

59-3064. Order for examination for evaluation. (a) Upon the filing of a petition as provided for in K.S.A. 59-3058, 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 K.S.A. 59-3060, 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 K.S.A. 59-3066, 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 K.S.A. 59-3058 or subsection (c) of K.S.A. 59-3060, 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.

History: L. 2002, ch. 114, § 15; July 1.