

SENATE BILL No. 372

AN ACT concerning guardianship and conservatorship; relating to orders and petitions; amending K.S.A. 2009 Supp. 59-3058, 59-3059, 59-3060 and 59-3061 and repealing the existing sections.

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

New Section 1. Orders establishing and governing a guardianship or conservatorship, or both, issued by a court of competent jurisdiction of any other state, regardless of the specific terminology used in that state's laws, shall be given full faith and credit within this state, except when doing so would be in specific violation of any law of this state.

Sec. 2. K.S.A. 2009 Supp. 59-3058 is hereby amended to read as follows: 59-3058. (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) *the places where the proposed ward or proposed conservatee has lived during the last five years, and the names and present addresses of the persons with whom the proposed ward or proposed conservatee has lived during that period;*

(4) *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;*

~~(3)~~ (5) 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)~~ (6) 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)~~ (7) 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)~~ (8) the factual basis upon which the petitioner makes that allegation;

~~(7)~~ (9) 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)~~ (10) 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)~~ (11) a list and description of all court proceedings in which the proposed ward or proposed 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)~~ (12) 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)~~ (13) the names and addresses of witnesses by whom the truth of the petition may be proved;

~~(13)~~ (14) the name, age, date of birth, gender, address, place of employment, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

~~(14)~~ (15) 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)~~ (16) 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 K.S.A. 59-3063, 59-3064 and 59-3065, 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 K.S.A. 59-3064, 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 K.S.A. 59-3064, 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 K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 3. K.S.A. 2009 Supp. 59-3059 is hereby amended to read as follows: 59-3059. (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) *the places where the minor has lived during the last five years, and the names and present addresses of the persons with whom the minor has lived during that period;*

~~(3)~~ (4) 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)~~ (5) 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)~~ (6) the factual basis upon which the petitioner makes that allegation;

~~(6)~~ (7) 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 custodian appointed for the minor pursuant to K.S.A. 2009 Supp. 38-2269, 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)~~ (8) 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)~~ (9) 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)~~ (10) the names and addresses of witnesses by whom the truth of the petition may be proved;

~~(10)~~ (11) the name, age, date of birth, gender, address, place of employment, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee;

~~(11)~~ (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; and

~~(12)~~ (13) 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 K.S.A. 59-3063 and 59-3065, 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 K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 4. K.S.A. 2009 Supp. 59-3060 is hereby amended to read as follows: 59-3060. (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) *the places where the minor has lived during the last five years, and the names and present addresses of the persons with whom the minor has lived during that period;*
 - ~~(3)~~ (4) 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)~~ (5) 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)~~ (6) the factual basis upon which the petitioner makes this allegation;
 - ~~(6)~~ (7) 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 custodian appointed for the minor pursuant to K.S.A. 2009 Supp. 38-2269, 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)~~ (8) 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)~~ (9) 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)~~ (10) the names and addresses of witnesses by whom the truth of the petition may be proved;
 - ~~(10)~~ (11) the name, age, date of birth, gender, address, place of employment, relationship to the minor, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee;
 - ~~(11)~~ (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; and
 - ~~(12)~~ (13) 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 K.S.A. 59-3063, 59-3064 and 59-3065, 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 K.S.A. 59-3064, and amendments thereto. In such case, the petition may include a request that the court accept this report in lieu of ordering any additional exam-

ination and evaluation pursuant to K.S.A. 59-3064, 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 K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 5. K.S.A. 2009 Supp. 59-3061 is hereby amended to read as follows: 59-3061. (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) *the places where the proposed ward or proposed conservatee has lived during the last five years, and the names and present addresses of the persons with whom the proposed ward or proposed conservatee has lived during that period;*

~~(3)~~ (4) 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)~~ (5) 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)~~ (6) the factual basis upon which the petitioner alleges the need for the appointment of a guardian or conservator, or both, in Kansas;

~~(6)~~ (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;

~~(7)~~ (8) 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)~~ (9) a list and description of all court proceedings in which the proposed ward or proposed 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)~~ (10) in general terms, the location, type and value of any real or personal property of the proposed ward or proposed conservatee, includ-

ing 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)~~ (11) the names and addresses of the witnesses by whom the truth of the petition may be proved;

~~(11)~~ (12) the name, age, date of birth, gender, address, place of employment, relationship to the proposed ward or proposed conservatee, if any, of the individual or corporation whom the petitioner suggests that the court appoint as guardian or conservator, or both, and any personal or agency interest of the proposed guardian or proposed conservator that may be perceived as self-serving or adverse to the position or best interest of the proposed ward or proposed conservatee, and if the suggested guardian or conservator is under contract with the Kansas guardianship program, that fact;

~~(12)~~ (13) 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)~~ (14) 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)~~ (15) 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 K.S.A. 59-3063 and 59-3065, 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 K.S.A. 59-3076, and amendments thereto, or a proposed conservatorship plan as provided for in K.S.A. 59-3079, and amendments thereto, or both.

Sec. 6. K.S.A. 2009 Supp. 59-3058, 59-3059, 59-3060 and 59-3061 are hereby repealed.

Sec. 7. 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 SENATE, and passed that body

President of the Senate.

Secretary of the Senate.

Passed the HOUSE _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.