and may allow the ward, the conservator, if a conservator has been appointed, and other

interested persons, to present evidence concerning the actions of the guardian or the recommendations of such persons.

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

(d) If the court, pursuant to subsection (e)(8) of section 26, and amendments thereto, has authorized the guardian to exercise any control or authority over the ward's estate, then, in addition to or as a part of each report filed by the guardian pursuant to this section, the guardian also shall account for the ward's estate. In reviewing the guardian's report, the court also shall review the guardian's accounting and at the conclusion thereof, if the court finds that the accounting accurately accounts for the ward's estate and shows appropriate administration on the part of the guardian, the court shall issue an order approving the accounting.

New Sec. 36. (a) Upon the filing of a report or accounting by the conservator pursuant to section 34, and amendments thereto, the court or a designee of the court shall review the report or accounting, the court's prior orders, any conservatorship plan which has been filed with the court pursuant to section 30, and amendments thereto, and which remains in effect, and any reports and accountings which the conservator has previously filed, to determine whether:

(1) The current report or accounting reflects reasonable administration of the conservatorship;

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

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

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

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

(c) At the conclusion of the court's review of the conservator's report or accounting, or following any hearing held as provided for in subsection (b), the court shall issue an order either approving or disapproving the conservator's report or accepting or rejecting the conservator's accounting. The court within its order may grant to or withdraw from the conservator specified duties, responsibilities, powers or authorities as provided for in section 29, and amendments thereto, may specifically order the conservator with regard to the performance of assigned duties, responsibilities, powers or authorities, including requiring the conservator

to file an amended report or accounting, may require the conservator to develop and file with the court a conservatorship plan as provided for in section 30, and amendments thereto, or the court may proceed pursuant to section 39, and amendments thereto, to remove the conservator and to appoint a successor conservator, or the court may proceed pursuant to section 41 or 42, and amendments thereto, to restore the conservatee to capacity or terminate the conservatorship.

(d) No order issued pursuant to this section shall be construed to have finally allowed or settled any conservator's accounting, except if proceedings have been held in compliance with section 37, and amendments thereto.

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

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

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

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

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

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

(6) designation of the accounting period for which allowance and settlement is sought; and

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

(b) Upon the filing of such a petition, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing may be held forthwith and without further notice if those persons named within the petition pursuant to the requirement of subsections (a)(3), (a)(4) and (a)(5), as applicable, have entered their appearances, waived notice, and agreed to the court's accepting the accounting and issuing an order of final allowance and settlement. Otherwise, the court shall require the conservator to give notice of this hearing to such persons in such manner as the court may specify, including therewith a copy of the conservator's petition and a copy or copies of the accounting or accountings for which the conservator requests an order of final allowance and settlement. This notice shall advise such persons that if they have any objections to the accounting or accountings for which final allowance and settlement is sought that they must file their written objections with the court prior to the scheduled hearing or that they must appear at the hearing to present those objections. The court may appoint an attorney to represent the conservatee in this matter similarly as provided for in subsection (a)(3) of section 14, and amendments thereto, and in such event, the court shall require the conservator to also give this notice to that attorney.

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

(d) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, in-

cluding the testimony or written report, findings or recommendations of any professional or other person who has familiarity with the conservatee or the conservatee's estate. The court may review the court's prior orders, any conservatorship plan which has been filed pursuant to section 30, and amendments thereto, and any reports and accountings which have been filed by the guardian or conservator, or both, even if previously approved or allowed, to determine whether the current accounting seems reasonable in light of the past reports or accountings, and to determine whether any further proceedings under this act may be appropriate. The court shall give to the conservator, to the conservatee, and to other interested persons, the opportunity to present evidence to the court concerning the actions of the conservator, the conservatee's estate and the recommendations of such persons.

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

(f) If the court finds by a preponderance of the evidence that the conservator has innocently misused any funds or assets of the conservatee's estate, the court shall order the conservator to repay such funds or return such assets to the conservatee's estate. If the court finds that the conservator has embezzled or converted for the conservator's own personal use any funds or assets of the conservatee's estate, the court shall find the conservator liable for double the value of those funds or assets, as provided for in K.S.A. 59-1704, and amendments thereto. In either case, the court may order the forfeiture of the conservator's bond, or such portion thereof as equals the value of such funds or assets, including any lost earnings and the costs of recovering those funds or assets, including reasonable attorney fees, as the court may allow, and may require of the surety satisfaction thereof. Neither the conservator, nor the conservator's estate or surety, shall be finally released from such bond until the satisfaction thereof.

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

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

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

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

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

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

(4) the factual basis upon which the petitioner alleges the need for the court to modify its prior order of appointment, and whether the petitioner requests that the court require the co-guardians or co-conservators, or both, to act independently, to act only in concert, or to act only



in concert with regard to certain matters, or whether the petitioner requests that the court remove one of the co-guardians or co-conservators, or both, and appoint only a single guardian or a single conservator, or both;

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

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

(7) a request that the court make a determination that the co-guardians or co-conservators, or both, should each have the authority to act independently, should be required to act only in concert or only in concert with regard to certain matters, or that the co-guardians or co-conservators, or both, should be replaced with a single guardian or a single conservator, or both.

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

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

(d) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has familiarity with the ward or conservatee or the conservatee's estate. The court may review the court's prior orders, any guardianship plan or conservatorship plan which has been filed pursuant to section 27 or 30, and amendments thereto, and any reports or accountings which have been filed by the co-guardians or co-conservators, or both, even if previously approved or allowed. The court shall give to the co-guardians or co-conservators, or both, to the ward or conservatee, and to other interested persons, the opportunity to present information to the court concerning the actions of the co-guardians or co-conservators, or both, and of the recommendations of such persons.

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

(f) If the court finds by a preponderance of the evidence that a co-conservator has innocently misused any funds or assets of the conservatee's estate, the court shall order the co-conservator to repay such funds or return such assets to the conservator's estate. If the court finds that a

co-conservator has embezzled or converted for the co-conservator's personal use any funds or assets of the conservatee's estate, the court shall find the co-conservator liable for double the value of those funds or assets, as provided for in K.S.A. 59-1704, and amendments thereto. In either case, the court may order the forfeiture of the co-conservator's bond, or such portion thereof as equals the value of such funds or assets, including any lost earnings and the costs of recovering those funds or assets, including reasonable attorney fees, as the court may allow, and may require of the surety satisfaction thereof. Neither the conservator, nor the conservator's estate or surety, shall be finally released from such bond until the satisfaction thereof.

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

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

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

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

(3) the name and address of the court appointed guardian or conservator, or both, if different from the petitioner;

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

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

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

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

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

(c) In the absence of a petition having been filed, but at any time when the court has reason to believe that removal of the guardian or conservator, or both, may be necessary, the court may set a hearing thereon, and may require the guardian, conservator or some other person to give notice thereof as provided for herein. Nothing herein shall be construed such that the court does not have the authority to suspend immediately the powers and authorities of a guardian or conservator, or

both, whenever the court determines that it is in the best interests of the ward or conservatee to do so.

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

(e) At the conclusion of the hearing, if the court finds, by a preponderance of the evidence, that the guardian or conservator, or both, should be permitted to resign, or should be removed for failure to fulfill the duties or responsibilities of being a guardian or conservator, or for the manner in which the guardian or conservator has exercised the powers or authorities granted to the guardian or conservator, the court may so order and in such case shall revoke the letters of guardianship or conservatorship, or both, previously issued pursuant to section 20, and amendments thereto. The court may appoint a successor guardian or conservator, or both. In making any such appointments, the court shall act in accordance with sections 19 and 20, and amendments thereto.

(f) If the court finds that the conservator has innocently misused any funds or assets of the conservatee's estate, the court shall order the conservator to repay such funds or return such assets to the conservatee's estate. If the court finds that the conservator has embezzled or converted for the conservator's personal use any funds or assets of the conservatee's estate, the court shall find the conservator liable for double the value of those funds or assets, as provided for in K.S.A. 59-1704, and amendments thereto. In either case, the court may order the forfeiture of the conservator's bond, or such portion thereof as equals the value of such funds or assets, including any lost earnings and the costs of recovering those funds or assets, including reasonable attorney fees, as the court may allow, and may require of the surety satisfaction thereof. Neither the conservator, nor the conservator's estate or surety, shall be finally released from such bond until the satisfaction thereof.

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

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

(c) At the conclusion of the hearing, if the court finds, by a preponderance of the evidence, that the guardian or conservator, or both, has failed to faithfully or diligently carry out such person's duties or responsibilities or to properly exercise such person's powers or authorities, the court may remove the guardian or conservator, or both, and in such case,

the court shall revoke the letters of guardianship or conservatorship, or both, previously issued pursuant to section 20, and amendments thereto. Otherwise, the court may issue appropriate orders further directing the guardian or conservator, or both, with regard to the performance of such person's duties or responsibilities or the exercise of such person's powers or authorities, or the court may dismiss the proceedings.

(d) If the court finds that the guardian or conservator has innocently misused any funds or assets of the ward's or conservatee's estate, the court shall order the guardian or conservator to repay such funds or return such assets to the ward's or conservatee's estate. If the court finds that the guardian or conservator has embezzled or converted for such person's personal use any funds or assets of the ward's or conservatee's estate, the court shall find the guardian or conservator liable for double the value of those funds or assets, as provided for in K.S.A. 59-1704, and amendments thereto, and in such case, neither the guardian or conservator, or the guardian's or conservator's estate, shall be finally released until the satisfaction thereof. In either case, the court may order the forfeiture of the conservator's bond, or such portion thereof as equals the value of such funds or assets, including any lost earnings and the costs of recovering those funds or assets, including reasonable attorney fees, as the court may allow, and may require of the surety satisfaction thereof, and in such case the court shall not finally release the conservator's surety until such order has been satisfied.

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

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

(b) The petition shall include:

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

(2) the name and address of the ward's or conservatee's court appointed guardian or conservator, or both;

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

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

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

(c) (1) Upon the filing of such a petition, the court shall review the petition to determine whether good cause exists to warrant further proceedings. If the court finds good cause to warrant further proceedings, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing shall be held not later than 30 days following the filing of the petition. If the court does not find within the petition facts sufficient to constitute good cause to warrant further proceedings, the court nonetheless may issue an order for an examination and evaluation of the ward or conservatee to determine if there is sufficient cause for further proceedings. The court may order the ward or conservatee to submit to such an examination and evaluation to be conducted through a general hospital, psychiatric hospital, community mental health center, community developmental disability organization, or by a private physician, psychiatrist, psychologist or other person appointed by the court who is qualified to examine and evaluate the ward or conservatee. The costs of this examination and evaluation shall be assessed as provided for in section 45, and amendments thereto.

(2) If the court does not find good cause to warrant further proceedings and the court does not issue an order for an examination and evaluation, or if the court has within the past six months conducted either the trial upon the original petition provided for in section 18, and amendments thereto, or a hearing on a previous petition for restoration, the court may decline to set a hearing on the petition and may dismiss the petition without further proceedings.

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

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

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

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

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

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

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

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

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

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

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

(h) At the conclusion of the hearing, if the court does not find, by clear and convincing evidence, that the ward or conservatee is impaired, the court shall order that the ward or conservatee is restored to capacity and shall proceed to terminate the guardianship or conservatorship, or both, as provided for in subsection (i) or (j) of section 42, and amendments thereto. Otherwise, the court shall make such further orders in the guardianship or conservatorship, or both, as may be appropriate under this act.

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

(b) The petition shall include:

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

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

(3) the name and address of the ward's or conservatee's court appointed guardian or conservator, or both, if different from the petitioner;

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

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

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

(c) (1) Upon the filing of such a petition, the court shall review the petition to determine whether good cause exists to warrant further proceedings. If the court finds good cause to warrant further proceedings, the court shall issue an order fixing the date, time and place of a hearing on the petition, which hearing shall be held not later than 30 days following the filing of the petition. If the court does not find within the petition facts sufficient to constitute good cause to warrant further proceedings, the court nonetheless may issue an order for an investigation and report concerning the circumstances of the ward or conservatee. The court may appoint any qualified person to conduct this investigation. The costs of this investigation shall be assessed as provided for in section 45, and amendments thereto.

(2) If the court does not find good cause to warrant further proceedings and the court does not issue an order for an investigation and report, or if the court has within the past six months conducted either the trial upon the original petition provided for in section 18, and amendments thereto, or a hearing on a previous petition for termination, the court may decline to set a hearing on the petition and may dismiss the petition without further proceedings.

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

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

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

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

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

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

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

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

(g) The hearing upon the petition, or the court's own motion, shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has familiarity with the ward or conservatee or the conservatee's estate.

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

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

(j) Upon the court ordering that the conservatorship be terminated, the conservator shall take any necessary action to close the conservator's administration of the conservatee's estate, and to deliver the property and assets of the conservatee's estate to the conservatee or otherwise as the court may direct. If the conservatee is deceased, and the funeral and last illness expenses, payment of any claim for medical expenses paid pursuant to K.S.A. 39-709, and amendments thereto, payment of the fees of the conservator as the court may allow, and payment of the costs of the final accounting and closing of the conservatee's estate, will deplete the estate, the conservator shall show such depletion on the final accounting. If such expenses will not deplete the estate, the remaining property and assets of the conservatee's estate shall be delivered by the conservator to the appropriate person or agency as determined by the court, and the conservator shall report such fact to the court in a final accounting. Upon the filing of a final accounting, and presentation to the court of a receipt for such property and assets, if the court approves, allows and settles this final accounting pursuant to the provisions of section 37, and amendments thereto, the court shall finally discharge the conservator and the conservator's surety. Neither the conservator, nor the conservator's estate or surety, shall be finally discharged until all of the property and assets of the conservatee's estate have been dispersed as directed by the court.

New Sec. 43. (a) The court at any time may enter an order summarily terminating the guardianship in any of the following circumstances:

(1) the ward is deceased;

(2) the ward, who was a minor and not adjudicated to be a minor with an impairment which would otherwise make that minor an adult with an impairment in need of a guardian, has become 18 years of age, has had the rights of majority conferred upon them pursuant to K.S.A. 38-108, and amendments thereto, or is now considered to be of the age of majority pursuant to K.S.A. 38-101, and amendments thereto; or

(3) no further need for the guardianship exists.

(b) At any time the court may enter an order summarily terminating the conservatorship in any of the following circumstances:

(1) The conservatee is deceased and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto, as applicable; or

(2) no further need for the conservatorship exists and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto.

(c) At any time the court may enter an order summarily terminating the voluntary conservatorship in any of the following circumstances:

(1) The conservatee has filed a verified petition pursuant to section 42, and amendments thereto, requesting the termination of the conservatorship and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto, as applicable;

(2) the conservatee has been adjudicated an adult with an impairment in need of a conservator by a court of competent jurisdiction either within this or another state, and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto, as applicable;

(3) no further need for the conservatorship exists and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto, as applicable; or

(4) the conservatee is deceased and the court has issued orders consistent with the requirements of subsection (j) of section 42, and amendments thereto, as applicable.

New Sec. 44. (a) The court at any time, upon the request of any party or upon the court's own motion, may issue a written order directing that any medical or treatment records, evaluations or investigative reports filed

with the court, attached to any pleading, produced in response to any order issued by the court, or introduced in evidence, shall be separately maintained in a confidential manner, to be disclosed only:

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

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

(3) upon the written consent of the former ward or former conservatee, if restored to capacity pursuant to section 41, and amendments thereto;

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

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

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

(b) To the extent the provisions of K.S.A. 65-5601 through 65-5605, or K.S.A. 2001 Supp. 59-2979 or 59-29b79, and amendments thereto, are applicable to medical or treatment records of any patient or former patient who may be the subject of proceedings under this act, the provisions of K.S.A. 65-5601 through 65-5605 or K.S.A. 2001 Supp. 59-2979 or 59-29b79, and amendments thereto, as applicable, shall control the disposition of information contained in such records. Willful violation of this section is a class C misdemeanor.

New Sec. 45. (a) In each proceeding the court shall allow and order paid to any individual or institution as a part of the costs thereof a reasonable fee and expenses for any professional services ordered performed by the court pursuant to this act other than those performed by any individual or institution under the jurisdiction of the department of social and rehabilitation services, but including the fee of counsel for the proposed ward or proposed conservatee or ward or conservatee when counsel is appointed by the court. The court may allow and order paid the fee of counsel for the petitioner and any respondent. Other costs and fees may be allowed and paid as are allowed by law for similar services in other cases. The costs shall be taxed to the estate of the proposed ward or proposed conservatee or ward or conservatee, to those bound by law to support the proposed ward or proposed conservatee or ward or conservatee, to other parties whenever it would be just and equitable to do so, or to the county of residence of the proposed ward or proposed conservatee or ward or conservatee as the court having venue shall direct.

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

(c) Any district court receiving a statement of costs from another district court shall approve the same for payment out of the general fund of its county except that it may refuse to approve the same for payment only on the grounds that the proposed ward or proposed conservatee or ward or conservatee is not a resident of that county. In such case it shall transmit the statement of costs to the secretary of social and rehabilitation services who shall determine the question of residence and certify those findings to each district court. If the claim for costs is not paid within 30 days after such certification, an action may be maintained thereon by the claimant county in the district court of the claimant county against the debtor county. The findings made by the secretary of social and rehabilitation services as to the residence of the proposed ward or proposed conservatee or ward or conservatee shall be applicable only to the assessment of costs. Any county of residence which pays from its general fund court costs to the district court of another county may recover the same in any court of competent jurisdiction from the estate of the proposed ward or proposed conservatee or ward or conservatee or from those



bound by law to support the proposed ward or proposed conservatee or ward or conservatee, unless the court finds that the proceedings in which such costs were incurred were instituted without good cause and not in good faith.

New Sec. 46. (a) Any person who has been adjudged a disabled person prior to the effective date of this act and who has not been restored to capacity, for the purposes of this act, shall be considered to be either:

- (1) An adult with an impairment in need of a guardian or conservator, or both;
- (2) a minor in need of a guardian or conservator, or both;
- (3) a minor with an impairment in need of a guardian or conservator, or both;
- (4) a person previously adjudged as impaired in another state; or
- (5) a person in need of an ancillary conservator.

(b) Within one year from the effective date of this act, any person with an interest in the matter may file a verified petition requesting that the court determine whether the ward or conservatee meets the definition of impaired as contained within this act, or meets the requirements of being in need of a guardian or conservator. Thereafter, all proceedings shall be as provided for in this act.

(c) No act of a guardian or conservator performed prior to the effective date of this act, which was performed in compliance with any provision of the act for obtaining a guardian or conservator, or both, in effect prior to the effective date of this act, shall be deemed unlawful because of any provision of this act.

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

Sec. 47. K.S.A. 9-1215 is hereby amended to read as follows: 9-1215. Subject to the provisions of this section and K.S.A. 9-1216 and amendments thereto, an individual adult or minor, hereafter referred to as the owner, may enter into a written contract with any bank located in this state providing that the balance of the owner's deposit account, or the balance of the owner's legal share of a deposit account, at the time of death of the owner shall be made payable on the death of the owner to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

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

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

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

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

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

Sec. 48. K.S.A. 9-1216 is hereby amended to read as follows: 9-1216. When the owner and the bank have entered into a contract authorized in K.S.A. 9-1215, and amendments thereto, the owner's deposit account

subject to the contract or any part of or interest on the account shall be paid by the bank to the owner or pursuant to the owner's order during the owner's lifetime. On the owner's death, the deposit account or any part of or interest on the account shall be paid by the bank to the secretary of social and rehabilitation services for a claim pursuant to subsection (g) of K.S.A. 39-709 and amendments thereto or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the bank shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the bank for the payment.

Sec. 49. K.S.A. 17-2263 is hereby amended to read as follows: 17-2263. Subject to the provisions of this section and K.S.A. 17-2264 and amendments thereto, an individual adult or minor, hereafter referred to as the shareholder, may enter into a written contract with any credit union located in this state providing that the balance of the shareholder's account, or the balance of the shareholder's legal share of an account, at the time of death of the shareholder shall be made payable on the death of the shareholder to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

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

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

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

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

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

Sec. 50. K.S.A. 17-2264 is hereby amended to read as follows: 17-2264. When the shareholder and the credit union have entered into a contract authorized in K.S.A. 17-2263 and amendments thereto, the shareholder's account subject to the contract or any part of or interest on the account shall be paid by the credit union to the shareholder or pursuant to the shareholder's order during the shareholder's lifetime. On the shareholder's death, the deposit account or any part of or interest on the account shall be paid by the credit union to the secretary of social and rehabilitation services for a claim pursuant to subsection (g) of K.S.A. 39-709 and amendments thereto or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the credit union shall pay the moneys or any interest on them only to a

conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the credit union for the payment.

Sec. 51. K.S.A. 17-5828 is hereby amended to read as follows: 17-5828. Subject to the provisions of this section and K.S.A. 17-5829 and amendments thereto, an individual adult or minor, hereafter referred to as the owner, may enter into a written contract with any savings and loan association located in this state providing that the balance of the owner's deposit account, or the balance of the owner's legal share of a deposit account, at the time of death of the owner shall be made payable on the death of the owner to one or more persons or, if the persons predecease the owner, to another person or persons, hereafter referred to as the beneficiary or beneficiaries. If any beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the moneys shall be payable only to a conservator of the minor beneficiary.

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

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

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

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

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

Sec. 52. K.S.A. 17-5829 is hereby amended to read as follows: 17-5829. When the owner and the savings and loan association have entered into a contract authorized in K.S.A. 17-5828 and amendments thereto, the owner's deposit account subject to the contract or any part of or interest on the account shall be paid by the savings and loan association to the owner or pursuant to the owner's order during the owner's lifetime. On the owner's death, the deposit account or any part of or interest on the account may be paid by the savings and loan association to the secretary of social and rehabilitation services for a claim pursuant to subsection (g) of K.S.A. 39-709 and amendments thereto or, if there is no such claim or if any portion of the account remains after such claim is satisfied, to the designated beneficiary or beneficiaries. If any designated beneficiary is a minor at the time the account, or any portion of the account, becomes payable to the beneficiary and the balance, or portion of the balance, exceeds the amount specified by ~~K.S.A. 59-3003~~ *section 4*, and amendments thereto, the savings and loan association shall pay the moneys or any interest on them only to a conservator of the minor beneficiary. The receipt of the conservator shall release and discharge the savings and loan association for the payment.

Sec. 53. K.S.A. 38-1505 is hereby amended to read as follows: 38-1505. (a) *Appointment of guardian ad litem; duties.* Upon the filing of a petition the court shall appoint a person who is an attorney to serve as guardian *ad litem* for a child who is the subject of proceedings under this code. The guardian *ad litem* shall make an independent investigation of the facts upon which the petition is based and shall appear for and represent the child.

(b) *Attorney for parent or custodian.* A parent or custodian of a child alleged or adjudged to be a child in need of care may be represented by

an attorney, other than the guardian *ad litem* appointed for the child, in connection with all proceedings under this code. If at any stage of the proceedings a parent desires but is financially unable to employ an attorney, the court shall appoint an attorney for the parent. It shall not be necessary to appoint an attorney to represent a parent who fails or refuses to attend the hearing after having been properly served with process in accordance with K.S.A. 38-1534 and amendments thereto. A parent or custodian who is not a minor, a mentally ill person as defined in K.S.A. 2001 Supp. 59-2946 and amendments thereto or a disabled person as defined in K.S.A. ~~59-3002~~ 77-201 and amendments thereto may waive counsel either in writing or on the record.

(c) *Attorney for parent who is a minor, mentally ill or disabled.* The court shall appoint an attorney for a parent who is a minor, a mentally ill person as defined in K.S.A. ~~59-2902~~ 2001 Supp. 59-2946 and amendments thereto or a disabled person as defined in K.S.A. ~~59-3002~~ 77-201 and amendments thereto, unless the court determines that there is an attorney retained who will appear and represent the interests of the person in the proceedings under this code.

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

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

Sec. 54. K.S.A. 39-789 is hereby amended to read as follows: 39-789. Assistance shall not be withheld from any institutionalized person or any person seeking home and community based services who would otherwise qualify for assistance under this act but who, by reason of ~~disability being~~ *a disabled person* as defined by K.S.A. ~~59-3002~~ 77-201, and amendments thereto, is unable to give the consent prerequisite to the property and income transfers described in this act, provided that the spouse of the individual seeking assistance seeks a court order of maintenance, an order of conservatorship or of property and income division pursuant to this act within one year from the beginning of the first benefit period.

Sec. 55. K.S.A. 2001 Supp. 39-970 is hereby amended to read as follows: 39-970. (a) (1) No person shall knowingly operate an adult care home if, in the adult care home, there works any person who has been convicted of or has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401 and amendments thereto, second degree murder, pursuant to subsection (a) of K.S.A. 21-3402 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403 and amendments thereto, assisting suicide pursuant to K.S.A. 21-3406 and amendments thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503 and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504 and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510 and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518 and amendments thereto, an attempt to commit any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, and amendments thereto, a conspiracy to commit any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3302, and amendments thereto, or criminal solicitation of any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, and amendments thereto, or similar statutes of other states or the federal government.

(2) A person operating an adult care home may employ an applicant

who has been convicted of any of the following if five or more years have elapsed since the applicant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if five or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer: (A) article 34 of chapter 21 of the Kansas Statutes Annotated and amendments thereto, except those crimes listed in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated and amendments thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) an attempt to commit any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301, and amendments thereto; (D) a conspiracy to commit any of the crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3302, and amendments thereto; (E) criminal solicitation of any of the crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, and amendments thereto; or (F) similar statutes of other states or the federal government.

(b) No person shall operate an adult care home if such person has been found to be ~~a disabled person~~ in need of a guardian or conservator, or both *as provided in sections 1 through 46, and amendments thereto.*

(c) The secretary of health and environment shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, concerning persons working in an adult care home. The secretary shall have access to these records for the purpose of determining whether or not the adult care home meets the requirements of this section. The Kansas bureau of investigation may charge to the department of health and environment a reasonable fee for providing criminal history record information under this subsection.

(d) For the purpose of complying with this section, the operator of an adult care home shall request from the department of health and environment information regarding only felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, and which relates to a person who works in the adult care home, or is being considered for employment by the adult care home, for the purpose of determining whether such person is subject to the provision of this section. For the purpose of complying with this section, the operator of an adult care home shall receive from any employment agency which provides employees to work in the adult care home written certification that such employees are not prohibited from working in the adult care home under this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the secretary of health and environment determines the search for such information could reasonably be performed and the information obtained within a two-week period. For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for employment on a conditional basis pending the results from the department of health and environment of a request for information under this subsection. No adult care home, the operator or employees of an adult care home or an employment agency, or the operator or employees of an employment agency, shall be liable for civil damages resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on such adult care home's compliance with the provisions of this section if such adult care home or employment agency acts in good faith to comply with this section.

(e) The secretary of health and environment shall charge each person requesting information under this section a fee equal to cost, not to ex-

ceed \$10, for each name about which an information request has been submitted to the department under this section.

(f) (1) The secretary of health and environment shall provide each operator requesting information under this section with the criminal history record information concerning felony convictions and convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary of health and environment shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 38-1618 and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information.

(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100.

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

(h) A person who volunteers in an adult care home shall not be subject to the provisions of this section because of such volunteer activity.

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

(j) The operator of an adult care home shall not be required under this section to conduct a background check on an applicant for employment with the adult care home if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the adult care home. The operator of an adult care home where the applicant was the subject of such background check may release a copy of such background check to the operator of an adult care home where the applicant is currently applying.

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

(l) For purposes of this section, the Kansas bureau of investigation

shall only report felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, to the secretary of health and environment when a background check is requested.

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

Sec. 56. K.S.A. 44-513a is hereby amended to read as follows: 44-513a. Whenever a minor person shall be entitled to compensation under the provisions of the workers compensation act, the administrative law judge is authorized to direct such compensation to be paid in accordance with ~~K.S.A. 59-3001 et seq. sections 1 through 46~~, and amendments thereto.

Sec. 57. K.S.A. 58-629 is hereby amended to read as follows: 58-629. (a) A durable power of attorney for health care decisions may convey to the agent the authority to:

(1) Consent, refuse consent, or withdraw consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition, and to make decisions about organ donation, autopsy, and disposition of the body;

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

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

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

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

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

(1) Related to the principal by blood, marriage or adoption; or  
(2) the principal and agent are members of the same community of persons who are bound by vows to a religious life and who conduct or assist in the conduct of religious services and actually and regularly engage in religious, benevolent, charitable or educational ministrations or the performance of health care services.

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

(1) Dated and signed in the presence of two witnesses at least 18 years of age neither of whom shall be the agent, related to the principal by blood, marriage or adoption, entitled to any portion of the estate of

the principal according to the laws of intestate succession of this state or under any will of the principal or codicil thereto, or directly financially responsible for the principal's health care; or

(2) acknowledged before a notary public.

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

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

Sec. 58. K.S.A. 2001 Supp. 58-24a15 is hereby amended to read as follows: 58-24a15. Conservators shall not invest funds under their control and management in investments other than those specifically permitted by ~~K.S.A. 59-3019~~ *section 29*, and amendments thereto, except upon the entry of an order of a court of competent jurisdiction, after a hearing on a verified petition. Before authorizing any such investment, the court shall require evidence of value and advisability of such purchase.

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

(1) A bank, savings and loan association or other corporation organized under the laws of, and having its principal place of business in, this state;

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

(3) a bank, savings and loan association or other corporation organized under the laws of, and having its principal place of business in, another state which permits a bank, savings and loan association or other corporation which is similarly organized in this state to act in a like fiduciary capacity in the other state under similar conditions;

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

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

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

(b) No officer, employee or agent of a bank, savings and loan association or corporation which is not authorized to act as a fiduciary in this state shall be permitted to act as a fiduciary, whether such officer, employee or agent is a resident or a nonresident of this state, when in fact such officer, employee or agent is acting as a fiduciary on behalf of such bank, savings and loan association or corporation.

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

Sec. 60. K.S.A. 59-2203 is hereby amended to read as follows: 59-2203. Proceedings for the probate of a will or for administration shall be had in the county of the residence of the decedent at the time of such decedent's death if the decedent owned an interest in real property in such county, or, if the decedent did not own an interest in real property in the decedent's county of residence at the time of such decedent's death, in such county of the residence of the decedent at the time of such decedent's death or in any county where the decedent owned an interest in real property; if the decedent was not a resident of this state, proceedings may be had in any county where such decedent left any estate to be administered as provided in K.S.A. 59-805 and amendments thereto. ~~Proceedings for the appointment of a guardian may be had in the county of the proposed ward's residence or where the proposed ward may be found. Proceedings for the appointment of a conservator shall be had in the county of the proposed conservatee's residence; if the proposed conservatee resides without this state, proceedings may be had in any county in~~



~~which any of the proposed conservatee's property is situated.~~ Proceedings for the administration of a partnership estate by the surviving partner shall be had in the county of the residence of the deceased partner at the time. If the deceased partner is a nonresident of the state the proceedings may be had in any county in which any of the partnership property is situated. Such proceedings first legally commenced shall extend to all of the property of the decedent or proposed conservatee in this state.

If the proceedings are instituted in more than one county, they shall be stayed except in the county where first commenced until final determination of venue. If the proper venue is determined to be in another county, the district court, after making and retaining a true copy of the entire file, shall transmit the original to the proper county.

Sec. 61. K.S.A. 2001 Supp. 59-2401 is hereby amended to read as follows: 59-2401. (a) An appeal may be taken within 30 days from the date of entry of any of the following orders, judgments, decrees and decisions:

- (1) An order admitting or refusing to admit a will to probate.
  - (2) An order appointing, refusing to appoint, removing or refusing to remove a fiduciary other than a special administrator.
  - (3) An order setting apart or refusing to set apart a homestead or other property, or making or refusing to make an allowance of exempt property to the spouse and minor children.
  - (4) An order determining, refusing to determine, transferring or refusing to transfer venue.
  - (5) An order allowing or disallowing a demand, in whole or in part, when the amount in controversy exceeds \$500.
  - (6) An order authorizing, refusing to authorize, confirming or refusing to confirm the sale, lease or mortgage of real estate.
  - (7) Judgments for waste.
  - (8) An order directing or refusing to direct a conveyance or lease of real estate under contract.
  - (9) An order directing or refusing to direct the payment of a legacy or distributive share.
  - (10) An order allowing or refusing to allow an account of a fiduciary or any part thereof.
  - (11) A judgment or decree of partial or final distribution.
  - (12) An order compelling or refusing to compel a legatee or distributee to refund.
  - (13) An order directing or refusing to direct an allowance for the expenses of administration.
  - (14) An order vacating or refusing to vacate a previous appealable order, judgment, decree or decision.
  - (15) A decree determining or refusing to determine the heirs, devisees and legatees.
  - (16) An order adjudging a person in contempt.
  - (17) An order adjudging or refusing to adjudge a person an ~~incapacitated~~ *impaired* person.
  - (18) The granting or refusing to grant an order for treatment.
  - (19) An order granting or denying restoration to capacity.
  - (20) An order granting or denying discharge.
  - (21) An order finding or refusing to find that there is a valid consent to a will.
  - (22) An order finding or refusing to find that there is a valid settlement agreement.
  - (23) An order decreeing or refusing to decree an adoption.
  - (24) A final order, decision or judgment in any probate proceeding.
- (b) Notwithstanding the provisions of K.S.A. 60-2103 and amendments thereto relating to bonds, the appellant, other than the state or municipality or a fiduciary appealing on behalf of the estate, shall file in the court from which the appeal is taken a bond in such sum and with such sureties as may be fixed and approved by the court, conditioned that the appellant will without unnecessary delay prosecute the appeal and pay all sums, damages and costs that may be adjudged against the appellant.
- (c) Except as otherwise provided in this section, appeals taken pursuant to this section shall be taken in the manner provided by chapter 60 of the Kansas Statutes Annotated for other civil cases.

Sec. 62. K.S.A. 2001 Supp. 59-2946 is hereby amended to read as follows: 59-2946. When used in the care and treatment act for mentally ill persons:

(a) “Discharge” means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 2001 Supp. 59-2950 and amendments thereto or by an order of a court issued pursuant to K.S.A. 2001 Supp. 59-2973 and amendments thereto.

(b) “Head of a treatment facility” means the administrative director of a treatment facility or such person’s designee.

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

(d) (1) “Mental health center” means any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 through 19-4015 and amendments thereto, or mental health clinic organized pursuant to the provisions of K.S.A. 65-211 through 65-215 and amendments thereto, or a mental health clinic organized as a not-for-profit or a for-profit corporation pursuant to K.S.A. 17-1701 through 17-1775 and amendments thereto or K.S.A. 17-6001 through 17-6010 and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto.

(2) “Participating mental health center” means a mental health center which has entered into a contract with the secretary of social and rehabilitation services pursuant to the provisions of K.S.A. 39-1601 through 39-1612 and amendments thereto.

(e) “Mentally ill person” means any person who is suffering from a mental disorder which is manifested by a clinically significant behavioral or psychological syndrome or pattern and associated with either a painful symptom or an impairment in one or more important areas of functioning, and involving substantial behavioral, psychological or biological dysfunction, to the extent that the person is in need of treatment.

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

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

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

No person who is being treated by prayer in the practice of the religion of any church which teaches reliance on spiritual means alone through prayer for healing shall be determined to be a mentally ill person subject to involuntary commitment for care and treatment under this act unless substantial evidence is produced upon which the district court finds that the proposed patient is likely in the reasonably foreseeable future to cause substantial physical injury or physical abuse to self or others or substantial damage to another’s property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state’s interest in

protecting the property from such harm outweighs the person's interest in personal liberty.

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

(1) "Voluntary patient" means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 2001 Supp. 59-2949 and amendments thereto.

(2) "Proposed patient" means a person for whom a petition pursuant to K.S.A. 2001 Supp. 59-2952 or ~~K.S.A. 2001 Supp. 59-2957~~ and amendments thereto has been filed.

(3) "Involuntary patient" means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 2001 Supp. 59-2954 and amendments thereto.

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

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

(j) "Qualified mental health professional" means a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist under a contract with a participating mental health center, a licensed masters level psychologist, a licensed clinical psychotherapist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, a licensed professional counselor, a licensed clinical professional counselor, a licensed specialist social worker or a licensed master social worker or a registered nurse who has a specialty in psychiatric nursing, who is employed by a participating mental health center and who is acting under the direction of a physician or psychologist who is employed by, or under contract with, a participating mental health center.

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

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

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

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

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

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

(l) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital, Rainbow mental health facility or Topeka state hospital.

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

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

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

Sec. 63. K.S.A. 2001 Supp. 59-2948 is hereby amended to read as follows: 59-2948. (a) The fact that a person may have voluntarily accepted any form of psychiatric treatment, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a

resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility. No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a ~~disabled person as defined in K.S.A. 59-3002~~ *in need of a guardian or a conservator as provided for in sections 1 through 46, and amendments thereto.*

Sec. 64. K.S.A. 2001 Supp. 59-2949 is hereby amended to read as follows: 59-2949. (a) A mentally ill person may be admitted to a treatment facility as a voluntary patient when there are available accommodations and the head of the treatment facility determines such person is in need of treatment therein, and that the person has the capacity to consent to treatment, except that no such person shall be admitted to a state psychiatric hospital without a written statement from a qualified mental health professional authorizing such admission.

(b) Admission shall be made upon written application:

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

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

(B) if such person is less than 18 years of age, but 14 years of age or older the person may make such written application on their own behalf without the consent or written application of their parent, legal guardian or any other person. Whenever a person who is 14 years of age or older makes written application on their own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the admittance of that child; or

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

(c) No person shall be admitted as a voluntary patient under the provisions of this act to any treatment facility unless the head of the treatment facility has informed such person or such person's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of a minor, in writing, of the following:

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

(2) the legal rights of a voluntary patient receiving treatment from a treatment facility as provided for in K.S.A. 2001 Supp. 59-2978 and amendments thereto; and

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

(d) Nothing in this act shall be construed as to prohibit a proposed or involuntary patient with capacity to do so from making an application for admission as a voluntary patient to a treatment facility. Any proposed or involuntary patient desiring to do so shall be afforded an opportunity to consult with their attorney prior to making any such application. If the head of the treatment facility accepts the application and admits the patient as a voluntary patient, then the head of the treatment facility shall notify, in writing, the patient's attorney, the patient's legal guardian, if the patient has a legal guardian, and the district court which has jurisdiction

over the patient of the patient's voluntary status. When a notice of voluntary admission is received, the court shall file the same which shall terminate the proceedings.

Sec. 65. K.S.A. 2001 Supp. 59-2951 is hereby amended to read as follows: 59-2951. (a) A voluntary patient shall be entitled to be discharged from a treatment facility, by the head of the treatment facility, by no later than the third day, excluding Saturdays, Sundays and holidays, after receipt of the patient's written request for discharge. If the voluntary patient is a patient in a state psychiatric hospital, that hospital shall immediately give either oral or facsimile notice to the participating mental health center serving the area where the patient intends to reside and shall consider any recommendations from that mental health center which may be received prior to the time set for discharge as specified in the notice.

(b) (1) If the voluntary patient is an adult admitted upon the application of a legal guardian or pursuant to an order of the court issued pursuant to ~~K.S.A. 59-3019a~~ *section 28*, and amendments thereto, any request for discharge must be made, in writing, by the legal guardian.

(2) If the voluntary patient is a minor, the written request for discharge shall be made by the child's parent or legal guardian except if the minor was admitted upon their own written application to become a voluntary patient made pursuant to K.S.A. 2001 Supp. 59-2949 and amendments thereto, then the minor may make the request. In the case of a minor 14 or more years of age who had made written application to become a voluntary patient on their own behalf and who has requested to be discharged, the head of the treatment facility shall promptly inform the child's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the minor's request for discharge.

Sec. 66. K.S.A. 2001 Supp. 59-2960 is hereby amended to read as follows: 59-2960. (a) Upon the filing of the petition provided for in K.S.A. 2001 Supp. 59-2957 and amendments thereto, the district court shall issue the following:

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

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

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

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least ~~5~~ *five* days prior to the date set for the trial under K.S.A. 2001 Supp. 59-2965 and amendments thereto.

(5) An order for a mental evaluation as provided for in K.S.A. 2001 Supp. 59-2961 and amendments thereto.

(6) A notice as provided for in K.S.A. 2001 Supp. 59-2963 and amendments thereto.

(7) If the petition also contains allegations as provided for in ~~K.S.A. 59-3009~~ *section 9, 10, 11, 12 or 13*, and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by K.S.A. 2001 Supp. 59-2965 and ~~K.S.A. 59-3013~~ *section 18*, and amendments thereto, may be consolidated.

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

Sec. 67. K.S.A. 2001 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

(a) “Discharge” means the final and complete release from treatment, by either the head of a treatment facility acting pursuant to K.S.A. 2001 Supp. 59-29b50 and amendments thereto or by an order of a court issued pursuant to K.S.A. 2001 Supp. 59-29b73 and amendments thereto.

(b) “Head of a treatment facility” means the administrative director of a treatment facility or such person’s designee.

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

(d) “Other facility for care or treatment” means any mental health clinic, medical care facility, nursing home, the detox units at either Osawatomie state hospital or Larned state hospital, any physician or any other institution or individual authorized or licensed by law to give care or treatment to any person.

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

(1) “Voluntary patient” means a person who is receiving treatment at a treatment facility pursuant to K.S.A. 2001 Supp. 59-29b49 and amendments thereto.

(2) “Proposed patient” means a person for whom a petition pursuant to K.S.A. 2001 Supp. 59-29b52 or 59-29b57 and amendments thereto has been filed.

(3) “Involuntary patient” means a person who is receiving treatment under order of a court or a person admitted and detained by a treatment facility pursuant to an application filed pursuant to subsection (b) or (c) of K.S.A. 2001 Supp. 59-29b54 and amendments thereto.

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

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

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

(2) “Incapacitated by alcohol or any substance” means that the person, as the result of the use of alcohol or any substance as defined in subsection (k), has impaired judgment resulting in the person: (A) Being incapable of realizing and making a rational decision with respect to the need for treatment; or

(B) lacking sufficient understanding or capability to make or communicate responsible decisions concerning either the person’s well-being or estate.

(3) “Likely to cause harm to self or others” means that the person, by reason of the person’s use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or

physical abuse to self or others or substantial damage to another's property, as evidenced by behavior threatening, attempting or causing such injury, abuse or damage; except that if the harm threatened, attempted or caused is only harm to the property of another, the harm must be of such a value and extent that the state's interest in protecting the property from such harm outweighs the person's interest in personal liberty; or

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

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

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

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

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

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

(l) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

(m) (1) "Treatment facility" means a public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008 and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008 and amendments thereto, or a psychologist or physician, who may treat in the usual course of the psychologist's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not exclusively engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

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

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

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

Sec. 68. K.S.A. 2001 Supp. 59-29b48 is hereby amended to read as follows: 59-29b48. (a) The fact that a person may have voluntarily accepted any form of treatment for an alcohol or substance abuse problem, or become subject to a court order entered under authority of this act, shall not be construed to mean that such person shall have lost any civil right they otherwise would have as a resident or citizen, any property right or their legal capacity, except as may be specified within any court order or as otherwise limited by the provisions of this act or the reasonable rules and regulations which the head of a treatment facility may for good cause find necessary to make for the orderly operations of that facility.

No person held in custody under the provisions of this act shall be denied the right to apply for a writ of habeas corpus.

(b) There shall be no implication or presumption that a patient within the terms of this act is for that reason alone a ~~disabled person as defined in K.S.A. 59-3002~~ in need of a guardian or a conservator, or both, as provided in sections 1 through 46, and amendments thereto.

Sec. 69. K.S.A. 2001 Supp. 59-29b49 is hereby amended to read as follows: 59-29b49. (a) A person with an alcohol or substance abuse problem may be admitted to a treatment facility as a voluntary patient when there are available accommodations and the head of the treatment facility determines such person is in need of treatment therein, and that the person has the capacity to consent to treatment.

(b) Admission shall be made upon written application:

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

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

(B) if such person is less than 18 years of age, but 14 years of age or older, the person may make such written application on their own behalf without the consent or written application of their parent, legal guardian or any other person. Whenever a person who is 14 years of age or older makes written application on their own behalf and is admitted as a voluntary patient, the head of the treatment facility shall promptly notify the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the admittance of that child; or

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

(c) No person shall be admitted as a voluntary patient under the provisions of this act to any treatment facility unless the head of the treatment facility has informed such person or such person's parent, legal guardian, or other person known to the head of the treatment facility to be interested in the care and welfare of a minor, in writing, of the following:

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

(2) the legal rights of a voluntary patient receiving treatment from a treatment facility as provided for in K.S.A. 2001 Supp. 59-29b78 and amendments thereto; and

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

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

Sec. 70. K.S.A. 2001 Supp. 59-29b51 is hereby amended to read as follows: 59-29b51. (a) A voluntary patient shall be entitled to be discharged from a treatment facility, by the head of the treatment facility,



by no later than the third day, excluding Saturdays, Sundays and holidays, after receipt of the patient's written request for discharge.

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

(2) If the voluntary patient is a minor, the written request for discharge shall be made by the child's parent or legal guardian except if the minor was admitted upon their own written application to become a voluntary patient made pursuant to K.S.A. 2001 Supp. 59-29b49 and amendments thereto, then the minor may make the request. In the case of a minor 14 or more years of age who had made written application to become a voluntary patient on their own behalf and who has requested to be discharged, the head of the treatment facility shall promptly inform the child's parent, legal guardian or other person known to the head of the treatment facility to be interested in the care and welfare of the minor of the minor's request for discharge.

Sec. 71. K.S.A. 2001 Supp. 59-29b60 is hereby amended to read as follows: 59-29b60. (a) Upon the filing of the petition provided for in K.S.A. 2001 Supp. 59-29b57 and amendments thereto, the district court shall issue the following:

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

(2) An order that the proposed patient appear at the time and place of the hearing and providing that the proposed patient's presence will be required at the hearing unless the attorney for the proposed patient shall make a request that the proposed patient's presence be waived and the court finds that the proposed patient's presence at the hearing would be injurious to the proposed patient's welfare. The order shall further provide that notwithstanding the foregoing provision, if the proposed patient requests in writing to the court or to such person's attorney that the proposed patient wishes to be present at the hearing, the proposed patient's presence cannot be waived.

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

(4) An order that the proposed patient shall appear at a time and place that is in the best interests of the patient where the proposed patient will have the opportunity to consult with the proposed patient's court-appointed attorney, which time shall be at least ~~5~~ *five* days prior to the date set for the trial under K.S.A. 2001 Supp. 59-29b65 and amendments thereto.

(5) An order for an evaluation as provided for in K.S.A. 2001 Supp. 59-29b61 and amendments thereto.

(6) A notice as provided for in K.S.A. 2001 Supp. 59-29b63 and amendments thereto.

(7) If the petition also contains allegations as provided for in ~~K.S.A. 59-3009~~ *section 9, 10, 11, 12 or 13*, and amendments thereto, those orders necessary to make a determination of the need for a legal guardian or conservator, or both, to act on behalf of the proposed patient. For these purposes, the trials required by K.S.A. 2001 Supp. 59-29b65 and ~~K.S.A. 59-3013~~ *section 18*, and amendments thereto, may be consolidated.

(8) If the petitioner shall not have named a proposed treatment facility to which the proposed patient may be sent as provided for subsection (b)(8) of K.S.A. 2001 Supp. 59-29b57 and amendments thereto, but

instead stated that the secretary of social and rehabilitation services has been notified and requested to determine which treatment facility the proposed patient should be sent to, then the court shall issue an order requiring the secretary, or the secretary's designee, to make that determination and to notify the court of the name and address of that treatment facility by such time as the court shall specify in the court's order.

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

Sec. 72. K.S.A. 2001 Supp. 60-304 is hereby amended to read as follows: 60-304. As used in this section, "serving" means making service by any of the methods described in K.S.A. 60-303, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication under K.S.A. 60-307, and amendments thereto, service of process under this article shall be made as follows:

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

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

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

(d) *Governmental bodies.* (1) Upon a county, by serving one of the county commissioners or the county clerk or the county treasurer; (2) upon a township, by serving the clerk or the trustee; (3) upon a city, by serving the clerk or the mayor; (4) upon any other public corporation, body politic, district or authority by serving the clerk or secretary or, if not to be found, to any officer, director or manager thereof; and (5) upon the state or any governmental agency of the state, when subject to suit, by serving the attorney general or an assistant attorney general. Service by certified mail shall be addressed to the appropriate official at the official's governmental office. Income withholding orders for support and orders of garnishment of earnings of state officers and employees shall

be served upon the state or governmental agency of the state in the manner provided by K.S.A. 60-723 and amendments thereto.

(e) *Corporations, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability partnership, and partnerships.* Upon a domestic or foreign corporation, domestic or foreign limited liability company, domestic or foreign limited partnership, domestic or foreign limited liability partnership or upon a partnership or other unincorporated association, when by law it may be sued as such, (1) by serving an officer, manager, partner or a resident, managing or general agent, or (2) by leaving a copy of the summons and petition at any business office of the defendant with the person having charge thereof, or (3) by serving any agent authorized by appointment or required by law to receive service of process, and if the agent is one authorized by law to receive service and the law so requires, by also mailing a copy to the defendant. Service by certified mail on an officer, partner or agent shall be addressed to such person at the person's usual place of business.

(f) *Corporation, limited liability company, limited partnership or limited liability partnership resident agent.* Whenever any domestic corporation, domestic limited liability company, domestic limited partnership, or any foreign corporation, foreign limited liability company, or foreign limited partnership authorized to transact business or transacting business without authority in this state, fails to appoint or maintain in this state a resident agent upon whom service of legal process or service of any such notice or demand may be had, whenever the resident agent of such corporation, limited liability company or limited partnership cannot with reasonable diligence be found at the registered office in this state, the secretary of state shall be irrevocably authorized as the agent and representative of the corporation, limited liability company or limited partnership to accept service of any process or service of any notice or demand required or permitted by law to be served upon the corporation, limited liability company or limited partnership. Service on the secretary of state of any process, notice or demand against the corporation, limited liability company or limited partnership shall be made by delivering to the secretary of state by personal service or by certified mail, the original and two copies of the process and two copies of the petition, notice or demand, or the clerk of the court may send the original process and two copies of both the process and the petition, notice or demand directly to the secretary of state by certified mail. In the event that any process, notice or demand is served on the secretary of state, the secretary shall immediately cause a copy of such process, notice or demand to be forwarded by certified mail, addressed to the corporation, limited liability company or limited partnership at its principal office as it appears in the records of the secretary of state, or to the registered or principal office of the corporation, limited liability company or limited partnership in the state of its incorporation or formation. The secretary of state shall keep a record of all processes, notices and demands served upon the secretary under this subsection, and shall record in the record the time of the service and the action of the secretary with reference to it. A fee of \$40 shall be paid to the secretary of state by the party requesting the service of process, to cover the cost of such service of process, except the secretary of state may waive the fee for state agencies. That fee shall not be included within or paid from any deposit as security for any costs or docket fee required by K.S.A. 60-2001 or K.S.A. 2001 Supp. 61-4001, and amendments thereto.

(g) *Insurance companies or associations.* Service of summons or other process may also be made on any insurance company or association, organized under the laws of the state of Kansas by service on the commissioner of insurance in the same manner as that provided for service on foreign insurance companies. All the requirements of law relating to service on foreign insurance companies so far as applicable shall also apply to domestic insurance companies.

(h) *Service upon an employee.* If the plaintiff or the plaintiff's agent or attorney files an affidavit that to the best of the affiant's knowledge and belief the defendant is a nonresident who is employed in this state, or that the place of residence of the defendant is unknown, the affiant may direct that the service of summons or other process be made by the sheriff or other duly authorized person by directing an officer, partner,

managing or general agent, or the person having charge of the office or place of employment at which the defendant is employed, to make the defendant available for the purpose of permitting the sheriff or other duly authorized person to serve the summons or other process.

Sec. 73. K.S.A. 2001 Supp. 61-3004 is hereby amended to read as follows: 61-3004. (a) Service shall be made promptly and, in any event, in time to make a timely return of service as required by K.S.A. 2001 Supp. 61-3005, and amendments thereto.

(b) If the defendant is a nonresident who is employed in this state, or if the place of residence of the defendant is unknown, the plaintiff may direct that the service of summons or other process shall be made by directing an officer, partner, managing or general agent, or the person having charge of the office or place of employment at which the defendant is employed, to make the defendant available for the purpose of permitting the summons or other process to be served on the defendant at the defendant's place of employment.

(c) As used in this section, "serving" means making service by any of the methods described in K.S.A. 2001 Supp. 61-3003, and amendments thereto, unless a specific method of making service is prescribed in this section. Except for service by publication, service of process shall be made as follows:

(1) Service upon an individual other than a minor or disabled person shall be made by serving the individual or by serving an agent authorized by appointment or by law to receive service of process, but if the agent is one designated by statute to receive service, such further notice as the statute requires shall be given. Service by certified mail or first-class mail shall be addressed to an individual at the individual's dwelling house or usual place of abode and to an authorized agent at the agent's usual or designated address.

(2) Service upon a minor, disabled person as defined by K.S.A. ~~59-3002~~ 77-201, and amendments thereto, foreign or domestic corporations, partnerships, insurance companies or associations shall be made in accordance with the applicable provisions of K.S.A. 60-304, and amendments thereto.

(3) Service upon a governmental entity shall be made in accordance with the applicable provisions of K.S.A. 60-304, and amendments thereto.

Sec. 74. K.S.A. 2001 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who:

(1) (A) Has a felony conviction for a crime against persons, (B) has a felony conviction under the uniform controlled substances act, (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated ~~and acts amendatory thereof or supplemental, and amendments~~ thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act, or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(2) has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of a felony and which is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated ~~and acts amendatory thereof or supplemental, and amendments~~ thereto, or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

(3) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 38-1523 and amendments thereto and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by the department of social and rehabilitation services, or (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of social and rehabilitation services;

(4) has had a child declared in a court order in this or any other state

to be deprived or a child in need of care based on an allegation of physical, mental or emotional abuse or neglect or sexual abuse;

(5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a similar statute of other states;

(6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et seq.*, and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense; or

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility or a family day care home if such person has been found to be a ~~disabled~~ person in need of a guardian or a conservator, or both, *as provided in sections 1 through 46, and amendments thereto.*

(c) Any person who resides in a child care facility or family day care home and who has been found to be a ~~disabled person~~ in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

(e) No child care facility or family day care home or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been validated by the department of social and rehabilitation services unless the alleged perpetrator has: (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

Sec. 75. K.S.A. 2001 Supp. 65-5117 is hereby amended to read as follows: 65-5117. (a) (1) No person shall knowingly operate a home health agency if, for the home health agency, there works any person who has been convicted of or has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of capital murder, pursuant to K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant to K.S.A. 21-3401 and amendments thereto, second degree murder, pursuant to subsection (a) of K.S.A. 21-3402 and amendments thereto, voluntary manslaughter, pursuant to K.S.A. 21-3403 and amendments thereto, assisting suicide, pursuant to K.S.A. 21-3406 and amendments thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amendments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503 and amendments thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-3504 and amendments thereto, aggravated criminal sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent solicitation of a child, pursuant to K.S.A. 21-3510 and amendments thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-3511 and amendments thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-3518 and amendments thereto, an attempt to commit any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3301, and amendments thereto, a conspiracy to commit any of the crimes listed in this subsection

(a)(1), pursuant to K.S.A. 21-3302, and amendments thereto, or criminal solicitation of any of the crimes listed in this subsection (a)(1), pursuant to K.S.A. 21-3303, and amendments thereto, or similar statutes of other states or the federal government.

(2) A person operating a home health agency may employ an applicant who has been convicted of any of the following if five or more years have elapsed since the applicant satisfied the sentence imposed or was discharged from probation, a community correctional services program, parole, postrelease supervision, conditional release or a suspended sentence; or if five or more years have elapsed since the applicant has been finally discharged from the custody of the commissioner of juvenile justice or from probation or has been adjudicated a juvenile offender, whichever time is longer: A felony conviction for a crime which is described in: (A) article 34 of chapter 21 of the Kansas Statutes Annotated and amendments thereto, except those crimes listed in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes Annotated and amendments thereto, except those crimes listed in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) an attempt to commit any of the crimes listed in this subsection (a)(2) pursuant to K.S.A. 21-3301, and amendments thereto; (D) a conspiracy to commit any of the crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3302, and amendments thereto; (E) criminal solicitation of any of the crimes listed in subsection (a)(2) pursuant to K.S.A. 21-3303, and amendments thereto; or (F) similar statutes of other states or the federal government.

(b) No person shall operate a home health agency if such person has been found to be a ~~disabled~~ person in need of a guardian or a conservator, or both, *as provided in sections 1 through 46, and amendments thereto.*

(c) The secretary of health and environment shall have access to any criminal history record information in the possession of the Kansas bureau of investigation regarding felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, concerning persons working for a home health agency. The secretary shall have access to these records for the purpose of determining whether or not the home health agency meets the requirements of this section. The Kansas bureau of investigation may charge to the department of health and environment a reasonable fee for providing criminal history record information under this subsection.

(d) For the purpose of complying with this section, the operator of a home health agency shall request from the department of health and environment information regarding only felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, and which relates to a person who works for the home health agency or is being considered for employment by the home health agency, for the purpose of determining whether such person is subject to the provisions of this section. For the purpose of complying with this section, information relating to convictions and adjudications by the federal government or to convictions and adjudications in states other than Kansas shall not be required until such time as the secretary of health and environment determines the search for such information could reasonably be performed and the information obtained within a two-week period. For the purpose of complying with this section, the operator of a home health agency shall receive from any employment agency which provides employees to work for the home health agency written certification that such employees are not prohibited from working for the home health agency under this section. For the purpose of complying with this section, a person who operates a home health agency may hire an applicant for employment on a conditional basis pending the results from the department of health and environment of a request for information under this subsection. No home health agency, the operator or employees of a home health agency or an employment agency, or the operator or employees of an employment agency, which provides employees to work for the home health agency shall be liable for civil damages resulting from any

decision to employ, to refuse to employ or to discharge from employment any person based on such home health agency's compliance with the provisions of this section if such home health agency or employment agency acts in good faith to comply with this section.

(e) The secretary of health and environment shall charge each person requesting information under this section a fee equal to cost, not to exceed \$10, for each name about which an information request has been submitted under this section.

(f) (1) The secretary of health and environment shall provide each operator requesting information under this section with the criminal history record information concerning felony convictions and convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, in writing and within three working days of receipt of such information from the Kansas bureau of investigation. The criminal history record information shall be provided regardless of whether the information discloses that the subject of the request has been convicted of an offense enumerated in subsection (a).

(2) When an offense enumerated in subsection (a) exists in the criminal history record information, and when further confirmation regarding criminal history record information is required from the appropriate court of jurisdiction or Kansas department of corrections, the secretary shall notify each operator that requests information under this section in writing and within three working days of receipt from the Kansas bureau of investigation that further confirmation is required. The secretary shall provide to the operator requesting information under this section information in writing and within three working days of receipt of such information from the appropriate court of jurisdiction or Kansas department of corrections regarding confirmation regarding the criminal history record information.

(3) Whenever the criminal history record information reveals that the subject of the request has no criminal history on record, the secretary shall provide notice to each operator requesting information under this section, in writing and within three working days after receipt of such information from the Kansas bureau of investigation.

(4) The secretary of health and environment shall not provide each operator requesting information under this section with the juvenile criminal history record information which relates to a person subject to a background check as is provided by K.S.A. 38-1618 and amendments thereto. The secretary shall notify the operator that requested the information, in writing and within three working days of receipt of such information from the Kansas bureau of investigation, whether juvenile criminal history record information received pursuant to this section reveals that the operator would or would not be prohibited by this section from employing the subject of the request for information.

(5) An operator who receives criminal history record information under this subsection (f) shall keep such information confidential, except that the operator may disclose such information to the person who is the subject of the request for information. A violation of this paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100.

(g) No person who works for a home health agency and who is currently licensed or registered by an agency of this state to provide professional services in this state and who provides such services as part of the work which such person performs for the home health agency shall be subject to the provisions of this section.

(h) A person who volunteers to assist a home health agency shall not be subject to the provisions of this section because of such volunteer activity.

(i) No person who has been employed by the same home health agency for five consecutive years immediately prior to the effective date of this act shall be subject to the requirements of this section while employed by such home health agency.

(j) The operator of a home health agency shall not be required under this section to conduct a background check on an applicant for employment with the home health agency if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the home health agency. The operator of a home health agency where the applicant was the subject of such back-

ground check may release a copy of such background check to the operator of a home health agency where the applicant is currently applying.

(k) For purposes of this section, the Kansas bureau of investigation shall only report felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, adjudications of a juvenile offender which if committed by an adult would have been a felony conviction, and adjudications of a juvenile offender for an offense described in K.S.A. 21-3437 and 21-3517, and amendments thereto, to the secretary of health and environment when a background check is requested.

(l) This section shall be part of and supplemental to the provisions of article 51 of chapter 65 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto.

Sec. 76. K.S.A. 73-507 is hereby amended to read as follows: 73-507. Upon the filing of a petition for the appointment of a curator, under the provisions of this act, the court shall cause such notice to be given as provided by the act for obtaining a guardian or conservator, or both (~~K.S.A. 59-3001 et seq. sections 1 through 46, and amendments thereto~~).

Sec. 77. K.S.A. 2001 Supp. 76-729 is hereby amended to read as follows: 76-729. (a) Persons enrolling at the state educational institutions under the control and supervision of the state board of regents who, if such persons are adults, have been domiciliary residents of the state of Kansas or, if such persons are minors, whose parents have been domiciliary residents of the state of Kansas for at least 12 months prior to enrollment for any term or session at a state educational institution are residents for fee purposes. A person who has been a resident of the state of Kansas for fee purposes and who leaves the state of Kansas to become a resident of another state or country shall retain status as a resident of the state of Kansas for fee purposes if the person returns to domiciliary residency in the state of Kansas within 12 months of departure. All other persons are nonresidents of the state of Kansas for fee purposes.

(b) The state board of regents may authorize the following persons, or any class or classes thereof, and their spouses and dependents to pay an amount equal to resident fees:

- (1) Persons who are employees of a state educational institution;
- (2) persons who are in military service;
- (3) persons who are domiciliary residents of the state, who were in active military service prior to becoming domiciliary residents of the state, who were present in the state for a period of not less than two years during their tenure in active military service, whose domiciliary residence was established in the state within 30 days of discharge or retirement from active military service under honorable conditions, but whose domiciliary residence was not timely enough established to meet the residence duration requirement of subsection (a);
- (4) persons having special domestic relations circumstances;
- (5) persons who have lost their resident status within six months of enrollment;
- (6) persons who are not domiciliary residents of the state, who have graduated from a high school accredited by the state board of education within six months of enrollment, who were domiciliary residents of the state at the time of graduation from high school or within 12 months prior to graduation from high school, and who are entitled to admission at a state educational institution pursuant to K.S.A. 72-116, and amendments thereto;
- (7) persons who are domiciliary residents of the state, whose domiciliary residence was established in the state for the purpose of accepting, upon recruitment by an employer, or retaining, upon transfer required by an employer, a position of full-time employment at a place of employment in Kansas, but the domiciliary residence of whom was not timely enough established to meet the residence duration requirement of subsection (a), and who are not otherwise eligible for authorization to pay an amount equal to resident fees under this subsection; and
- (8) persons who have graduated from a high school accredited by the state board of education within six months of enrollment and who, at the time of graduation from such a high school or while enrolled and in attendance at such a high school prior to graduation therefrom, were dependents of a person in military service within the state; if the person, whose dependent is eligible for authorization to pay an amount equal to



resident fees under this provision, does not establish domiciliary residence in the state upon retirement from military service, eligibility of the dependent for authorization to pay an amount equal to resident fees shall lapse.

(c) As used in this section:

(1) “Parents” means and includes natural parents, adoptive parents, stepparents, guardians and custodians.

(2) “Guardian” has the meaning ascribed thereto by ~~K.S.A. 59-3002~~ section 2, and amendments thereto.

(3) “Custodian” means a person, agency or association granted legal custody of a minor under the Kansas code for care of children.

(4) “Domiciliary resident” means a person who has present and fixed residence in Kansas where the person intends to remain for an indefinite period and to which the person intends to return following absence.

(5) “Full-time employment” means employment requiring at least 1,500 hours of work per year.

Sec. 78. K.S.A. 76-12b04 is hereby amended to read as follows: 76-12b04. If in the opinion of the superintendent an applicant for admission meets the definition of ~~“disabled person” as set forth in K.S.A. 59-3002~~ a person in need of a guardian or a conservator, or both, as provided in sections 1 through 46, and amendments thereto, the person shall not be admitted to an institution except for the purposes of conducting a court ordered evaluation pursuant to ~~subsection (a)(6) of K.S.A. 59-3010~~ section 15, and amendments thereto until a court has determined the legal status of the person under the act for obtaining a guardian or conservator, or both. The provisions of this paragraph shall not be applicable if a court has already determined the legal status of the applicant under the act.

Sec. 79. K.S.A. 77-201 is hereby amended to read as follows: 77-201. In the construction of the statutes of this state the following rules shall be observed, unless the construction would be inconsistent with the manifest intent of the legislature or repugnant to the context of the statute:

*First.* The repeal of a statute does not revive a statute previously repealed, nor does the repeal affect any right which accrued, any duty imposed, any penalty incurred or any proceeding commenced, under or by virtue of the statute repealed. The provisions of any statute, so far as they are the same as those of any prior statute, shall be construed as a continuation of the prior provisions and not as a new enactment.

*Second.* Words and phrases shall be construed according to the context and the approved usage of the language, but technical words and phrases, and other words and phrases that have acquired a peculiar and appropriate meaning in law, shall be construed according to their peculiar and appropriate meanings.

*Third.* Words importing the singular number only may be extended to several persons or things, and words importing the plural number only may be applied to one person or thing. Words importing the masculine gender only may be extended to females.

*Fourth.* Words giving a joint authority to three or more public officers or other persons shall be construed as given that authority to a majority of them, unless it is otherwise expressed in the act giving the authority.

*Fifth.* “Highway” and “road” include public bridges and may be construed to be equivalent to “county way,” “county road,” “common road,” “state road” and “territorial road.”

*Sixth.* “Incompetent person” includes disabled ~~person as defined in K.S.A. 59-3002 and amendments thereto~~ persons and incapacitated persons as defined herein.

*Seventh.* “Issue,” as applied to the descent of estates, includes all the lawful lineal descendants of the ancestor.

*Eighth.* “Land,” “real estate” and “real property” include lands, tenements and hereditaments, and all rights to them and interest in them, equitable as well as legal.

*Ninth.* “Personal property” includes money, goods, chattels, evidences of debt and things in action.

*Tenth.* “Property” includes personal and real property.

*Eleventh.* “Month” means a calendar month, unless otherwise expressed. “Year” alone, and also the abbreviation “A.D.,” is equivalent to the expression “year of our Lord.”

*Twelfth.* “Oath” includes an affirmation in all cases where an affirma-

tion may be substituted for an oath, and in similar cases “swear” includes affirm.

*Thirteenth.* “Person” may be extended to bodies politic and corporate.

*Fourteenth.* If the seal of a court or public office or officer is required by law to be affixed to any paper, “seal” includes an impression of the seal upon the paper alone, as well as upon wax or a wafer affixed to the paper. “Seal” also includes both a rubber stamp seal used with permanent ink and the word “seal” printed on court documents produced by computer systems, so that the seal may be legibly reproduced by photographic process.

*Fifteenth.* “State,” when applied to the different parts of the United States, includes the District of Columbia and the territories. “United States” may include that district and those territories.

*Sixteenth.* “Town” may mean a civil township, unless a different meaning is plainly intended.

*Seventeenth.* “Will” includes codicils.

*Eighteenth.* “Written” and “in writing” may include printing, engraving, lithography and any other mode of representing words and letters, excepting those cases where the written signature or the mark of any person is required by law.

*Nineteenth.* “Sheriff” may be extended to any person performing the duties of the sheriff, either generally or in special cases.

*Twentieth.* “Deed” is applied to an instrument conveying lands but does not imply a sealed instrument. “Bond” and “indenture” do not necessarily imply a seal but in other respects mean the same kind of instruments as above. “Undertaking” means a promise or security in any form where required by law.

*Twenty-first.* “Executor” includes an administrator where the subject-matter applies to an administrator.

*Twenty-second.* Roman numerals and Arabic figures are to be taken as a part of the English language.

*Twenty-third.* “Residence” means the place which is adopted by a person as the person’s place of habitation and to which, whenever the person is absent, the person has the intention of returning. When a person eats at one place and sleeps at another, the place where the person sleeps shall be considered the person’s residence.

*Twenty-fourth.* “Usual place of residence” and “usual place of abode,” when applied to the service of any process or notice, means the place usually occupied by a person. If a person has no family, or does not have family with the person, the person’s office or place of business or, if the person has no place of business, the room or place where the person usually sleeps shall be construed to be the person’s place of residence or abode.

*Twenty-fifth.* “Householder” means a person who is 18 or more years of age and who owns or occupies a house as a place of residence and not as a boarder or lodger.

*Twenty-sixth.* “General election” refers to the election required to be held on the Tuesday following the first Monday in November of each even-numbered year.

*Twenty-seventh.* “Under legal disability” includes persons who are within the period of minority, *or who are* incapacitated, *incompetent* or imprisoned.

*Twenty-eighth.* When a person is required to be disinterested or indifferent in acting on any question or matter affecting other parties, relationship within the degree of second cousin, inclusive, shall disqualify the person from acting, except by consent of parties.

*Twenty-ninth.* “Head of a family” shall include any person who has charge of children, relatives or others living with the person.

*Thirtieth.* “Mentally ill person” means a mentally ill person as defined in K.S.A. 1997 2001 Supp. 59-2946 and amendments thereto.

*Thirty-first.* “Incapacitated person” means ~~disabled person as defined in K.S.A. 59-3002 and amendments thereto~~ *an individual 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 to the degree that the person lacks the capacity to manage the person’s estate, or to meet essential needs for the person’s physical health, safety or welfare, as defined in section 2, and amendments*

*thereto, whether or not a guardian or a conservator has been appointed for that person.*

*Thirty-second.* “Guardian” means an individual or a nonprofit corporation certified in accordance with ~~K.S.A. 59-3037~~ *section 21*, and amendments thereto which has been appointed by a court to act on behalf of a ward and possessed of some or all of the powers and duties set out in ~~K.S.A. 59-3018~~ *section 26*, and amendments thereto. “Guardian” does not mean natural guardian unless specified.

*Thirty-third.* “Natural guardian” means both the *biological or adoptive mother and father and mother* of a minor if neither parent has been found to be ~~a disabled person~~ *an adult with an impairment in need of a guardian* or *has had parental rights terminated by a court of competent jurisdiction*. If either parent of a minor ~~dies, is found to be a disabled person~~ *is deceased, or has been found to be an adult with an impairment in need of a guardian, as provided for in sections 1 through 46, and amendments thereto* or has had parental rights terminated by a court of competent jurisdiction, *then the other parent shall be the natural guardian, unless also deceased, or found to be an adult with an impairment in need of a guardian, or has had parental rights terminated by a court of competent jurisdiction, in which case no person shall qualify as the natural guardian.*

*Thirty-fourth.* “Conservator” means an individual or corporation appointed by the court to act on behalf of a conservatee and possessed of some or all of the powers and duties set out in ~~K.S.A. 59-3019~~ *section 29*, and amendments thereto.

*Thirty-fifth.* “Minor” means any person defined by K.S.A. 38-101 and amendments thereto as being within the period of minority.

*Thirty-sixth.* “Proposed ward” means a person for whom ~~an application~~ *a petition* for the appointment of a guardian pursuant to ~~K.S.A. 59-3006~~ *section 9, 10, 11 or 12*, and amendments thereto has been filed.

*Thirty-seventh.* “Proposed conservatee” means a person for whom a petition for the appointment of a conservator pursuant to ~~K.S.A. 59-3006~~ *section 9, 10, 11 or 12*, and amendments thereto has been filed.

*Thirty-eighth.* “Ward” means a person who has a guardian.

*Thirty-ninth.* “Conservatee” means a person who has a conservator.

*Fortieth.* “Manufactured home” means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-first.* “Mobile home” means a structure which:

(1) Is transportable in one or more sections which, in the traveling mode, is 8 body feet or more in width and 36 body feet or more in length and is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; and

(2) is not subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403.

*Forty-second.* “Disabled person” includes *incapacitated persons and incompetent persons as defined herein.*

New Sec. 80. If any provision of this act for obtaining a guardian or a conservator, or both, or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect with the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 81. K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828, 17-5829, 38-1505, 39-789, 44-513a, 58-629, 59-1701, 59-2203, 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, 59-3038, 73-507, 76-12b04 and 77-201 and

K.S.A. 2001 Supp. 39-970, 58-24a15, 59-2401, 59-2946, 59-2948, 59-2949, 59-2951, 59-2960, 59-29b46, 59-29b48, 59-29b49, 59-29b51, 59-29b60, 59-3002, 59-3009, 59-3010, 59-3013, 59-3014, 59-3018a, 59-3026, 59-3029, 50-3036, 59-3039, 60-304, 60-304a, 61-3004, 65-516, 65-5117 and 76-729 are hereby repealed.

Sec. 82. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*