

59-3058. Petition for appointment of guardian or conservator for an adult with an impairment; contents; evaluation; plan. (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;

(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;

(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;

(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;

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

(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;

(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;

(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;

(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;

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

(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;

(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

(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.

History: L. 2002, ch. 114, § 9; L. 2008, ch. 64, § 3; L. 2010, ch. 52, § 2; July 1.